

# Observations and Options for Relieving Overcrowding Among Alabama Female Prisoners

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September 19, 2003

To: Tamara Serwer, Esq. and Lisa Kung, Esq.

From: Tim Roche

**Re: Observations and Options for Relieving Overcrowding Among Alabama Female Prisoners**

At your request, I have conducted a thorough review of the Alabama female prisoner population, relying both on institutional record reviews and individual interviews, to determine the approximate number and means by which prisoners might be safely managed in well supervised, community-based correctional settings. I have also provided herein, my observations and opinions as to the administrative steps the Alabama Department of Corrections (ADOC) should take to further limit the burden of severe prison overcrowding on both female prisoners and correctional staff, and in so doing, further reduce the female prisoner population largely through enhanced system efficiencies.

I believe the combined methods set forth in this report could safely and permanently reduce the Alabama female prisoner population by at least 400 inmates, in addition to the ones already released on parole this spring and summer, at a savings to the ADOC and the taxpayers of Alabama of nearly \$3 million per year.<sup>1</sup>

**I. SUMMARY OF FINDINGS**

I am fully aware that the ADOC and other Alabama agencies, such as the Board of Pardons and Paroles, have taken significant steps to responsibly reduce the level of overcrowding that has plagued the Julia Tutwiler Prison for Women and other female facilities for some time. While the efforts of the ADOC and their partners should be commended, there is much more that should be done to not only further reduce the incarcerated female population in the relative short-term, but to do so in a way that provides long-term systemic remedies to the chronically overcrowded and dangerous conditions within

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<sup>1</sup> This calculation is based on the approximate cost of \$2,000 annually contained in the March 1, 2003 Alabama Adult Corrections Master Plan for community based corrections, versus the approximate cost of \$9,000 annually to incarcerate an inmate in the ADOC.

the ADOC in a safe and sustainable way. Even after paroling over 300 female prisoners this spring and sending 300 female prisoners to private prisons out of state, the prison facilities for female prisoners in Alabama are still operating at about 173% of their capacity according to the Alabama Department of Corrections Monthly Statistical Report for July 2003. As the data and individual inmate stories contained in this report illustrate, there remain a very sizable number of women in Alabama's prisons today who could be safely returned to the community without jeopardizing public safety.

The potential for safe reductions in the female inmate population is illustrated by the findings of my survey of inmate characteristics:

- Sixty-six percent of the women at Tutwiler and 65% of those in work release were committed for non-violent offenses.
- Fifty-three percent of the women at Tutwiler are serving sentences of five years or less.
- Almost one third -- 32% -- of women at Tutwiler are serving split sentences, which allow judges to modify the prison term at any time, if a request is made to do so.
- Based on data gathered at Tutwiler, 35% of inmate files contain references to court ordered or court recommended participation in substance abuse treatment programming while in prison, despite a shortage of treatment slots and long waiting lists. By building on an existing community-based treatment infrastructure, treatment needs could be met at greatly reduced cost in non-prison settings.
- Fifty-three percent of the female inmate population have committing charges originating in either Jefferson, Montgomery, Mobile or Madison Counties. Each of these counties has the makings of quality community corrections programs that, if properly supported, could play a key role in safely addressing the needs of many among the female prisoner population in Alabama for far less than the cost of prison.

It is important to note that this report coincides with a state budget crisis of historic proportions and comes at a time when state elected officials are openly discussing the possibility of budget cuts that could result in the release of large numbers of state prisoners (i.e. 5,000-7,000), including female prisoners. As this report details, the return to criminal behavior of newly released inmates is largely

avoidable if supports and services are in place in their home communities, such as an array of substance abuse programming, transitional living programs, job training and placement programs, housing assistance, mental health counseling, case management and advocacy programs, adult mentoring programs, faith-based support services, etc. Alabama has the makings of a high quality network of needed services in the form of its community corrections programs.

My belief, as described herein, is that these programs could serve as a fundamental building block upon which affordable and long-term solutions to prison overcrowding in Alabama could be built without an increased risk to public safety. Some steps that could be taken include:

- ADOC officials should authorize the deployment of personnel from community corrections programs to Alabama's female institutions for the purpose of reviewing files and interviewing inmates to find appropriate community corrections candidates. Once good candidates are identified, community corrections staff could develop individualized release plans by drawing on local resources they know to exist in their jurisdiction and present the plans to the sentencing judges for release consideration.
- Corrections and parole officials should support trained professionals from community corrections programs in an effort to develop parole plans on behalf of non-violent inmates who are within 12 months of parole eligibility. Detailed, individualized parole release plans could be developed for those inmates fitting these criteria, i.e., non-violent and within 12 months of parole eligibility, and presented to parole officials on behalf of each inmate.
- ADOC officials should enter into agreements with community corrections programs in counties across the state to assume responsibility for the supervision and monitoring of Supervised Intensive Restitution (SIR) and Pre Discretionary Leave (PDL) participants.<sup>2</sup> This would

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<sup>2</sup> SIR and PDL are both Alabama Department of Corrections programs designed to aid the transition of low risk inmates back into the community by allowing for the release of inmates into pre-approved community plans augmented by supervision in the community by department of corrections staff.

eliminate the need to hire more correctional officers for this purpose and would simultaneously build capacity within the various community corrections programs to offer more services. Community corrections staff could target women incarcerated from their jurisdiction and work with corrections officials to develop a structured release plans and assume responsibility for monitoring the plans once implemented.

- Approximately 300 women currently leave the Birmingham Work Release Facility and the Edwina Mitchell Annex each day to perform paid and unpaid work in the communities of Alabama. Given their work release and/or community custody status, most of these women could be transitioned safely and swiftly out of these facilities and into non-prison settings, thereby creating work release capacity for the many good candidates for community custody backed-up in expensive institutional beds.

Historically, concentrated efforts to reduce the prison population in Alabama, such as the state's recent efforts, have not resulted in long-term systemic changes, largely because they have not consisted of permanent changes in system operations that allow for control of prison population growth.

Instead, population reduction has tended to be achieved through short-term, reactive initiatives that produce little if any lasting change. The Alabama prison population has grown dramatically in recent decades. In 1980 there were 6,368 state prisoners in Alabama. Today, there are more than 28,000. Permanent population reduction will require long-term planning and systemic change. Without systemic change, there is no doubt that the population will continue to increase and any short-term decrease will quickly be erased. This is true because system inefficiencies plague the correctional continuum ensuring the slowest, rather than the swiftest possible movement of inmates through the system. Among the

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According to ADOC monthly statistical report for July 2003, in the entire department of corrections inmate population there were only 176 inmate on SIR and 11 on PDL as of that month. The report does not reflect how many of these 187 inmates are female.

concrete steps the ADOC and partner agencies could take to remedy this situation include the following:

- Exercise greater discretion in terminating work release placements for disciplinary infractions in the “Low Severity” range
- Implement alternative sanctions short of termination for positive drug test results by work release inmates
- Allow access to work release to all appropriate inmates, independent of offense backgrounds
- Convert the Edwina Mitchell Annex back into a work release facility
- Expedite judicial notification of program completion
- Aggressively clear “detainers” that prevent the release or movement of inmates to less secure settings<sup>3</sup>
- Enhance mental health treatment programs and supervision for mentally ill prisoners to hasten their release into more appropriate non-prison settings
- Base security level, program eligibility and release decisions on the charge of conviction rather than on alleged behavior
- Conduct reclassification/progress reviews of inmates every 90 days
- Contract with community corrections programs to serve as institutional ombudsmen to identify inmates appropriate for release or custody reduction and facilitate the development of release plans on their behalf
- Expand drug treatment in the community to meet the needs of drug-involved offenders without having to rely on prison
- Increase parole grants for deserving inmates, including those ready for release who have been committed for a violent or drug trafficking offenses
- Create an increasingly restrictive community corrections sanctions grid as an alternative to parole revocations

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<sup>3</sup> A Detainer is synonymous with a “hold” that can be placed on an inmate for a variety of reasons, ranging from a warrant in another jurisdiction, to an unpaid traffic ticket. Information immediately available in inmates records, however, seldom provide a clear explanation of the underlying reason for detainers. Consequently, detainers serve to automatically prevent the release or custody reduction of an inmate until the detainer is “cleared.”

## **II. METHODOLOGY**

Random samples of the female prisoner population were drawn as described below from the Tutwiler Prison facility, including the Edwina Mitchell Annex, and from the Birmingham Work Release facility. The combined sample size was 137, of which 111 were from Tutwiler Prison and its Annex and 26 were from the work release facility. The data I used is from a point in time *after* the release of over 300 women on early parole and the transfer of another 300 to a private prison facility in Louisiana. Details describing the methodology are provided in Appendix I.

## **III. TARGET POPULATIONS FOR PRISONER REDUCTION**

A review of the data gathered using the process described in Appendix I clearly demonstrates that the female prison population in Alabama is rich with women who are excellent candidates for safe management in the community. This remains true despite the very recent prison population reduction efforts of the ADOC. An inmate population more suitable for transfer into accountable and well-supervised community programs could hardly be imagined than that which currently fills many of the costly, secure, female prison beds in Alabama. Given the wide array of community corrections programs that remain underutilized and available in the state, e.g., locally operated community corrections programs, Supervised Intensive Restitution, Pre-Discretionary Leave, and parole, as well as by eliminating gross inefficiencies in the system, Alabama corrections officials could safely exercise their leadership and discretion to swiftly reduce the number of women in Alabama prisons by an additional 400 inmates without compromising public safety. Not only is this further reduction within the reach of correctional officials, but it could be done in a way that would create the internal capacity for Alabama to control, rather than be controlled by, its prison population for decades to come. By instituting both the programmatic and systemic solutions recommended herein, Alabama could permanently free itself from its reliance on scarce and costly prison beds, and end its multi-million dollar contractual obligation for prison beds outside the state.



The data gathered and reported on below pertaining to the current female inmate population in Alabama expands upon the observations made in the March 2003 *Alabama Adult Corrections Master Plan*, prepared for the ADOC by Carter Goble Associates, Inc.<sup>4</sup>

*There are a significant number of prisoners who could be safely and effectively supervised in their local community rather than a prison. Diverting or placing such offenders in locally managed community-based corrections programs would free up beds needed for others sentenced to State time but awaiting transfer from county jails due to lack of space. Moreover, such programs cost in the range of \$2000 per offender per year to operate compared to an average of over \$9,000 per year to keep a person in Alabama's prisons? (pg. ES-1)*

The conclusions drawn in the ADOC Master Plan of March 2003 remain true today of the female inmate population. My review of the population at Tutwiler, the Edwina Mitchell Annex and the Birmingham Work Release facility reveal that extremely high percentages of the population still fall squarely into the non-violent, low-risk categories of offenders referred to by the Master Plan. It is unquestionable in my view that by enhancing system efficiencies, applying widely practiced case planning techniques, instituting correctionally sound systemic population control remedies, and by drawing fully on the existing population management tools, i.e., community corrections, parole, Supervised Intensive Restitution (SIR), Pre-Discretionary Leave (PDL), etc., the female inmate population could be permanently reduced by at least an additional 400 inmates without compromising public safety.

To support this position, I point to some of the more significant findings relating to the current female prisoner population in Alabama:

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<sup>4</sup> Carter Goble Associates was engaged by the State of Alabama Department of Corrections to develop an Adult Corrections Master Plan focused on evaluating the needs of the prison facilities in Alabama.

**1. Alabama's Female Prison Population is Overwhelmingly Non-Violent.** The female prison population at both the Tutwiler prison and the work release facility are disproportionately non-violent offenders. Sixty-six percent of the women at Tutwiler and 65% of those in work release were committed for non-violent offenses. Only 34% of the women at Tutwiler and 35% of those in work release were committed for violent offenses.<sup>5</sup> These figures suggest that roughly 838 of the approximately 1,290 female prisoners remaining in Alabama facilities, as opposed to those who have been sent to private, out-of-state prisons, are non-violent offenders.

These findings compare favorably with those of Dr. James Austin of the Institute on Crime, Justice and Corrections at The George Washington University, in his September 26, 2002 study of ADOC classification. Dr. Austin, whose sample was drawn prior to the ADOC transporting 300 female inmates out-of-state, approximately two-thirds of whom were sentenced for violent offenses, found that 62% of the female inmates confined in the ADOC February 14, 2002, were non-violent offenders - 36% being admitted for property offenses and 26% for drug offenses.<sup>6</sup>

The similarities between these two samples drawn approximately one year apart support the position that there remains as high a percentage of female inmates suitable for community supervision today as there was when Dr. Austin's work was done. This is especially notable because approximately 300 female inmates were released on expedited parole dockets during the 2-3 months prior to my review of records.

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<sup>5</sup> This figure includes four prisoners in the sample who were sentenced for low-level robberies in which they struggled with security officers while being apprehended for shoplifting, or verbally threatened or simulated a gun while shoplifting but in fact were unarmed.

<sup>6</sup> Dr. Austin's figures were drawn from a one-day snap shot of the ADOC population on 2-14-02. Although the number of female inmates remaining in Alabama has been reduced by approximately 300 due to transfers to Louisiana, most of the transferred prisoners are committed for violent offenses - approximately 68% -- thereby concentrating the pool of non-violent offenders remaining in Alabama. We arrived at the 68% figure based on interviews by plaintiffs' counsel with 60 of the approximately 300 inmates in Louisiana, of which 41 (68%) were committed for violent offenses and 19 (32%) were committed for non-violent offenses.

**2. A Significant Percentage of Women are Serving Short Sentences.** Fifty-three percent of the women at Tutwiler are serving sentences of five years or less. Again, these findings are consistent Dr. Austin's one-day snapshot of the entire ADOC inmate population drawn on February 14, 2002 which reveals that 742 (41%) of all female inmates were serving sentences of 1 to less than 5 years and another 520 (29 %) had less than one year left to serve on their sentence. Dr. Austin's admission data for CY 1998 reflects 63 percent of females had sentences of less than five years.<sup>7</sup>

Generally speaking, the length of a prison sentence is a good measure of the relative seriousness with which a crime was viewed. It is also a reasonable measure of the risk to public safety an offender is perceived by the sentencing judge to present to the community. Sentences in the 1-5 year range will be overwhelmingly of the non-violent variety. Viewed in these terms, sentences of five years or less are generally considered in the low seriousness range. The fact that there remain today such a high percentage of women in prison on short sentences suggests that many ideal candidates remain in prison who are appropriate for parole to specific conditions, release on Supervised Intensive Restitution (SIR) or Pre-Discretionary Leave (PDL), release to community corrections programs, or requests for sentence modification.

**3. Judges Retain Jurisdiction in nearly One-Third of Cases.** Almost one third (32%) of women at Tutwiler are serving split sentences. Again, this is consistent with Dr. Austin's findings. In his classification study he notes, "31 percent of the females [admitted in CY 98] are new admissions with split sentences."

Split sentences allow judges to retain jurisdiction over an

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<sup>7</sup> The larger percentage of short sentences in Dr. Austin's admission data (as opposed to his one-day snapshot) is explained by the fact that inmates with more serious offenses and/or longer sentences constitute a larger proportion of the daily population because they stay confined longer.

offender after the sentence is imposed and, consequently, judges can modify these sentences in response to a request to do so by any party. Split sentences are a popular sentencing tool among Alabama judges. A reason commonly cited by judges for imposing a split sentence is to allow the offender an opportunity to take advantage of institutional programming as a way of addressing substance abuse, vocational, mental health or other issues, which may be seen as contributing to the offense behavior. Upon completion of such programming, or after a period of good behavior in prison, many judges are inclined to favorably consider well-structured applications for sentence reduction. Corrections officials sometimes view such sentences as "tying their hands" since inmates serving split sentences are ineligible for release via parole or SIR and are prohibited from earning good time. In reality, these sentences provide corrections officials with an open door to the court through which to request a sentence reduction based upon an unlimited number of relevant factors - good behavior, program participation/completion, physical or mental health issues, changed circumstances since the time of sentencing, etc. The large percentage of women at Tutwiler today on split sentences, just as in CY 1998, suggests that many opportunities exist to pursue well structured applications to judges for sentence modifications.

**4. More than One Third of Inmates Expected to Complete Difficult-To-Access Programs.** Based on data gathered at Tutwiler, 35% of inmate files contain references to court ordered or court recommended participation in substance abuse treatment programming while in prison. In several of the individual files I reviewed, it was clear that prisoners were waiting for an opportunity to participate in a mandatory or recommended program and that these programs were difficult for the prisoners to access.

Sentencing conditions of this sort, though perfectly reasonable under normal circumstances, present immovable barriers to release for some inmates in the ADOC. According to the Alabama Sentencing Commission's 2003 Report, "At the same time that our prisons are becoming severely overcrowded, it is apparent that Alabama warehouses many *treatment-needy* offenders. One-third of the new offenders sent to prison are convicted of drug possession, drug sales or felony DUI. These offenders report extensive histories of alcohol and drug abuse, yet little experience with treatment. Although

substance abuse programs are available in the penitentiary, they are not equipped to handle the influx of offenders requiring treatment. For example, between January and August 2002 the Department of Corrections had a total of 12,744 inmates participating in one of nine substance abuse programs, with an additional 7,493 inmates on waiting lists. Our state lacks sufficient programs in the prisons and the community to address the drug and alcohol addictions of offenders.”<sup>8</sup> The waiting lists for access to these programs vary from 2 months to close to a year.

Although the ADOC reports giving priority access for SAP programs to those with court orders to complete such programs, the length of stay in prison is extended unnecessarily for some women due to long waiting lists and generally limited access to services. Further, many women serving split sentences whose judges would be favorably impressed by SAP or related program participation/completion, are left to wait for access to programs that many judges believe are readily available. This creates a classic “Catch-22” for many women incarcerated in Alabama - women can’t readily access the programs that will help them exit the system and judges are left to wonder why prisoners are not complying with their orders to enter and complete treatment promptly, calling into question their motivation to better themselves.

**5. Most Female Prisoners are From Counties with Community Corrections Programs.** Fifty-three percent of the female inmate population have committing charges originating in either Jefferson, Montgomery, Mobile or Madison Counties.<sup>9</sup> Each of these counties has the makings of quality community corrections programs that, if properly supported, could play a

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<sup>8</sup> The Alabama Sentencing Commission Report 2003. Recommendations for Reform of Alabama’s criminal Justice System: A Rational Approach to Sentencing Reform. March 10, 2003. Pgs. 3 - 4.

<sup>9</sup> Although Madison County does not have a formal community corrections program formed under the Alabama Community Punishment and Corrections Act, the county does operate some less secure alternatives to state prison, such as a large county work release program. This county and other counties that are less populous, should be provided support by the state to develop a more substantial network of programs that would provide alternatives sentencing alternatives to judges to allow them to divert offenders from prison in appropriate cases.

key role in safely addressing the needs of many among the female prisoner population in Alabama. Female prisoners with charges originating in Jefferson County alone constitute 32% of the state prison population.<sup>10</sup>

The concentration of inmates in the most populous counties is recognized by the ADOC Master Plan where the following recommendation is made:

*Significantly expand Community Corrections programs in the major metropolitan areas of Birmingham, Huntsville, Mobile and Montgomery where the courts accounted for thirty-nine percent of all DOC inmate admissions in 2001 and 2002. (pg. ES-3)*

Targeting non-violent state prisoners for movement into community corrections is a principal short-term action suggested by in the Master Plan:

*Diverting non-violent State prisoners to locally-managed community corrections programs is a recommended action that could be implemented quickly with incentive funding provided to the 20 counties with local programs and to any other county that is interested. As of November 2002, it was estimated that approximately 2,100 State prisoners could be diverted. (Pg. ES-2)*

Although the ADOC Master Plan does not cite specifically in what geographic location their estimate of 2,100 state prisoners who are appropriate for community corrections supervision reside, a reasonable assumption is that most of them come from, and will ultimately return to, those counties that are the largest contributors of inmates to the ADOC.

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<sup>10</sup> Alabama currently has a total of 21 community corrections programs in counties across the state. Many of the state's more rural counties have joined together to form community corrections programs that encompass more than one county. These programs too have the potential to grow to meet the demand for services in their locations.

Again, based on current data it is clear that large numbers of overwhelmingly non-violent female prisoners from these key locations continue to fill Tutwiler and the state's other female facilities, despite the recent efforts of ADOC officials.<sup>11</sup>

These data clearly illustrate the case that large numbers of Alabama's female inmate population are especially well suited to safe and effective management in non-prison settings. Alabama officials need not continue to look beyond the borders of the state to find solutions. Rather, the ADOC could take greater advantage of those tools and mechanisms that have been created in Alabama, such as the Alabama Community Punishment and Corrections Act, SIR, PDL and split sentences, to take full control of the size and growth rate of the female prison population.

#### **IV. RECOMMENDATIONS**

According to the ADOC's July 2003 monthly statistical report, the system is currently operating at 201.5% of its designed capacity. The Tutwiler facility was noted as operating at 173.2% of capacity and the Birmingham Work Release facility at 172%. These are astonishing levels of overcrowding that place enormous pressure not just on Alabama's prisoners, both female and male, but on all ADOC correctional officer staff, ADOC classification and administrative staff, medical and mental health staff, maintenance and environmental staff, as well as on staff from the Board of Pardons and Paroles, county jail staff, probation and parole officers, judges and all those affected by the system. Any correctional system burdened by such pressures invariably begins to experience failures. Often these failures appear relatively benign; such things as slower processing time, shortages of inmate clothing or hygiene items, longer waits for self-help programs, etc. But

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<sup>11</sup> The Alabama Community Punishment and Corrections Act also provides for individuals to be placed into community corrections programs in counties other than the county in which they were sentenced, conditioned upon judicial concurrence in both jurisdictions.

the unrelenting pressure of operating a 28,000 inmate correctional system within the confines of resources intended for approximately 14,000 eventually takes its toll on prisoners as well as on all related staff, and the results can be costly in both fiscal and human terms. In addition to the safety issues that arise for both staff and prisoners when facilities are overcrowded, "slippage" is a nearly unavoidable consequence of such conditions. Slippage refers to that broad category of administrative, programmatic, and security decisions that are either delayed or simply not made due to the oppressive conditions of working within a system that is so overburdened. Mistakes in the calculation of good time credits or parole eligibility, long waits for self-help programs required for release consideration, delayed notification to judges or parole board members of release-relevant information, and the de-emphasis of clearing detainers that affect security level assignment are all examples of slippage that occur daily in any correctional system but is dramatically increased in severely overcrowded systems.

Despite its many efforts, perhaps the single biggest obstacle preventing the ADOC from instituting permanent and effective inmate population control measures is the professional orientation of correctional personnel generally. By design, the ADOC, like virtually all other correctional systems, views its role as punishing offenders and protecting public safety by incarcerating those who have violated the law. It is difficult, if not impossible, for system officials to set aside that professional orientation and instead begin conducting aggressive and continuous release planning for inmates. Planning and pursuing the release of inmates is simply antithetical to most corrections professionals.

This condition should not serve to excuse ADOC officials and staff from their responsibilities in this regard. Rather, it should underscore the point that the ADOC cannot do this alone. It is my view, that although the ADOC has the legal and administrative tools to safely lower its population, the success of such an effort requires the work of skilled professionals from *outside* the ADOC to actually identify appropriate candidates, develop the necessary release plans and argue persuasively for their implementation. Fortunately for Alabama officials, they have at their disposal a network of community corrections program staff who possess the skill



and commitment to develop sound release plans on behalf of these women, vigorously advocate for their implementation, and train additional staff to do the same. Community corrections professionals could bring to this largely non-violent and disproportionately drug involved population a balance toward treatment that does not currently exist within the ADOC.

Based on evidence compiled during my tours of ADOC female facilities, my review of more than 100 female inmate records and interviews with numerous female prisoners, there are many constructive steps the ADOC could take to further reduce the strain of chronic overcrowding that would greatly lessen the strenuous conditions on staff and female prisoners alike.

These steps fall into two basic categories, (1) those that would expedite the safe movement of significant numbers of non-violent prisoners into supervised community-based settings, and (2) those that would improve, at no increased risk to public safety, efficiencies in the system to reduce the institutional slippage to a minimum, hasten the structured release of appropriate inmates and improve the quality of prison life for inmates and by extension, ADOC staff. I firmly believe that by instituting the recommendations below, the ADOC could safely and permanently reduce the number of female prisoners committed to the state by at least 400 without an increased risk to public safety.

**1. Expedite the safe movement of 300 non-violent prisoners into supervised community-based settings.**

Given the overwhelmingly non-violent nature of the female prisoner population in Alabama, there are numerous safe and tested methods of efficiently moving significant numbers of female prisoners out of the state's institutions and into well supervised community settings. It is my firm belief that in partnership with community corrections staff from around the state, the ADOC could safely and permanently reduce its female prisoner population by 300 inmates.<sup>12</sup>

As noted in the Alabama Adult Corrections Master Plan,

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<sup>12</sup> The projected number of inmates who could be safely moved into supervised community settings through the means suggested below total 400. Given the likely degree of overlap, or double counting of some prisoners, I have reduced the total projection by 25% for a total of 300 prisoners.

community corrections programs are not only a safer and more effective way of addressing the needs of public safety and the inmates than prison, but community corrections is also a far more cost effective sanction than prison -- \$2,000 per offender per year to operate compared to an average of over \$9,000 per year to keep a person in Alabama's prisons. The data presented above and the individual case summaries contained in Section V of this report, make a clear case for the position that hundreds of female prisoners in Alabama could, and should, be managed in a safer and more productive non-prison environment.

It is noteworthy that the public safety and cost savings potential of investing in Alabama's existing community corrections programs far outweigh the benefits of the \$2.6 million to house 300 Alabama female prisoners in Louisiana. Not only does the money spent on this contract go to out-of-state rather than Alabama interests, but the money is added to an existing correctional budget, which does not decrease as a result of the out-of-state transfers. Sending prisoners and money out of state does not in any way contribute to building a permanent infrastructure, such as community corrections, to help the ADOC control the size of its population. Furthermore, investing in community corrections as contemplated by the Alabama Community Punishment and Corrections Act would result in the employment and training of literally hundreds of Alabamians whose skill and labor would go to benefit the state as a whole, rather than the shareholders of a private prison corporation in Louisiana.

**a. Community Corrections Referrals in the Most Populous Counties  
(Estimated Reduction: 150 Inmates)**

More than half (53%) of the women in prison in Alabama today are from Jefferson, Madison, Mobile or Montgomery Counties. Given that such significant percentages of these prisoners are also serving sentences of 5 years or less, and are committed for non-violent offenses, they are clearly an ideal population to examine for community corrections candidates.

ADOC officials should authorize the deployment of personnel from community corrections programs to Alabama's female institutions for the purpose of reviewing files and interviewing inmates to find appropriate community corrections

candidates. Once good candidates are identified, community corrections staff could develop individualized release plans by drawing on local resources they know to exist in their jurisdiction and present the plans to the sentencing judges for release consideration. By operating within the legal confines of the Alabama Community Punishment and Corrections Act of 1991, which applies to those serving both straight and split sentences, individualized plans could be developed by trained personnel and presented for implementation by judicial order. By employing this method of proactively seeking out and planning for the release of inmates, I estimate that at least 150 women could be granted community corrections status. One hundred and fifty plans is a very conservative figure for a population as ripe for community-based supervision as is this population.

Individualized plans should contain specific information regarding the inmate, details pertaining to their release plan, and specifics about the programming in which they will participate in the community and what monitoring regimen will be in place in each instance. Plans should then be presented to the court for consideration. Individuals responsible for developing each plan and familiar with how each plan will be supervised should be available to the court to respond to any questions.

As noted above, I believe that while the tools exist, the ability to conduct the release planning required to implement this recommendation does not exist within the ADOC. Correctional officials should build on the partnership they have created through the Alabama Community Punishment and Corrections Act to match ADOC inmates with reasonable and effective services in the community. This expertise exists within community corrections, not within the ADOC, and should be taken full advantage of.

Finally, once a more robust community corrections partnership has been established and properly funded, aggressive advocacy by community corrections staff on behalf of defendants bound for the ADOC could occur, thereby significantly reducing the flow of low-risk, non-violent inmates into the prison system. It is clear from the data that there are large numbers of women in prison today who, with a minimum of advocacy and the benefit of services in the community, would not have gone to prison in the first place. This would include women serving time for community program failures, those in prison for low-

level drug crimes and those whose minor property crimes were motivated by drug use. By building the capacity of community corrections to become involved in a greater number of "front-end" cases, they can effectively limit the volume of low-risk inmates entering Alabama's prisons.

**b. Advance Parole Eligibility Dates and Develop Release Plans**  
**(Estimated Reduction: 100 Inmates)**

Effective parole planning must also be sought from those outside the system whose goal it is to build safe and effective plans in the community for women who are currently incarcerated. Although Alabama officials have increased the number of inmates paroled in recent months, based on my interviews and on a recent articles in the Birmingham News and Mobile Register,<sup>13</sup> aggressive parole planning of the sort described is not occurring.

Corrections and parole officials should support trained professionals from community corrections programs in an effort to develop parole plans on behalf of non-violent inmates who are within 12 months of parole eligibility. Detailed, individualized parole release plans could be developed for those inmates fitting these criteria, i.e., non-violent and within 12 months of parole eligibility, and presented to parole officials on behalf of each inmate.

Through this accelerated parole planning process, parole officials would agree in advance to consider each case for possible parole. Community corrections professionals responsible for developing each plan would appear before the parole authorities and speak to the details and appropriateness of each plan. Given that 53% of the women at Tutwiler are serving sentences of five years or less, an additional 100 inmates being paroled through this accelerated planning process is an eminently reasonable figure to strive for.

**c. Institute a Mutual Agreement Plan (MAP) Program**

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<sup>13</sup> July 5, 2003, Birmingham News, Alabama Female Parolees Get Little Help, Carla Crowder; July 10, 2003, Mobile Register Editorial, \$10 and a Ticket Not Enough.

**(Estimated Reduction: 50 Inmates)**

Several states operate MAP programs through which a plan is proposed for an inmate's participation in specific in-prison programming. The plan is presented to the parole board, which may then negotiate a parole contract with a prisoner that stipulates the specific conditions or actions (e.g., successful completion of a rehabilitation program) that will assure release. If approved, a guaranteed release date is conditioned upon the offenders' successful completion of the program components. A MAP contract includes a detailed timetable. If the conditions agreed to are not met, the contract is canceled and the prisoner's parole status reverts to the normal parole hearing schedule. The MAP, of course, presumes that the programs which are agreed to are available to the inmates. The ADOC Master Plan acknowledges the value of such a release planning mechanism and recommends the creation of a MAP program in Alabama.

A MAP program would fit especially well with the low-risk but relative high needs of Alabama's female inmate population. These programs also provide a tangible incentive for many inmates who have come to believe they have little hope of parole and are unmotivated to improve their behavior or participate in self-help programming when available.

Based on the characteristics of the female inmate population in Alabama, instituting a MAP program should be done with the expectation that early releases could be earned by no fewer than 50 inmates in a six month period.

**d. Accelerate SIR and PDL Releases through Community Corrections**

**(Estimated Reduction: 100 Inmates)**

The ADOC's SIR and PDL programs are both uniquely designed to transition prisoners back into the community in a controlled and well-monitored fashion. Both of these programs are vastly underutilized despite being ideally suited to the predominantly non-violent female inmate population that fills Alabama's prisons.

ADOC officials should enter into agreements with community

corrections programs in counties across the state to assume responsibility for the supervision and monitoring of SIR and PDL participants. This would eliminate the need to hire more correctional officers for this purpose and would simultaneously build capacity within the various community corrections programs to offer more services. Community corrections staff could target women incarcerated from their jurisdiction and work with corrections officials to develop a structured release plans and assume responsibility for monitoring the plans once implemented. Supervision fees collected from participating inmates could be used to support the involvement of community corrections staff. And since SIR and PDL are both ADOC operated programs, they do not require a judicial decision to release but could instead be implemented on a relatively swift basis.

This method of planned release would also provide for reintegration services currently lacking in the ADOC. As noted in the ADOC Master Plan:

*“Lack of Reintegration Preparation and Transition - Unfortunately, in recent years as a result of overcrowding and understaffing within the Alabama Department of Corrections, the reintegration process is severely constrained to fit the DOC’s limited capacity rather than fitting the needs of the offenders. The implementation and monitoring of individualized treatment plans for inmates in need, let alone when they are nearing release, is simply not possible in the current conditions. With severe crowding, the system simply lacks the staffing and the proper environment for offenders who have spent years inside prison to be given the level of pre-release planning, preparation, and transitional conditions needed to help maximize their opportunities to succeed on the outside. The DOC is forced to release inmates directly from some of its highest custody, most restrictive prisons without any transitional period under more normative conditions with basic pre-release counseling, job and life style preparation. This situation seriously compromises the offender’s ability to be adequately prepared to cope with free world conditions and expectations.” (pg. 5-5)(Emphasis in original)*

By building a partnership between corrections and community corrections in this way, significant numbers of female inmates could be reintegrated to their home communities in a

structured and well supervised way.

A partnership of this type between ADOC and community corrections would also help to form the beginning of an effective continuum of services and supervision between prison and the communities of Alabama. Approaching the expansion of SIR and PDL in this manner should be expected to produce a reduction in the female inmate population of an additional 100 inmates.

**2. Adjust ADOC policies to reduce “slippage,” increase system efficiency, and improve the quality of prison life for both prisoners and correctional staff.**

During the course of my review, I became aware of several ADOC practices that unnecessarily restrict the swift movement of prisoners through the correctional continuum with no discernable public safety or correctional benefit. If ADOC officials focused on adjusting these practices to enhance the flow of inmates through the system, a considerable savings in institutional bed-days would result.

The specific recommendations which follow are difficult to quantify in terms of the numbers of prisoners potentially affected, but based on my review, I would place the number at between 100 and 200 female inmates in the short-term.

**Work Release**

**a. Exercise Greater Discretion in Termination of Work Release Placements for Disciplinary Infractions in the “Low Severity” Range**

Repeatedly, women I interviewed and records I reviewed indicated that individuals were returned to secure custody from work release for disciplinary violations which often fell into the “low severity” range including being fired from a job.<sup>14</sup> Work release is an important privilege earned by prisoners that enhances their successful return to society in many ways. Not only is it a means by which employment can be secured while in custody and maintained upon release, but it

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<sup>14</sup> A list of all “low severity” infractions can be found on page 97 of the ADOC Classification Manual.

is an important source of income for many prisoners who have families to help support as well as their own personal needs to provide for. Removal from work release due to a disciplinary violation can also have negative consequences on a prisoner's prospects for parole or other release programs for which she might be eligible.

Removal from work release, therefore, should be limited to reasons for which a valid correctional cause exists which cannot be addressed in a more constructive manner. The loss of a job, due often to no fault of the work release prisoner, and other low severity violations, should not be cause for termination from work release.<sup>15</sup>

The ADOC should exercise its discretion to respond to deviations from work release policy and procedure in a measured fashion rather than by imposing a penalty which far exceeds the seriousness of the behavior in question and which might affect favorable parole consideration. A range of sanctions already exists within the ADOC's work release program that should be the presumed response to all low severity violations.

Not only is this an issue of basic fairness, but it is also an exercise in sound correctional policy which demonstrates that there are reasonable, proportionate consequences for policy deviations. Moreover, the current response unnecessarily reduces opportunities for releasing appropriate inmates into community-based programs and increases transfers to the already overcrowded Tutwiler Prison.

**b. Exercise Greater Discretion in Termination of Work Release Placements for Positive Drug Test Results**

On numerous occasions, instances of work release termination and loss of good time due to positive drug tests were seen in cases where no history of substance abuse existed and/or where spotless institutional records had been amassed. There were several complaints from prisoners regarding reportedly invalid

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<sup>15</sup> Case summaries #4 and #9 contained in Section V of this report offer two examples of the types of violations that could be eliminated.



positive urine tests. Independent of the suspicious nature of some positive drug tests, the response of the ADOC to positive tests should be driven by a careful review of each prisoner's history. Not only should a response short of termination be seriously considered when there is no evidence of substance abuse in a prisoner's history, but the ADOC should recognize that for those addicted to drugs and alcohol, relapse is an expected condition of the disease and should be dealt with in a manner appropriate to the individual.

While consequences for valid positive drug tests should be imposed, those consequences need not consist of termination or loss of good time to be correctionally or therapeutically sound. Again, a loss of certain privileges and/or participation in a specially designed relapse program should be considered in all such cases. Factors such as length of time in work release, length of time to release or parole consideration, past participation in substance abuse programming, etc, should all be weighed to ensure a response that is commensurate with the behavior and with the inmate.

A thorough evaluation of drug and alcohol testing procedures and practices by an independent body, such as an accrediting agency, should be pursued on a regular basis to ensure that the testing process is producing accurate and fair results. It is extremely discouraging for individuals who have worked very hard to fight a drug or alcohol addiction to be punished for false positive results. Even when the positive test result does not produce immediate termination of work release or loss of good time, it affects eligibility for parole, SIR, and other opportunities for supervised release.

**c. Allow Work Release Access to All Appropriate Inmates Independent of Offense Backgrounds**

As previously noted, work release and other programs such as SIR and PDL, are valuable correctional tools for facilitating the safe and successful return of prisoners from secure custody back to the community. These are also correctional programs with substantial benefits relating to inmate management. For many prisoners who are serving long sentences, often for violent offenses or drug trafficking convictions, but who have strong institutional histories of positive program involvement and exceptional institutional adjustment, program eligibility, particularly work release, is

an incentive to continue their good behavior. For this reason, programs such as work release should remain within their reach. I reviewed several cases in which women, who had served more than 10 or 20 years in prison and who had excellent institutional records, were either denied access to work release participation due to the nature of the offense or had been participating successfully in work release only to be terminated from participation when an administrative decision made their offenses ineligible for work release. (See, for example, cases #7 and #9 in Section V.)

These women are frequently the best, most cooperative prisoners in an institution and despite the nature of their crimes, pose no reasonable threat to public safety. This is especially true of a female inmate population where many are serving long sentences for behavior which grew directly out of a long-term domestic abuse situation where their actions were motivated by repeated and prolonged physical, sexual and psychological abuse by a spouse or boyfriend. In fact, some of these individuals are able to leave the institution each day to perform unpaid work in the community, but are forbidden by policy from engaging in paid work through work release. This is a nonsensical distinction that serves no legitimate correctional or public safety purpose.

The arbitrary banning of prisoners from work release due only to the category of their offense should be lifted immediately and women who have demonstrated the ability to perform successfully in a work release or other community program should be allowed entry into those programs.

#### **d. Convert the Annex Back into a Work Release Facility**

A work release program that had successfully operated at the Edwina Mitchell Annex for years was recently terminated. Not only did this decision serve to exacerbate an already oppressively overcrowded situation, but it serves no legitimate correctional purpose, particularly in light of the fact that many of these same women are still able to leave the facility daily to perform *unpaid* work in the community.

Among the files that I reviewed, there were numerous women at the Annex and at the main Tutwiler facility who were excellent candidates for "community custody" or work release and had in fact been in work release previously. Again, many of these

women are allowed in the community to do non-paying work. Such prisoners were being denied work release due to the existence of old detainers (see below), due to the nature of their offense (as discussed above) or because there was an upward departure from their classification score often attributed to the catch-all over-ride rationale, "Other Security Considerations."

In Dr. Austin's September 26, 2002 classification analysis he notes that, "The over-ride rates fro both the initial and reclassification forms are considerably higher than national standards. Over 30 percent of the 1998 admission population and over 50 percent of the daily population for the reclassification instrument were over-ridden into either a higher or lower security level from scored to recommended security levels? Additionally, the most commonly cite over-ride reason is 'Other Security Considerations', which is a "blanket", nonspecific over-ride reason."<sup>16</sup>

These unnecessary barriers prevent participation in work release for many inmates despite years of excellent institutional conduct. Prisoners engaged in paid work can not only contribute to the cost of their incarceration, but also pay restitution, and provide some financial support to their families.

### **Enhance System Efficiency and Equity**

#### **e. Expedite Judicial Notification of Program Completion**

As noted above, 35% of female inmate files contain references to court ordered or recommended participation in substance abuse treatment programming while in prison. Anecdotally, it is clear that judges frequently send women to prison in Alabama to ensure that they receive what the judge perceives to be necessary drug treatment.<sup>17</sup> Numerous references in inmate files and stories relayed by various inmates strongly

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<sup>16</sup> Austin Report, September 26, 2002, pgs. i - ii.

<sup>17</sup> July 8, 2003, Mobile Register, Judge Summons Prison Officials: Wilters wants to know why women's drug treatment program he ordered has not started, Brendan Kirby. July 9, 2003, Montgomery Adviser, Editorial, Costly Court Fight Won't Help Anyone.

suggest that, in addition to long waiting lists for access to the limited treatment programming available, the method of notifying judges of program completion is slow and inefficient. The method of notification typically consists of sending a form letter to the judge.

The demands placed on institutional staff from operating overcrowded facilities with a dramatically reduced workforce commonly forces tasks, such as judicial notification of an inmate's progress, toward the bottom of a long list of priorities. As stated in the ADOC Master Plan:

*"The agency's staffing shortages combined with its lack of proper capacity, too few cells, overused physical plants and antiquated information management systems results in an agency that appears to operating (sic) in a perpetual crisis management mode."* (pg. 4-5. Emphasis in original.)

According to the ADOC Master Plan, the number of correctional staff authorized for Tutwiler by ADOC officials in FY 2003 was 62 fewer than the 204 requested. The staff shortage is projected to grow even larger in FY 2004 when 76 fewer staff are authorized than the 218 requested. Unnecessary delays between program completion and judicial or parole board notification is not only costly in terms of unnecessary "bed-days" in crowded institutions, but it is a source of increased tension between inmates and officers in an already tense environment.

The ADOC should engage the assistance of community corrections staff in this regard by alerting them in advance of all inmates whose program completion dates are anticipated within two to four weeks. Community corrections staff could then work with inmates, their families and local resources to develop a potential release plan to be formally submitted to the judge or parole board for consideration. Under this scenario, decisions regarding release could actually be made in advance, conditioned upon successful program completion, and implemented immediately upon program graduation, thereby saving valuable bed-days by moving women more efficiently through the system.

#### **f. Aggressive Clearing of Detainers**

In a correctional setting, the mere suggestion that a detainer

exists in a given case can serve as an immovable obstacle to program participation, classification to a less secure setting, or release. With uncommon frequency, in the files that I reviewed, detainers appear to block the swift movement of women in the ADOC through the correctional continuum.

Again, due to the realities of overcrowding and understaffing, references to a detainer in an inmate's file appear to lack priority and are consequently not aggressively pursued by ADOC staff to determine either the nature of the detainer or the accuracy of the reference. Consequently, repeated examples were uncovered of women who were "stuck" for months unnecessarily at security level IV (which blocks the women from leaving Tutwiler), due entirely to the alleged detainer, and were therefore ineligible for work release and other program participation. It is likely that in many of these cases, if an effort by ADOC staff had been applied to clearing the detainer, the inmate could have been more swiftly moved to a less secure setting or released entirely.

Detainers should not automatically preclude placement below security level IV, as is currently the case. Instead, detainers should be grouped into categories, e.g., felony, misdemeanor, etc., and only the most potentially serious detainers should require a more thorough review before designating an inmate who would otherwise be eligible to a less secure institution or setting.

**g. Provide Appropriate Mental Health Treatment, Programs, and Supervision for Mentally Ill Prisoners**

Many of the prisoners in the sample of institutional files I reviewed suffered from serious mental illness. In a number of these files, it was clear that the prisoner's disciplinary record was directly related to her mental illness - i.e. she received numerous disciplinary reports because she was unable to get along in the large dormitories where virtually all female prisoners are housed. Adequate mental health programs, supervision of housing areas by officers trained in mental health, and individualized psychiatric treatment and counseling are essential to prevent deterioration of prisoners' mental health and to prevent them from engaging in inappropriate behavior. Long disciplinary records preclude supervised release or lower custody classification for prisoners, and often result in loss of good time. Adequate

mental health resources committed to female prisoners may reduce this problem, and allow them to be managed in a supervised release program outside of prison.

**h. Base Security, Program Eligibility and Release Decisions on the Charge of Conviction Rather than on Alleged Behavior**

Eligibility for minimum custody and work release in the ADOC are conditioned on many factors, including alleged behavior for which the inmate was never convicted, and in many instances, never charged. This reliance on alleged behavior applies most directly to inmates involved in drug crimes and violent crimes.

In the case of drug crimes, page 36 of the ADOC Classification Manuel states: "Current policy also requires that the details of a drug offense be used rather than how the crime may have come to be titled" when determining eligibility for work release. In the case of violent offenses the same use of alleged behavior is applied to program eligibility. Page 33 of the Classification Manuel contains the following reference: "Details of the offense will be used if plea bargaining, but not limited to plea bargaining, has distorted the level of violence."

The use of alleged, unadjudicated behavior for determining program eligibility for inmates constitutes the exercise of a second mandate by corrections officials to impose additional punishments upon inmates above and beyond those imposed by a court of law. Incarceration and its resulting separation from family and community is the punishment ordered by the court upon prisoners for offense behavior that is either proven or admitted. Relying upon unproven, often uncharged, subjective and frequently inaccurate allegations to determine program eligibility is inconsistent with American doctrines of fundamental fairness and injects an unacceptable degree of arbitrariness into the correctional process.

Furthermore, the practice of "over-charging" by prosecutors is common in virtually all jurisdictions. Allowing the practice of overcharging to have the tangible result of precluding a defendant from eventual participation in correctional programs is simply wrong and contributes to unnecessary incarceration of inmates in high security prison beds.

The ADOC should revise its policies governing the eligibility of inmates to specific correctional programs and security levels by omitting reliance on alleged behavior, relying instead entirely upon that offense behavior for which an formal judicial conviction was entered.

**i. Reclassification/Progress Review of Inmates Every 90 Days**

The extreme levels of overcrowding within ADOC facilities make it especially important that the inmate population be continuously reviewed and re-reviewed to identify those who should be moved into less secure, community-based settings. One way to accomplish this is to reclassify or review the progress of inmates every 90 days.

Classification specialists assigned to the female facilities should view their task as scouring the population for those who can be safely moved into less secure settings. This suggests an approach that focuses intensively on finding and pursuing every opportunity that may exist to move an inmate through the correctional continuum and safely into the community. The reclassification/progress review process should expand beyond the traditional review of cases and criteria to include reviews of good-time calculations and eligibility to ensure that all good-time credits are awarded; recalculating parole eligibility dates to ensure no time is lost between eligibility and consideration; double checking that program completion notification has been transmitted to judges and parole board members as appropriate; focusing on the removal or clearance of detainers that impede the movement of an inmate through the correctional continuum, etc.

The inmate population and their status within the institutions is fluid and must be viewed as such. Their ever-changing circumstances must be continuously updated in a manner that will reduce to an absolute minimum the amount of time they spend in a more secure setting than is absolutely necessarily.

**j. Contract with Community Corrections Programs to Serve as Institutional Ombudsmen**

Given the increased likelihood of "slippage" due to the

unrelenting pressures of facility overcrowding on correctional and classification staff, and the antithetical nature of aggressive release planning for inmates by correctional staff, the ADOC should engage the services of community corrections professionals to work in the state's female institutions charged with the exclusive role of identifying inmates who are eligible and appropriate for some form of release or transfer to a less secure setting and taking the necessary steps to secure their release or transfer. Trained community corrections professionals skilled in release planning should be present in the institutions and allowed ready access to inmates and their institutional records.

The role of these "Institutional Ombudsmen" would be to continuously review the institutional population for individuals who could be moved out more swiftly. Asking the question, "Why is this individual still here and what can be done to safely move her out?" should be the mantra of these individuals. By identifying those inmates who would be good candidates for release if some degree of aggressive advocacy and planning were injected into the system on their behalf, community corrections staff could become an invaluable population management tool used proactively by the ADOC to control the size of its inmate population.

Also, given the growing trend nationally and based on my observations in Alabama, mentally ill inmates make-up a significant percentage of the inmate population. These inmates often require a special, enhanced degree of service planning and are, therefore, frequently left to linger in prisons for long periods. Institutional Ombudsmen could be of particular assistance in this area by identifying these inmates and making the connections that are necessary for solid community planning to occur on their behalf.

Institutional Ombudsmen should report directly to the Commissioner of Corrections or his designee, rather than to the institutional warden or any other institutional staff so as to free them from the subjective bias that sometimes inhibits the movement of certain inmates for reasons having little to do with public safety.

**k. Expand Drug Treatment in the Community**



As previously noted, judges in Alabama frequently sentence defendants to prison with the expectation, and based on my review of inmates files, often with the requirement, that substance abuse treatment will be available and completed in prison. While this is a reasonable expectation, limited access to treatment programs in the ADOC due to monumental backlogs and the reality that treatment success is greater in non-prison settings would likely persuade many judges to impose community-based treatment alternatives to prison if such alternatives existed in sufficient numbers.

A wealth of research has clearly demonstrated that in-prison treatment lacks effectiveness when, upon release, aftercare services in the community are lacking. Between 1986 and 1996 Alabama experienced a 159% increase in prison admissions for drug crimes. This does not take into account those many thousands of inmates who entered the prison system during that time for *drug-related* offenses. In 1996, 25% of all admissions to Alabama prisons were specifically for drug crimes. Sixty-six percent of the women at Tutwiler today and 65% of those in work release were committed for non-violent offenses, consisting mostly of drug and drug related crime. It stands to reason that if a greater assortment of diverse, high-quality substance abuse treatment programs were available to judges a significant number of these women would not have been sent to prison.

The demand for treatment in Alabama's urban and rural communities out paces the supply by a considerable margin. Alabama officials, beginning with the governor and including corrections, parole/probation and public health officials, could stem the flow of prison growth by investing in a substance abuse treatment continuum in Alabama's hardest hit communities.

There is simply no public safety or therapeutic value to be gained from incarcerating women, or men, who are in need of quality substance abuse treatment complete with aftercare services, job training and placement assistance and mental health support. By building on the community corrections infrastructure that already exists in many parts of the state, Alabama officials would substantively address the unchecked growth of the prison population while constructively addressing a significant public health issue affecting the lives of all Alabamians.

## Parole Policies

### **l. Increase Parole Grants for Deserving Inmates**

For some time the Alabama Board of Pardons and Paroles has virtually halted paroles to prisoners serving time for certain offenses. This policy decision has the effect of backing-up, in an already overcrowded prison system, good candidates for successful release. It also has the undesirable impact of extinguishing for many the glimmer of hope that flickers in the hearts of all prisoners.

This is an unwise and arbitrary policy that should be reversed so deserving inmates can be paroled who have served long periods of time for crimes in which they were involved as juveniles, under the extreme duress of domestic abuse, as accomplices to the principal who was a spouse or boyfriend, or those who have established exceptional institutional records of rehabilitation. The practice of denying parole to these "long-term" inmates also has a compounding affect on the prison population in that these beds don't turnover to make room for inmates who may need a higher level of custody. The system's capacity was exceeded long ago and has now more than doubled.

By refusing to release into reasonable supervision plans large numbers of long-term inmates, the prisoner population will continue to grow daily while its capacity to absorb more prisoners remains unchanged.

By releasing into well supervised community-based plans deserving long-term inmates, prison beds that are otherwise out of circulation are freed to a population that is likely to turnover, thereby bringing much needed prison beds back on-line in Alabama. The commissioner of corrections and the governor should use their influence with the members of the board of pardons and paroles to rescind its policy preventing the parole of those convicted of particular categories of offenses and instead base its parole decisions on the likelihood of an inmate's safe and successful return to society.

### **m. Create an Increasingly Restrictive Community Corrections Sanctions Grid as an Alternative to Parole Revocations**

Nationally, inmates returning to prison on "technical" parole

violations, rather than new offenses, is one of the largest and fastest growing categories of prison admissions. Based on what I could determine from the institutional records I reviewed, and according to the Sentencing Commission's 2003 Report, "Today, almost one-half of both the probation and parole revocations sent back to prison are the result of a technical violation." (pg. 13) ADOC and Board of Pardons and Parole officials would be wise to act proactively to reduce the unnecessary return of parolees to prison for behavior that does not constitute a new crime.

Technical violations of parole consist of such behavior as failing to obtain employment as required, moving to a new residence without notifying parole officials, failing to make all required meetings with parole officials, failing to obtain or complete substance abuse treatment, testing positive for prohibited substances, getting married without permission of parole authorities, etc.

Parole officers, whose caseloads frequently exceed reasonable limits, are not always the most effective advocates for alternative, community-based sanctions to re-imprisonment for technical violators. A system could easily be put in place that would notify community corrections officials, in advance of formal action by the Board, of any parolee who is taken into custody on a technical violation. Community corrections staff could then assess the nature of the violation and develop an alternative to re-incarceration for consideration by the Board. Alternatives could include an array of options ranging from providing assistance in securing required services, to a period of house arrest/electronic monitoring. Such alternative conditions could be monitored with the help of community corrections staff, thereby lifting some of the supervision burden from parole officers and at the same time, enhancing the level of supervision applied in a given case.

## **V. INDIVIDUAL CASE SUMMARIES**

One helpful way to make concrete sense of the above recommendations and illustrate the potential for safely lowering further the number of women in the ADOC is to present individual interview summaries of women in prison in Alabama.

I have, therefore, presented below summaries of the 12 interviews conducted at Tutwiler, the Edwina Mitchell Annex and at the Birmingham Work Release facility. The information provided during each interview was verified, to the extent

possible, against information contained in the institutional files of those interviewed.

Each interview summary is concluded with a brief release planning recommendation. While the recommendations offer suggestions as to the types of programs and services that should be considered if release planning were to proceed in each case, the recommendations are far more general than should be expected from release planning staff. Good release plan recommendations are very detailed and specific, providing names, addresses, hours of program operation, descriptions of services, etc. for each proposed element of the release plan.

The recommendations in these summaries are intended to offer an indication of the type of services that could be put in place in each case.

If ADOC officials opted to move toward well-designed release planning for its many low-risk female offenders, the individualized planning process would necessitate interviews of this sort at the outset. These interview summaries, although clearly more subjective than the data presented from the random sample, are intended to supply a richer context for viewing how an individualized planning process could be used to further the goal of providing for the safe release from secure custody of those who unnecessarily fill expensive Alabama prison beds.

I emphasize again that the cost of community corrections programs are on average \$2,000 per year as opposed to the \$9,000 Alabama spends to incarcerate the average state inmate.

I also believe that since so many of the cases described below, which represent excellent candidates for community corrections, were identified immediately following a concerted effort by the ADOC to move low risk female inmates out of institutions, it reinforces the observation that despite the ADOC's efforts a significant number of female inmates remain in Alabama prisons unnecessarily.

**1. AA, 26 y/o serving 2 years on a 10 year split for Theft of Property and Probation Violation.** This is AR's first prison commitment. She was on probation for Theft of Property in 2000 - while working at at a local department store, AA arranged the fraudulent purchase and return of approximately \$300 in merchandise. She was placed on probation for 5 years, which was her first state probation (she has been on county

probation in the past for worthless checks.) While on probation AA overdrew her checking account. She attributes this to "not keeping up with deposits" for her checking account and basically writing more checks than she had money to cover. As a result she was charged with Theft I, her probation was violated and she was sent to Tutwiler on 10 split 2.

After being sent to Tutwiler on 5-1-02, she was sent to Montgomery work release in 6-02 where she obtained a job with Alabama Medicaid. She received no disciplinaries and got very good work reports. She was transferred to Birmingham work release when the Montgomery Work Release program was closed. AA was thrilled with the move. She was only one hour from her home and family. She was married two years ago and her husband remains very supportive of her. She and her husband own their own home. She has no children but has many other family members, all of whom have been sources of support throughout her incarceration.

Upon her transfer to Birmingham Work Release AA was assigned to drive the state van, transporting work release inmates to and from their jobs. Although she was disappointed by the lack of income attached to the assignment, AA was happy to be closer to her family. Eventually she secured employment at Southern Marine and continued driving the state van on weekends. As a driver AA was tested every Saturday for drugs. This was not a burden for AA in that she has no substance abuse history. In fact, when she was placed on probation she was assessed by the New Horizons drug treatment program and determined not to be in need of treatment. On 5-30-03, as usual, a urine sample was obtained from AA for testing. On 6-6-03 she was locked up because it was reported that her urine tested positive for cocaine. She was returned to Tutwiler after five days and has remained there ever since. AA was shocked by the positive urine test. She requested a retest but was denied. AA's positive urine came at a time when there have been numerous "questionable" urine test results. AA's family is very supportive and has agreed to help her retain an attorney to prove her claim of innocence. It was reported to her by Officer E. that there have been many questionable urine test results. Officer E. also told AA that due to the number of positive test results the DOC stopped tests for a time.

AR graduated from high school and was enrolled in business management classes at UAH at the time of her arrest. The

Alabama Medicaid has offered to hire her in Decatur for the job she performed in Montgomery. She regrets the "mistake" she made while employed at a department store that caused her to be subject to incarceration. She has approximately 18 months remaining on her 2 year split.

**Recommendation:** AA is a smart and skilled individual who admits to making "stupid mistakes" that have resulted in her extended loss of freedom. She poses no threat to public safety. The sentencing judge should be supplied with all relevant information relating to AA's progress in custody and she should be recommended for immediate release. She has been incarcerated since April 2002 and has a firm job that will be available upon her release. She has no substance abuse history and enjoys significant family support. She is an excellent prospect for supervised release. Regular reporting requirements and payment of any outstanding restitution are the only conditions recommended.

**2. BB, 74 y/o serving 15 years for Murder.** FH has been incarcerated for 6 years on a 15 year sentence. This is her first incarceration. She turned 74 on May 30th and happily reports having received 46 birthday cards from family, friends and well wishers in the community. The offense for which BB is incarcerated involved her accidentally running over her 92 year old mother in the driveway of the home they shared for the previous 20 years. According to BB, she and her mother shared a home in Prattville for the past 20 years. BB was her mother's primary caretaker and means of support during this 20 year period. According to BB, "Mother and I were like sisters." She and her mother were members of a Baptist church and BB enjoys the emotional support of many of its members. She was born in Prattville but was raised in Georgia. She returned to Prattville 40 years ago after she and her husband divorced. She has lived with her mother for 20 of the past 40 years. She was employed for many years doing secretarial and switchboard work.

On May 31<sup>st</sup>, the day after her birthday, FH and her mother were going to clean the garage. FH pulled the car out of the garage and in doing so accidentally ran over her mother, who died later from injuries sustained during the accident. FH acknowledges that she drank some wine on the day of the accident. She stated that the wine was left over from her birthday the night before. Records reflect that her BAC was

.19 at the time of the accident. Two weeks prior to the accident FH's daughter died at the age of 56 due to a fall in her home. FH reports that she was represented by court appointed counsel and was encouraged to plead guilty. She has no prior convictions.

FH is a frail 74 year old woman who uses the support of a wheelchair to move about the Tutwiler prison. She weighs 88 lbs, considerably less than when she was incarcerated. Due to her weight loss, FH's dentures no longer fit, making eating the prison food especially difficult. She had to leave the honor dorm in 2000 when she began using a wheelchair for mobility. Since that time she has received several disciplinary infractions for smoking in her dorm where, unlike the honor dorm, no smoking area exists. She reports being treated with respect by the other inmates. Most of her time in prison is spent reading and listening to the problems of other inmates. She has never had a parole hearing but believes she may have one in August '03.

**Recommendation:** FH poses no physical threat to the community and should be considered for parole immediately. She has an extensive support system in her home community that could be drawn on to design a suitable release plan. FH, though not wealthy, has a small amount of savings and is eligible for Social Security.

**3. CC, 40 y/o, serving 20yr Habitual Offender sentence for Theft of Property III and 4 counts of Robbery III.** CC is a parole violator who has been in custody for 12 of the last 13 years on drug-related offenses. CC served 2.5 years beginning in 1990 for theft of property. She was paroled in 1992 and returned to using drugs. She was charged and pleaded guilty to 4 counts of robbery III in 1992. She was sentenced to 20 years as a Habitual Offender and spent the next ten years in Tutwiler, with the last four of those years served in work release. She was again paroled in 2001 and rather than return to southern Alabama she decided to remain in Montgomery and maintain her employment at a local restaurant. She and another woman from the work release center rented an apartment. Three adult children of CC and her roommate also moved into the apartment. According to CC, drug use among those in the apartment was regular. CC was the only one in the apartment who had a job. She tried to stay away from the drugs but failed. She tested positive for cocaine on 11-6-02

and was taken into custody immediately.

While in the Montgomery County jail she suffered two strokes.

She was unable to walk for a time. She is currently able to walk with the aid of a walker. She also experienced pronounced hearing loss on her left side from the strokes, numbness in her legs and has lost control of her bowels. Her disabilities, which are believed to be permanent, prevent her from being considered for work release. She believes she is eligible for SSI and could possibly work part time if released.

CC has five children, the youngest of which is 18. Her mother, who adopted CC as a foster child, remains in Mobile and is reported to be in good health. CC reports to be welcome in the home of her mother should she be released. CC has a parole hearing scheduled for February 2004.

**Recommendation: Advance parole consideration date and parole.**

CC is a 40 year old disabled inmate who poses no reasonable physical threat to the community and should be paroled. She is in need of physical therapy to address the disabilities that stem from her strokes. She appears to have a place to live in Mobile and could be qualified for SSI as a means of financial support. She would benefit from a drug abuse support group such as Narcotics Anonymous. A release plan might also include the involvement of an adult mentor who could help her adjust to life in the community with disabilities.

**4. DD, 22 y/o serving 5 years on a probation violation for 1996 Theft of Property and Burglary III.** In 1996 at the age of 15 DD was charged with Burglary III and theft of property for allegedly helping pick the lock to a building that was subsequently burglarized. She remained in the community without any intervening arrests, living with her parents, attending an alternative public school and working as a secretary. She was not convicted of the offenses until 2000. She received a 5 year suspended prison term.

Nine months into her probation DD missed a reporting meeting with her probation officer. A warrant was issued and when she was arrested on the warrant she tested positive for marijuana.

Her probation was violated and she was sent to Tutwiler in January 2001. She went to Birmingham Work Release on 2-16-01.



She worked at a restaurant on the serving line while at work release. According to DD, a male corrections officer began harassing her sexually. "He grabbed me all over and pressured me for sex." DD alerted authorities but the sexual harassment continued. Feeling that she had no choice, DD left work release on 4-5-01 and remained out until 1-8-03. She was three months pregnant when she was arrested but lost the pregnancy due to a miscarriage while in the Jefferson Co Jail.

During these intervening months DD reportedly worked at a fast-food restaurant, and participated in an alternative high school program and remained arrest free. On the escape charge she received a 10 year split with one year to serve concurrent to the probation violation time. Her End of Sentence (EOS) date is 7-7-04. She has a parole hearing scheduled for March 2004. She cannot be reconsidered for work release for three years and is ineligible for SIR due to her escape charge. DD is six months infraction free and due to get her GED next month. Due to limited bed space at Tutwiler, DD is housed in the medical dorm with 73 other women.

**Recommendation:** DD is a bright young woman who appears to pose no legitimate threat to public safety. She has a supportive family and reports being able to return to her home with both parents upon release. Continued incarceration is of no clear value. A release plan should be developed and submitted to both courts of jurisdiction for consideration. A release plan should include; residence with parents, employment and/or continued education. DD reports having no serious drug problem but admits to occasional marijuana use. Urine screening is advisable.

**5. EE, 40 y/o, Serving Life as parole violator for Theft of Property/bad checks.** EE had one prior theft or property conviction in 1987 for bad checks. In 1991 she was sentenced in Montgomery to life as a Habitual Offender for \$70,000 in bad checks. She was also ordered to pay restitution in the amount of \$70,000. She was at Tutwiler from 1991 to 1997 when she was paroled after six months in work release. While in work release she worked at the Department of Education (DOE) in the accounting department. She was able to retain her job with the DOE upon being paroled. Once released to parole, EE lived with her mother, sister and two children. In July 98 her parole was violated for additional bad checks. She denies involvement in these charges and claims that the checks in

question were written by her sister, who had been taken into federal custody for stealing SSI checks from the mail boxes of recipients. EE has remained in custody at Tutwiler since her parole revocation in 1997. She reported that she has a parole hearing approximately one week prior to our interview and that she expected to be re-paroled, however, she will be paroled to the Montgomery County jail to answer the bad check charges that prompted her violation.

EE reports having no substance abuse problem. She said her offenses were motivated by poverty. As she described it, she is "just poor." She was responsible for raising two children, paying for the costs associated with maintaining a house and could not keep up. Utilities began to be cut off and she wrote checks to bridge the financial gap.

**Recommendations:** EE should be considered for immediate parole, as it appears she has been. The pending charges complicate her release plan. Assuming that she is exonerated of the charges, or if the charges are dismissed, she should be allowed to begin working full time. She reports having a full-time job offer with U-Haul and is eager to seek a second job so she can begin paying restitution on the \$70,000 plus 30% interest. Her housing needs in the community can be met either through a halfway house placement or by obtaining a residence of her own. She would benefit from programmatic support in developing and adhering to a reasonable personal budget. Support services should also include general case management and advocacy services that could assist with the transition to community life. Such services would involve the use of a supportive case management model to work with EE through the many logistical, emotional and financial obstacles that she will confront in her transition to community life.

**6. FF, 30 y/o, serving 20 year split 5 for Manslaughter.** FF has no prior convictions, and no substance abuse problems. In June 2000, she was living as a single parent with her 20 month old son in the area where she was raised and where she has family and friends. She worked for five years until the time of her incarceration at the Marriott Hotel in the food and beverage department. On the night before the offense, FF worked until 10 pm, picked up her son from her parents home and went home with her son and a friend. She put her son to bed and she and her friend proceeded to relax and have a couple of beers. Her friend left early the next (Sunday)

morning. FF's son typically awoke before her and would climb into her bed when he got up. On this particular morning her son apparently walked out of the house and climbed into her car. Once inside the car he was unable to get out. The temperature climbed inside the car and ultimately caused the death of FF's son. Seven months later she was charged with manslaughter. FF said the judge and press were very unsympathetic to her case. She suspects that this is due to the fact that the friend who spent time with her that evening was an African American man and she is a white woman. She retained an attorney, took the case to trial and lost. An appeal was also denied. She surrendered on 3-21-03 and was transferred to Tutwiler on 5-14-03. She believes she is eligible for work release and is planning to return to her sentencing judge for reconsideration of sentence in November.

**Recommendation:** FF should be transferred to work release immediately while preparing for her sentence reconsideration. Success in work release is likely to enhance her prospects of a sentence modification. She clearly poses no physical threat to society and is devastated by her loss. The guilt associated with her loss is far more of a burden than prison. She has a support network of family and friends in Baldwin County and will be able to assume a life there if she chooses. It would be helpful if a community corrections program in Baldwin County was able to work with her attorney to lend support to her motion for reconsideration of sentence. Documentation of her loss, her infraction free behavior in prison, support in the community, etc. would be helpful and could be gathered by community corrections staff.

**7. GG , 23y/o serving 20 years for 2 counts Robbery I.** In 1996, at the age of 16, GG was convicted as an adult and sentenced to 20 years for 2 counts of Robbery I, offenses that were perpetrated by her boyfriend. She has been incarcerated since her arrest on March 4, 1997.

GG's mother was a drug addict who could not care for her. Consequently GG lived with her grandmother. When she was 15, her uncle also began living in the same house and made her life miserable. He abused her physically and emotionally. She was angry at her mother for leaving her in that situation and decided to run away with a 19 year old boyfriend. She and her boyfriend were heavy users of crack cocaine, alcohol, marijuana and codeine. She was ultimately taken into custody

and sent to a neglect system halfway house in Montgomery. She ran away from the halfway house within 48 hours. She called her boyfriend and he brought her back to Birmingham. Three days later, while GG and her boyfriend were walking to her mother's house, her boyfriend "carjacked" a car a gun point while the driver was stopped at a stop sign. Her boyfriend forced her into the car and fled. Approximately a week later, GG's boyfriend robbed a drug dealer at gun point and fled in a car in which GG was a passenger. She was arrested on March 4, 1997 and has remained in custody since that date.

She was appointed an attorney, , who encouraged her to enter a "best interest plea" to 20 years concurrent on both counts. She was sentenced in May 1998 after approximately 18 months in the county jail. She arrived at Tutwiler on June 6, 1998. GG was determined to be ineligible for work release due to the offense designation "affiliated with a carjacking." This designation was created after her plea. She was angry and began acting out in prison - fighting with other inmates and becoming involved in homosexual activity. She has made a considerable effort in that past couple of years to take a more positive approach to her incarceration. She has remained infraction free for more than one year, she has participated in programs at Tutwiler including one in which young women visit the prison to learn from inmates about the prison experience. GG completed the SAP program and maintains the support of her grandmother.

She is being considered for the "Another Chance Program" through University of Alabama - Birmingham's Treatment Alternatives to Street Crime (TASC) program.<sup>18</sup> It appears that she would be an ideal candidate for this program.

**Recommendation:** GG has struggled in prison to make the best of her situation. She has committed to making a productive contribution to society and has attempted to do this even while in prison. She has been in prison from the age of 16 to her current age of 23. She appears determined to succeed and has made remarkable progress in the past few years. GG seems to pose no particular threat to public safety despite the

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<sup>18</sup> The Birmingham TASC program has successfully operated a wide variety of substance abuse treatment, supervision and monitoring programs as alternatives to incarceration for more than 20 years.

serious nature of her charges. It is important to recall that she was only 15 during much of the offense behavior and was heavily influenced in that behavior by significant drug use and by an adult boyfriend who was the principal perpetrator in both crimes. GG should be paroled to the Another Chance program and be allowed to fully participate and grow within the context of that multi-service program.

**8. HH, 25 y/o, serving 20 years on 2 counts of distribution of cocaine (enhanced for being within three miles of school/public housing) and 1 count of assault on police.** In 1997 HH was charged with possession of controlled substance/cocaine. She received 2 years probation. Her probation was revoked following a Failure to Appear ("FTA") and she was sent to Tutwiler. When she was arrested on the FTA warrant she was arrested by plain-clothes officers. She was at a drive-up pay phone and saw an unmarked car pull up behind her and men get out and walk toward. She was fearful of the men and attempted to drive off. The men, who turned out to be police, jumped on the hood of her car. The assault on an officer charge grew out of this. While in custody she was indicted on the distribution charges -- \$20 sales. The offense behavior occurred in a city in Alabama where there are a large number of schools and public housing developments. Her sentence on these charges reflect enhancements for being within three miles of these public buildings.

HH has been incarcerated for 5 years. She reports that the three mile enhancement makes her ineligible for work release, SIR or PDL. This might also be as a result of the assault on an officer charge. She has had three parole hearings and has been denied each time. She has two disciplinaries for fighting and others for contraband. She reports that she was not a serious user of drugs but sold them as a means of financial support. She is being considered for the TASC-sponsored Another Chance program.

**Recommendation:** HH has served 5 years in prison without the benefit of work release despite her minimum security status. She poses no apparent physical risk to the community and would benefit from release into a structured community-based plan. She is a candidate for the Another Chance program, but she would probably do equally as well in a somewhat less structured program that could supply her with advocacy and assistance in securing housing and employment. HH is clearly

a bright woman who, with support, could do well in the community. A community corrections parole plan consisting of housing assistance, a vocational/employment plan and positive peer support groups would provide much of the assistance she needs to successfully transition back to the community.

**9. II, 33 y/o, serving life sentence for murder.** DH has been incarcerated continuously since July 1984, when, at the age of 15, she was involved in a murder. Eight days before the incident, II married, with her mother's consent, a 19 year-old boy she had been dating. She and her husband lived in rural Lawrence County and spent most of their time drinking heavily and driving the backroads. On one such occasion II and her husband of 8 days were parked in a wooded area drinking. A car pulled in behind them. The car was driven by the boyfriend of her husband's sister, with whom her husband did not get along. II remained in the car and her husband got out and walked to the rear of the car. II then heard a shot. She immediately knew what had happened. Her husband returned to the car and drove to II's grandmother's home where they were arrested hours later. II has been in custody since that time. She was advised to plead guilty after being transferred to adult court. She had her first parole hearing in 1994 and was denied. There is no victim protest standing in the way of her parole. The victim's family supports her release and have written the parole board on her behalf. The sentencing judge has also written to the parole board on her behalf.

II was allowed to participate in work release in 1996. She received a disciplinary for leaving supervision - she went to a restaurant next door to her work place without permission. She was not charged with escape but was removed from work release.

From 1988 to 1999 II left the facility each day to perform volunteer work in the community. In 1999, however, the governor rescinded such community custody for certain types of offense categories. This decision affected II and she was no longer allowed to leave the Tutwiler facility.

II is being considered as a candidate for the Another Chance program.

**Recommendation:** II should be accepted into the Another Chance program and a well documented application to the parole board

should be made on her behalf to support a decision by the board to allow her participation in the program. At the age of 33, II has been incarcerated for nearly 20 years. She was 15 at the time of the offense and, though present, she was not the principal perpetrator of the crime. She has the support of her victim's family and her sentencing judge. She has performed admirably in prison, completing every program available, even some, such as parenting, which have little immediate relevance to her life. No additional benefit can come from her continued incarceration. The Another Chance program sounds as though it is ideally suited to her needs.

**10. JJ, 54 y/o, serving 10 years for trafficking - OxyCotin.**

JJ has been in custody since March 2001 . This represents her first incarceration. She was sentenced in Calhoun County.

JJ reports being ineligible for work release and similar programs due to her trafficking charge. She has completed the SAP program at Tutwiler. She believes her sentence carries a three year mandatory.

JJ presents as older than her age of 54. She reports suffering from depression and severe memory loss. Short term memory loss was evident during the interview. JJ explained that she was prescribed the highly addictive OxyCotin by a physician while being treated for back pain. She and her husband were both charged but she entered a plea that would allow her husband to remain in the community on probation and care for their 34 year old mentally retarded son.

According to JJ, her case was blown well out of proportion by local media and she and her husband were painted as being far more deeply involved in a "drug distribution ring" than was ever the case. She is a quiet person who appears to suffer from significantly dulled affect, possibly due to her use of OxyCotin.

**Recommendations:** JJ appears to present an extremely limited physical threat to the community. Although I believe a return to drug sales is highly unlikely, her activity in the community could easily be monitored in a way that would ensure that she was not in a position to sell drugs. She has suffered what appears to be permanent damage from drug use and the punishment she has already endured for her illegal behavior has most certainly served any deterrent value a sentence to prison might carry. JJ should be granted parole

at the earliest opportunity. She should be allowed to return to the home of her husband and adult son. Conditions of her return to the community should include mental health services to help her meet the challenges of her physical and emotional deficits rising from drug abuse. She is physically disabled and therefore unable to work full-time but should be expected to engage in productive activity in the community, even if on a part-time or volunteer basis. Case management services should be provided to ensure that her transition to home is a smooth one. Such services should also be geared toward developing a support plan that incorporates her needs in the context of her family. Given her apparent physical and mental limitations, a thoughtful case management plan should be developed that would increase the likelihood she will succeed in the community.

**11. KK, 34 y/o, serving 15 years from Lee County on possession of controlled substance and possession of forged instrument.**

KK is housed at the Birmingham Work Release where she has been for seven months. This is not her first incarceration. She was sentenced to 15 years on a possession of forged instrument in 1994, which was her first incarceration. She served approximately 3.5 years before being paroled in 1997. In 1999 she was charged with possession of controlled substance and possession of a forged instrument. She received a 15 year split sentence with 18 months to serve. After she was released from the split she was charged again with possession and the remainder of the 15 years was imposed.

KK admits to being a serious cocaine abuser. She reports having succeeded in curbing her drug use in recent years. She has been accepted for participation in the Alethia House program and hopes to be able to participate following her parole hearing in 9-03. This parole date has not been advanced; she has had this date since 8-02. She is employed and reports receiving positive work reports.

**Recommendation:** KK would benefit from a placement at the Alethia House program. She has a long substance abuse history but has accumulated no violent offenses and poses no particular physical threat to the community. Participation in substance abuse treatment and support groups would be helpful.

**12. LL, 35 y/o, serving 25 years as a Habitual Offender for distribution of cocaine.** LL has one prior felony conviction



in 1990 for forgery in Georgia. She reports no other convictions. Her current charge stemmed from an arrest in 1997 for distribution. She was arrested after arranging the sale of one \$20 rock of crack cocaine to an undercover agent.

She was sentenced to 25 years. This is her first incarceration. She reports to having a cocaine problem in the past but has not used drugs for six years.

LL arrived at Tutwiler in December 1998. Three months later she received a parole hearing date of 3-04. She came to Birmingham Work Release 6-15-99 but was returned to Tutwiler for nine months in 2000 after she lost her job. For the past three years she has been employed at a deli where she is considered a valuable employee. LL's parole hearing date has been advanced to 7-2-03. She has received only one disciplinary in three years. The disciplinary is of questionable validity as it stems from her failure to supply the facility with her brother's birth certificate in a timely manner. She contends that the disciplinary is a product of facility staff attempting to harm her prospects for parole.

**Recommendation:** LL should be paroled as soon as possible. She is an excellent candidate for release to the community. She has a stable job and a clean institutional record. She is gaining nothing from her continued incarceration nor are the people of the state of Alabama. Conditions of her release should include assistance to finding her suitable housing, and substance abuse screening. It should be recommended that she participate in substance abuse support groups.

## **VI. CONCLUSION**

Based on my review of current objective data and the more contextualized information drawn from individual interviews with female prisoners, there is little doubt that a great deal more could be done by the ADOC, the Board of Pardons and Paroles and the Governor of Alabama to safely reduce the female prison population by a significant margin. Like many other states, Alabama has turned for decades to its correctional system to address a myriad of needs displayed by its citizens. While it is clear that some number of inmates pose a physical threat to the community, it is equally clear that a significant number do not and an even greater number

would not if a reasonable array of affordable supports and services were available in the communities where they live. Alabama is fortunate in that it has one of the nation's most far-reaching community corrections laws in the form of the Alabama Community Punishment and Corrections Act. This law could be used by the powers that be in Alabama as a vehicle to thoughtfully reduce its female prison population and do so in a way that would reduce the likelihood of recidivism among this population. In addition to building upon and maximizing the use of Alabama's community corrections infrastructure, the ADOC and the Board of Pardons and Paroles could dramatically improve system efficiency and thereby reduce the number of women in prison, and do so without compromising public safety.

In the recommendations above I have offered numerous concrete suggestions that Alabama officials could follow in this time of fiscal crisis to guide the state out of its corrections quagmire. I do believe that these recommendations, if implemented in good faith, could set Alabama on a course toward safer, less costly and more efficient methods of addressing the needs of the public as they relate to holding individuals accountable for illegal behavior.

## Appendix I

**Methodology:** Random samples of the female prisoner population were drawn as described below from the Tutwiler Prison facility, including the Edwina Mitchell Annex, and from the Birmingham Work Release facility. The combined sample size was 137 - 111 from Tutwiler and the Annex and 26 from the work release facility. Details describing the methodology are provided in Appendix I. The samples were drawn as follows:

On June 18 and 19, 2003 Tamara Serwer, Esq, Vanessa Filley, from the Southern Center on Human Rights, who represent the plaintiffs in Laube et al., v. Campbell et al., and I conducted a site visit to the Julia Tutwiler Prison for Women.

Arrangements were made in advance with ADOC officials allowing access to inmate case files and to individual inmates for confidential interviews. To ensure a random sample, ADOC record office staff pulled every 10th file for our review. During the course of these two days, data were gathered from the institutional files of inmates housed at the Tutwiler prison facility and at the Annex, using a standardized data collection form. During subsequent site visits on July 2, July 8 and July 10 to the Tutwiler prison and Annex, Lisa Kung, Esq., Ms. Serwer, Ms. Filley and two associates continued the data collection process through the review of inmate institutional files by randomly selecting several letters of the alphabet and reviewing the files of all inmates whose last name begins with that those letters . In total, data collection forms were completed on 111 inmates from the Tutwiler prison and the Annex. This represents 11% of the inmate population at Tutwiler, which was approximately 1,000 at the time of these visits.

On the evening of June 19th and throughout the day on June 20, 2003, Ms. Serwer, Ms. Filley and I continued institutional file reviews using the same data collection form and conducted individual interviews with inmates at the Birmingham Work Release facility for women. The file selection method used at the BWR facility was to review the files of all inmates with last names beginning with the letter B. In total, data from institutional file reviews were collected on 26 inmates from the Birmingham Work Release facility. This represents a nine percent sample based on an inmate population of two hundred and ninety inmates.

I also reviewed the following documents in preparing this report: Alabama Department of Corrections Master Plan, Final Report, March 1, 2003; ADOC monthly reports for 2003; ADOC Classification Study, James Austin, Ph.D., Institute on Crime, Justice and Corrections, September 26, 2002; ADOC Classification Manuel, 8-27-02; ADOC Standard Operating Procedure #13-8, Julia Tutwiler Prison, Inmate Rules; Alabama Sentencing Commission, Initial Report to Legislature, January 7, 2002; Alabama Community Punishment and Corrections Act of 1991 and 2003 revisions.

In addition, more than a dozen individual interviews were conducted at the two facilities. These interviews served to contextualize the data gathered from the institutional files. Based on these data sources, I have made the observations and recommendations contained in this report.