

Report of the Georgia Council on Criminal Justice Reform



February 2016

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Table of Contents

I. Executive Summary	3
II. Georgia Council on Criminal Justice Reform: Overview	12
III. Adult Correctional System: Update and 2016 Recommendations	14
IV. Juvenile Justice System: Update and 2016 Recommendations	32
V. Georgia Prisoner Reentry Initiative: Update and 2016 Recommendations	39
VI. Looking Forward: Mandatory Minimums and Probation Supervision	52
VII. Acknowledgments	56
VIII. Appendix A	58
IX. Appendix B	61
X. Appendix C	62

I. Executive Summary

It is often said that the states are our laboratories of democracy. With criminal justice reform, this is undeniably true. Over the past decade, more than two dozen states have enacted significant reforms to their sentencing and correctional systems, changes that have improved public safety while holding offenders accountable and reducing taxpayer costs. Unlike so many policy issues in America today, criminal justice reform has been embraced with overwhelming bipartisan support. As 2016 begins, Congress and President Obama are acknowledging the substantial progress unfolding in the states and taking steps to apply similar solutions to the struggling federal corrections system.

Georgia has been at the forefront of this movement. During the past five years, Governor Nathan Deal and the General Assembly have adopted a series of transformative sentencing and correctional improvements with vigorous support from across the political spectrum. The Georgia Council on Criminal Justice Reform has been honored to help guide this effort. Beginning with the adult system and then extending into juvenile justice and, lastly, the critical arena of offender reentry, the Council has endeavored to reshape Georgia's correctional approach based on data and the best available science about what works to reduce criminal offending. While there is considerable work yet to be done, the results thus far have been heartening. Gradually, and with help from committed stakeholders throughout the state, Georgia is building a criminal justice system capable of keeping communities safe while ensuring offenders who are motivated to change receive the tools they need to lead productive, law-abiding lives.

The Council's first phase of work followed a period of unprecedented growth in Georgia's prison system. Between 1990 and 2011, the adult prison population more than doubled to nearly 56,000 inmates. State spending on corrections soared right along with that growth, rising from \$492 million to more than \$1 billion annually. As 2011 began, Georgia's incarceration rate – 1 in 70 adults behind bars – was the fourth highest in the nation, and another 8 percent jump in the inmate population was predicted over the next five years. Meanwhile, the state's recidivism rate had hovered at roughly 30% for a decade, suggesting that Georgia's heavy reliance on imprisonment was, at best, producing marginal public safety benefits.

Convinced the state could do better, Governor Deal and the General Assembly created the Council (initially known as the Special Council on Criminal Justice Reform for Georgians) in 2011. The panel was directed to investigate the dynamics driving prison growth and costs and recommend improvements, and was provided with technical assistance from the Public Safety Performance Project of the Pew Center on the States

(Pew). In its first year, the Council produced a set of policy recommendations that prioritized prison beds for violent, career criminals while expanding probation, drug and mental health courts and other sentencing alternatives for those convicted of less serious crimes. The proposals were embodied in HB 1176, which passed the General Assembly unanimously and was signed into law by Governor Deal on May 2, 2012.

“While it is important that our criminal justice system punish those who have harmed the lives and property of our citizens, it should also seek to change the direction of their lives so that they will not repeat their criminal conduct upon release.”

Governor Nathan Deal
The Atlanta Journal-Constitution, Dec. 27, 2015

The Council's next target was Georgia's troubled juvenile justice system, which was plagued by high costs and disappointing results. After an extensive review, the Council concluded that too many low-level youth were being placed in out-of-home facilities, in part because there were few community-based sentencing options in many parts of the state. Despite a budget exceeding \$300 million annually, Georgia's juvenile justice approach was doing little to help troubled youth turn around their lives. More than half the youth in the system were re-adjudicated delinquent or convicted of a criminal offense within three years of release, a rate that had held steady since 2003. For those released from secure youth development campuses, the recidivism rate was even higher – a disturbing 65 percent.

Seeking to reduce juvenile reoffending and control costs, the Council produced a package of policy recommendations designed to divert more lower level offenders into evidence-based community programs with a proven track record. Most of the proposals were included in HB 242, which passed the General Assembly unanimously and was signed into law by Governor Deal on May 2, 2013.

Georgia's Prisoner Reentry Initiative

The centerpiece of the Council's work in 2014 was the state's third leg of criminal justice reform, the Georgia Prisoner Reentry Initiative (GA-PRI). Approved by the Council at the end of 2013, the GA-PRI has two primary objectives: to improve public safety by reducing crimes committed by former offenders, thereby reducing the number of crime victims, and secondly, to boost success rates of Georgians leaving prison by providing them with a seamless plan of services and supervision, beginning at the time of their incarceration and continuing through their reintegration in the community. Backed by

significant grant support and a total of \$60 million in state and federal funding, Georgia's investment in reentry is unmatched anywhere in the United States.

The GA-PRI is scheduled for phase-in over three years, beginning with six Community Pilot Sites in 2015 and expanding to statewide engagement by the end of 2018. The initiative is designed to reduce the overall statewide recidivism rate by 7 percent in two years and by 11 percent over five years – from 27 percent to 24 percent, a three point drop and an 11 percent rate overall reduction. Recidivism, by statute, is defined as a conviction for a new felony within three years of release.

In adopting the GA-PRI, the state committed to several principles of evidence-based practice that are incorporated into its design and have been the focus of the Initiative over the course of the past year:

- *Assess actuarial risk and needs* – Develop and maintain a complete system for the use of reliable and validated actuarial risk and needs of returning offenders;
- *Target Interventions* - Prison and community-based supervision and treatment resources should be prioritized for higher risk individuals; interventions must target criminogenic needs; and programming should be responsive to individual learning styles, gender, culture, etc.;
- *Measure Relevant Processes/Practice* - A formal and valid mechanism for measuring outcomes is the foundation of evidence-based practice; and,
- *Provide Measurement Feedback* - Once a mechanism for performance measurement and outcome evaluation is in place, the information must be used to inform policies and programming.

Accomplishments in 2015 included development of the Transition Accountability Planning process that generates case plans for returning citizens based on their risk and need, using Lee State Prison as a Learning Site for Evidence-Based Principles, improving housing and employment services for returning citizens, and statewide and community-based training.

Promising Results

As the Council enters its sixth year of work, there is mounting evidence that the reforms enacted to date are improving the effectiveness of Georgia's criminal justice system and producing benefits for taxpayers as well as offenders and their families. On the adult side, one key indicator is the continuing decline of Georgia's prison population, which stood at 51,822 at the end of 2015 – down from a peak of 54,895 in July, 2012.

Annual commitments to prison have dropped substantially as well. In 2015, Georgia recorded 18,139 commitments, the lowest number since 2002 and down from a peak of 21,655 in 2009. These downward trends stand in stark contrast to earlier projections for system growth. Prior to passage of the adult reforms, Georgia's inmate population was expected to increase by 8 percent over the next five years. Had the state followed that trajectory, its already overcrowded system would have swelled to 60,000 inmates, requiring the state to spend an additional \$264 million to expand capacity.

In addition, the ongoing reforms continue to produce a substantial decline in the number of African-American adults incarcerated in Georgia. In 2009, two-thirds of the state's male prison population was African-American; by 2015 that proportion, while still substantial, had dipped to 62 percent. Further declines are projected because the number of black men *committed* to prison has also continued its steady fall in the past six years. While overall prison commitments dropped 16.3 percent between 2009 and 2015, commitments of black males dropped 24.3 percent over the same timeframe. The number of black women declined 37.6 percent during that period, while the number of white women committed to prison increased 11.8 percent. Overall, the number of African-Americans committed to prison in 2015 – 9,983 – was at its lowest level since 1988.

“Georgia is a real, genuine success story. What they do really makes a difference and will be looked at by other states and other conservatives across the nation.”

***Vikrant Reddy, Senior Policy Analyst, Right on Crime
The New Republic, March 31, 2015***

Georgia is also making progress on reserving its most expensive correctional sanction – prison – for its most serious offenders while strengthening accountability courts and other alternative punishments for less serious lawbreakers. At the start of 2016, the proportion of violent and sex offenders in prison stood at 67 percent, up from 58 percent in January 2009.

Because of state appropriations to expand and strengthen accountability courts, as well as state-funded incentives to create new ones, Georgia now has 131 such courts operating in the state. Indeed, only two judicial circuits lack an accountability court, and both are in the early stages of starting one. In addition to existing participants, during last year alone nearly 3,500 new participants were added to an accountability court program.

On another front, Georgia has dramatically reduced the backlog of state inmates housed in county jails and awaiting transfer to a prison or Probation Detention Center. In the past, the Georgia Department of Corrections spent more than \$20 million annually to keep state inmates in local jails pending their transfer to prison. In FY2015, state spending on such subsidies was just \$5,760, freeing up funds for reinvestment in a variety of other initiatives.

Progress on Juvenile Reform

Within the juvenile system, progress has been particularly encouraging. Since 2013, Georgia has decreased its population of youth in secure confinement by 17 percent and reduced the number of youth awaiting placement by 51 percent. During that same timeframe, overall juvenile commitments to the Department of Juvenile Justice have dropped 33 percent, demonstrating that more youths' needs are being met in the community. Indeed, every judicial circuit in Georgia now has access to an evidence-based intervention for juveniles as the state has steadily increased the availability of programs proven to reduce juvenile recidivism.

To ensure the right juveniles are enrolled in the right programs, Georgia is now consistently using validated assessment instruments to properly assess and place youth in appropriate settings, based on their individual risk level and needs. Meanwhile, the shrinking commitment population has enabled the state to take two detention centers and one Youth Development Campus off-line, representing 269 beds.

2016 Adult System Recommendations

While phasing in Georgia's landmark reentry initiative remained a priority for the Council this year, members also made headway on many other significant challenges. Summarized here, these policy areas are covered in detail in the body of this report.

Fortifying the First Offender Act

Known as Georgia's "second chance law," the First Offender Act was enacted in 1968 to allow certain first-time offenders to avoid both a conviction and a public record if they successfully complete their court sentence. The law also protects these individuals from employment discrimination on the basis of their charge. Its intent is to give some first-time offenders a chance to learn from their mistake and move on with their lives without the burden of a conviction. People charged with a DUI or a serious violent or sexual felony are not eligible.

In 2014, the Council made three recommendations to ensure eligible offenders receive protections they are entitled to under the law, all of which were adopted by the General Assembly in the 2015 legislative session. One of the recommendations was embodied in HB 310, which required that all Georgians who qualify for a second chance under the Act be informed of their eligibility. The new law also allows those who were not informed of their eligibility to petition a court for retroactive first offender treatment with the consent of the prosecuting attorney's office.

This year, the Council makes several additional recommendations related to the Act, many of them related to the confidentiality of records and creating protections from employment discrimination. The Council concluded that such changes are needed because the methods used to prevent first offenders from having a public record have been outpaced by technology and the expansion of the private background investigation industry. Also, despite the law prohibiting employment discrimination, some employers continue to use successful first offender cases to deny employment. Throughout our deliberations on this issue, the Council strived to strike the appropriate balance between the public's and employers' rights to know and giving first offenders the intended protection of the law.

Lifting the Food Stamps Ban for Felony Drug Offenders

In 1996, Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act (PWORA), which included a federal lifetime ban on food stamps for those with felony drug convictions. The ban amounts to a lifetime of punishment, and although it does not target particular demographic groups, various social and criminal justice dynamics have caused the ban to have a disproportionate effect on women, children and African-Americans. States can "opt out" and exempt residents from the lifetime ban completely, or enact a less punitive version, and the vast majority of states have chosen one of those options. Georgia is one of only three states that have maintained the ban in its entirety.

Data compiled by the Georgia Budget and Policy Institute show that because of the ban, Georgia is missing out on \$10.4 million in federal food stamp benefits each year. Approximately 555 otherwise eligible Georgians are denied food stamps each month because of a drug felony. This number translates to about 6,665 people per year, not including those individuals discouraged from seeking benefits. About 1,850 children are included in these denied benefits each year. Among individuals denied benefits, many were not users, but rather sold drugs to provide income for their families.

After a careful review of the issue, the Council recommends that Georgia remove the lifetime ban on food stamps for felony drug offenders in its entirety. Doing so will not

only bring millions of dollars of federal revenue to the state, but also remove a barrier to successful reentry, enabling Georgians who have completed their sentences to more easily move past their offense, become law-abiding citizens and provide for their families.

Misdemeanor Probation Reform

In 2014, the Council conducted an extensive review of Georgia's misdemeanor probation system, which had been the subject of broad criticism in audits, in the media and by the courts. As a result of that review, the Council produced 12 recommendations to address deficiencies and improve transparency and fairness in misdemeanor probation supervision services.

Adding to that work in 2015, the Council developed additional recommendations to increase fairness in misdemeanor cases where it is alleged that the probationer has only failed to pay or failed to report. Specifically, the Council recommends the institution of affidavit requirements before probation officers may seek arrest warrants for failure to report in misdemeanor cases. In addition, the Council recommends requiring a hearing before a misdemeanor probationer may be arrested solely for failure to pay. The Council also recommends that for pay-only probationers, supervision should terminate automatically when all fines and statutory surcharges are paid in full. Individuals on pay-only probation, and those serving consecutive misdemeanor sentences, should further be allowed to file a motion for early termination of probation supervision.

Other Adult Reforms

In addition to these adult system improvements, the Council also recommends that the General Assembly extend parole eligibility to an additional category of non-violent recidivist drug offenders; authorize in Georgia statute the creation of two additional accountability courts (a Family Dependency Treatment Court and an Operating Under the Influence Court, also known as DUI Court); extend "ban the box" protections to certain applicants for professional licensure whose criminal history includes a felony; clarify that Georgia's Quality Basic Education (QBE) formula funding can be used for offenders age 22 and under who are enrolled in an approved state charter school; enact several changes to regulations governing driver's license suspensions; and various alcohol monitoring practices.

2016 Juvenile Justice Recommendations

The Council also addressed several significant issues that have surfaced pursuant to the landmark juvenile justice legislation adopted in 2013. While juvenile reform has had many positive impacts on Georgia's correctional system for youth, one unintended

consequence has been the juvenile courts' expanded use of secure detention for a younger population than such facilities are equipped to serve. Research shows that earlier involvement with the juvenile system leads to an increase in negative outcomes for youth, including higher recidivism levels, a greater likelihood of not graduating from high school, and future involvement with the adult correctional system. By expanding the detention of younger children and exposing such youth to the trauma correlated with such detention, Georgia is, in effect, voiding the beneficial effects of juvenile reform for this most vulnerable population.

In response, the Council recommends statutory language that would prohibit secure detention for all first-time youthful offenders aged thirteen and under, except for those charged with the most serious offenses, where a clear public safety issue is present. Secure detention in these serious cases may only be considered if indicated by the validated assessment instrument, and with judicial approval.

On another issue crucial to the safety and well being of Georgia's youth, the Council examined the referral systems that feed the juvenile justice system – especially those in schools, which are one of the largest sources of delinquency complaints filed in juvenile courts. Given research that shows the vast majority of juveniles outgrow delinquency and criminal behavior with involvement in school and work, the Council recommends mandating the use of educational approaches to address a student's problematic behavior in school and improving the fairness of school disciplinary proceedings. The Council also proposes the establishment of equitable standards and mandating meaningful training for school disciplinary officers and tribunal personnel. Finally, the Council recommends that school systems utilizing the services of a School Resource Officer ("SRO") operate pursuant to an agreed upon memorandum of understanding. It is the Council's intention that these recommendations go hand-in-glove with the work and recommendations of the Georgia Education Reform Commission.

Upcoming Council Priorities

Looking toward the 2017 legislative session, the Council recommends the creation of a subcommittee to study the effects of mandatory minimum sentences on public safety, government costs, deterrence, disparate sentencing, and equity. The subcommittee will also consider whether restoring judicial discretion in certain cases would better enable judges to tailor sentences to fit the unique circumstances of each crime. In addition, the Council proposes that a second study panel examine adult felony and misdemeanor probation to determine if efficiencies may be gained through additional improvements.

The Council respectfully submits this final report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, Chief Justice of the Supreme Court, and Chief Judge of the Georgia Court of Appeals for full consideration during the 2016 legislative session.

The Georgia Council on Criminal Justice Reform

In 2011 the Georgia General Assembly passed and Governor Deal signed HB 265 to create the bipartisan, inter-branch Special Council on Criminal Justice Reform for Georgians. The Special Council's mandate was to:

- Address the growth of the state's prison population, contain corrections costs and increase efficiencies and effectiveness that result in better offender management;
- Improve public safety by reinvesting a portion of the savings into strategies that reduce crime and recidivism; and
- Hold offenders accountable by strengthening community-based supervision, sanctions and services.

In its first year, the Special Council produced policy recommendations that led to significant adult corrections and sentencing reform enacted through HB 1176, which passed the General Assembly unanimously and was signed by Governor Deal on May 2, 2012. Soon after, the Governor expanded the Special Council's membership and directed it to focus on Georgia's juvenile justice system. That work led to the passage of HB 242, which prompted a sweeping rewrite of the juvenile code.

In March, 2013, the General Assembly passed and Governor Deal subsequently signed HB 349, which created the newly named Georgia Council on Criminal Justice Reform in statute and gave it a five-year mandate to improve public safety through better oversight of the adult and juvenile correctional systems. HB 349 also extended Council terms to five years, ensuring a longer tenure to allow members to tackle more complex projects.

Members of the Georgia Council on Criminal Justice Reform

Hon. Michael P. Boggs (Co-Chair)	Judge, Court of Appeals of Georgia
Thomas Worthy, Esq. (Co-Chair)	Director of Governmental and External Affairs, State Bar of Georgia
Hon. Scott Berry	Sheriff, Oconee County
Hon. Jason Deal	Superior Court Judge, Northeastern Judicial Circuit
Hon. Steven Teske	Juvenile Court Judge, Clayton County
Hon. B. J. Pak	Representative, District 108
Hon. Bill Cowser	Senator, District 46
Hon. Jackie Johnson	District Attorney, Brunswick Judicial Circuit
Hon. Stephanie Woodard	Solicitor General, Hall County
Christine Van Dross, Esq.	Public Defender, Clayton County
Roy Copeland, Esq.	Criminal Defense Attorney and Asst. Professor of Management, Valdosta State University
Paul Bolster	Executive Director, Georgia Supportive Housing Assn.
Henry Kelly	Project Executive, Georgia Power Company
Teresa Roseborough, Esq.	Executive Vice President, General Counsel, and Corporate Secretary, The Home Depot
Tracy J. BeMent	District Court Administrator, Tenth Judicial Administrative District

II. Adult Correctional System: Update and 2016 Recommendations

In 2011, Georgia policymakers faced a critical choice. The state's prison population had more than doubled over the past two decades, to nearly 56,000 inmates, and its incarceration rate – 1 in 70 adults – was the fourth highest in the nation.ⁱ Prison growth came at a significant cost to Georgia's taxpayers. The state spent more than \$1 billion annually on corrections in 2011, up from \$492 million in FY 1990, siphoning money away from other public needs.ⁱⁱ Yet despite this investment, Georgia's criminal justice system was not producing commensurate public safety returns: the recidivism rate had remained unchanged at nearly 30 percent for a decade.ⁱⁱⁱ

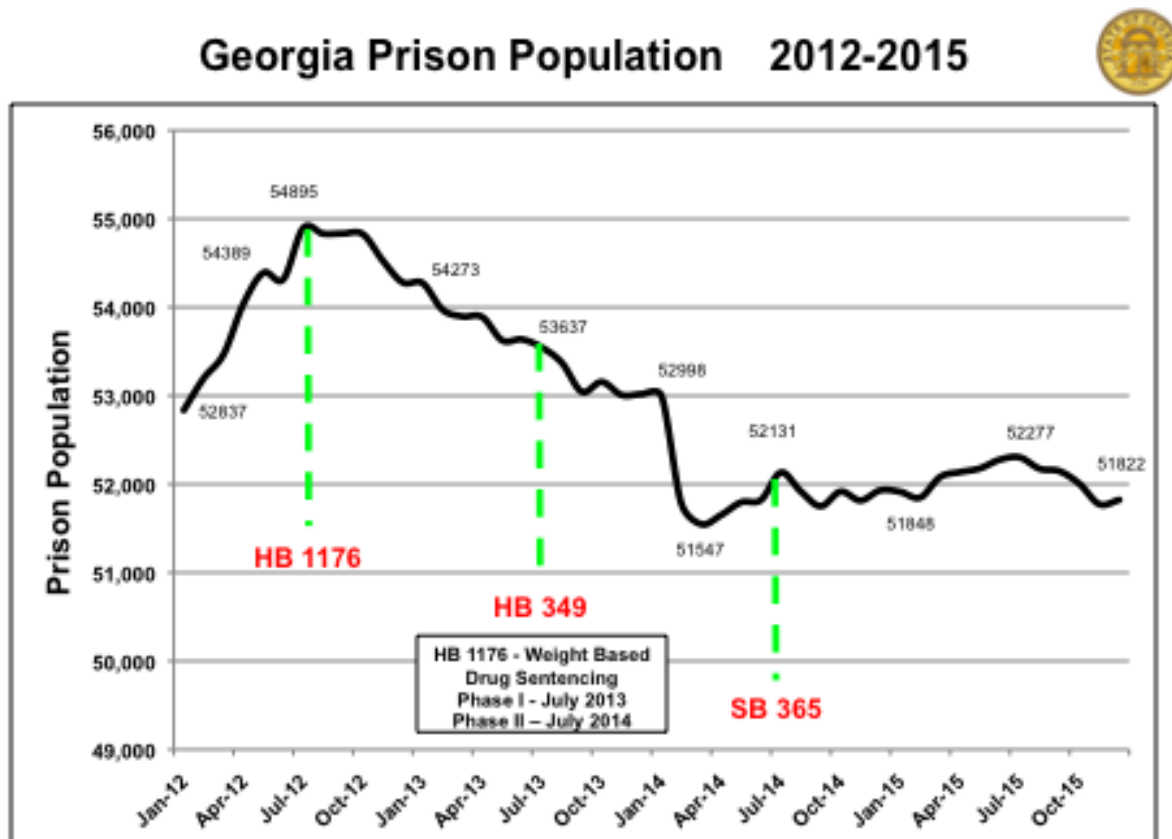
The choice was clear: Georgia could continue with existing practices and policies and face additional prison growth and accelerating costs, or its leaders could forge a new path and reshape the state's criminal justice system for the benefit of all Georgians. The General Assembly and Governor Nathan Deal chose the second option, and today the state is recognized as a national leader for its sentencing and corrections reforms.^{iv}

To guide system change, and with improving public safety its overriding goal, the Georgia General Assembly in 2011 established the Special Council on Criminal Justice Reform for Georgians (Special Council). With technical assistance from the Public Safety Performance Project of the Pew Center on the States (Pew), the Special Council in its first year produced policy recommendations that led to significant adult corrections reforms enacted through HB 1176, which passed the General Assembly unanimously and was signed by Governor Deal on May 2, 2012. The law was expected to avert the projected 8 percent growth of the inmate population and the associated cost increase of \$264 million over five years.^v Through accompanying budget initiatives, the General Assembly has, to date, reinvested over \$85 million into measures designed to improve public safety by reducing recidivism through expanding and supporting accountability courts, and strengthening probation and parole supervision.

Steady Progress

In passing HB 1176 and adopting a series of related administrative policies, Georgia set in motion a broad wave of reforms and transformed the way it punishes lower level, nonviolent offenders. While many effects of the changes remain to be seen, steady improvements in the effectiveness of Georgia's criminal justice system are clear. On the adult side, evidence includes the continuing decline of Georgia's prison population, which stood at 51,822 at the end of 2015 – down from a peak of 54,895 in July, 2012.^{vi} Annual commitments to prison have fallen substantially as well. In 2015, Georgia

recorded 18,139 commitments, the lowest number since 2002 and down from a peak of 21,655 in 2009.^{vii}



These downward trends stand in stark contrast to earlier projections for system growth. Prior to passage of the adult reforms, Georgia's inmate population was expected to increase by 8 percent over the next five years. Had the state followed that trajectory, its already overcrowded system would have swelled to 60,000 inmates, requiring the state to spend an additional \$264 million to expand capacity – and receive the same disappointing public safety results.^{viii}

Fewer African-Americans, Nonviolent Offenders in Prison

In addition to the overall population drop, the ongoing reforms continue to produce a substantial decline in the number of African-American adults incarcerated in Georgia. In 2009, two-thirds of the state's male prison population was African-American; by 2015 that proportion, while still substantial, had dipped to 62 percent. Further declines are projected, however, because the number of black men *committed* to prison has also

continued its steady fall in the past six years. While overall prison admissions dropped 16.3 percent between 2009 and 2015, commitments of black males dropped 24.3 percent over the same timeframe. The number of black women declined 37.6 percent during that period, while the number of white women committed to prison increased 11.8 percent. Overall, the number of African Americans entering the prison system in 2015 – 9,983 – was at its lowest level since 1988.^{ix}

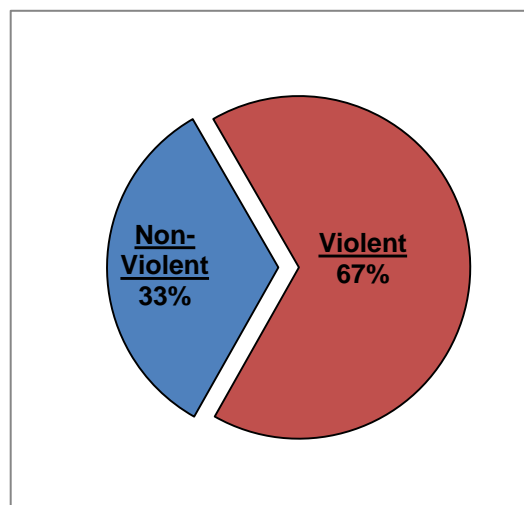
Commitments of Blacks and Whites from 2009-2015

Calendar Year	Total Commitments	Black	White
2009	21,655	13,368	7,297
2014	18,747	10,587	7,518
2015	18,133	9,983	7,644
Change 2009-2015	-16.3%	-25.3%	4.8%
Change 2014-2015	-3.3%	-5.7%	1.7%

Source: Georgia Department of Corrections

Georgia is also making progress on reserving its most expensive correctional sanction – prison – for its most serious offenders while strengthening accountability courts and other alternative punishments for less serious lawbreakers. At the start of 2016, the proportion of violent and sex offenders in prison stood at 67 percent, up from 58 percent in 2009.^x

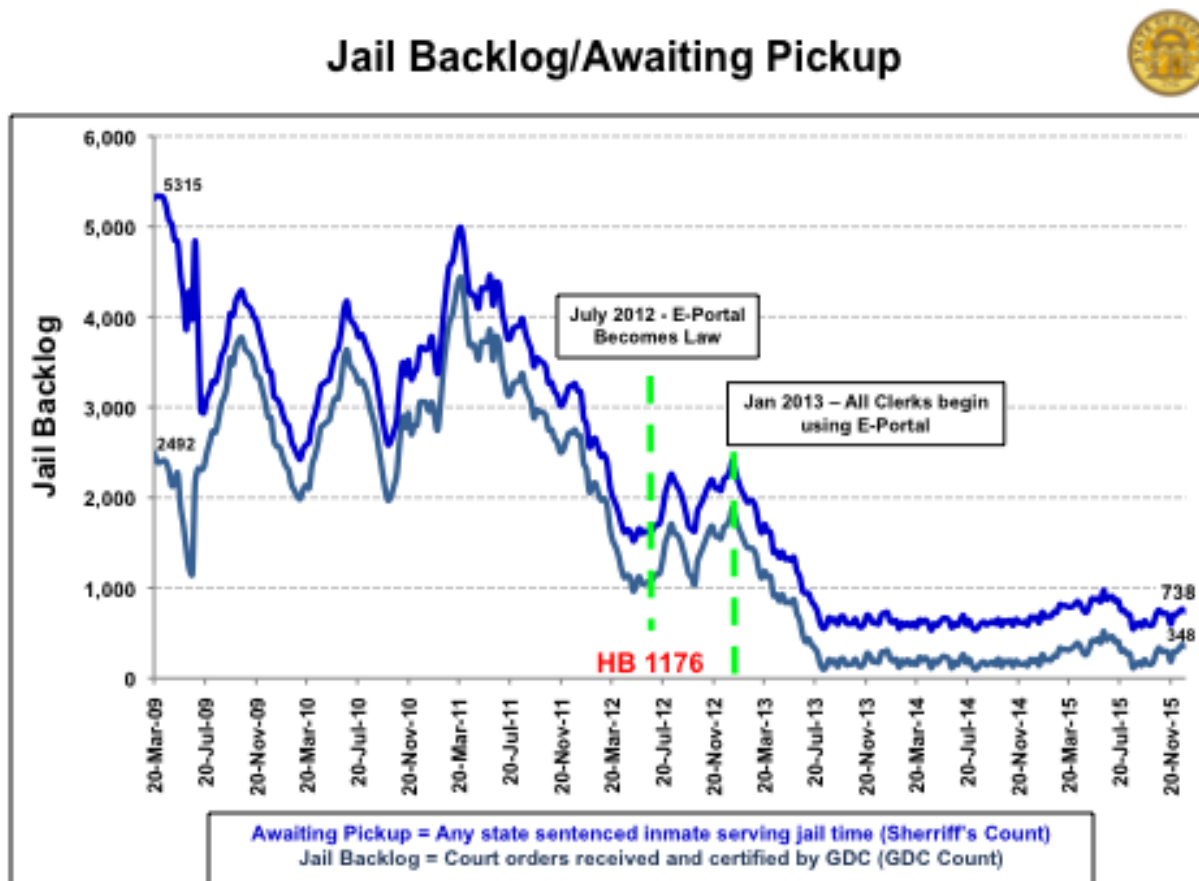
Department of Corrections Population As of December 31, 2015



Source: Georgia Department of Corrections

Because of state appropriations to expand and strengthen accountability courts in addition to state-funded incentives to create new ones, Georgia now has 131 such courts operating in the state. Today, only two judicial circuits do not yet have an accountability court, and both are in the early stages of starting one. In addition to already existing participants, during last year alone, nearly 3,500 new participants were added to an accountability court program. Expanded use of accountability courts and other diversionary programming, improved educational and vocational training for offenders currently incarcerated, and the implementation of the state's reentry initiative have all contributed to a reduction of Georgia's recidivism rate from approximately 30 percent in 2009 to 26.4 percent last year. (See map on following page.)

On another front, Georgia has dramatically reduced the backlog of state inmates once housed in county jails awaiting transfer to a prison or Probation Detention Center. In the past, the Georgia Department of Corrections (DOC) spent more than \$20 million annually to keep state inmates in local jails pending their transfer to prison. In FY2015, state spending on such subsidies was just \$5,760, freeing up funds for reinvestment in a variety of other initiatives.^{xi}



Source: Georgia Department of Corrections

Administration Reorganization Improves Efficiency

Another step forward on criminal justice reform in 2015 was the legislative passage of HB 310, which created the Department of Community Supervision and combined the supervision components of probation and parole into one service delivery agency. HB 310 also codified the Governor's Office of Transition, Support (GOTSR), and Reentry and brought about wholesale changes to Georgia's regulation of misdemeanor probation, a subject that occupied the Council in 2014 and led to what co-chair Judge Michael Boggs called a "moral imperative" to deal with the "inequities and abuses" of some of the state's for-profit probation industry participants. HB 310 represented a principled compromise that contained provisions to protect both the rights of minor offenders and the integrity of the state's court system. Perhaps chief among these is ensuring misdemeanor probation providers are regulated with diligent and effective scrutiny. DCS is working on auditing procedures that will capture the intended outcomes of the Council's misdemeanor probation recommendations. For example, DCS intends to carry out a streamlined audit process that will provide communication with providers in the form of an "Audit Guide." DCS also intends to leverage technological resources through an internal website to provide for more effective transmission of information and data tracking. In essence, DCS is prepared to build an infrastructure to bolster Council recommendations.

"As the Department of Community Supervision builds its capacity, nothing could be more important than recidivism reduction and keeping our citizens safe. We are totally committed to the Georgia Prisoner Reentry Initiative Framework to help us achieve the goals in ways that fully engage the community and build on our historic focus of evidence-based principles."

Department of Community Supervision Commissioner Michael Nail

In announcing that DCS would assume responsibility for GOTSR, Governor Deal intended to ensure a better system of oversight by eliminating redundancies, streamlining services, and enhancing communication. Since the shift, DCS has worked with the Council to legislatively transfer all duties, responsibilities, and authorizations from GOTSR to DCS. Senior leadership of DCS has visited each of the GOTSR pilot sites and met with field staffers to answer questions and provide insight as to how their functions will be incorporated into the DCS Organizational Structure. DCS has also begun to incorporate GOTSR into the agency strategic plan, which will serve as a viable mechanism to track the progress of reentry efforts. By fully embedding GOTSR into the agency, DCS will be able to better evaluate reentry outcomes, broker additional

resources for local communities, and enhance Georgia's ability to better serve nonviolent offenders while saving taxpayer dollars.

In July 2016, the formal merger will be complete with the addition of juvenile supervision caseloads. DCS has begun to make the necessary staffing adjustments and is ready to further support the recommendations stemming from Council deliberations. To signify its readiness, DCS hired former DJJ Operations Director Michelle Stanley to help lead the transition. Because all former probation and parole officers supervised adult offenders exclusively, DCS intends to roll out new internal policies and provide specialized training to all DCS officers on juvenile supervision by the end of FY 2016.

2016 Adult System Recommendations

Recommendations to Restore the Intent of the First Offender Act

Originally enacted in 1968, the First Offender Act allows certain first-time offenders to avoid both a conviction and a public record if they successfully complete their court sentence. Known as Georgia's "second chance law," the Act is intended to give some first-time offenders a chance to learn from their mistake and move on with their lives without the burden of a conviction. People charged with a DUI or a serious violent or sexual felony are not eligible.

In recent years, however, it has become clear that the Act is failing to fulfill its intended purpose. Many first offenders are not receiving the benefits they are entitled to under the law – the confidentiality of the records and the protection from employment discrimination. One reason is that the methods used to prevent first offenders from having a public record have been outpaced by technology and the expanded use of private companies that conduct background checks. Also, despite the law prohibiting employment discrimination, some employers continue to use successful first offender cases to deny employment.^{xii}

In 2014, the Council made three recommendations to ensure eligible offenders receive protections they are entitled to under the law, all of which were subsequently adopted by the General Assembly. One of the recommendations became HB 310, which required that all Georgians who qualify for a second chance under the Act be informed of their eligibility. The new law also allows those who were not informed of their eligibility to petition a court for retroactive first offender treatment with the consent of the prosecuting attorney's office. This year, the Council appointed the First Offender Study Committee, which was comprised of prosecuting attorneys, criminal defense attorneys, clerks of court, law enforcement, GCIC staff and other stakeholders, and

tasked it to thoroughly analyze the implementation of the First Offender Act and address any inefficiencies. The Study Committee made the following recommendations to the full Council and the Council adopted them in full and recommends them to the General Assembly.

Recommendation 1: *In order to make the discharge process more efficient, the law should require that when a first offender sentence has expired without revocation there should be a discharge by operation of the law. The sentencing order should include the effective date of the discharge and exoneration so that the defendant and the local and state agencies are on notice.*

Recommendation 2: *When a judge is deciding to grant first offender treatment, he or she should also be able to decide when the records maintained by the Georgia Crime Information Center (GCIC), clerks and law enforcement should be sealed. The judge should consider the harm the availability of the records would cause the individual as well as the public's interest in the information.*

Recommendation 3: *Only the sentencing court should be able to change the status of a first offender case and so GCIC should not modify a first offender status without a court order.*

Recommendation 4: *Upon notice of first offender sentence completion the clerk of court should seal all records of the case in his or her possession.*

Recommendation 5: *Those charged with human trafficking and abuse of the elderly or disabled should be ineligible for first offender treatment.*

Recommendation 6: *Courts should be able to retroactively sentence an individual pursuant to the first offender act if it has been less than a year since the sentence was imposed or the individual has the consent of the prosecuting attorney.*

Recommendation 7: *The records of first offenders should be modified quickly – clerks should report first offender status updates to GCIC within 30 days.*

Recommendation 8: *Exonerated first offenders should be able to petition for the sealing of court and law enforcement records.*

Recommendation 9: *First offender records of crimes against vulnerable populations (children, elderly, mentally ill) should always be reported to employers working with those vulnerable populations.*

Recommendation 10: *The Council recommends amending O.C.G.A. § 35-3-35 relating to the disclosure and dissemination of criminal records by the Georgia Crime Information Center to provide for the restriction of records for individuals who pleaded guilty to or who were found guilty of a first violation of O.C.G.A. §3-3-23, (which includes furnishing to, purchase of, or possession by person under 21 years of age of alcoholic beverages), where the individual was sentenced pursuant to O.C.G.A. §3-3-23.1(c) and successfully completes the terms and conditions of his or her probation.*

Lifting the Food Stamps Ban for Drug Offenders

In 1996, as part of President Clinton's pledge to "end welfare as we know it," Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act, which included a federal lifetime ban on food stamps for those with felony drug convictions. The ban imposes a lifetime of punishment for those with felony drug convictions, as it blocks access to housing, employment, and the ability to obtain certain professional licenses. A study released by The Sentencing Project also shows that the ban disproportionately affects women, children and African-Americans.^{xiii}

Approximately 555 otherwise eligible Georgians are denied food stamps each month because of a drug felony.^{xiv} This number translates to about 6,665 people per year, not including those individuals who have been discouraged from applying for benefits.^{xv} About 1,850 children are included in these denied benefits each year.^{xvi} Among the individuals denied benefits, many were not users, but rather sold drugs to provide income for their families.^{xvii}

The majority of states have either opted out of the ban entirely or modified its punitive effects through the creation of conditions applied to beneficiaries before their receipt of food stamps. Georgia is one of only three states that have maintained the ban in its entirety, and data compiled by the Georgia Budget and Policy Institute show that because of the ban, the state is missing out on \$10.4 million in federal food stamp benefits each year. Lifting the lifetime ban and providing benefits to people previously denied them would generate no additional administrative costs because these cases make up less than 1% of Georgia's food stamp cases.^{xviii}

Recommendation: *Georgia should remove the lifetime ban on food stamps for drug offenders in its entirety in order to bring millions of dollars of federal revenue to the state and also remove a barrier to successful reentry, allowing Georgians who have completed their sentences to more easily rebuild their lives.*

Misdemeanor Probation Reform

At the request of Governor Deal, the Council began examining problems plaguing the misdemeanor probation system in 2014. Under state law, courts may assign people who commit misdemeanors to a probation term of up to 12 months. Probation providers are responsible for monitoring probationers and taking action when probationers fail to fulfill conditions governing their case, such as the payment of fines or the performance of community service. About 80 percent of Georgia probationers are supervised by private companies under contract with municipal and county governments, and in recent years the performance of some probation providers, along with the adequacy of government contracts and judicial oversight, have been the target of criticism.^{xix}

In April 2014, for example, the Georgia Department of Audits and Accounts released a report detailing widespread deficiencies in the system, concluding that providers sometimes failed to hold probationers accountable and at other times subjected them to improper up-front charges, excessive reporting requirements and improper extensions of probation terms.

The Georgia Supreme Court also weighed in, upholding the constitutionality of using private firms to supervise probationers but ruling that state law does not authorize putting probation sentences on hold – an action known as tolling – in misdemeanor cases. The court’s December 2014 decision invalidated the longstanding practice by courts of issuing an arrest warrant and pausing probation for probationers who stopped reporting as required. The ruling also led to the cancellation of tens of thousands of arrest warrants for people who had failed to fulfill conditions of their probation as well as the release of many others jailed for noncompliance.^{xx}

“Because of the Governor’s and the General Assembly’s dynamic leadership, Georgia is now a national thought leader in justice reform and reinvestment. But we cannot rest on our laurels; we must continue to strive to make meaningful, systemic and permanent changes that make our communities safer by appropriately treating offenders.”

W. Thomas Worthy, Co-Chair, Georgia Council on Criminal Justice Reform

In its last report, the Council made 12 recommendations related to misdemeanor probation, including several designed to improve fairness and due process protections during revocation hearings.^{xxi} With this report, the Council is recommending additional revisions to the law governing pre-hearing procedure in misdemeanor cases.

In the 2015 legislative session, the General Assembly added due process protections for misdemeanor probationers who face tolling of their sentences. O.C.G.A. § 42-8-105(b)(1). Under the revised tolling law, probation officers are required to take certain steps before a sentence can be tolled, or extended, such as contacting the probationer by phone and mail and checking local jail rosters to see if the person is incarcerated.

Recommendation 1: Probation officers should be required to obtain affidavits before seeking arrest warrants in failure-to-report cases. The Council proposes that the affidavit requirements now in place for tolling should similarly apply when a probation officer in a misdemeanor or traffic case seeks an arrest warrant for failure to report.

This change in the law will increase the integrity of the revocation hearing process by ensuring that people on probation receive notice of the alleged failure to report and an opportunity to comply with probation conditions.

Recommendation 2: A court hearing should be held before a misdemeanor probationer may be arrested solely for failure to pay. The Council recommends a modification of existing law to reduce the use of pre-hearing incarceration in misdemeanor cases in which a person's sole alleged probation violation is for failure to pay fines, fees or surcharges. Under such circumstances, the Council suggests that the trial court should not issue an arrest warrant solely for failure to pay. Instead, the probation officer should seek a hearing date before the court regarding the alleged failure to pay.

Recommendation 3: The Council recommends amending O.C.G.A. § 42-8-103(b) with respect to "pay-only" probation (as defined in Code Section 42-8-103), to provide that probation supervision shall terminate automatically when all fines and statutory surcharges are paid in full and by adding, where appropriate, statutory authority to provide with respect to defendants serving consecutive misdemeanor sentences or pay-only probation, a procedure to allow the defendant to file a motion for early termination of probation supervision.

Recommendation 4: The Council recommends that the General Assembly create, for purposes of improving governance efficiencies, an improved regulatory mechanism, embedded in the Department of Community Supervision, for the oversight of misdemeanor probation. The Council also recommends the creation of an advisory committee, including judges, to advise and assist the Department of Community Supervision.

Recommendation 5: Amend and revise O.C.G.A. §42-8-101 relating to agreements for probation services to provide that agreements for probation supervision services within

this State shall be contracted for by the governing authority of the applicable county, municipality or consolidated government, but only entered into upon the request of the applicable judge and with the express written consent of such judge.

Recommendation 6: *Consistent with recommendations made herein regarding contracting for misdemeanor probation supervision services, the Council recommends amending O.C.G.A. § 15-18-80 relating to Pretrial Intervention and Diversion Programs so as to authorize a state or local governing authority, upon the request of the district attorney or solicitor and with the advice and express written consent of such attorney, to enter into written contracts for the purpose of monitoring program participants' compliance with Pretrial Intervention and Diversion Programs.*

Other Adult System Recommendations and Actions

The Council made these additional recommendations related to adult offenders for 2016:

QBE Funding for Young Offenders Attending Charter Schools

Recommendation: *The Council recommends that Georgia statute be clarified to explicitly state that Georgia's Quality Basic Education (QBE) formula funding can be used for Department of Corrections (DOC) and DJJ offenders age 22 and under who are enrolled in an approved state charter school.*

The recommendation follows an opinion stating that because DOC and DJJ are both authorized to run their own school district, a state charter school may not include students who are committed at DOC or DJJ in student counts for QBE and thereby receive the formula funds to support their participation. This change is needed to serve DOC students who are incarcerated and who wish to obtain a regular high school diploma because there is no available high school at DOC. Additionally, recent reforms to the juvenile justice system are placing DJJ youth back in their home communities, yet many counties lack sufficient school opportunities for such youth. The state charter school would provide additional options for those DJJ youth who are still committed and overseen by DJJ, but now housed in their communities.

Extending Parole Eligibility to Non-Violent Recidivist Drug Offenders

Under existing law, trial courts may sentence people convicted of certain drug offenses to lengthy sentences, up to life without the possibility of parole, as recidivists. In light of the recent enactment of criminal justice reform measures aimed at reducing the number of nonviolent low-risk offenders in prison and due to efforts to increase the use of

community-based alternatives for drug offenders, the Council in its previous report recommended that the General Assembly consider extending parole *eligibility* to certain non-violent, recidivist drug offenders to balance the equities of recent changes to our drug sentencing statutes.

In 2015, the Council recommended extending parole eligibility – that is, the ability of certain offenders to ask for parole consideration – to certain non-violent recidivist drug offenders who had been convicted pursuant to O.C.G.A. Section 16-13-30(b), which proscribes as unlawful the manufacture, delivery, distribution, dispensing, administering, sale, or possession with intent to distribute any controlled substance. These offenders, upon meeting clearly delineated and restrictive statutory and institutional qualifiers would, after the service of 12 years in prison, be eligible to *request consideration* for parole from the Georgia State Board of Pardons and Paroles.

Recommendation: *The Council recommends that the same parole eligibility framework enacted in 2015, with the same statutory and institutional qualifiers, be extended to less serious offenders who have served at least six years in confinement and who were convicted pursuant to O.C.G.A. Section 16-13-30(a), which proscribes as unlawful the purchase, possession, or of having under one's control any controlled substance.*

Administrative Dismissal

In recent years, some cases dismissed by prosecutors prior to formal accusation or presentation to the grand jury were not being accurately reported to the GCIC. Given that gap, a provision clarifying the roles of the prosecutor and the clerk was deemed necessary to ensure that cases dismissed by the prosecutor are reported to both the clerk and GCIC.

Recommendation: *The Council recommends that the General Assembly require a prosecuting attorney who decides not to seek formal charges or otherwise terminate a prosecution outside of court to file a notice of that decision with the clerk of the court and require the clerk to notify GCIC of that decision.*

Accountability Court Judges

Recommendation 1: *The Council recommends the authorization in Georgia Statute of two additional Accountability Courts: a Family Dependency Treatment Court, which operates in Juvenile Court on the civil matter of child custody to an adult guardian who has a substance abuse addiction that is putting the child at risk, and an Operating Under the Influence Court, also known as DUI Court, which operates in state courts and*

focuses on the criminal misdemeanor of operating a vehicle or boat while under the influence of alcohol or drugs.

The purpose of the statutory change is threefold:

- 1) To recognize the Juvenile and State courts as members in the newly formed Council of Accountability Court Judges. While the judges who operate these types of courts were previously funded for their operations, the Council's original focus was solely on felony programs (Drug Court, Mental Health Court, and Veterans Court) in Superior Court. This recommendation formally adds the judges from the Juvenile and State classes of Court to the Council, ensuring their participation in funding and peer certification decisions for their applicable programs.
- 2) To authorize in law the clear ability of these classes of court to operate these programs. Previously, both of these programs were operating under the general statute for Drug Court authorization. Since that time, the Council of Accountability Court Judges has referenced that authority as primarily for felony counts in Superior Court. This authorization recognizes the specific function and purpose of these courts and their respective authority, which is misdemeanor operating under the influence in State Court and civil dependency for child custody in Juvenile Court. Additionally, this allows for the customization of peer certification to fit the class of court by the Council of Accountability Court Judges.
- 3) To encourage the continuance and/or expansion of these two programs, particularly in areas of the state where a drug court does not exist or does not have additional capacity for these types of cases.

Recommendation 2: *The Council recommends that the General Assembly consider granting Accountability Court judges the same authority to restrict criminal records of Accountability Court graduates that first offenders would have under the First Offender Act as recommended within this report. (see Recommendation 2 of the First Offender Act recommendations.)*

Peace Officers Standards and Training

One primary purpose of Governor Deal's justice reform and reinvestment initiatives and the work of this Council is to ensure that all Georgians live in communities that are safe, and that offenders, law enforcement, and all participants in the justice system engage each other with mutual dignity, respect and responsibility, without regard to socioeconomic status, race or ethnicity. In response to recent highly publicized and controversial incidents of police encounters with citizens across the nation, the Georgia Appleseed Center for Law & Justice released a comprehensive report entitled *Seeking the Beloved Community: Crucial Conversations About Race, Law Enforcement & The*

Law. Mr. Rob Rhodes, director of projects at Georgia Appleseed, presented this report and its findings to this Council. Many of the report's recommendations are outside of the purview of this Council and will likely be considered independently by members of the Georgia General Assembly. One recommendation included in the Georgia Appleseed report, however, is congruent with this Council's goals and responsibilities of addressing the disparate impact of Georgia's justice system on men and women of color. As such, this Council adopted the following:

Recommendation: *The General Assembly should consider increasing appropriations to the Georgia Peace Officers Standards and Training Council ("P.O.S.T.") for the purpose of adding additional staff to conduct a comprehensive review and revision of Georgia officer training curriculum.*

Drivers License Suspensions

In 2015, Georgia took bold steps with respect to driver's license suspensions, becoming one of only a few states to eliminate non-highway safety related license suspensions. With the enactment of SB 100, violations related to gas theft, truancy, underage possession of alcohol, and drug possession occurring on or after July 1, 2015, no longer result in the suspension of a person's driving privileges or driver's license. Research has shown that non-highway safety related license suspensions not only diminish the effectiveness of the suspension process, but also require an inordinate amount of resources from law enforcement, prosecutors, and courts in charging, trying, and disposing of these cases. In addition, driver's license suspensions for non-highway related offenses create an undue burden on motorists who depend on their driving privileges for their livelihood. Upwards of 75 percent of individuals whose driver's licenses are suspended continue to drive, despite the risks involved, further complicating their situation if they are caught. ^{xxii}

While SB 100 represented a significant step in reducing the number of suspended drivers in Georgia, a significant number of individuals with pre-existing suspensions were not covered by the new law. With this in mind, the Georgia Department of Driver Services (DDS) recommended to the Council that a legislative change be considered to retroactively apply the provisions of SB 100 to persons whose licenses were suspended prior to the effective date of SB 100 for controlled substance violations that did not involve the use of a motor vehicle. Controlled substance violations represent the vast majority of non-driving related suspensions in Georgia. In essence, the DDS sought authority to reinstate these suspensions *instantanter*.

In addition, the DDS proposed that the laws governing the way in which controlled substance suspensions be changed. Georgia law now requires that controlled substance suspensions run consecutively to all other suspensions types, meaning that an individual with multiple suspensions coupled with a controlled substance suspension must reinstate all the non-controlled substance suspensions before the controlled substance suspension begins to run. Such a scenario creates a significant burden, especially on participants in drug court programs, and takes the decision out of the hands of the judge. The department also argued that persons who are under sentence for an offense during the time their license is suspended should be able to credit such time toward their period of suspension. Currently, suspensions begin only upon the surrender of a person's driver's license or at the point when the DDS is notified of a person's conviction. Because a driver is incarcerated, surrender of that license may prove impossible, and, in some instances, the DDS may not receive notice of the conviction until a later date, resulting in a person possibly completing a sentence while not having begun their license suspension period. Such a burden runs counter to the state's effort to help former offenders become productive members of society.

Limited driving permits are an invaluable resource for individuals whose driver's licenses are suspended as a means to legally travel to and from work and work-related purposes. They are also a powerful tool for accountability courts as a reward for participants in their programs. Accountability court judges may currently issue limited driving permits to their participants under the provisions of O.C.G.A. 40-5-76(a); however, the statute is silent as to whether a person's "time served" under a limited permit issued pursuant to this code section counts toward the suspension period. The DDS also proposed that the time a person drives on a limited driving permit ordered by an accountability court count toward their period of suspension.

Finally, the fees associated with reinstating a suspension can oftentimes prove insurmountable, particularly for individuals who are indigent and have multiple suspensions. The DDS also proposed that the Council consider a process allowing indigent Georgians to have their reinstatement fees reduced.

Recommendation 1: *The Council recommends the reduction of reinstatement orders by applying the provisions of Section 4-18 SB 100 (2015) to controlled substance suspensions imposed pursuant to O.C.G.A. § 40-5-75(a) prior to July 1, 2015.*

This would avoid the high volume of license restoration orders that courts currently must issue under O.C.G.A. § 40-5-76(a) or (b). Moreover, applying the statute retroactively would allow those who had their license suspended under 40-5-75 to avail themselves

of the benefits that those whose offense occurred subsequent to the effective date of last year's legislation currently enjoy, promoting fairness and equity.

Recommendation 2: *The Council recommends eliminating the statutory mandate requiring license suspensions under O.C.G.A. § 45-5-75(a) to run consecutively to any other type of license suspension. (Consecutive period mandate found in subsection (g))*

Requiring consecutive suspensions automatically imposes a significant burden on drivers, particularly those in accountability courts who may be subject to a pending controlled substance suspension in addition to any other suspensions. Additionally, the current statutory language takes the decision out of the hands of the judge, requiring the suspension to run consecutively.

Recommendation 3: *The Council recommends crediting "time served" under a limited permit issued by an accountability court and time served in custody toward the drivers license suspension period.*

Accountability Court judges may currently issue limited driving permits to their participants (e.g. a permit allowing for travel to and from work) under O.C.G.A. § 40-5-76(a). However, the statute is silent as to whether a person's "time served" under a limited permit pursuant to this code section counts toward their suspension period. This proposal would bring 76(a) in line with other limited permits issued under O.C.G.A. § 40-5-64.

Recommendation 4: *The Council recommends that persons in custody or otherwise serving their court-ordered sentence have such time credited towards their license suspension.*

Currently, suspensions begin only upon surrender of a person's license or at the point when DDS is notified of a person's conviction. Because a driver is incarcerated, surrender of that license may prove impossible, and, in some instances, DDS may not receive notice of the conviction until a later date, this results in a person possibly finishing a sentence while not having begun their license suspension period. Such a burden runs counter to the State's focus on ensuring that offenders leaving incarceration can return to being productive members of society.

Interlock Permits

Under current Georgia law, a driver's license is suspended automatically after a DUI arrest, prior to criminal court conviction, through a process called administrative license

suspension (ALS). Such individuals must often wait many months for their ALS hearing or criminal case to be adjudicated in order to regain their license. For many individuals, the ability to drive is necessary for maintaining employment.

An Ignition Interlock is a device, like a breathalyzer, installed in a vehicle to deter drinking and driving. Before the vehicle can be started, the driver must breathe into the device, and if the analyzed result is greater than the set level, the device prohibits the vehicle from starting. In most programs that use such devices, random retests may also be required.

Recommendation: *The Council recommends that those arrested for their first DUI be permitted to apply for an interlock device permit and waive their ALS hearing, thus allowing them to retain their license and the ability to drive to and from work.*

Alcohol Monitoring Program

In January 2005, the state of South Dakota started a pilot program to address chronic DUI offenders. The program has one main goal for each DUI defendant – sobriety 24 hours per day and 7 days per week. Through their state prosecutor’s office, the program works with local police departments, sheriff’s offices, and the courts. The program represents the state’s commitment to working with repeat DUI offenders toward behavior change and the prevention of additional DUI arrests. Offenders report to a local participating law enforcement agency twice a day (morning and night) for an alcohol breath test. Some offenders are fitted with electronic monitors or patches that track alcohol use continuously, while some are required to use an ignition interlock device. Multiple evaluations have shown promising results. One such evaluation by the Rand Corporation showed that, at the county level, a 12 percent reduction in repeat DUI arrests and a 9 percent reduction in domestic violence arrests were achieved following adoption of the program.

Recommendation: *Establish a 24/7 alcohol monitoring pilot program that can be utilized post-conviction for Georgians who have recorded more than one DUI offense and who reside in a judicial circuit with an Accountability Court. Compliance with the monitoring program should be ensured with a three-tiered response, with the sanction for a third failure being a return to the judge.*

Expanding “Ban the Box” for Certain Licensure Applicants

Consistent with previous “Ban the Box” initiatives and Governor Deal’s Executive Order Number 02.23.15.03, the Council proposes an amendment to Title 43 of the Official

Code of Georgia Annotated relating to professional licensing boards. While such licensing boards should appropriately consider an applicant (or license-holder's) felony criminal history, that history should not be an automatic bar to consideration for licensure, absent some direct connection between the conduct and the professional field the person seeks to occupy or already occupies.

Recommendation: Prevent licensing boards from either revoking a license or refusing an application solely or partly based on a person's conviction of, arrest for, charge or sentencing for the commission of any felony, unless that felony relates to the occupation for which that license is sought or held, and other factors as the legislature deems appropriate.

III. Juvenile Justice System: Update and Recommendations

Following the passage of adult correctional reforms, Governor Deal shifted the Council's focus to the state's troubled juvenile justice system. The Council began by taking a hard look at Georgia's juvenile justice laws, facilities, administration, programs, and outcomes, and by inviting input from a broad cross section of stakeholders. The analysis revealed a system of high costs and disheartening outcomes, one heavily reliant on out-of-home facilities and lacking community-based sentencing options in many parts of the state. Particularly alarming were statistics showing that nearly one in four of the juveniles in out-of-home placements were adjudicated for low-level offenses, including misdemeanors or status offenses. Four in ten, meanwhile, were considered a low risk to reoffend.^{xxiii}

"We want to see more of Georgia's nonviolent young offenders who have made mistakes get their lives back together and re-enter society as productive citizens. If we address the issues early on, perhaps we can successfully divert them from wasting much of their adult years sleeping on expensive prison beds."

Governor Nathan Deal
May 2, 2013

With an annual budget of \$300 million, the system's results were difficult to defend. More than half the youth processed through the system were re-adjudicated delinquent or convicted of a criminal offense within three years of release, a rate that had barely changed since 2003. For those released from Georgia's secure youth development campuses, the recidivism rate was a disturbing 65 percent, a proportion that had risen by six percentage points in less than a decade.^{xxiv}

With technical assistance from Pew, the Annie E. Casey Foundation and the Crime & Justice Institute, the Council produced a set of policy recommendations designed to reserve expensive out-of-home facilities for serious, higher-risk youth and send youth with more minor offenses into evidence-based supervision and programs targeting their individual needs and risk profiles. The proposals were embodied in HB 242, a sweeping rewrite of the juvenile code that passed the General Assembly unanimously and was signed into law by Governor Deal on May 2, 2013.

Culture Change

Passage of HB 242 sent a wave of culture change through juvenile courts and the DJJ. Once the legislation took effect in January 2014, juvenile courts, in partnership with the Department, began operating under a new mandate: *“to preserve and strengthen family relationships in order to allow each child to live in safety and security.”* Reflecting that mission, leaders have focused on reducing felony commitments to secure detention, improving risk and needs assessment, and strengthening and expanding evidence-based community programs for youth.^{xxv}

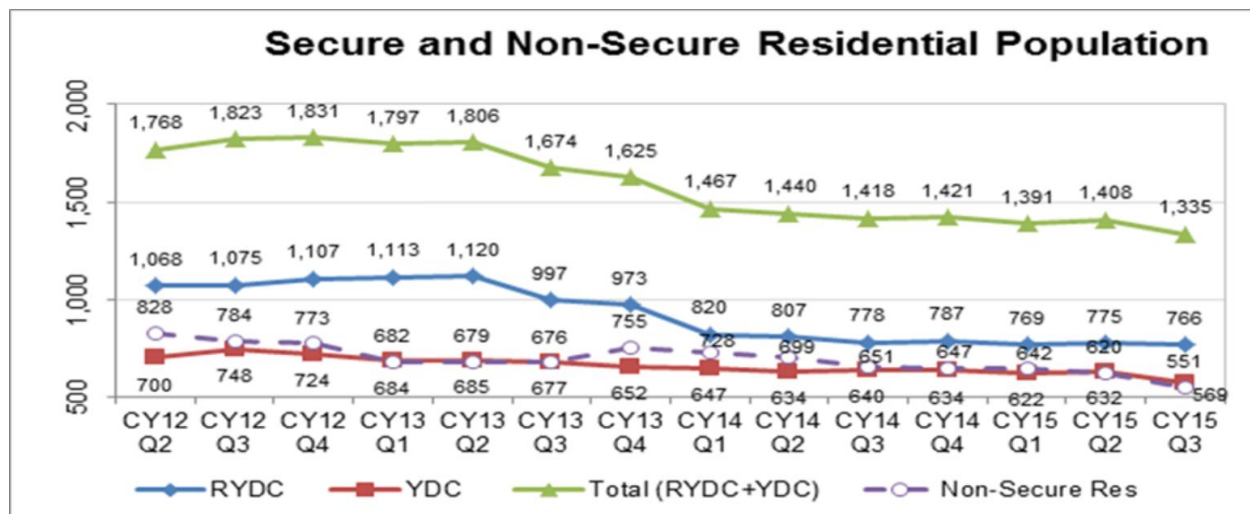
To encourage such local resources Georgia created a voluntary incentive grant program to help counties reduce out-of-home placements and expand alternative approaches. On April 16, 2013, Governor Deal signed an executive order creating the Juvenile Justice Incentive Funding Committee, which manages the allocation of state and federal dollars to evidence-based community services and programs that have been shown to reduce juvenile recidivism.

“By providing evidence-based solutions for 1,227 juvenile court involved families, Georgia has been able to reduce our over-reliance on secure detention and meet the mandate of our state statute – to preserve and strengthen family relationships in order to allow each child to live in safety and security.”

***Joe Vignati, Deputy Commissioner, Georgia Department of Juvenile Justice
January 26, 2016***

Georgia also has moved away from its policy of locking up youth who commit status offenses, such as truancy, running away or violating curfew. HB 242 reclassified such youth – formerly called “unruly children” – as Children in Need of Services and allows law enforcement, the DJJ and the Division of Family and Children Services to develop treatment and service plans for them rather than immediately sending them to detention centers.^{xxvi}

Trends show the reforms are paying important dividends, for Georgia's youth, their families and taxpayers. Since 2013, Georgia has decreased its population of youth in secure confinement by 17 percent and reduced the number of youth awaiting placement by 51 percent.^{xxvii} During that same timeframe, overall juvenile commitments to the DJJ have dropped 33 percent, demonstrating that more youths' needs are being met in the community. Indeed, every juvenile circuit in Georgia now has access to an evidence-based intervention as the state has steadily increased the availability of programs proven to reduce juvenile recidivism.^{xxviii}



Source: Georgia Department of Juvenile Justice

To ensure the right juveniles are enrolled in the right programs, Georgia is now consistently using validated assessment instruments to properly assess and place youth in appropriate settings, based on their individual risk level and needs. Meanwhile, the shrinking commitment population has enabled the state to take two detention centers and one Youth Development Campus off-line, representing 269 beds.^{xxix}

A Focus on Schools

The reforms recommended by the Council over the past two years reflect an interest in developmentally-appropriate approaches for delinquent youth and a greater reliance on evidence-based, cost-effective alternatives to incarceration. These strategies are proving successful. In the first nine months of the incentive grant program, for example, out-of-home placements for delinquent youth were reduced by 62 percent. That downward trend has continued, with out-of-home placements dropping 54% in FY 2015, as compared to FY 2012. Guided by research-based best practices and data, the

Council's efforts are ensuring that young offenders are treated in a way that is more morally appropriate, more judicially appropriate, and more economical for Georgia taxpayers.

Applying the same disciplined approach, the Council in 2015 focused on the referral systems that feed the juvenile justice system. Research establishes unequivocally that most young offenders outgrow delinquent and criminal behavior with increased involvement in school and work, yet schools are one of the largest referral sources for delinquency complaints filed in the juvenile courts.^{xxx}

Accordingly, the Council entertained proposals designed to promote non-exclusionary responses to problematic behavior in schools. Detailed below, the Council's recommendations include mandating the use of educational approaches to address a student's problematic behavior and improving the procedural fairness of school disciplinary proceedings.

On another front, the Juvenile Data Exchange Project (JDEX) continued to progress toward creation of a statewide data repository of juvenile justice data, reflecting an earlier recommendation by the Council. A partnership of the Governor's Office, the Council of Juvenile Court Judges, the Administrative Office of the Courts, and the DJJ, the Exchange Project seeks to enable informed legal advocacy and judicial decision-making, and ensure that youth receive substantial justice in every county.

The JDEX is nearing user rollout of initial reporting from DJJ and Canyon Solutions for juvenile courts throughout the state. This effort was started in June 2015 to build a standards-based data exchange to feed a statewide repository for juvenile data. Georgia currently lacks a comprehensive mechanism for the collection of statewide juvenile justice data and, as a result, judges and parties in juvenile delinquency matters cannot make informed decisions regarding youth appearing in juvenile courts. One consequence is the potential for inconsistent justice throughout the state.

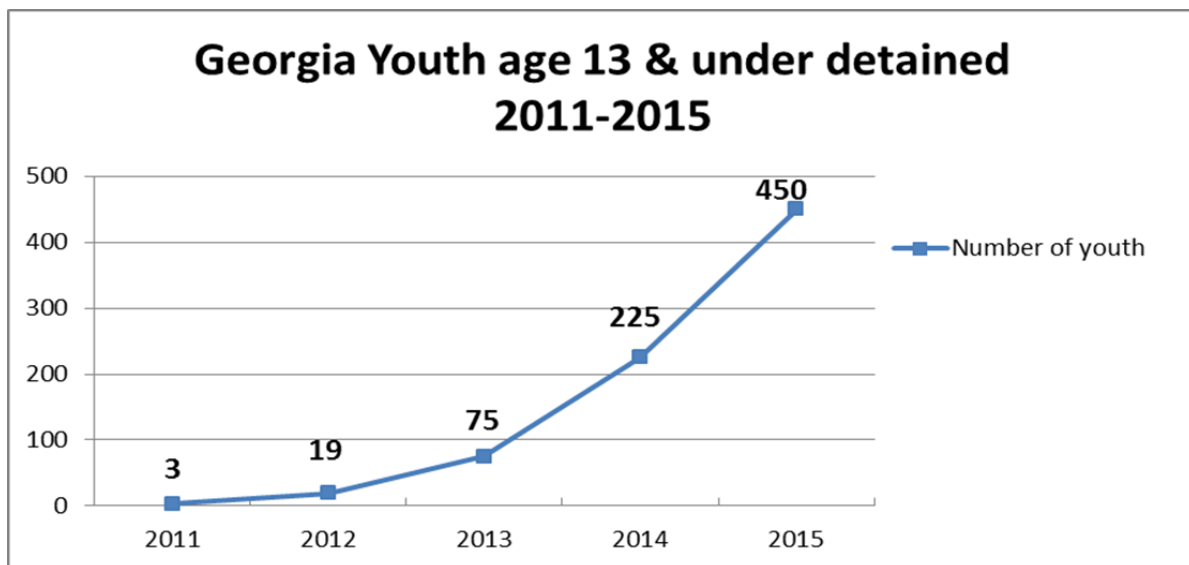
2016 Juvenile System Recommendations

Secure Juvenile Detention: Youths 13 and Under

While significant progress has been made on juvenile justice since the enactment of HB 242 in mid-2013, one unintended consequence has been the juvenile courts' expanded use of secure detention for a younger population than such facilities are equipped to serve. Until recently, the detention of this population was relatively rare. But beginning in January 2014, it began to spike. Since 2011, the DJJ reported 772 total detentions of

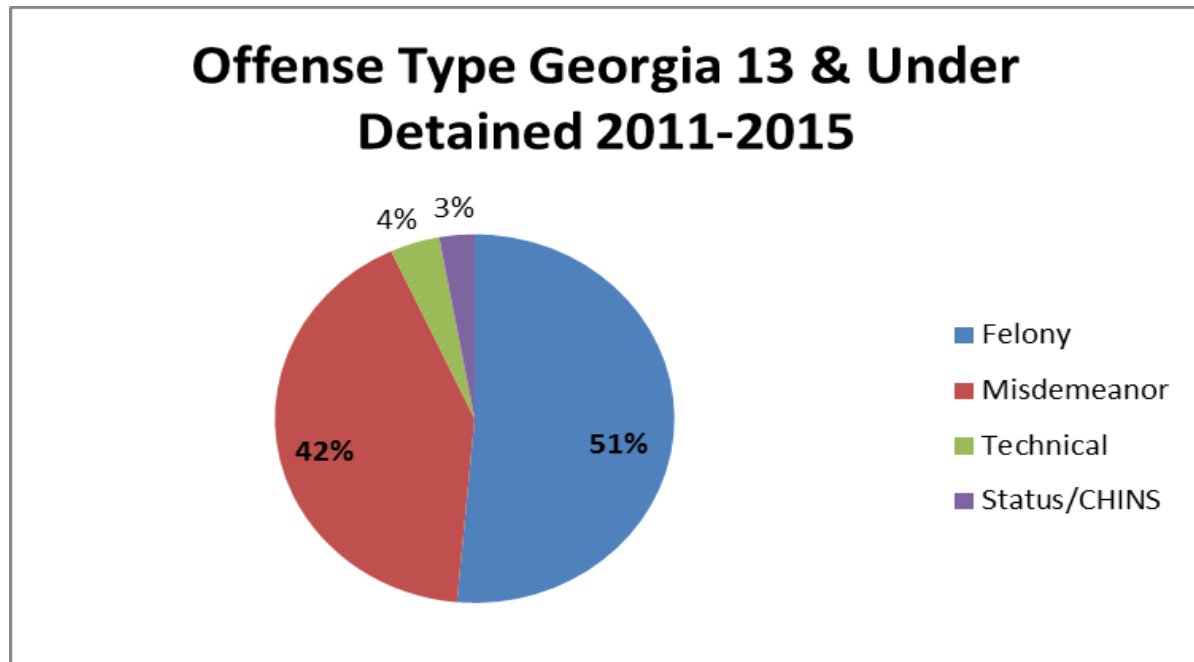
youth 13 and under, and 675 of those occurred since 2014.^{xxxi} While the majority of these children are charged with felony offenses (54 percent), a sizeable percentage (46 percent) have been held on misdemeanors, technical violations and also status charges that should not be occurring under juvenile reform.^{xxxii}

The Council's concern with the trend stems in part from research showing children's earlier involvement with the juvenile system increases the possibility of negative outcomes, including higher recidivism levels, an increased likelihood of not graduating from high school, and future involvement with the adult correctional system. By expanding the detention of younger children and exposing such youth to the trauma correlated with detention, Georgia is, in effect, voiding the beneficial effects of juvenile reform for this most vulnerable population.^{xxxiii}



Recommendation 1: *The Council recommends statutory language that would restrict secure detention for all youth ages 13 and under, except for those charged with the most serious offenses (SB 440 class and serious felonies), where a clear public safety issue exists. Secure detention in these serious cases will be considered only upon completion of the Detention Assessment Instrument (DAI) and with judicial approval.*

NOTE: While the Council recommends limiting the use of secure detention for the population aged 13 and under, the issue of a minimum age for juvenile court delinquency jurisdiction is still open. Georgia currently sets no age limit.



School Disciplinary Procedures

Research establishes unequivocally that most young offenders outgrow delinquent and criminal behavior with increased involvement in school and work, yet schools are one of the largest referral sources for delinquency complaints filed in the juvenile courts. Based on the best available evidence and input from a variety of stakeholders, the Council advises the General Assembly to clarify the roles of schools and law enforcement in the management of problematic behavior in schools, and take the specific steps outlined below.

Recommendation 1: *The Council recommends amending O.C.G.A. § 20-2-1181, which prohibits the disruption of or interference with the operation of public schools, to mandate the use of educational approaches to address a student's problematic behavior in school. This statute should be amended to require that school districts develop a system of progressive discipline to be imposed on a child before a complaint is filed against the child for an offense under this Code Section.*

Data show that a violation of this statute is the most common offense charged in some Metro-Atlanta jurisdictions.

In addition, when a complaint against a child alleging a violation of this Code Section is filed, information shall be included to show that:

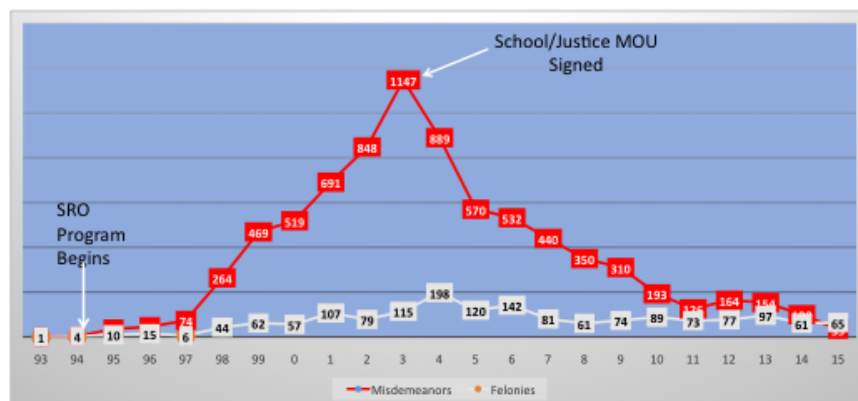
- 1) The legally liable school district has sought to resolve the expressed problem through available educational approaches; and
- 2) The school district has sought to engage the parent, guardian, or legal custodian of such child in solving the problem but such person has been unwilling or unable to do so, that the problem remains, and that court intervention is needed.

When a complaint alleging a violation of this Code Section is filed against a child who is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973, officials must demonstrate that they have reviewed for appropriateness such child's current Individualized Education Program (IEP) and placement and have made modifications where appropriate.

Recommendation 2: *The Council recommends the adoption of measures to improve the procedural fairness of school disciplinary proceedings. Specifically, the Council suggests that hearing officers and disciplinary tribunal personnel establish equitable standards and receive meaningful and appropriate training.*

Recommendation 3: *The Council recommends that local Boards of Education that use School Resource Officers be required to enter into a collaborative memorandum of understanding with law enforcement that distinguishes discipline and delinquent conduct and clarifies the limited role of such officers in school discipline.*

Total School Arrests Pre & Post School-Justice Collaborative Agreement



V. Georgia Prisoner Reentry Initiative

In 2014 the Council made significant headway on the state's third leg of criminal justice reform, the Georgia Prisoner Reentry Initiative (GA-PRI). The GA-PRI has two primary objectives: to improve public safety by reducing crimes committed by former offenders, thereby reducing the number of crime victims, and secondly, to boost success rates of Georgians leaving prison by providing them with a seamless plan of services and supervision, beginning at the time of their incarceration and continuing through their reintegration in the community. Backed by significant grant support and a total of \$60 million in state and federal funding, Georgia's investment in reentry is unmatched anywhere in the United States.

In October 2015, the government reorganization that created the new Department of Community Supervision (DCS) was expanded to include the Governor's Office for Transition, Support and Reentry (GOTSR). This massive organizational change in state justice agencies combines the supervision of all probationers and parolees into one agency and logically includes the oversight of the GA-PRI. The GA-PRI Year Two Implementation Plan, required by the Council, will include activities to advance all aspects of the initiative as part of the overall implementation of the DCS. With the successes that have been experienced to date, which are summarized in this section, and the ongoing emphasis on solid implementation, the GA-PRI will continue to hold great promise for the state and achieve its recidivism reduction goals.

INTRODUCTION: Evidence-Based Principles Drive Georgia's Recidivism Reduction Efforts

The State of Georgia is committed to several principles of evidence based practice that are incorporated into the design of the Georgia Prisoner Reentry Initiative (GA-PRI) and the state's approach for recidivism reduction.

- *Assess actuarial risk and needs* – Develop and maintain a complete system for the use of reliable and validated actuarial risk and needs of returning offenders;
- *Target Interventions* - Prison and community based supervision and treatment resources should be prioritized for higher risk individuals; interventions must target criminogenic needs; and programming should be responsive to individual learning styles, gender, culture, etc.;
- *Measure Relevant Processes/Practice* - A formal and valid mechanism for measuring outcomes is the foundation of evidence-based practice; and,
- *Provide Measurement Feedback* - Once a mechanism for performance measurement and outcome evaluation is in place, the information must be used to inform policies and programming.

These evidence-based practices (EBPs) form the basis for four grants that were submitted to the federal Bureau of Justice Assistance (BJA), each approved for funding during the next three years (2015-2017), which focus on the most critical aspects of the GA-PRI Framework. This Year End report, which coincides with the end of the federal fiscal year, provides the status of the implementation efforts under the GA-PRI funded in part by the four BJA grants – each of which has a dedicated evaluation process. The four grants and their priorities include:

- The Georgia Statewide Recidivism Reduction Project funded under the Statewide Recidivism Reduction Grant (SRR); BJA No. Grant Award No. 2014-CZ-BX-0021; \$1M federal; \$1M match annually/3 Years: *Priorities include the implementation of the Transition Accountability process, staffing and training for: locally based community coordinators, additional prisoner transition/ reentry positions, Evidence Based Prison Facility staff, and the development of policies and quality assurance processes for the GA-PRI.*
- The Georgia Prison In-Reach and Service Delivery Accountability Project funded under the Maximizing State JRI Reforms Grant (Max JRI); Grant Award No. 2014-ZB-BX-0001; \$1.75M; no match: *Priorities include staffing prison in-reach services in the first six pilot sites – connected to the faith community - training reentry staff, and statewide coordination of implementation effort.*
- The GA-PRI Enhanced Supervision Skill Training Project funded under the Smart Supervision Grant (Smart Supervision); BJA Grant Award No. 2014-SM-BX-007; \$750,000 federal; no match: *Priorities include evidence based skill training and follow up for community supervision staff.*
- The State of Georgia Data Sharing Initiative (DS); Meeting Global Standards to Ensure Service Continuity for Returning Citizens funded under the Justice Information Sharing Solution Grant; BJA Grant Award No. 2014-DB-BX-K002; \$500,000 federal; no match. *The priority is to design an automated, real-time communication system to transmit pertinent returning citizen mental health, substance abuse, risk assessment, and programming information to mental health and substance abuse providers in community service boards.*

IMPLEMENTING EBPs: 2015-2017 Implementation Objectives and Current Status

The continued implementation and expansion of the GA-PRI has been planned to take place over three years with statewide engagement by the end of 2018. The statewide

expansion plan begins with the existing inaugural six Community Pilot Sites in 2015; an expansion into the second five Community Pilot Sites in 2016; five additional sites in 2017; and expansion to the balance of the state in 2018. This timeline is driven by the implementation objectives approved by the Council. (See 2015-2017 GA-PRI Three Year Implementation Utilizing Federal Second Chance Act Funds, October 28, 2014).

These objectives have been designed to meet the recidivism reduction goals of the GA-PRI: to reduce the overall statewide recidivism rate by 7 percent in two years (from 27 percent to 25 percent, a two point drop and a 6 percent rate reduction) and to reduce the statewide recidivism rate by 11 percent over five years (from 27 percent to 24 percent, a three point drop and an 11 percent rate reduction). Recidivism is defined as a conviction for a new felony within three years of release.^{xxxiv}

The objectives approved by the Council for the next three years include eight priorities. The status of each of these priorities as of the end of October follows, with notes indicating which grants are funding the priority:

- 1. Implement a risk, need, and responsivity (RNR)-based collaborative, three phase case planning and service delivery system (Transition Accountability Planning or TAP) among prison staff, post-release supervision staff, local reentry implementation teams and pre- and post-release reentry service providers for moderate to high risk returning citizens that focuses on addressing their criminogenic needs. (Funded in part by all four grants with state funding support).**

Status: Documenting the TAP process is the most critical component of the evidence-based Georgia GA-PRI Case Logic Model - the most advanced such model in the country (Attachment No. 1). The Case Logic Model is the lynchpin of the GA-PRI in that it illustrates how improved offender case plans will be developed and communicated at each step of the TAP process. Improvements in case planning will result in recidivism reduction goals. All other aspects of the GA-PRI revolve around this fact. The TAP process has four inter-related iterations:

- The TAP1 defines prison programming based on risk and need and it is in the formative stage.
- The TAP2 summarizes accomplishments and compliance prior to release and an early version of it will be field tested following training this summer.
- The TAP3, which captures post-release treatment and supervision details, had been designed and approved by IST but based on a field review is being revised.
- The TAP 4, which will be used at the point of discharge from community

supervision, has not yet begun development.

While improved versions of both the TAP2 and the TAP3 were expected before the first year grant cycles ended on September 31, 2015, this has been extended to after the first of the year. Until the TAP process is improved and fully implemented, changes in recidivism rates are unlikely.

The Justice Information Sharing grant is critical to meeting this first objective since it will define how the case information is shared and stored amongst state and local agencies meeting “global data-sharing standards.” The Criminal Justice Coordinating Council (CJCC) manages the grant governance committee which includes: the Georgia DOC, the DCS, the GOTSR, the State Board of Pardons and Parole, the Georgia Community Service Boards, a local community service board, the Georgia Technology Authority, and the Georgia Public Defender’s Council.

The Committee has met regularly since November 2014 to advance the grant's goal to build a web-based portal to share returning citizen substance abuse and mental health information with community service boards. Thus far, the Committee has drafted a standardized consent form, which will be captured in the web portal; a memorandum of understanding for continued governance; and, a privacy policy to protect returning citizen information and provide redress for security breaches. The Committee is in the midst of finalizing a Memorandum of Understanding for long term project governance and the consent form.

CJCC is also working with GOTSR to propose a final, standardized business process to obtain returning citizen consent, which will trigger the release of information to local community service boards. The finalized business process, consent form, Memorandum of Understanding, and privacy policy will be forwarded to each affected agency’s legal department for review and approval. (JIS Grant)

The DCS Information Technology (IT) team - which moved from the State Board of Pardons and Parole under the departmental restructuring that moves all supervision functions into the new department – is completing meetings with community service boards to discuss their information needs for the data-sharing portal. The Governance Committee designed a preliminary questionnaire that the DCS IT team distributed to the service boards at the first six community pilot sites in advance of their meetings. CJCC's Statistical Analysis Center has analyzed the data from the returned surveys and provided it to DCS’ IT team. Those data will inform the business use cases and system requirements to build out the DCS portal for this data-sharing project. Thus far, local information needs are consistent across sites.

On June 25th, the Georgia Technology Research Institute, which is housed at Georgia Tech, provided training to the Governance Committee on building data-sharing technology in a global standard. GTRI will also provide more detailed technical assistance to the DCS technology team in advance of the portal build-out (JIS Grant). Due to the slow pace of implementation, largely driven by the merger of supervision agencies into DCS, CJCC will ask BJA for a no-cost extension.

2. Select a prison facility within the Georgia Department of Corrections (GDC) as an Evidence Based Learning Site and provide the staff and training resources needed to implement evidence-based RNR and other principles and practices of effective intervention – including skill enhancement training to maximize prisoner behavior change. (Funded by SRR, Max JRI).

Status: Lee State Prison has been selected for the Evidence Based Learning Site. The staff have been hired to implement the new approaches and technical assistance to help guide the design process based on evidence based principles and practices as well as successful approaches in other states is in place. In addition, the GDC has identified 17 inmate mentors that are on-site and greatly assisting the process by engaging in motivational relationships. The participants progress through a 2 year program divided into four phases: Phase 1- Orientation, Phase 2-Invention, Phase 3- Conversion, Phase 4-Evolution. Each phase is 6 months and requires the participant to enroll in Cognitive Programming as well as elective courses designed to reiterate positive behavioral practices and self-help. By October 2015, 36 percent of the prison's inmate population is engaged in the EBP aspects of programming, heading well toward the goal of 70 percent engagement.

Since connecting with a supportive family upon release is one of the most powerful factors positively affecting recidivism, the prison is launching "family connection" features to increase family reunification. An Advisory Committee to provide input on the EBP design has been formed (SRR Grant). Two examples of cross-agency teamwork design for the prison include Skill Enhancement Training that focuses on "goal centered" case supervision skills needed to maximize the rehabilitative aspects of incarceration (SRR Grant); and EBP-based prisoner journaling (Max JRI Grant). The train-the-trainer approach to these two efforts will assure the capacity to provide expanded training throughout the system although no such plans to do so are yet in place.

3. Ensure that the GA-PRI is properly staffed and that stakeholders and staff

are properly trained, both at the state and local levels, so that the Case Planning and Service Delivery System has the resources needed to be successful in order to appropriately manage the risks and meet the needs of the target population. This staffing includes but is not limited to, project coordination, local community pilot site coordination, prison in-reach services, training and staffing at a prison-based learning site. (*Funded in part SRR, Max JRI and Smart Supervision*).

Status: Community Coordinators have been hired in the first 10 of the first 11 community pilot sites (Bibb, Chatham, DeKalb, Dougherty, Floyd, Hall, Muscogee, Richmond, and Troup – with Lowndes to be hired) using a mix of state and federal SRR funds. The work of the Community Coordinators is the lynchpin for community engagement in planning and implementing the GA-PRI and assuring that community assets are identified and expanded and that barriers to full utilization of these assets, and gaps in services, are addressed over time through the development of annual local comprehensive plans. (For detail, See *GOTSR Issue Brief: Community Pilot Site Coordination; Expectations, Roles, Responsibilities and Funding Allowances* – January 7, 2015)

In four of the first six original sites, (Bibb, Chatham, Muscogee and Fulton Counties) Housing Coordinators are now in place using state dollars, with the re-hiring of the Coordinator in Richmond County expected in the next 90 days. Prison In-Reach Specialists are now established in at each of the original six community sites (Bibb, Chatham, Muscogee, Fulton and Dougherty. Due to its size, Fulton County has two Housing Coordinators and two Prison In-Reach Specialists. (Max JRI funds).

GOTSR provided in May statewide training on the TAP process – focusing largely on the new TAP3 that bridges the prison system and the community - for all of the existing and newly hired community and prison-based staff, the original 6 site local Steering Teams and some of the co-chairs from the next 5 sites. With revisions expected in the TAP3 process (documentation, procedures, roles and responsibilities), this training will likely need to be repeated statewide. Site by site EBP training on the TAP and Prison In-Reach processes, and the roles and responsibilities of local Steering Team members was provided at the first 6 sites in July 2015 but similar training for the second sites has been delayed until great fidelity to the GA-PRI Framework is attained at the first six sites. (SRR, JRI Grants)

Across the eleven GA-PRI pilot sites, numerous events have been held to promote employment for returning citizens, including Resource Fairs that provide job training, life-skills workshops, and workforce development opportunities as well as educational campaigns that provide information on record restriction, hiring incentives, and local and state reentry initiatives. Community Coordinators continue to expand employment capacity and work with local agencies, employers, and community stakeholders to assist returning citizens in preparing for and securing employment. Initiatives for 2016 include statewide employer reentry forums that will bring together employers, human resource and reentry professionals to share best practices and develop strategies that will incorporate returning citizens in the workforce.

The Skill Enhancement Training that is being provided to the EBP Lee State Prison (cited under Objective No. 2) will also be provided to community supervision staff and human service agency representatives so that there will be some uniformity in staff skills throughout the prison to community supervision continuum. The train-the-trainer approach to this effort will assure the capacity to provide expanded training although no such plans are yet in place. (SRR Grant)

The Georgia Healing Communities Model is building enormous momentum throughout many Georgia communities. Training for the faith community which is engaged in the GA-PRI Healing Communities Model has been implemented and is expected to result in significant attention to expanding resources for returning citizens through engagement with the faith community (JRI Grant). To date, 175 congregations have been engaged in the Healing Community meetings with 85 congregations committing to become “Stations of Hope” where returning citizens can seek assistance ranging from referrals to human service agencies, providing food, clothing and shelter, and group mentoring. The Station of Hope congregations are being established in three of the first six pilot site communities including Richmond, DeKalb and Bibb counties.

Future plans include analyzing in each community the number of returning citizens each Station of Hope can assist and the details of that assistance. Through GOTSR’s group mentoring model, “I Choose Support” which emphasizes personal responsibility for choosing a crime-free life style, pro-social activities in a family setting will grow dramatically – very consistent with the research on evidence-based practices. Concurrently, GOTSR is working within DCS on training modules and a collaborative process for working with Stations of Hope and connecting returning citizens to the congregations. This effort has the potential of making a huge difference in recidivism reduction because it builds on the “What Works” research which emphasizes family and community connections and changing the attitudes and beliefs of returning citizens.

4. **Develop and implement a system to assist returning citizens who are on *probation* supervision under GDC upon release from prison with housing similar to the system that is in place for returning citizens who are on *parole* supervision upon release under the authority of the State Board of Pardons and Paroles (SBPP). This system should also include housing opportunities for those individuals maxing out with no supervision to follow, providing their willingness to enter a contractual agreement with the Reentry Partnership Housing (RPH) provider. (Funded by SRR).**

Status: This effort is now staffed with attention to fully utilizing and eventually expanding the amount of housing that is available to returning citizens – particularly supportive housing (i.e. housing with case management to assist with other needs that if not addressed will threaten the housing). Processes for probationers that are under development include expanded eligibility criteria, a referral process, and tracking placements. To that end, a new database to assure appropriate tracking of housing application is under construction. To date, 27 probationers have been placed in housing under the new system. While available housing needs to be expanded, the ability for returning citizens to *pay* for housing is an equally serious challenge that the housing team will be addressing over the coming months, consistent with the GA-PRI Framework. As part of this effort, attention to public education is underway in order to prepare communities to step up on housing and the important related need around employment.

5. **Improve GA-PRI by adding capacity to adapt and improve existing graduated response (sanctions and incentives) policies and procedures for the parole and probation systems and train top managers in the use of the adapted system. Further to review the assets, barriers and gaps needed for full implementation. (Funded by SRR).**

Status: A Request for Qualifications issued in July 2015 resulted in the services of the Center for Effective Public Policy (CEPP) working under a subcontract with the Center for Justice Innovation to complete this work. CEPP is facilitating the process of examining current probation and parole policies for graduated sanctions and incentives and determining how best to modify and expand them for the new agency (DCS). DCS has formed a Policy Action Team (PAT) to work on the issue and the team is actively reviewing data and information about past practices, effectiveness of those practices, improvements needed, performance and accountability measures. The work is expected to be concluded in June 2016 following pilot testing at select sites.

6. Develop a full range of policies and procedures for activities and programs related to the GA-PRI so that fidelity to, and the sustainability of, the GA-PRI Framework is assured. (Funded by SRR).

Status: Given the merger of probation and parole into the new DCS, the work needed to update and expand policies and procedures in DCS has been limited to the Graduated Sanctions and Response policy detailed under Objective 5. In October of 2015, a Work Group of GOTSR and Georgia DOC was launched, staffed by two contractors with experience in policy development. The group developed a short term set of objectives that are to be implemented within the next 60-90 days focusing on DOC case planning policies and procedures: (1) determine the status of DOC's policies and procedures; (2) prioritize DOC's policies and procedures; (3) develop a timetable for completing DOC's policies and procedures; and (4) prepare a report to be included as a part of a larger report to the Criminal Justice Reform Council. (For detail, See GOTSR Issue Brief: Policy and Procedure Development; Expectations, Roles, Responsibilities and Funding Allowances – March 21, 2015).

7. Develop and implement a process to measure and report on Quality Assurance that demonstrates the use and efficacy of evidence-based principles (such as Risk, Need and Responsivity or RNR) and other principles and practices of effective intervention by prison staff, parole and probation officers, managers, and community partners. (Funded by SRR).

Status: The Quality Assurance facilitator is in place and her work begins with assisting with the quality of implementation as part of the ARS process evaluation (see below) and to date has centered on TAP and prison in-reach processes. As a result, these processes are expected to be improved in the coming months. Work on the development of a re-engineered QA system as part of the reforms in the prison and community supervision system were expected to begin in the fall of 2015 at the earliest – again partly due to the development of the new DCS – but are delayed due to the revisions underway to the TAP3 and the need to have TAP related policies and procedures updated before QA processes are developed. (For more detail, See GOTSR Issue Brief: Quality Assurance Protocol Development; Expectations, Roles, Responsibilities and Funding Allowances – March 21, 2015).

8. Determine the impact of implemented evidence-based supervision and reentry service strategies, training, coaching and related policies and processes on recidivism and crime reduction in order to measure the degree that the state's goals are met for recidivism reduction. (Funded by SRR, Max

Status: The TAP2 and the TAP3 were the focus of implementation activities for the first year of the implementation knowing that the key to recidivism reduction is improved, highly individualized case planning. Based on feedback from state and local stakeholders on the implementation of the TAP process, ongoing efforts have underscored the importance of specificity of expectations for state and local reentry stakeholders, greater clarity on roles and responsibilities and the need for detailed documentation for the two TAPs that are the focus of the GA-PRI at this time, the TAP2 (prison programming and compliance summary, pre-release and reentry needs) and the TAP3 (the prescriptive reentry plan). As a result, GOTSR developed a specific plan of action to address the shortcomings which were agreed to by GDC and DCS and other stakeholders (See Executive Director's Memorandum No. 2015-1, The Transition Accountability Process and Prison In-Reach, Approved by the IST on March 26, 2015) and a plan for TAP3 documentation and storage. Responsiveness to issues and needs identified in the implementation process is critical in order to meet this objective.

Due to delays in TAP3 development and in order to improve the likelihood that the recidivism reduction goals of the GA-PRI would be met, GOTSR formed a new workgroup with GDC and DCS to build the TAP3 document and define the process that begins with the information gathered under the TAP2. The TAP2 and TAP3 development process was the subject of a statewide training conference that was held on May 20th which attracted nearly 200 state and community stakeholders and featured keynote addresses by Governor Nathan Deal and Bureau of Justice Assistance Director Denise O'Donnell whose agency is responsible for the funding in place in Georgia. This work was summarized in a report from GOTSR to the IST in June. The report provided detail on the two TAPs and recommendations on how to move forward. (See GOTSR Report on Transition Accountability Planning Development and Implementation, June 11, 2015).

Subsequently, individualized training was provided in July 2015 at each of the first six community sites that included roles and responsibilities, procedures and documentation for the TAP process, and the critical role of local Steering Teams for public education and resource development for services for returning citizens. These training components were further developed by the Center for Justice Innovation as train-the-trainer modules and are now available to GOTSR and DCS to use or adapt for future training needs. These modules will be useful once the final revisions of the TAP3, and related procedures, roles and responsibilities are completed and a new round of training will be needed.

Applied Research Services (ARS) has been conducting process and impact evaluations of the components of the GA-PRI that have been implementing utilizing federal funds since October 2014 and the initiative is at the one year mark. (For more detail, see [ARS GA-PRI Evaluation](#), February 26, 2014).

The impact evaluation that ARS is conducting analyzes the extent to which GA-PRI participants demonstrate improved quality of life and reduction of criminal recidivism in comparison to historical cohorts, as well as offenders who are wait-listed (as a result of limited resources). The outcome evaluation determines the degree to which the reentry program provides measurable improvement in client outcomes when compared to cohorts of offenders who do not participate in the program. This includes a combination of historical comparison groups, as well as any wait-listed inmates in the GA-PRI sites. The impact evaluation began immediately with the first cohort of offenders released from prison.

Year-End Evaluation Results

Over the past 10-months, ARS has held 30-40 meetings at the five GA-PRI Community Sites (Bibb, Chatham, Fulton, Muscogee, and Richmond counties) and participated in planning and training meetings with them. All told, approximately 100 people have been interviewed about their experiences and observations with GA-PRI implementation. Contacts were made with GA-PRI staff, community supervision officers (CSO), steering committee members, and headquarters' staff (GOTSR, GDC, DCS) through telephone conversation, non-participatory observations such as local Steering Team meetings and network collaboration surveys.

In addition to qualitative and survey data, ARS analyzed staging data, risk-needs profiles, in-reach encounters, and recidivism. As the program evolved, ARS has instituted new data collection protocols that were unforeseen at the project outset, a development that has created some time delays in data analysis.^{xxxv}

Recidivism Impact: Based on multivariate outcome measure/survival analysis on recidivism, there is no significant difference to date between GA-PRI designated offenders and a comparable group of offenders across all sites or at other sites who did not participate in the GA-PRI. Based on other findings and analyses included below, this finding is not surprising. To reach conclusive findings, the outcome analysis requires additional time to track offenders and another six months of new releases in the original GA-PRI sites. Overall, 6% of the offenders (probation/parole) have been re-arrested for a felony in the first 180-days, consistent with prior Georgia research. Among those who are re-arrested, 50 days is the average.^{xxxvi}

Ten categories of interest have been identified that influence recidivism reduction efforts. These issue areas will be the subjects of a full report by ARS in the coming weeks. Based on a GA-PRI Report Brief by ARS (attached) and discussions with the Evaluation, Performance and Data Committee of the GA-PRI, a summary of these ten issues is as follows:

- 1) ***The GA-PRI Framework***: Based on all analysis and field interviews, there is overwhelming consensus that the proposed GA-PRI Framework (transition processes, community capacity building, and seamless transition from release to supervision) is a model that can reduce recidivism.
- 2) ***The Phase One Transition Accountability Plan (TAP1 – the Institutional Phase Case Plan)***: DOC relies on the NGA profiles after classification and diagnostics to match the right offenders to the appropriate evidence-based programs, and other programs designed to address relevant criminogenic risk/needs. This plan is maintained in the DOC's information system (SCRIBE) and the information is transferred to TAP2 prior to release.
- 3) ***The Phase Two Transition Accountability Plan (TAP2- the Transition Phase Case Plan)***: As part of joint DOC-GOTSR effort, a new transition phase case plan (TAP2) was developed to replace the existing plan. Analyses show that approximately 50% of inmates required pre-release documents (e.g., birth certificates, SSN) but this number is likely higher. DOC may make Improvements to the TAP2 over time as the various agencies utilize the document but as it stands, the document is quite useful and by all accounts, has been well received.
- 4) ***Pipeline Validation***: As part of the grant funding, Georgia submitted estimated risk-needs profiles for each pilot sites two-years ago (called Pipeline Data). To date, these estimates remain valid and there are no significant deviations from expected releases.
- 5) ***Expected Releases***: The number of expected releases is consistent with expectations of about 3,900 in the first five sites plus Dougherty County. Inter-county transfers stemming from a change of residence are a complicating factor.
- 6) ***Staging Analysis (Transfers)***: To give DOC time to ramp-up staging, the analysis was limited to January 1, 2015 to October 30, 2015. If the first three

months were included, DOC staged (transferred) approximately 2,000 inmates from prisons to pre-release facilities. 75 percent of GA-PRI eligible offenders are classified for staging eligibility, while 25 percent are ineligible (e.g., security, current program enrollment). Among the offenders awaiting staging, 50 percent are released prior to staging. Preliminary data suggest a variety of reasons for this, such as earlier than expected release, capacity, and detainers. This challenge will be addressed in the coming months.

- 7) ***GA-PRI Staged Eligible Risk-Needs Profiles:*** Analyses show that at least 20% of staged inmates do not have any high-risk/needs. At the same point, 50% of the inmates released prior to staging fall in the high risk category. These challenges will also be addressed in coming months.
- 8) ***Prison In-Reach:*** During much of the first year, the Prison In-Reach Specialists were not hired; therefore, the responsibility fell to the community coordinators. To complicate matters, it became immediately apparent at the on-set of GA-PRI implementation that community providers on the whole, across all sites were unable to participate in in-reach process. In spite of this, estimates suggest that at least one half of the staged inmates received in-reach contact – a figure which is likely low. In response to this, community coordinators began to rely on post-release “out-reach” where they tried to make contact post- release.
 - a. Observations and reports show that many in-reached contacts were group encounters and not individual works. This is understandable because coordinators were doing much of the in-reach during most of program start-up. Diverse forms and questionnaires were deployed (site variation) to capture the in-reach data. Observations data reveal that in-reach specialists have not been referring to the NGA scores in the TAP2 and are not sure how this document fits into the TAP3. There is confusion that a recommendation for treatment does not constitute a referral. This results in underutilization of the NGA and TAP2 to assess needs. There is also a lack of standardized In-Reach policies/procedures across sites. Lastly, there is currently no policy or procedures for a “hand-off” from Prison In-Reach Specialists to community supervision officers.
- 9) ***The Phase Three Transition Accountability Plan (TAP3 – the Community Supervision and Treatment Case Plan):*** Since program inception, coordinators have used a number of questionnaires as a substitute for the TAP3 which has been undergoing several phases of development in Year One. Development of a lengthy TAP3 was not well received in the field for a variety of

reasons. In response, a decision was made to re-visit the design of the TAP3 and a brief two page document with essential information is being developed. Field testing and piloting of the new TAP3 and related procedures is planned after testing sites have been trained.

- 10) **Community Coordinators:** In-Reach has consumed much coordinator time, at the expense of capacity building. There is a lack of metrics to measure capacity building activities. In addition, a lack of policies/procedures has led to disparate Coordinator activities. Amongst some of those interviewed, there is confusion about the Coordinator's role. Concerns have also been expressed about the purpose and goals of local steering committees. These issues will also be addressed in the coming months.

VI. Looking Forward: Mandatory Minimums and Probation Supervision

Mandatory Minimum Recidivist Sentencing/Restoring Judicial Discretion

Looking ahead, the Council expects to continue its focus on offender accountability, increased public safety and saving taxpayer dollars. Since 2011, Council reforms have targeted methods of moving non-violent offenders out of costly state prison beds into more appropriate "evidence-based" community programs proven to make communities safer. To this end, reform efforts have centered on individualized assessments and providing judges and others with the tools proven to reduce recidivism and thereby improve public safety outcomes. This is evident in previous reforms aimed at expanding accountability courts and the adoption of a strategic five-year reentry plan. However, these reforms have also illuminated another key driver of the prison population – mandatory sentences that are imposed by judges who have no sentencing discretion and that do little to improve public safety. To date, reform efforts in this area have been important first steps, but the Council believes additional analysis is warranted.

In 2012, the Council recommended and the General Assembly unanimously passed HB 1176, which gave Superior Court judges more discretion in sentencing drug purchase and possession offenses and repealed sentencing enhancement for a second drug possession offense. In 2011 and 2012, the Council recommended statutory authority permitting judges to depart from mandatory minimum sentences for drug trafficking and certain serious violent felonies under specific circumstances.

In making these recommendations, the Council noted the role that mandatory minimums play in the growth of the prison population and noted the possible inequities

that can result through the restriction of judicial sentencing discretion. These recommendations, adopted in 2013,^{xxxvii} now authorize a mandatory minimum safety valve for drug trafficking offenses that would allow judges to depart from the mandatory minimum sentence under specific circumstances when the prosecutor and defense counsel agree to the deviation. However, the imposition of mandatory minimum sentences for other crimes, excluding the seven deadly sins, continues to result in the potential for sentencing inequities and merits further discussion.

“Through the work of the Council, Georgia has demonstrated the effectiveness of a transparent, inclusive, collaborative, and bipartisan approach to enacting meaningful public policy that has changed lives. And, while the work of the Council continues to focus on responsible ways to remediate our state’s criminal justice policies and improve public safety, our success presents a unique opportunity, present nowhere else in the nation, to tackle even more daunting challenges.”

Judge Michael P. Boggs, Court of Appeals of Georgia and Co-Chair, Council on Criminal Justice Reform

In addition, the Council included in its last report – and the General Assembly adopted – a recommendation extending parole *eligibility* to a limited class of non-violent offenders. These efforts specifically targeted low-risk drug and property offenders within our prison system who had never been to prison before,^{xxxviii} who have no prior conviction of a serious violent felony, but who are currently serving mandatory non-parole eligible prison sentences due to our recidivist sentencing provisions.^{xxxix} This statutory framework essentially works as a mandatory minimum sentence and prohibits the exercise of any sentencing discretion by our state’s trial court judges, who blocked from fashioning a sentence that fits the crime. We included a similar recommendation for certain non-violent drug possessors in this year’s report. However, the Council believes that restoring judicial discretion to other classes of non-violent offenders impacted by our state’s recidivist sentencing scheme deserves further consideration.

Consistent with prior reform, and in keeping with the aim of ensuring that the criminal justice system holds offenders accountable and keeps citizens safe, the Council believes it is appropriate to continue exploring the cost and public safety returns realized by the imposition of mandatory/non-parole eligible sentences and whether fiscal, moral, and public safety benefits can be realized by restoring sentencing discretion, in limited circumstances, to our state’s elected trial court judges.^{xl}

Recommendation: *The Council recommends the formation of a Mandatory Minimum Sentencing Study Subcommittee to examine mandatory minimum sentencing in*

Georgia to determine the effect of such sentences on public safety, costs, deterrence, disparate sentencing, and equity, and to determine the appropriateness of restoring judicial discretion in sentencing to ensure that elected trial court judges can dispense sentences that fit the circumstances of each crime. The Council further recommends that this subcommittee meet throughout the remainder of 2016 and report back to the full Council for consideration of reform recommendations during the 2017 legislative session.

Adult Felony and Misdemeanor Probation Supervision

In keeping with its mission, the Council believes another natural area for discussion concerns Georgia's adult probation population. As the Council readies its focus on the 2017 legislative session, it intends to turn its attention to the issue of community supervision of felony and misdemeanor offenders in Georgia and address whether reforms of the current probation model might bring about greater efficiencies, transparency, accountability, and equity within our state's criminal justice system.

At the end of 2014, Georgia's state adult felony^{xli} and misdemeanor probation population was 471,067, according to the U.S. Department of Justice, Bureau of Justice Statistics.^{xlii} This ranks Georgia first in the nation not only in the number of adult offenders on probation, but also the number of probationers per capita. For every 100,000 adult state residents, Georgia has 6,161 probationers.^{xliii} This far surpassed the national per capita average of 1,560 adult state probationers per 100,000 adult state residents. Not surprisingly, these statistics have not gone unnoticed.^{xliv} While Georgia's numbers may be over-stated, the figures are nonetheless alarming and present a ripe opportunity for further examination by the Council.^{xlv}

Jurisdiction	Probation Population 1/1/2014	Probation Population 12/31/14	Number of individuals on probation per 100,00 adult residents
Georgia	518,507	471,067	6,161
Florida	233,017	227,087	1,422
Alabama	50,698	53,640	1,429
South Carolina	35,300	35,096	931
North Carolina	94,437	90,918	1,181
Texas	398,607	388,101	1,938
California	294,057	295,475	991
New York	107,730	104,254	670
State Totals	3,910,692	3,844,933	1,560 (average)

Source: Bureau of Justice Statistics, *Probation and Parole in the United States, 2014* (November 2015, NCJ 249057).

The Council believes that its planned examination of Georgia's adult probation population will allow for a collaborative, inclusive and through analysis of Georgia's adult community supervision model to ensure that taxpayer dollars are spent efficiently

and that probation supervision delivers meaningful and tangible public safety results. Among other considerations, the Council expects to examine the following:

- 1) The desirability of re-classifying certain Title 40 (traffic offenses) to civil infractions; consideration of converting certain equipment/non-moving misdemeanors to fine-only criminal offenses; consideration of increasing the maximum penalties for certain Title 40 misdemeanors; updating and streamlining Traffic Violations Bureau Statutes; giving judges and prosecutors more tools to encourage and compel satisfaction of judgment and the payments of fines and fees; examining whether changes to O.C.G.A. §17-10-20^{xlvi} would be beneficial; and consideration of methods to encourage pre-payment of fines and fees;^{xlvi} (Please see Appendix B.)
- 2) A discussion of offender indigency and the issues related to the state's method of collecting fines, fees and surcharges in felony and misdemeanor cases;
- 3) Consideration of the potential efficiencies and desirability of using a validated risk and needs assessment tool to guide community supervision dispositional decisions to ensure that supervision resources are focused on those probationers most likely to re-offend and that probationers receive a supervision model tailored to meet their criminogenic needs;
- 4) An analysis of Probation Term Lengths and the correlative affect, if any, that Georgia's national leading probation terms have on public safety in light of data suggesting that longer probation terms have little effect on recidivism.

Recommendation: The Council recommends the formation of a Community Supervision Study Subcommittee to examine Georgia's adult felony and misdemeanor probation systems to determine what, if any, efficiencies may be gained through additional reforms in Georgia's current adult probation supervision model and practices. The Council recommends that this subcommittee meet throughout the remainder of 2016, and report back to the full council for consideration of reform recommendations to be considered during the 2017 legislative session.

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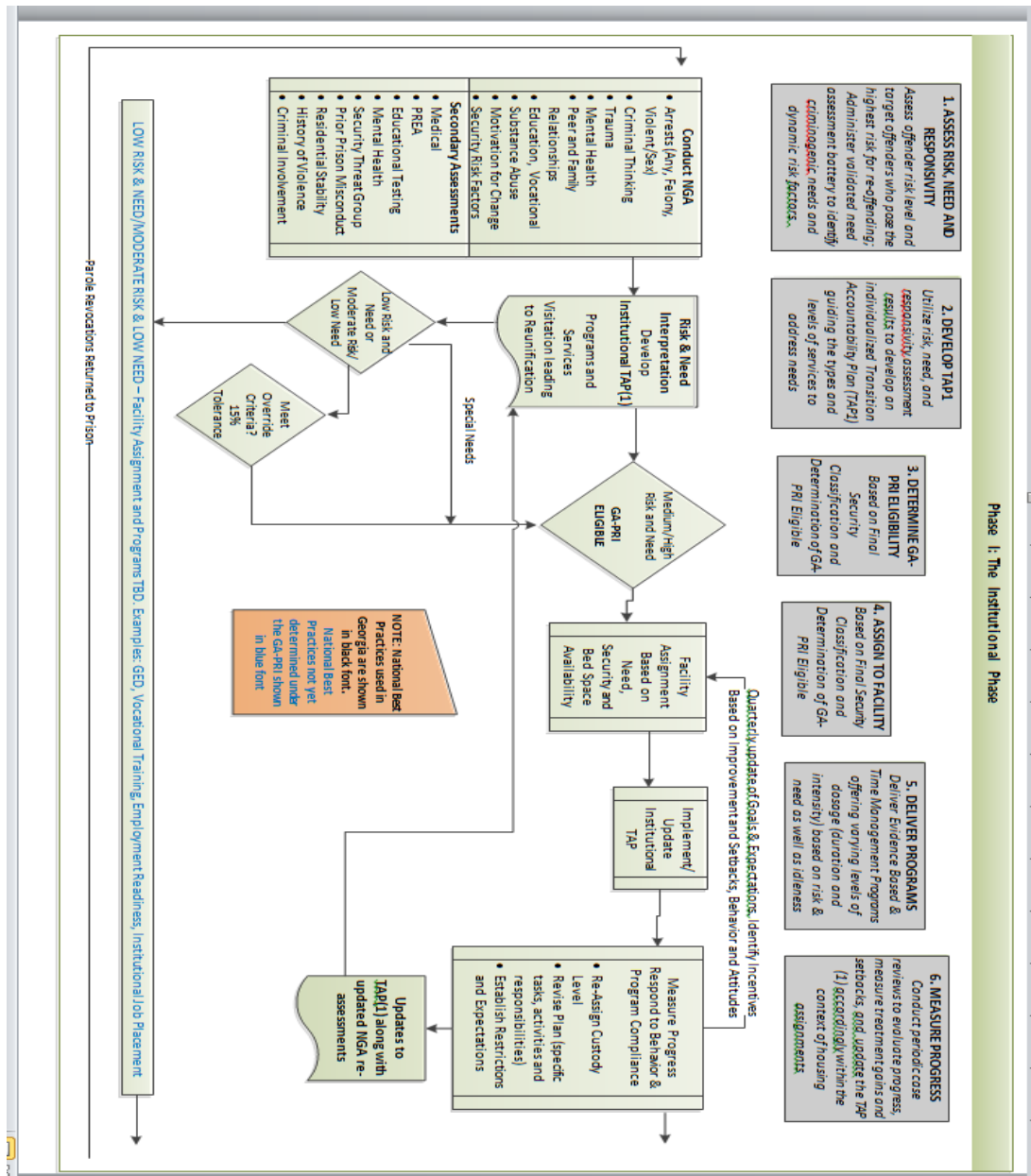
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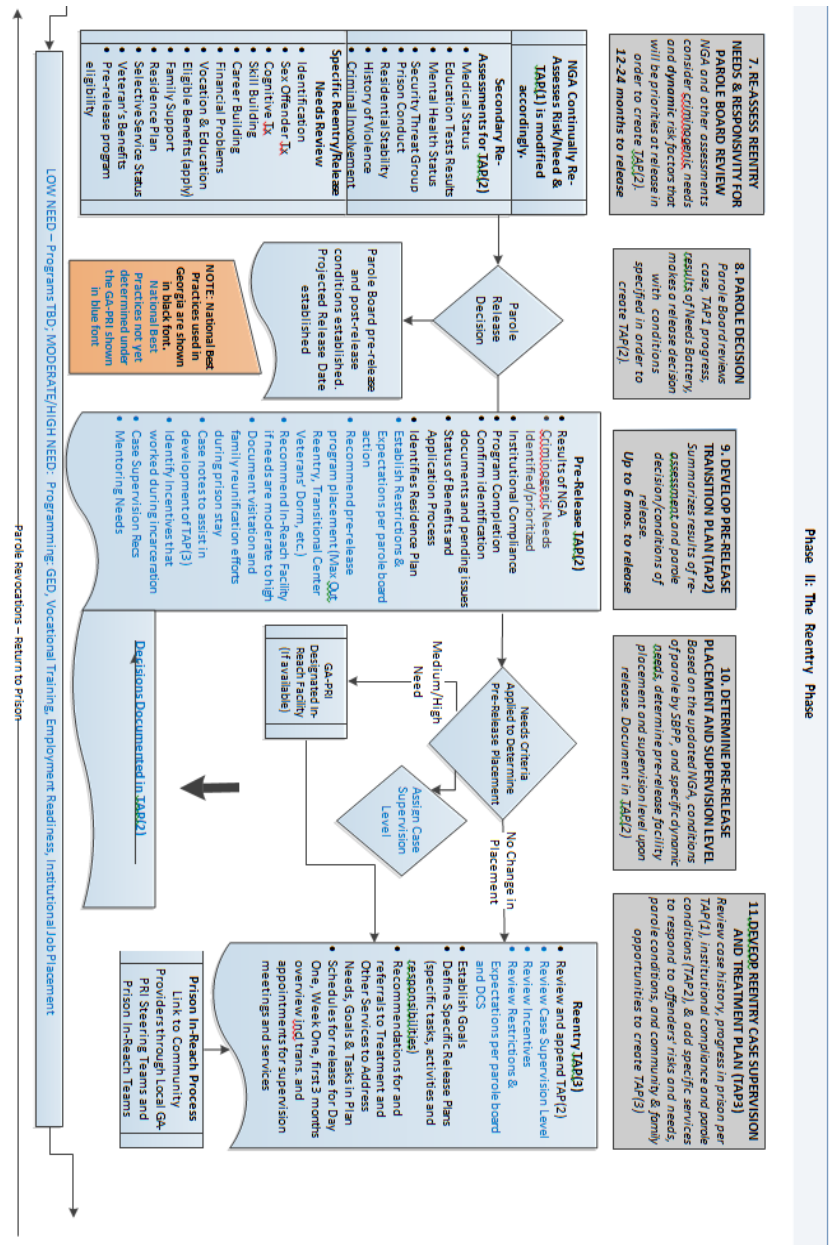
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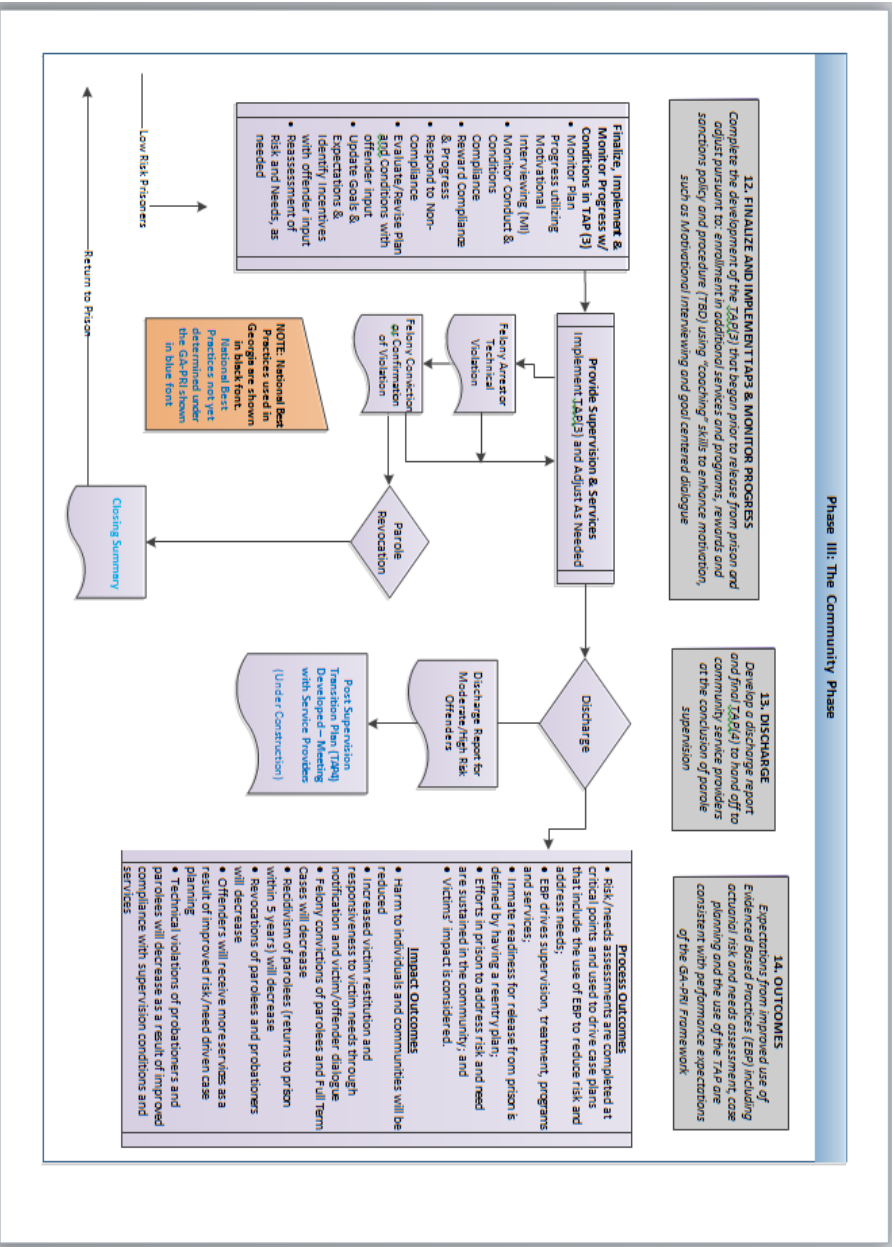
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Appendix A







Appendix B

APPENDIX TABLE 4

Adults on probation, 2014

Jurisdiction	Probation population, 1/1/2014 ^a	Entries		Exits		Probation population, 12/31/2014 ^a	Change, 2014		Number on probation per 100,000 adult residents, 12/31/2014 ^c
		Reported	Imputed ^b	Reported	Imputed ^b		Number	Percent	
U.S. total	3,929,810	1,983,385	2,067,100	2,041,230	2,130,700	3,864,114	-65,696	-1.7%	1,568
Federal ^d	19,118	9,197	9,197	10,090	10,090	19,121	3	—	8
State	3,910,692	1,974,188	2,057,900	2,031,140	2,120,600	3,844,993	-65,699	-1.7%	1,560
Alabama ^{c,d}	50,698	20,998	22,100	18,147	19,200	53,640	2,942	5.8	1,429
Alaska	7,167	5,342	5,342	5,432	5,432	7,077	-90	-1.3	1,287
Arizona ^d	70,827	26,493	26,493	24,088	24,088	73,232	2,405	3.4	1,422
Arkansas	29,107	9,623	9,623	10,726	10,726	28,192	-915	-3.1	1,244
California	294,057	169,167	169,167	168,310	168,310	295,475	1,418	0.5	991
Colorado ^{c,d}	78,843	53,393	53,900	53,026	53,800	78,988	145	0.2	1,907
Connecticut	45,039	22,568	22,568	22,376	22,376	43,070	-1,969	-4.4	1,522
Delaware	16,039	12,227	12,227	12,601	12,601	15,665	-374	-2.3	2,131
District of Columbia	7,042	4,666	4,666	5,224	5,224	6,484	-558	-7.9	1,185
Florida ^{c,d}	233,017	155,099	160,400	162,272	167,700	227,087	-5,930	-2.5	1,422
Georgia ^{d,e}	518,507	283,648	283,648	329,168	329,168	471,067	-47,440	-9.1	6,161
Hawaii	21,576	4,658	4,658	5,303	5,303	20,931	-645	-3.0	1,877
Idaho	33,062	13,212	13,212	12,848	12,848	33,450	388	1.2	2,761
Illinois	123,862	56,639	56,639	58,317	58,317	122,184	-1,678	-1.4	1,233
Indiana	123,261	78,020	78,020	82,707	82,707	118,574	-4,687	-3.8	2,356
Iowa	29,301	16,335	16,335	15,707	15,707	29,929	628	2.1	1,252
Kansas	16,446	21,050	21,050	21,168	21,168	16,328	-118	-0.7	746
Kentucky	53,350	26,728	26,728	25,971	25,971	54,107	757	1.4	1,587
Louisiana	41,761	13,658	13,658	14,440	14,440	40,979	-782	-1.9	1,155
Maine	6,710	3,195	3,195	3,335	3,335	6,570	-140	-2.1	612
Maryland ^d	81,304	40,585	40,585	42,350	42,350	79,539	-1,765	-2.2	1,713
Massachusetts	67,784	77,736	77,736	77,246	77,246	68,274	-9,510	-14.0	1,269
Michigan ^{c,d}	179,567	98,486	110,600	96,451	108,000	180,583	1,016	0.6	2,343
Minnesota	98,267	48,033	48,033	48,639	48,639	97,661	-606	-0.6	2,330
Mississippi	31,675	9,959	9,959	6,583	6,583	34,398	2,723	8.6	1,517
Missouri	51,197	25,376	25,376	29,270	29,270	47,303	-3,894	-7.6	1,009
Montana ^{c,d}	8,362	4,171	4,300	3,889	4,000	8,621	259	3.1	1,075
Nebraska	13,545	9,108	9,108	9,812	9,812	12,940	-605	-4.5	911
Nevada	12,102	5,201	5,201	5,276	5,276	12,027	-75	-0.6	548
New Hampshire	3,994	2,736	2,736	2,820	2,820	3,910	-84	-2.1	368
New Jersey	112,598	41,600	41,600	38,300	38,300	115,898	3,300	2.9	1,667
New Mexico ^c	16,690	6,773	8,900	6,829	9,500	16,060	-630	-3.8	1,013
New York	107,730	27,984	27,984	31,460	31,460	104,254	-3,476	-3.2	670
North Carolina	94,437	54,086	54,086	56,718	56,718	90,918	-3,519	-3.7	1,181
North Dakota	4,947	3,944	3,944	3,306	3,306	5,585	638	12.9	967
Ohio ^{c,d}	243,282	119,293	139,300	121,913	145,000	238,915	-4,367	-1.8	2,660
Oklahoma	27,208	11,605	11,605	10,245	10,245	28,568	1,360	5.0	972
Oregon	36,957	14,454	14,454	13,488	13,488	37,923	966	2.6	1,212
Pennsylvania	171,970	100,272	100,272	95,505	95,505	176,737	4,767	2.8	1,748
Rhode Island ^c	22,988	**	4,500	**	3,900	23,595	607	2.6	2,793
South Carolina	35,300	13,652	13,652	13,856	13,856	35,096	-204	-0.6	931
South Dakota	6,262	3,674	3,674	3,133	3,133	6,803	541	8.6	1,054
Tennessee	65,751	24,133	24,133	26,802	26,802	62,950	-2,801	-4.3	1,239
Texas	398,607	150,244	150,244	160,750	160,750	388,101	-10,506	-2.6	1,938
Utah	11,188	6,090	6,090	5,295	5,295	11,983	795	7.1	583
Vermont	5,791	3,306	3,306	3,435	3,435	5,662	-129	-2.2	1,120
Virginia	54,020	28,465	28,465	28,648	28,648	54,966	946	1.8	848
Washington ^{c,d}	89,199	43,876	58,100	34,658	52,800	94,112	4,913	5.5	1,713
West Virginia ^{c,d}	7,174	**	900	882	882	7,174	/	:	488
Wisconsin ^{c,d}	46,140	**	22,900	**	22,800	46,212	72	0.2	1,034
Wyoming	4,984	2,627	2,627	2,415	2,415	5,196	212	4.3	1,165

Note: Counts based on most recent data and may differ from previously published statistics. Counts may not be actual as reporting agencies may provide estimates on some or all detailed data. Due to nonresponse or incomplete data, the probation population for some jurisdictions on December 31, 2014, does not equal the population on January 1, 2014, plus entries, minus exits. Reporting methods for some probation agencies changed over time and probation coverage was expanded in 1998 and 1999. See *Methodology*.

--Less than 0.05%.

**Not known.

: Not calculated.

/Not reported.

^a Detail may not sum to total due to rounding. Reflects reported data, excluding jurisdictions for which data were unavailable.

^b Computed using the estimated U.S. adult resident population in each jurisdiction on January 1, 2015.

^c Data for entries and exits were estimated for nonreporting agencies. See *Methodology*.

^d See *Probation: Explanatory notes* for more detail.

^e Counts include private agency cases and may overstate the number of persons under supervision. See *Methodology and Probation: Explanatory notes* for more detail.

Source: Bureau of Justice Statistics, Annual Probation Survey, 2014.

Appendix C

INTERIM TRAFFIC REFORM PROPOSALS

Introduction

During the study of criminal justice spending and effectiveness conducted by the Special Council on Criminal Justice Reform for Georgians in 2011, Chief Justice Carol W. Hunstein circulated a proposal to study whether the State should convert minor traffic offenses to civil offenses. The proposal touched off a great deal of discussion and debate within the criminal justice community, and ultimately the Special Council recommended that Georgia examine whether its traffic laws are effectively serving Georgians. This report is the result of a process that began at the end of the last legislative session: meetings of stakeholders have been held to examine the issues and changes that have the potential to make the system of handling traffic violations more efficient while enhancing or even preserving the public safety impact of the traffic laws related to “minor offenses.”

The Administrative Office of the Courts has compiled the proposals in this report with the leadership of Chief Justice Hunstein and the leaders of the Councils of the trial courts of this State. Many stakeholders have participated in the meetings and research that have gone into the formulation of these proposals. The examination has necessarily gone beyond reclassification to include other aspects of the traffic laws and the traffic courts, which has produced additional proposals for reform.

These proposals are offered to policymakers for the following purposes:

- Improve court service delivery to citizens, to law enforcement and other stakeholders;
- Provide judges and prosecutors with options to fit the circumstances of the offense and the offender to better balance the deterrent effect of the penalty with the burdens placed on the guilty party;
- Maintain and enhance the public safety effect of Georgia’s traffic laws by tailoring penalties and making process improvements to ensure that penalties (mostly fines) are effectively enforced. Violation of the traffic laws is a leading cause of accidents and fatalities on Georgia’s roads and highways; and
- Reduce minor traffic offense transfers between courts to promote the swift resolution of traffic cases and prevent the escalation of minor issues to state and superior courts.

The participants offer these proposals as well as their commitment to continue working toward the efficient and effective administration of the traffic laws of this State.

Recommendation: Reclassify certain Title 40 Offenses

After many months of discussion, the stakeholders propose that there are certain minor misdemeanors that could be treated as fine-only offenses without jeopardizing public safety. If the General Assembly were to enact these changes, the effect of these changes on compliance with the law and the fine-only sentences would be tracked and analyzed to determine the effect of removing the incarceration penalty and whether there should be future recommendations to the General Assembly on fine only offenses.

Our traffic courts rely heavily on misdemeanor probation to administer the enforcement of judgments. This includes payment of fines and other conditions of probation, including DUI programs and treatment courts. Removing the possibility of incarceration also removes the ability to sentence an offender to probation. The view of the courts is that this must be done cautiously and in conjunction with other mechanisms to encourage the complete payment of all lawful fines and fees imposed by the sentencing judge.

The judges and prosecutors have identified a small number of traffic misdemeanors that warrant increased penalties. The overall goal is to enhance public safety. Not only could the enhanced penalties serve to put the public on notice of the severity of these offenses, but the new sentence lengths would give prosecutors and judges the ability to sentence an offender to sufficient time to complete a DUI Court program. Strengthening the flexibility of the system to use pre-trial diversion of offenders to rehabilitative programs would benefit both the offender who has been identified with a problem and could result in safer roads for Georgians.

- **Convert certain equipment/non-moving misdemeanors to fine-only criminal offenses**

The following Title 40 offenses would become fine-only. The maximum fine would remain at the misdemeanor level of \$1,000. Defendants would not be placed on probation while making payments toward the fines, but could be subject to post-sentencing court appearances, with appropriate sanctions for failure to pay or perform community service as an alternative to the fine.

The punishment for a violation of the sections enumerated below shall not include confinement and probation, but in all other respects may be punished as a misdemeanor. However if one of the enumerated offenses is committed in conjunction with any other Title 40, Chapter 6 offense, not enumerated below, which is punishable as a misdemeanor or felony in this Title, then the sentence for a violation of one of the enumerated sections may include a maximum confinement of 12 months just as with any other misdemeanor. In such case, the maximum punishment for the violation of the enumerated sections shall be the same as for a misdemeanor pursuant to subsection (a) and (b).

O.C.G.A. ' 40-6-6(e) B Operation of emergency vehicle with unauthorized flashing lights
O.C.G.A. ' 40-6-25 B Display of unauthorized signs, signals, or markings
O.C.G.A. ' 40-6-97 B Pedestrians soliciting rides or business
O.C.G.A. ' 40-6-184 B Impeding traffic flow; minimum speed in left-hand lanes
O.C.G.A. ' 40-6-200 B How vehicles to be parked; powers of Department of Transportation and local authorities
O.C.G.A. ' 40-6-202 B Stopping, standing, or parking outside of business or residential districts
O.C.G.A. ' 40-6-208 B Parking areas for passengers of rapid rail or public transit buses; violations
O.C.G.A. ' 40-6-292 B Manner of riding bicycle; carrying more than one person
O.C.G.A. ' 40-6-293 B Clinging to vehicles
O.C.G.A. ' 40-6-294 B Riding on roadways and bicycle paths
O.C.G.A. ' 40-6-295 B Carrying articles on bicycles
O.C.G.A. ' 40-6-296 B Lights and other equipment on bicycles
O.C.G.A. ' 40-6-313 B Clinging to other vehicles
O.C.G.A. ' 40-6-314 B Footrests and handlebars
O.C.G.A. ' 40-6-315 B Headgear and eye-protective devices for riders
O.C.G.A. ' 40-6-361 B Traffic laws applicable to low-speed vehicles
O.C.G.A. ' 40-6-362 B Operating low-speed vehicles on highway
O.C.G.A. ' 40-6-363 B Safety equipment required for personal transportation vehicles
O.C.G.A. ' 40-8-8 B Speedometer
O.C.G.A. ' 40-8-21(c)(2) and (3) B Light requirements applicable to wreckers
O.C.G.A. ' 40-8-22 B Headlights
O.C.G.A. ' 40-8-23 B Taillights
O.C.G.A. ' 40-8-24 B Reflectors
O.C.G.A. ' 40-8-25 B Brake lights and turn signals required
O.C.G.A. ' 40-8-26 B Standards for brake lights and signal devices
O.C.G.A. ' 40-8-28 B Lights on parked vehicles
O.C.G.A. ' 40-8-30 B Standards for multiple-beam road lighting equipment
O.C.G.A. ' 40-8-34 B Color in lighting equipment
O.C.G.A. ' 40-8-35 B Operating low-speed vehicles on highway requires amber strobe light
O.C.G.A. ' 40-8-70 B Horns and warning devices
O.C.G.A. ' 40-8-71(a) B Exhaust system requirements
O.C.G.A. ' 40-8-71(b) B Vehicle engine to be equipped and adjusted to prevent excessive fumes or smoke
O.C.G.A. ' 40-8-72(a) B Mirrors (generally)
O.C.G.A. ' 40-8-73(b) B Windshield wiper required
O.C.G.A. ' 40-8-73(c) B Maintenance of windshield wiper
O.C.G.A. ' 40-8-75 B Tire covers
O.C.G.A. ' 40-8-181 B Visible emissions from vehicles on public roadways prohibited; exceptions (see O.C.G.A. ' 40-8-183)

- **Increase the maximum penalties for certain Title 40 misdemeanors**

The following Title 40 offenses would remain misdemeanors but have an enhanced confinement of 24 months and a maximum fine of \$5000.

O.C.G.A. '40-6-391(c)(3) Driving under the Influence (3rd in 10 years)
O.C.G.A. '40-6-186(b) Racing on Highway or Streets
O.C.G.A. '40-6-393(c) Homicide by Vehicle Second Degree
O.C.G.A. '40-6-393.1(c) Feticide by vehicle-Second Degree
O.C.G.A. '40-6-395(b)(1) Misdemeanor fleeing or attempting to elude police officer
O.C.G.A. '40-6-397 Aggressive Driving

Recommendation: Update and streamline Traffic Violations Bureau Statutes (Title 40, Chapter 13)

In the 1960s, the General Assembly passed laws allowing courts with traffic jurisdiction to opt-in to administrative processing of a limited set of minor traffic offenses. This was seen as a benefit to the public and improvement in court efficiency. To cite one municipal court judge in a jurisdiction that utilizes a traffic violations bureau: “We could not function without it.”

Today however, those statutes are antiquated and do not take into account improvements in technology. Worse still, constitutional issues have plagued the traffic violations bureaus as they were initially constituted. In 2003, the Georgia Supreme Court held that a key component of the bureau concept underlying the statutory scheme for the bureaus was unconstitutional. As it stands, the promise of efficiency and better service to citizens still exists, but the administrative processing of Georgia’s two million plus offenses per year is haphazard and has not fully realized its potential.

The judges and the prosecutors recommend that Chapter 13 of Title 40 be re-written to modernize the language to account for modern records management and the capability to accept online payments. These changes could contain other administration and enforcement recommendations suggested by the stakeholders.

Recommendation: Give judges and prosecutors more tools to encourage and compel satisfaction of judgment and the payments of fines and fees.

- **Provide for the interception of tax returns and lottery proceeds to satisfy unpaid judgments and fees (Title 48, Chapter 7 and Title 50, Chapter 27)**

There are three types of defendants who are sentenced to fines in our courts. The largest group takes responsibility for their offense and resolve matters with the court through a mechanism called bond forfeiture or by paying the fine, sometimes over time. There is another group that might be willing to pay, but are simply unable. Alternatives

are available to this group, such as serving community service hours in lieu of fines. Still, there is a third group, those with the means to pay their fines and fees, but who are unwilling to do so. Escaping justice in this manner reduces respect for the courts, the justice system and the government as a whole. The experience in other states demonstrates that tax intercept can be a successful means of collecting unpaid fines and fees imposed by courts.

- **Examine whether changes to O.C.G.A. Section 17-10-20 would be beneficial**

O.C.G.A. Section 17-10-20 allows prosecutors to file a writ to convert a fine into a civil judgment that would extend the life of the debt and which would affect a person's credit rating. It was pointed out in the stakeholder meeting of November 12, 2012 that a few counties are already using this statute to collect unpaid judgments. If this statute can be expanded for more courts to use without impacting the role of the judge, this might be another means courts can use to address the failure to pay fines imposed as part of a sentence.

§ 17-10-20. Collection of fines and restitution in criminal cases

(a) In any case in which a fine or restitution is imposed as part of the sentence, such fine and restitution shall constitute a judgment against the defendant. Upon the request of the prosecuting attorney, it shall be the duty of the clerk of the sentencing court to issue a writ of fieri facias thereon and enter it on the general execution docket of the superior court of the county in which such sentence was imposed. Such fieri facias may also be entered on the general execution docket in any county in which the defendant owns real property.

(b) If, in imposing sentence, the court sets a time certain for such fine or restitution to be paid in full, no execution shall issue upon the writ of fieri facias against the property of the defendant until such time as the time set by the court for payment of the fine or restitution shall have expired.

(c) If the fine or restitution is not paid in full, such judgment may be enforced by instituting any procedure for execution upon the writ of fieri facias through levy, foreclosure, garnishment, and all other actions provided for the enforcement of judgments in the State of Georgia and in other states and foreign nations where such judgment is afforded full faith and credit under the Uniform Foreign Money Judgments Act or domestication thereof.

(d) If the fine is not paid in full by the expiration of the time set by the court for payment of the fine, the governing authority of the county or municipality entitled to such fine may institute procedures to enforce such judgment as provided by subsection (c) of this Code section.

(e) If the restitution is not paid in full by the expiration of the time set by the court for payment of the restitution, the prosecuting attorney or the victim entitled to receive such

restitution may institute procedures to enforce such judgment as provided by subsection (c) of this Code section.

(f) Notwithstanding the provisions of Code Section 9-12-60, a judgment entered on the general execution docket pursuant to this Code section shall not become dormant during any period when the defendant is incarcerated and for seven years thereafter. Such judgment shall be subject to revival in the same manner as provided for dormant judgments under Code Section 9-12-60.

(g) No fees, costs, or other charges authorized by law in civil cases shall be charged by a clerk of superior court for entering a judgment arising out of a criminal case on the general execution docket or for any action brought by the state to enforce such judgment.

(h) The provisions of this Code section shall be supplemental to any other provision of law applicable to the collection of fines or restitution in criminal cases.

- **Encourage pre-payment of fines and fees**

Not all incentives to pay fines need to be negative. In fact, allowing defendants to pre-pay their fines and fees for minor offenses is a primary reason why courts have been able to handle the volume of citations they receive and show that many offenders are willing to pay their due in lieu of coming to court. This saves the defendant time and it saves the court time, and is a positive customer service measure, as demonstrated by the popularity of pre-payment when it is available.

The stakeholders agreed that legislation explicitly authorizing online payments could be helpful to encouraging bond forfeiture. Any legislation would need to be coupled with public awareness efforts, training of clerks and court staff, as well as administrative actions to facilitate this service in the courts. Some standards might be included to support the policy goals of our traffic laws, such as requiring the appearance of defendants subject to teen driver safety legislation.

Another issue related to pre-payment is the current mechanism of bond forfeiture. Under current law, a defendant pays a “bond” which the defendant then forfeits to the court when the defendant does not appear at arraignment. The amount of the bond is calculated to equal a standard fine and fee amount. The fact is that this is a legal theory which does not adequately describe the true nature of the transaction. The defendant does not “fail to appear” and rarely understands that they are paying a bond and not the actual fines and fees. Furthermore, the result of the payment may be that the defendant is considered to have plead guilty if a civil case arises from the circumstances surrounding the original citation. There is support for re-examining whether the current bond forfeiture process should be replaced with a straightforward procedure for pre-paying the fine. Allowing the pre-payment to result in a plea of *no lo contendere* or a plea *in absentia* are two possibilities for policymakers that would reflect the realities of

the pre-payment transaction and provide further incentive to utilize pre-payment in lieu of a court appearance.

Endnotes

- ⁱ Pew Center on the States, One in 31: The Long Reach of American Corrections (Washington, DC: The Pew Charitable Trusts, March 2009), http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2009/pspp1in31reportfinalweb32609pdf.pdf.
- ⁱⁱ Georgia Department of Corrections, Budget in Brief, 1990.
- ⁱⁱⁱ Georgia Department of Corrections.
- ^{iv} Naomi Shavin, “A Republican Governor is Leading the Country’s Most Successful Prison Reform,” The New Republic, March 31, 2015, <https://newrepublic.com/article/121425/gop-governor-nathan-deal-leading-us-prison-reform>.
- ^v Report of the Special Council on Criminal Justice Reform for Georgians, December 2012, <http://www.gjp.org/wp-content/uploads/2014-2015-CJRC-Report.pdf>.
- ^{vi} Georgia Department of Corrections.
- ^{vii} Ibid.
- ^{viii} Report of the Special Council on Criminal Justice Reform for Georgians, December 2012, https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/Report-Special-Council-Criminal-Justice-Final.pdf.
- ^{ix} Georgia Department of Corrections.
- ^x Ibid.
- ^{xi} Ibid.
- ^{xii} “The Red Ink State: Necessary Revisions to Restore the Intent of Georgia’s First Offender Act,” Georgia Justice Project, http://www.gjp.org/wp-content/uploads/The-Red-Ink-State_Necessary-Revisions-to-Restore-the-Intent-of-Georgias-First-Offender-Act.pdf.
- ^{xiii} Marc Mauer and Virginia McCalmort, A Lifetime of Punishment – The Impact of Felony Drug Ban on Welfare Benefits, 4 (July 1, 2015), http://www.sentencingproject.org/detail/publication.cfm?publication_id=523.
- ^{xiv} SNAP (Food Stamp) Benefits Analysis – Lifetime Ban for Drug Felons, Georgia Budget and Policy Institute, 1 (June 25, 2015).
- ^{xv} Ibid.
- ^{xvi} Impact of the Federal Food Stamp Ban on Georgia, Georgia Justice Project, October 2014.
- ^{xvii} Ibid.
- ^{xviii} Ibid.
- ^{xix} Report of the Georgia Council on Criminal Justice Reform, February 2015, <http://www.gjp.org/wp-content/uploads/2014-2015-CJRC-Report.pdf>
- ^{xx} Ibid.

^{xxi} Report of the Georgia Council on Criminal Justice Reform, February 2015, <http://www.gjp.org/wp-content/uploads/2014-2015-CJRC-Report.pdf>.

^{xxi} Ibid.

^{xxii} Communication from Mike Mitchell, Director, Legislative and Governmental Affairs, Georgia Department of Driver Services.

^{xxiii} Report of the Georgia Council on Criminal Justice Reform, February 2015, <http://www.gjp.org/wp-content/uploads/2014-2015-CJRC-Report.pdf>.

^{xxiv} Ibid.

^{xxv} Ibid.

^{xxvi} Ibid.

^{xxvii} Office of Deputy Commissioner Joe Vignati, Georgia Department of Juvenile Justice, December 2015.

^{xxviii} Ibid.

^{xxix} Ibid.

^{xxx} Presentation by Melissa Carter, Executive Director, Barton Child Law & Policy Center, Emory University School of Law, Nov. 18, 2015.

^{xxxi} Department of Juvenile Justice, December 2015

^{xxxii} Ibid.

^{xxxiii} Ibid.

^{xxxiv} During the first six months of implementation of the GA-PRI, it became clear that the timing and staging of community pilot sites needed to be adjusted. The original intention for the round two sites have been switched with the round three sites. This is expected to affect the overall two and five year recidivism rates and so needs to be addressed.

^{xxxv} Other challenges include: ARS was unable to analyze intermediate outcomes during the first 10-months. Migration of the Parole Case Management system to the portal was demanding. As the portal is used more, DCS expects increasing data quality with legacy data. As GDC migrates probation SCRIBE data to the portal, it may pose new challenges with legacy data. At the same time, ARS has had to work with DCS so to appropriately respond to the new case management platform.

^{xxxvi} ARS will continue to track the first round of five community pilot sites over the next two years under their grant funded state contract.

^{xxxvii} House Bill 349 (2013) - Dealing with violations of O.C.G.A. §§ 16-13-31 and 31.1, related to trafficking in cocaine, illegal drugs, marijuana, or methamphetamine and ecstasy. The bill provided in part as follows: “(2)(A) In the court’s discretion, the judge may depart from the mandatory minimum sentence specified for a person who is convicted of a violation of this Code section as set forth in subparagraph (B) of this paragraph if the judge concludes that: (i) The defendant was not a leader of the criminal conduct; (ii) The defendant did not possess or use a weapon during the crime; (iii) The criminal conduct did not result in a death or serious bodily injury to a person other than to a person who is a party to the crime; (iv)

The defendant has no prior felony conviction; and (v) the interest of justice will not be served by the imposition of the prescribed mandatory minimum sentence.”

HB 349 likewise dealt with the imposition of mandatory minimum sentences in O.C.G.A. §17-10-6.1 relating to punishment for certain serious violent offenders by providing, in part, as follows: “(e) In the court’s discretion, the judge may depart from the mandatory minimum sentence specified in this Code section for a person who is convicted of a serious violent felony when the prosecuting attorney and the defendant have agreed to a sentence that is below such mandatory minimum.”

^{xxxviii} In 2010 approximately 25% of all prison admissions were for lower-risk drug and property offenders who had never been to prison before. Analysis Conducted by Applied Research Services, Inc. (projection and impacts of HB 1176).

^{xxxix} O.C.G.A. § 17-10-7 (a) provides that “[e]xcept as otherwise provided in subsection (b) or (b.1) of this Code section, any person who, after having been convicted of a felony offense in this state or having been convicted under the laws of any other state or of the United States of a crime which if committed within this state would be a felony and sentenced to confinement in a penal institution, commits a felony punishable by confinement in a penal institution shall be sentenced to undergo the longest period of time prescribed for the punishment of the subsequent offense of which he or she stands convicted, provided that, unless otherwise provided by law, the trial judge may, in his or her discretion, probate or suspend the maximum sentence prescribed for the offense.”

O.C.G.A. §17-10-7 (c) provides “[e]xcept as otherwise provided in subsection (b) or (b.1) of this Code section and subsection (b) of Code Section 42-9-45, any person who, after having been convicted under the laws of this state for three felonies or having been convicted under the laws of any other state or of the United States of three crimes which if committed within this state would be felonies, commits a felony within this state shall, upon conviction for such fourth offense or for subsequent offenses, serve the maximum time provide in the sentence of the judge based upon such conviction and shall not be eligible for parole until the maximum sentence has been served.”

^{xi} The Council does not expect to consider altering the state’s current statutory framework providing for the imposition of mandatory minimum sentences for those convicted of a violation of O.C.G.A. §17-10-6.1(a) (commonly referred to as the “seven deadly sins”).

^{xii} As of January 22, 2016, Georgia had 200,536 adult offenders on *felony* probation supervision. 121,309 of these were serving straight probation sentences, 79,227 were serving split sentences, 102,328 were on active supervision, and 98,208 were on inactive supervision. 151,882 of these probationers were classified as “non-violent” based on their offense level. Of these non-violent probationers, 105,968 have probation sentences of five years or more. The average probation sentence length for these non-violent probationers is 9.95 years - only slightly better than the average probation sentence length of 11.88 for violent offenders. *Source*: Georgia Department of Corrections.

^{xlii} Bureau of Justice Statistics, *Probation and Parole in the United States, November 2015*, NCJ 249057 and www.bjs.gov.

^{xliii} *Ibid.*

^{xliv} Carrie Teegardin, “Georgia leads nation in probation,” Atlanta Journal-Constitution, November 19, 2015, <http://www.ajc.com/news/news/crime-law/georgia-leads-nation-in-probation/npRBS/>.

^{xlv} “Georgia - Probation counts may overstate the number of offenders under probation supervision because the agency that reports county data has the capacity to report probation cases and not the number of individuals under supervision. Probationers with multiple sentences could potentially have one or more cases with one or more private probation agencies in one jurisdiction and one or more private

probation agencies across jurisdictions...” *Probation and Parole in the United States*, (November 2015, NCJ 249057), *Methodology and Probation: Explanatory notes*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (BJS).

For other state comparisons of probation populations see: Appendix B, which is taken from the BJS Report.

^{xlvi} O.C.G.A. § 17-10-20 allows prosecutors to file a writ to convert a fine into a civil judgment.

^{xlvii} These issues mirror those considerations and the subsequent proposal presented by the “Interim Traffic Reform Proposals Study Committee” to the House Comprehensive Motor Vehicle and Traffic Reform Study Committee of the Georgia House of Representatives in 2012. The Interim Traffic Reform Proposals Report is attached hereto as Appendix C.