

# Report of the Georgia Council on Criminal Justice Reform



**February 2017**

**Justice Michael P. Boggs**  
**Co-Chair**

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## Executive Summary

Seven years ago, Georgia embarked on an ambitious journey. After two decades of dramatic growth in the prison population, state spending on corrections had spiked to more than \$1 billion annually. Recidivism rates remained stubbornly high, and projections forecasted still more prison growth over the next five years, along with an estimated \$264 million in additional taxpayer costs. Weary of the heavy investment and poor public safety results, Governor Nathan Deal and the Georgia General Assembly decided to put their faith in a new criminal justice approach. Their choice was a wise one. Today, Georgia is widely recognized as a national leader in adopting evidence-based criminal justice reforms that continue to deliver better public safety outcomes at a lower cost.

The work began when, in 2011, the General Assembly passed and Governor Deal signed HB 265, a resolution that created the bipartisan, inter-branch Special Council on Criminal Justice Reform for Georgians (Special Council). 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.

At the time, other states reeling from rising prison populations and soaring costs were also rethinking their correctional approach. Texas, Kentucky, Arkansas, North Carolina, and Ohio were among states that had begun adopting reforms to rein in prison spending and obtain better public safety outcomes from their criminal justice systems. These reforms, often grouped under the banner of "justice reinvestment," sought to control costs by prioritizing prison space for serious, violent offenders and using savings from declining incarceration to fund strategies proven to reduce reoffending.

In Georgia, the Special Council spent its first year in 2011 conducting an exhaustive review of the adult correctional system to better understand its shortcomings and the dynamics driving prison growth. Between 1990 and 2011, the adult prison population had more than doubled to nearly 56,000 inmates, and state spending on corrections jumped right along with that growth. Georgia's incarceration rate – 1 in 70 adults behind bars – was the fourth highest in the nation, and the state's recidivism rate had

been stuck at about 30 percent for a decade.

Based on its review, the Special Council proposed a package of policy changes that focused prison beds on violent, career criminals while strengthening probation, drug courts and other sentencing alternatives for nonviolent individuals. The recommendations were embodied in HB 1176, which passed the General Assembly unanimously and was signed into law by Governor Deal on May 2, 2012.

After the state's successful passage of adult reforms, the Governor asked the Special Council to broaden its focus to include Georgia's juvenile justice system, which was heavily reliant on expensive, out-of-home facilities and was producing poor results for taxpayers and youth alike. Despite an annual budget of more than \$300 million, the system was falling painfully short in its quest to help thousands of troubled young Georgians 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 their release, a rate that had held steady since 2003. For those released from secure youth development campuses, the recidivism rate was even higher – an alarming 65 percent.

***“With this bold new direction in criminal justice, we will bolster public safety, increase our chances of rehabilitating lives and bend the unsustainable cost curve we face in our prison system.”***

***Governor Nathan Deal  
May 2, 2012***

After conducting an intensive review of data and collecting testimony from a long list of stakeholders, the Special Council produced a package of recommendations to focus out-of-home placements on high-risk youth and divert lower level juveniles into community programs with a track record of reducing recidivism. Many 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. Calling the legislation a “milestone” of his first term, the governor expressed hope that the reforms would help “more of Georgia's nonviolent young offenders ... get their lives back together and re-enter society as productive citizens.” By intervening effectively in the lives of troubled youth early on, the governor said, “perhaps we can successfully divert them from wasting much of their adult years sleeping on expensive prison beds.”

## A Spotlight on Reentry

In March of 2013 the General Assembly passed and Governor Deal subsequently signed HB 349, which created the Georgia Council on Criminal Justice Reform (Council) in statute. Soon after, Governor Deal issued an executive order appointing the initial 15 members to the newly constituted and newly named Council. The Council, in its new statutory and more permanent form, could now address larger and more complex tasks with the assistance of outside subject matter experts as needed.

The first of these more complex tasks was the effort to develop a comprehensive approach to reentry, the critical intersection between an offender's incarceration and subsequent return to society. Recognizing the close link between successful reentry and recidivism reduction, the Council resolved to help Georgia ensure that every person released from prison has the tools and support needed to succeed in the community. The vehicle for that effort is the Georgia Prisoner Reentry Initiative (GA-PRI). To help coordinate this initiative, the Governor created, by executive order, the Governor's Office of Transition, Support and Reentry.

Approved by the Council at the end of 2013, the GA-PRI has two principal goals: to improve public safety by reducing crimes committed by former offenders, thereby reducing the number of victims of crime, 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 continues to be a leading example for the United States. The GA-PRI was scheduled for phase-in over three years. It began with six Community Pilot Sites in 2015 and is set to expand statewide by the end of 2018. To monitor the public safety effects of reforms, officials are tracking offenders' successful completion of community supervision as well as recidivism.<sup>1</sup>

Subsequently, the Council was essential in creating the Department of Community Supervision (DCS) in the 2015 legislative session. This new department combined felony probation services from the Georgia Department of Corrections (GDC), parole supervision from the Board of Pardons and Parole and juvenile supervision from the Department of Juvenile Justice. The new agency has become a central point of oversight for supervision and reentry efforts throughout the state, providing probation and parole services while also overseeing the continued roll out of the GA-PRI.

As the initiative enters its third year, GA-PRI staff are building momentum in their efforts to better prepare inmates for a successful life outside prison walls. By the end of 2016, staff members had developed 1,528 reentry case plans and had made more than 2,000 in-prison contacts with program participants. Other progress last year included extensive staff training, the expansion of a peer mentoring program to help GA-PRI participants through motivational relationships; the development of a new sanctions and incentives policy to give parole and probation officers better supervision tools; and the extensive engagement of community partners, especially the faith community. Already, 385 congregations in Georgia have committed to become “Stations of Hope” where formerly incarcerated individuals can seek assistance, including food, clothing, shelter, and referrals to human service agencies.

### Encouraging Results

Year by year, and with the invaluable help of partners throughout the state, Georgia is building a criminal justice system that keeps communities safe while ensuring people in prison who are motivated to change receive the tools they need to rebuild their lives. While many benefits of the state’s reform effort will take years to materialize, and while there remains much work to be done, many positive outcomes are evident today.

***“The comprehensive and thoughtful approach to criminal justice reform in Georgia demonstrates what can be done when partisanship is replaced with a data-driven, collaborative, and inclusive approach. These reforms have resulted in policies that will ensure that prison beds are available for violent offenders while simultaneously ensuring that we employ strategies proven to improve public safety outcomes among our non-violent offender population.”***

***Hon. Michael P. Boggs***

***Justice, Georgia Supreme Court and Council Co-Chair***

In the adult system, indications of success include declines in the overall prison population, annual commitments, and the number of people in the jail backlog (those remaining in a county jail awaiting assignment to a state facility). At the end of 2016, the state prison population stood at 52,962, down from a peak of 54,895 in July, 2012. The jail backlog, meanwhile, dropped from a high of 5,338 people in March of 2009 to 818 as of January, 2017. Finally, annual commitments to prison have also fallen substantially, from 21,841 in 2010 to 18,035 in 2016.

Similarly, the state continues to experience a substantial decline in the number of African-Americans behind bars. 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 25.3 percent over the same timeframe. The number of black women committed to prison 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.

In addition to a population decline, Georgia’s prison system has experienced a shift in the composition of its inmates. At the start of 2009, 58 percent of the state’s prison beds were occupied by Georgia’s most serious offenders; now that proportion stands at 67 percent. This shift, a key goal of criminal justice reform, can be attributed to policy changes championed by Governor Deal and enacted by the Legislature. Rather than overextending the state’s prison resources, Georgia is now diverting many nonviolent individuals to alternative programs such as accountability courts, prioritizing incarceration for those whose crimes truly warrant it.

At the start of 2017, Georgia had 139 accountability courts in 47 of the 49 judicial circuits receiving state funding. The number of new participants entering such courts statewide increased by 147 percent from 2013 to 2016, more than doubling participation. In FY2016, felony drug courts served 3,590 participants, people with demonstrated substance abuse issues who likely would have been in state prison had an alternative not existed.

***“Never before have I experienced such public and political will in support of achieving better outcomes from the juvenile justice system. Governor Deal’s bold vision led the way for the Council’s collaborative process, which has produced thoughtful policies guided by research, data and a range of perspectives.”***

***Melissa Carter, Executive Director, Barton Child Law and Policy Center, Emory University School of Law***

In addition to enhancing fair and equitable justice administration, the state’s reforms have saved taxpayer dollars. When Georgia first began pursuing criminal justice reform, the prison population was expected to exceed 60,000 by the end of 2016, costing the state an additional \$264 million in general costs and new facilities. Instead, Georgia has used savings from these averted costs to reinvest more than \$47 million in the adult system through accountability courts, vocational and on-the-job training, the reentry initiative, and Residential Substance Abuse Treatment facilities and programs. Such reinvestment has been essential in sustaining the positive outcomes experienced in

Georgia thus far, a pattern that will continue with cost savings from the Council's recommendations this year.

Within the juvenile system, progress has been even more encouraging. Since 2013, Georgia has reduced the number of youth in secure confinement by 36 percent and the number of youth in secure detention by 11 percent. During that same time frame, yearly juvenile commitments to the Department of Juvenile Justice have decreased by 46 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.

Through the Juvenile Justice Incentive Grant Program, more than \$30 million has been used since FY2014 to support various evidence-based programs throughout the state. In FY2016, 28 grantees served juveniles in 48 counties, a geographic area that is home to more than 60 percent of Georgia's at-risk youth. The grantees served 1,723 juveniles whose pre-disposition assessments found them at medium- or high-risk, and nearly two-thirds of these youth successfully completed their evidence-based program. That completion rate enabled all but two grantee counties to significantly reduce the number of out-of-home placements. Overall, the shrinking juvenile commitment population has enabled the state to take two detention centers and one Youth Development Campus off-line, representing 269 beds.

### **The 2016-2017 Focus: Reforming Felony Probation**

At the end of 2015, the Council decided that its next phase of work would focus on Georgia's felony probation system. It was a logical step. Nearly 206,000 people are on felony probation in Georgia, and Georgia has the highest felony probation rate in the country – twice that of Texas and four times the rate in North Carolina. With 6,161 adults on probation (misdemeanor and felony) per 100,000 residents, Georgia's probation rate also far exceeds the national average of 1,568 per 100,000 residents. Along with that dubious distinction, Georgia still maintains the nation's 8<sup>th</sup>-highest incarceration rate, with 686 adults incarcerated per 100,000 residents, despite improvements from early reforms.

Led by two subcommittees focusing on probation and sentencing, the Council spent months reviewing Georgia's probation, prison, sentencing, and arrest data. The Council also examined Georgia's policies and practices related to probation and sentencing and gathered comments from a wide range of professionals and stakeholders in the criminal justice system. The Council was assisted by experts from The Council of State Governments (CSG) Justice Center, in partnership with the Bureau of Justice

Assistance and The Pew Charitable Trusts, who helped members analyze data and identify problems with the felony probation system. CSG staff also helped the subcommittees develop recommendations for reform. Those recommendations were unanimously approved by the full Council in November 2016 and are expected to serve as a foundation for legislation in 2017.

The Council's review found that two primary factors have contributed to Georgia's high felony probation rate. First, probation is used widely in the state both as a sentence in lieu of incarceration and in combination with imprisonment in what is referred to as a "split" sentence. Second, Georgia has a history of imposing relatively long felony probation terms – for example, among those convicted of property and drug offenses, the average direct sentence length for felony probation is five years while the probation portion for split sentences is 7.5 years.

The Council also found that:

- Georgians sentenced to probation for non-violent property and drug crimes reoffend at significantly lower rates than similar people sentenced to prison. For example, people convicted of non-violent property or drug offenses who have no prior felony convictions and are sentenced to probation are half as likely to be reconvicted of a felony within three years as those convicted of the same crimes who are sentenced to prison.
- People who recidivate while on probation are most likely to do so in the first year of their probation term, a finding that highlights the importance of focusing resources on people at the beginning of their supervision terms.
- People who fail on probation are a significant driver of admissions to prison. More than two-thirds of prison admissions are likely probation and parole revocations, either for new crimes or violations of supervision conditions. While this proportion is large relative to the prison population, it represents only 6 percent of Georgia's total felony probation population.
- Roughly half of the people who are actively supervised on standard or Probation Reporting Contact Center (PRCC) felony probation caseloads (about 50,000 Georgians) have been on supervision for more than two years and are not considered to be at moderate to high risk of reoffending. These low-risk probationers contribute to heavy caseloads, limiting officers' ability to provide meaningful supervision for higher risk probationers.
- Among the 50,000 low- and moderate-risk people who have been actively supervised on standard or PRCC felony probation caseloads for more than two years and are not high risk, most cannot transition to unsupervised status because of outstanding fines and fees.

- Heavy caseloads compel Georgia probation officers to follow a *reactive*, rather than a more effective *proactive* approach to supervising people on probation.

Fortunately, the DCS has already begun moving from a reactive to a proactive probation model. Still, the Council concluded that more should be done to improve probation practices in order to reduce recidivism. With that goal and the aforementioned findings in mind, the Council approved the following policy goals:

- 1) Use probation, programming, and treatment to reduce recidivism among people convicted of a non-violent felony property or drug offense for the first time.
- 2) Enable the reduction of lengthy probation sentences for certain offenses as an incentive for good behavior while a person is on probation.
- 3) Focus supervision resources on people at the beginning of their supervision terms to reduce caseloads and deliver more meaningful supervision.
- 4) Improve the cost-effectiveness of responses to probation and parole violations.
- 5) Improve the handling, tracking, and equitable administration of legal financial obligations in both felony and misdemeanor probation.

Under current policies and practices, Georgia's prison population is projected to grow by two percent (or 1,140 people), from 52,374 people in FY2016 to 53,514 people in FY2022. If the five policy goals adopted by the Council are fully implemented, the state is expected to reduce the forecasted prison population by up to 5 percent (or 2,627 beds) by FY2022. This could allow Georgia to avoid as much as \$245 million in spending that would otherwise be necessary to accommodate additional inmates.

More details on the Council's findings and its specific felony probation recommendations can be found in the body of this report.

### 2016-2017 Additional Adult System Recommendations

While improving Georgia's felony probation system was a key priority for the Council in 2016, members also tackled other significant challenges. That work is summarized here and covered in greater detail in the body of this report.

#### **Parole**

As part of its work, the Council's subcommittees on probation and sentencing also reviewed the operations of the State Board of Pardons and Paroles, taking into account stakeholder input. After the review, the full Council recommends that the Board improve opportunities for prosecutor and victim input in the parole determination process, and that parolees have access to all appropriate alternatives to incarceration upon revocation, like people on probation do.

In addition, the Council recommends that for people sentenced to split sentences, the conditions of parole should also include those imposed on the probation sentence that follows. Finally, the Council recommends that the Board consider commuting sentences of parolees who are serving a split sentence for a non-violent property or drug offense after the parolee has satisfactorily completed 12 months of supervision.

### **Accountability Courts**

A key element in Georgia's criminal justice reform initiative, accountability courts can effectively reduce recidivism among offenders diagnosed with a substance use disorder and/or a mental illness. To strengthen court programs, the Council recommends that accountability courts receiving a state supplement serve a reasonable number of participants as determined by the Council of Accountability Court Judges, and that DCS officers be permitted to work in accountability courts to assist in community supervision.

The Council also recommends that veterans courts be required to comply with the certification and peer review procedures that govern other accountability courts. Finally, the Council proposes that Georgia boost the success of Family Treatment Courts by clarifying the referral process, enabling circuits to employ part-time judges and involving DCS employees in collaborative planning groups.

### **Identification for People Leaving Prison**

Research shows that one important element in a person's ability to transition successfully from prison to the community is the ability to obtain identification, such as a driver's license or state identification card. At the Council's direction, the Department of Driver Services and the GDC have begun helping inmates nearing release maneuver the complicated and time-consuming process of compiling necessary documents and obtaining licenses or identification cards. This assistance allows inmates to leave state facilities with an identification card in hand, giving them a leg up as they begin life outside prison. The program, which began in August, had issued 2,500 identifications by the end of 2016. The Council also recommends that DDS and DJJ explore the possibility of a similar program for juveniles under state custody or supervision.

### **Reentry**

The Council adopted a wide range of recommendations to strengthen Georgia's reentry initiative, many of which focused on reducing barriers that hinder efforts by formerly incarcerated people to find jobs and a place to live. To increase housing opportunities for people leaving prison, the Council recommends expanding the Reentry Partnership Housing program and clarifying that blanket bans on renting to persons based on a prior arrest or incarceration are prohibited by federal law.

The Council also recommends that the State of Georgia suspend, rather than terminate, Medicaid eligibility upon incarceration. This action would allow people leaving prison to obtain timely access to health care services, which is of particular importance for those with severe mental health issues. In addition, the Council proposes the expansion of the Department of Behavioral Health and Developmental Disabilities' (DBHDD) Forensic Peer Mentor Program to additional Day Reporting Centers and prisons. Finally, the Council recommends that the state offer program and treatment completion certificates to people on community supervision and recommends adding more staff to help with reentry case planning in prison.

### **Driving-Related Recommendations**

The Council also acted on several issues related to statutes governing driving violations. The Council recommends removing the lifetime prohibition on obtaining a Habitual Violator Probationary License, after the required period of suspension, if the person had ever been convicted of non-driving controlled substance or underage alcohol violations. The Council also recommends a change in the issuance of failure-to-appear bench warrants. Under current law, failure to appear for a non-serious traffic violation may result in immediate suspension of a driver's license and the issuance of a bench warrant. The Council recommends instead that courts be required to send a notice to violators and schedule a subsequent date before triggering the consequences cited above. Many courts already follow this procedure, with significant success.

### **2017 Juvenile Justice Recommendations**

On the juvenile side, the Council adopted two recommendations in response to concerns about the system's ability to effectively address children who are delinquent and deemed incompetent to stand trial. When a child is found incompetent to proceed to trial but presents a significant risk to community safety, the Council recommends that the law allow the court to temporarily detain the child prior to adjudication, when no less restrictive alternatives that adequately protect public safety exist. The Council also recommends that DJJ and the DBHDD develop and adopt a protocol for long-term treatment and rehabilitation of juveniles who are deemed incompetent to stand trial but present a risk to public safety.

In addition, the Council recommends that the juvenile justice system encourage parental accountability and involvement in cases where a child is repeatedly found delinquent or in need of services, assuming increased parental involvement is in the best interests of the child and likely to ameliorate public safety concerns. The Council has concluded that increased parental involvement could deter further delinquency of juveniles. Finally, the Council adopted two recommendations to strengthen the growth of the Juvenile Detention Alternatives Initiative in Georgia by expanding the initiative's staffing.

## Looking Forward

Throughout its six years of work, the Council has been honored to see its recommendations adopted through legislation passed with large majorities in the Georgia General Assembly. Unlike many policy areas, criminal justice reform is now embraced with overwhelming bipartisan support throughout the country, and that has certainly been the case in Georgia. State lawmakers and Governor Deal deserve praise for enacting a series of transformative sentencing and correctional improvements based on data and the best available science about what works to reduce criminal behavior. While there is much left to accomplish, the bulk of the Council's work is now embodied in statute and our panel is scheduled to sunset at the end of June 2018.

Over the coming months, the Council expects to continue discussing criminal justice issues presented by the stakeholders who have been essential to its success, including prosecutors, members of the defense bar, law enforcement officials, service providers, non-profit organizations, and advocacy groups. Additionally, the Council intends to give further consideration to traffic offenses found in Title 40 and study whether the state is effectively managing roadway safety by enforcing criminal penalties, and also examine whether justice is being equitably administered in certain "party to a crime" situations. Finally, the Council will focus a significant portion of its remaining time on ensuring the sustainability of Georgia's criminal justice reforms. This effort will include determining how best to reinvest cost savings from reforms to ensure positive results in public safety and also a concerted effort to educate those administering justice in Georgia about the new policies and practices that have moved the state forward in such a short period of time.

The Council respectfully submits this report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, Chief Justice of the Supreme Court of Georgia, Chief Judge of the Georgia Court of Appeals, and Chairmen of the House and Senate Judiciary and Appropriations Committees for full consideration during the 2017 legislative session.

## **The Georgia Council on Criminal Justice Reform**

In 2011 the Georgia General Assembly passed and Governor Nathan 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 Gov. 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 Gov. Deal subsequently signed HB 349, which statutorily 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.

**Members of the Georgia Council on Criminal Justice Reform**

Hon. Bill Cowsert  
Senator, 46th District

Hon. Chuck Efstration  
Representative, 104th  
District

Hon. Michael P. Boggs  
Justice, Supreme Court of  
Georgia (Co-Chair)

Hon. Jason Deal  
Superior Court Judge,  
Northeastern Circuit

Hon. Steve Teske  
Judge, Clayton County  
Juvenile Court

Hon. George Hartwig  
District Attorney, Houston  
Judicial Circuit

Hon. Scott Berry  
Sheriff, Oconee County

Hon. Stephanie Woodard  
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County

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## **Adult System: Progress and Recommendations**

### **Adopted Reforms: Background and Progress**

Between 1990 and 2011, Georgia's adult prison population more than doubled to nearly 56,000 inmates.<sup>2</sup> State spending on corrections skyrocketed as well, from \$492 million to more than \$1 billion annually.<sup>3</sup> As 2011 began, state prisons were operating at 107 percent of capacity and Georgia's incarceration rate – 1 in 70 adults behind bars – was the fourth highest in the nation.<sup>4</sup> Projections suggested that still more growth and higher costs lay ahead. Without a course change, Georgia's prison population was expected to increase another 8 percent within five years, and taxpayers faced \$264 million in new costs to accommodate the growth.<sup>5</sup> Despite its substantial investment in corrections, Georgia's public safety results were disappointing. The state's recidivism rate – the proportion of inmates reconvicted within three years of their release – had remained virtually unchanged for a decade, stuck at roughly 30 percent.<sup>6</sup>

While daunting, Georgia's problems were not unusual. Across the country, other states were experiencing similar pressures and rethinking their approach to sentencing and corrections. Texas, Kentucky, Arkansas, North Carolina, and Ohio were among states that had begun adopting reforms to curb corrections spending and obtain better public safety outcomes from their criminal justice systems. The goal of these reforms was typically to control costs by focusing prison space on people convicted of serious, violent offenses and use the savings from reduced incarceration to fund evidence-based alternative sanctions for individuals committing less serious crimes.

***“From a conservative perspective it is not fiscally responsible to spend money on incarceration that is not effective ... The key is being right on crime, not tough on crime.”***

***Kelly McCutchen, Director and CEO, Georgia Public Policy Foundation  
April 14, 2016***

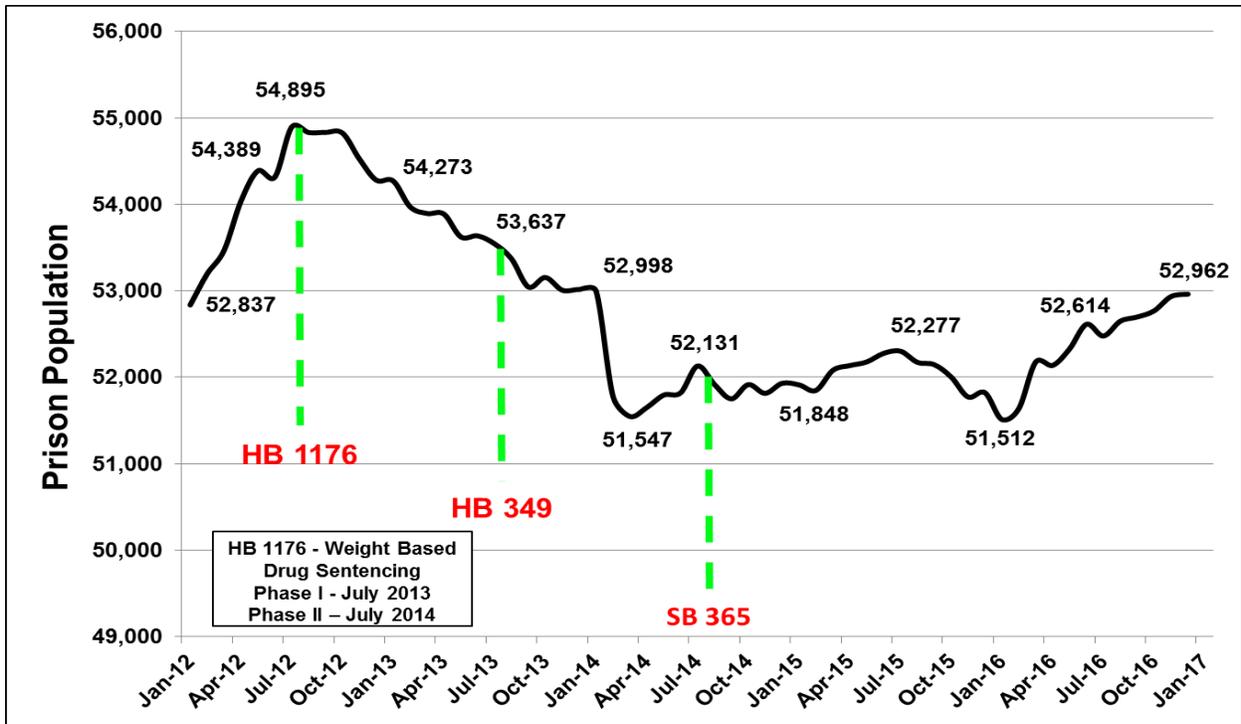
Determined to improve the performance of the state's correctional system, the Georgia General Assembly established the Special Council on Criminal Justice Reform for Georgians in 2011. In its first year, the Council focused on adult corrections, seeking to identify factors driving prison growth and propose improvements. With technical assistance from The Pew Charitable Trusts, members examined state policies and practices, analyzed system data, and gathered input from prosecutors, sheriffs, crime victim advocates, county officials, and other stakeholders.

In November 2011, the Council released a report detailing its findings and proposing a broad range of data-driven reforms, most of which were included in landmark legislation known as HB 1176. The comprehensive bill passed unanimously in both chambers of the Georgia General Assembly and was signed by Governor Deal on May 2, 2012. The law was expected to help Georgia avert the projected 8 percent growth of the inmate population as well as associated new costs of \$264 million.<sup>7</sup>

**Declining Populations, Lower Costs**

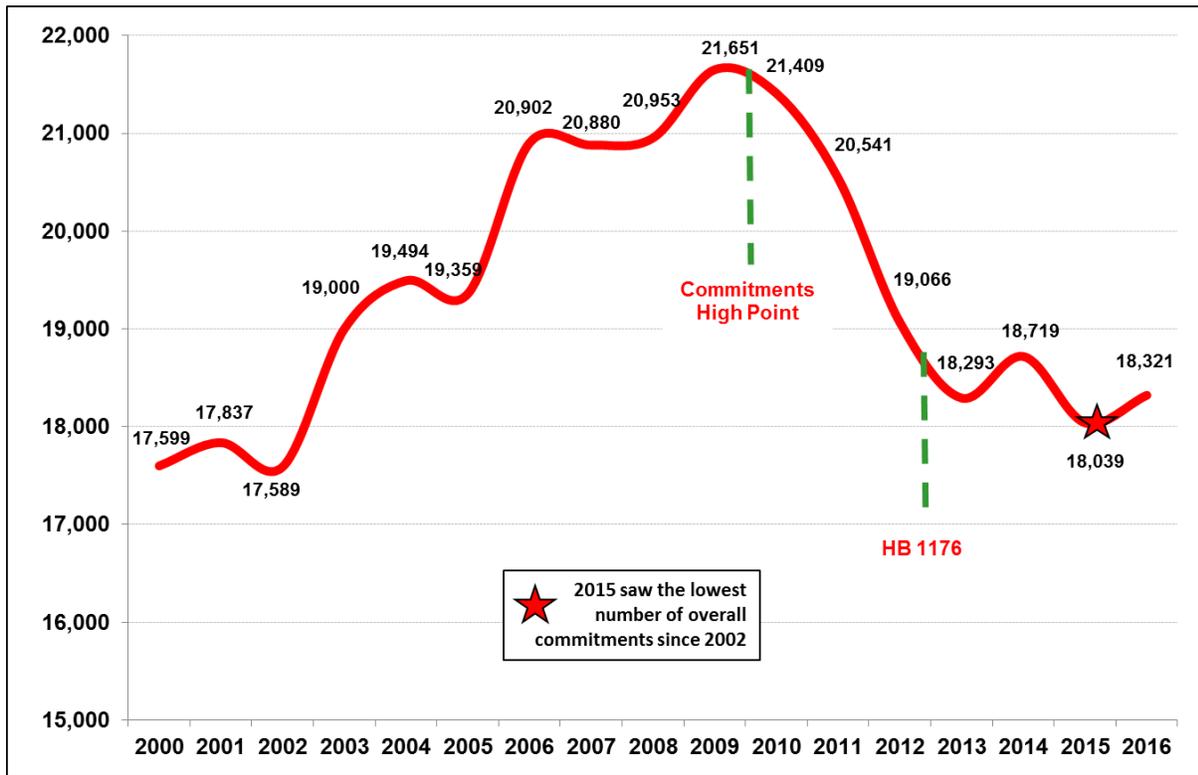
While it will take years for the full benefits of reform to materialize, significant improvements are already visible. Since HB 1176 and related administrative policies took effect, Georgia has experienced encouraging declines in its inmate population, annual prison commitments, and the number of people in county jail awaiting assignment to a state facility. At the end of 2016, the state prison population stood at 52,962 – down from a peak of 54,895 in July, 2012.<sup>8</sup> The jail backlog, meanwhile, stood at just 818 as of January, 2017, a significant drop from a high of 5,338 people in March of 2009.<sup>9</sup>

**Total Prison Population 2012-Present**



Source: Georgia Department of Corrections

### Annual Commitments to Prison



Calendar Year	Total Commitments	Black	White
2009	21,651	13,369	7,294
2015	18,039	9,923	7,587
2016	18,321	10,005	7,759
<b>Change 2009-2016</b>	<b>-15.4%</b>	<b>-25.2%</b>	<b>6.4%</b>

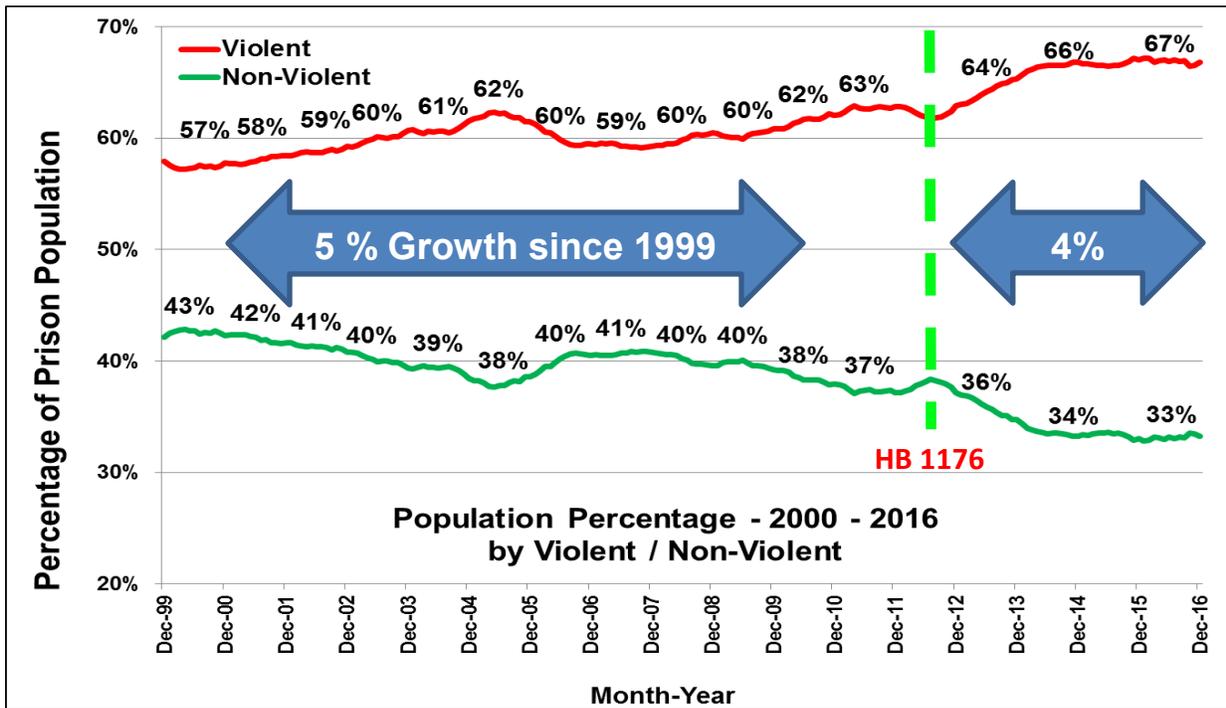
Source: Georgia Department of Corrections

Annual commitments to prison continue to decline as well, dropping from 21,651 in 2009 to 18,321 in 2016. Similarly, the state continues to experience a substantial decline in the number of African-Americans behind bars. 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 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 25.3 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

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African-Americans committed to prison in 2015 – 9,983 – was at its lowest level since 1988.<sup>10</sup>

Georgia is also making progress on another key goal of reform – reserving prison, the system’s most expensive correctional sanction, for people convicted of the most serious offenses while strengthening accountability courts and other alternative punishments for those who commit less serious crimes. At the start of 2009, 58 percent of the state’s prison beds were occupied by Georgia’s most serious offenders; now that proportion stands at 67 percent.<sup>11</sup>

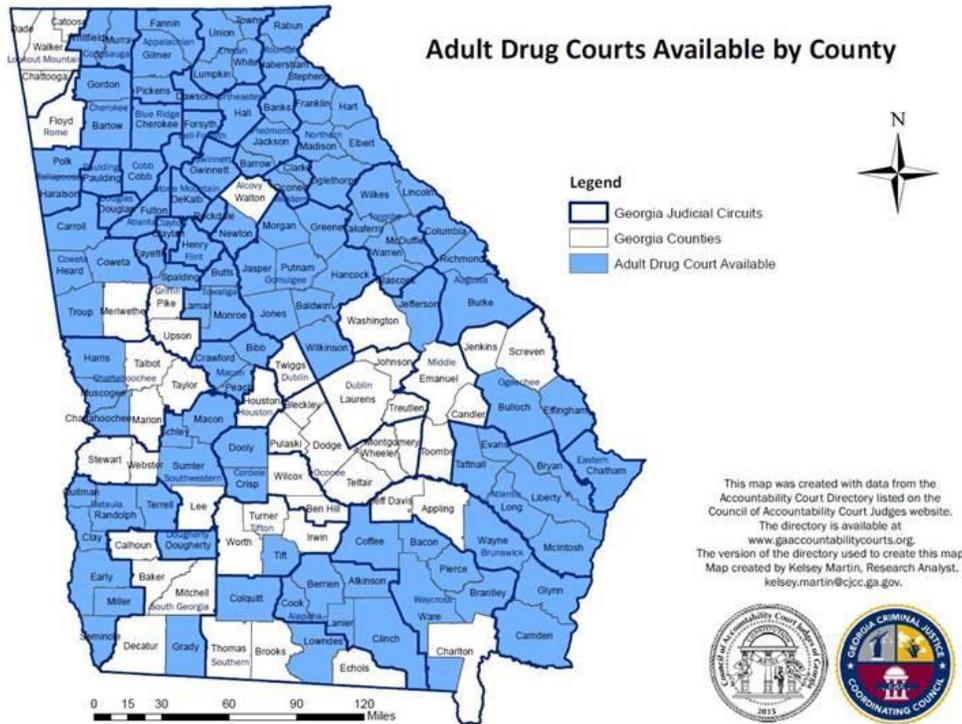


Source: Georgia Department of Corrections

In addition to enhancing fair and equitable justice administration, the state’s reforms are saving taxpayer dollars. At the outset of Georgia’s reform initiative, the prison population was expected to exceed 60,000 by the end of 2016, costing the state an additional \$264 million in general costs and new facilities.<sup>12</sup> Instead, Georgia has avoided those costs and used savings to reinvest more than \$47 million in accountability courts, vocational and on-the-job training, the Georgia Prisoner Reentry Initiative, and Residential Substance Abuse Treatment facilities and programs.<sup>13</sup> Such reinvestment has been essential in sustaining the positive outcomes experienced in Georgia, a pattern that will continue as a result of cost savings from the Council’s recommendations this year. Moreover, the drop in the jail backlog has lowered the state’s jail subsidy spending from over \$25 million per year to less than \$5,000 per year.

## Accountability Courts

One prominent indicator of Georgia’s progress with criminal justice reform is the proliferation of accountability courts. Such courts have been a hallmark of the state’s reform initiative and are considered key to reducing recidivism among offenders diagnosed with a substance use disorder and/or a mental illness. Since FY2013, the state has invested more than \$80 million into accountability courts through grants to local programs. That funding, along with committed involvement from local communities, has led to a dramatic expansion of accountability court participation.



In FY2016, 139 such courts were operating with state assistance, carrying a service load of more than 19,000 people over the course of the year. More than 1,600 people graduated from accountability courts in FY2016, and the number of new participants entering such courts statewide increased by 147 percent that same year, more than doubling participation. Moreover, 47 out of 49 judicial circuits in the state had at least one type of accountability court in operation by the end of FY2016.<sup>14</sup> As in the past, adult felony drug and DUI courts maintained the largest caseloads. At the end of FY2016, felony drug courts alone had more than 2,300 active participants, people with demonstrated substance abuse issues who likely would have been in state prison had an alternative not existed.<sup>15</sup>

The passage of HB 328 in 2015 created the Council of Accountability Court Judges (CACJ) and marked a critical step toward improving statewide collaboration among courts. The CACJ's responsibilities include establishing standards and practices for all accountability court divisions based on national best practices such as those from the National Drug Court Institute and Substance Abuse and Mental Health Services Administration. CACJ membership consists of judges who preside over an Adult Felony Drug Court, Adult Mental Health Court, Veterans Treatment Court, DUI Court, and/or a Family Treatment Court.

***“Accountability courts have played an integral role in Georgia’s criminal justice reforms, serving as an avenue for reinvestment that diverts individuals from prison and also treats the underlying issue of addiction or mental illness.”***

***Carey Miller, Esq., Deputy Executive Counsel, Office of Gov. Nathan Deal***

In 2016, SB 367 codified the operation of DUI and other accountability courts and clarified the responsibilities of the CACJ in its oversight of those courts. In its initial two years, the CACJ has convened a successful training conference, conducted certification and peer review of accountability courts to ensure adherence to best practices, and established partnerships with multiple state departments to streamline court processes, promote treatment best practices, and begin creating parity in service access throughout the state.

## **Felony Probation: Findings and Recommendations**

As it concluded its work in 2015, the Council resolved that one of its next priorities would be an analysis of Georgia’s felony probation system. Specifically, the Council recommended the creation of a subcommittee to examine Georgia’s adult probation supervision model to determine whether it was producing cost-effective and meaningful public safety results. The focus on felony probation followed the Council’s 2015 review of Georgia’s misdemeanor probation system, which had been the subject of broad criticism in audits, in the media and by the courts. Based on that review, the Council produced a dozen recommendations to address deficiencies and improve transparency and fairness in misdemeanor probation supervision services.<sup>16</sup>

In 2016, the Council created subcommittees focused on probation and sentencing. These groups met six times throughout the second half of the year to review data, discuss policy options, and hear commentary from a wide range of professionals and stakeholders in the criminal justice system. Among those providing input on possible reforms were representatives from the state Department of Community Supervision

(DCS), the Department of Corrections (GDC), the Southern Center for Human Rights, the criminal defense bar, the Prosecuting Attorneys' Council, the Association of County Commissioners of Georgia, and the State Board of Pardons and Paroles.

Experts from The Council of State Governments (CSG) Justice Center helped the subcommittees analyze relevant state data and identify problems with the felony probation system. CSG experts also helped subcommittee members formulate recommendations for reform, all of which were approved in November 2016 by the full Council and serve as a foundation for legislation in 2017.

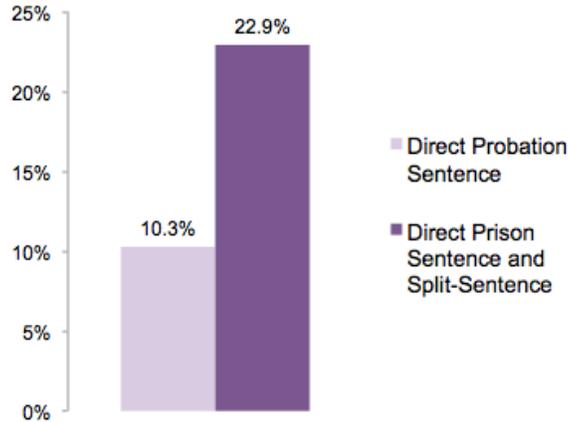
### **Highest Felony Probation Rate in the Nation**

Felony probation was a critical target for the Council in part because Georgia has the highest felony probation rate in the country—a rate twice that of Texas and four times the rate in North Carolina.<sup>17</sup> Georgia has 6,161 adults on probation (misdemeanor and felony) per 100,000 residents, far exceeding the national average of 1,568 adults on probation per 100,000 residents.<sup>18</sup> Along with that troubling distinction, Georgia has the nation's 8<sup>th</sup>-highest incarceration rate, with 686 adults incarcerated per 100,000 residents. This rate is better than previous years, but Georgia still has one of the highest incarceration rates in the country. In the southeast region, only Mississippi and Alabama have higher imprisonment rates than Georgia.<sup>19</sup>

The Council's analysis showed one reason for Georgia's continued high incarceration rate despite recent reforms—probation revocations. About 68 percent of people admitted to prison have likely been revoked from probation or parole either because of new crimes or violations of supervision conditions.<sup>20</sup> Still, people sentenced to probation reoffend at significantly lower rates than similar people sentenced to prison, the Council's review found. For example, people convicted of non-violent property or drug offenses who have no prior felony convictions and are sentenced to probation are half as likely to be reconvicted of a felony within three years as those convicted of the same crimes who are sentenced to prison.

The analysis identified two primary factors that have contributed to Georgia's high felony probation rate. First, probation is used widely throughout the state both as a sentence in lieu of incarceration and in combination with imprisonment in what is known as a "split" sentence. People who committed a non-violent property or drug crime are among those typically sentenced directly to probation for a first or second felony conviction.<sup>21</sup> In 2015, 13,430 people out of 16,337 convicted of such non-violent property or drug crimes for the first or second time were placed directly on probation supervision, out of 16,337 people.

### Three-Year Felony Reconviction Rates for Property and Drug Convictions\* by Sentence Type, FY2011–FY2013



\*Excludes 1<sup>st</sup>-degree burglary and drug trafficking

Source: CSG Justice Center

Another factor driving Georgia’s high felony probation rate is the state’s history of imposing relatively long felony probation terms. Regardless of a person’s criminal history, the average direct probation sentence length is five years for felonies and the probation portion for split sentences is 7.5 years for property and drug crimes. These split sentences accounted for 83 percent of all state prison admissions in 2015.

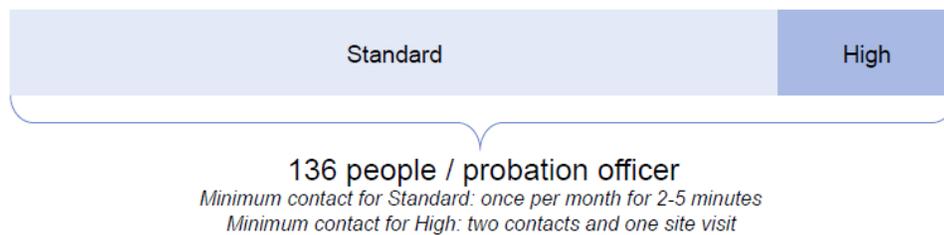
#### Heavy Caseloads for Officers

As of December 2016, 165,635 people in Georgia were on active probation, and four out of five of those people had been under supervision for more than a year. In addition, there are approximately 27,000 people on unsupervised status. These are Georgians who either have met their probation requirements or were placed directly on unsupervised status by statute.

People on active probation are divided into four supervision levels by the state: low, low-to-moderate, high, and highest. Most probation officers have mixed caseloads, meaning they monitor people on all four levels of probation supervision. At the low level of supervision, many probationers are managed through the state’s Probation Reporting Contact Center (PRCC), which allows those who meet certain criteria to call an 800-number each month to report their progress to an automated system instead of in-

person to a probation officer. To qualify for PRCC supervision, people on probation must have been on supervision for 120 days and be employed, with no violations of supervision, such as failed drug tests, and no new arrests. As of mid-2016, there were more than 44,000 Georgians on this low level of supervision who had already served an average of 5.7 years on probation, with more time remaining on their probation sentences.

Caseload Example:



At the low-to-moderate, or “standard” supervision level, probation officers meet people on probation at least once per month. At the highest end of the supervision spectrum are specialized caseloads. The 6,300 people on probation under this intensive level of supervision are generally sex offenders or people diagnosed with a serious mental illness. For specialized caseloads, officers typically make two in-person contacts with each person on probation along with one site visit to the person’s residence per month.

The Council’s review showed that each officer supervising people on the PRCC level manages an average of 290 people, while each officer monitoring a mix of medium- and high-risk people typically shoulders a caseload totaling approximately 130 people. While there is no universal caseload size standard, the American Probation and Parole Association suggests that probation officers who supervise high-risk people on probation should have from 20 to 30 cases, while officers who supervise low-risk people on probation should have from 120 to 200 cases.<sup>22</sup>

### A Reactive Probation Model

Overall, the Council found that half of the people currently on PRCC or standard probation – about 50,000 people – have been on supervision for more than two years and are not considered to be at a high risk of reoffending. Consequently, probation officers are not only spread thin, but also have less time to devote to those who do pose a high risk of reoffending. These circumstances require most officers to follow a reactive supervision approach, which involves little more than confirming that people on standard probation are aware of the conditions of their supervision and ensuring that

those conditions are met. The relationship involves brief, two- to five-minute contacts, and outcomes are measured by the number of appointments a person on probation keeps, violations, and drug tests.

To more effectively reduce recidivism among people on probation, the Council concluded that Georgia should shift its practices from a reactive to a proactive approach. Under this model, people on probation would be assessed to determine their risk of reoffending and their criminogenic needs, and officer time would be concentrated on those with the highest risk. A proactive approach also involves:

- Focusing engagement efforts on the initial months and first full year of supervision, when a person's risk of recidivism is greatest;
- Developing a case plan for people on probation that includes performance-based objectives targeting their needs;
- Connecting people on probation with necessary community-based treatment and services;
- Helping people on probation change behavior and comply with the conditions of their supervision;
- Increasing the number of contacts with people on probation and using motivational interviewing strategies; and
- Measuring outcomes according to the progress people on probation make toward case plan goals.

As mentioned above, the Council found that focusing supervision resources on the early part of a person's probation term is key to reducing reoffending, because recidivism is most likely to occur within the first year after a sentence is imposed. Of the 22,347 people placed directly on probation in FY2009, for example, 5.6 percent (or 1,251 people) were reconvicted in the first year of their probation term, 3.4 percent (or 760 people) in the second year, and 2.9 percent (or 649 people) in the third year.<sup>23</sup>

### **Progress Already Underway**

Fortunately, DCS officials have already begun moving from a reactive to a proactive probation model and possess most of the tools needed to effectively reduce recidivism for people on supervision. Specifically, Georgia has policies in place that encourage the use of evidence-based practices proven to reduce recidivism. The state is using risk and needs assessments for probation and parole supervision; expanding the use of cognitive-behavioral programs to address criminal thinking; increasing the number of Day Reporting Centers (DRC) and DRC Lites across the state; conducting specialized training for officers to improve supervision outcomes; and evaluating certain

interventions to ensure their effectiveness.<sup>24</sup> The central mission of the DRCs is to provide probationers and parolees with opportunities to change criminal thinking and behavior through a combination of counseling, educational programming, and close supervision. The DRC Lite programs are based in rural areas where there is limited community-based substance abuse and counseling resources. In addition, Georgia has adopted “swift and certain” sanctions as part of its continuum of responses to probation violations, an approach proven to be effective in numerous other jurisdictions across the country.<sup>25</sup>

***“Crime in many parts of the country, including Georgia, is generational. If you break the cycle and show individuals that there is a different way, then you not only save money and lives in the short term, but you also create generational changes. If you can show these offenders that success after incarceration is possible, it will help keep them from becoming repeat offenders.”***

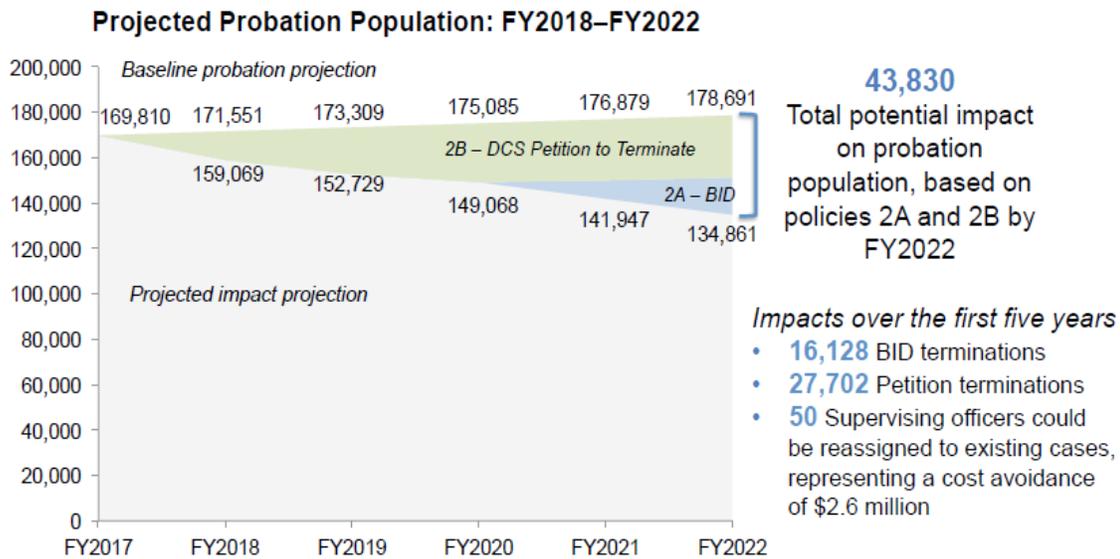
***Gov. Nathan Deal  
July 20, 2016***

To make further progress toward recidivism reduction, the state must focus supervision resources on the beginning of a person’s probation term, reduce officer caseloads and ensure more meaningful supervision. One factor blocking such progress and contributing to heavy caseloads is the large number of people on probation who are unable to transition from active to unsupervised status largely because of unpaid fines, fees and surcharges. This group includes thousands of people who have been on supervision for two years and are not considered to be at a high risk of reoffending. The Council’s review found that about 28,690 people on active probation would be eligible to transition to unsupervised status – thus reducing the strain on officers – if they did not owe fines, fees, and surcharges.

Indeed, even many years after they are placed on supervision, a large proportion of people on probation have trouble meeting such financial obligations. For example, more than half of the 64,064 Georgians placed on probation in 2011 or earlier still owed a median amount of \$1,720 in fines as of 2016. Shifting some low-risk people who have been on supervision for longer than two years to unsupervised status would reduce caseloads and allow officers to better focus on people who present a higher risk of reoffending.

**2017 Felony Probation Recommendations**

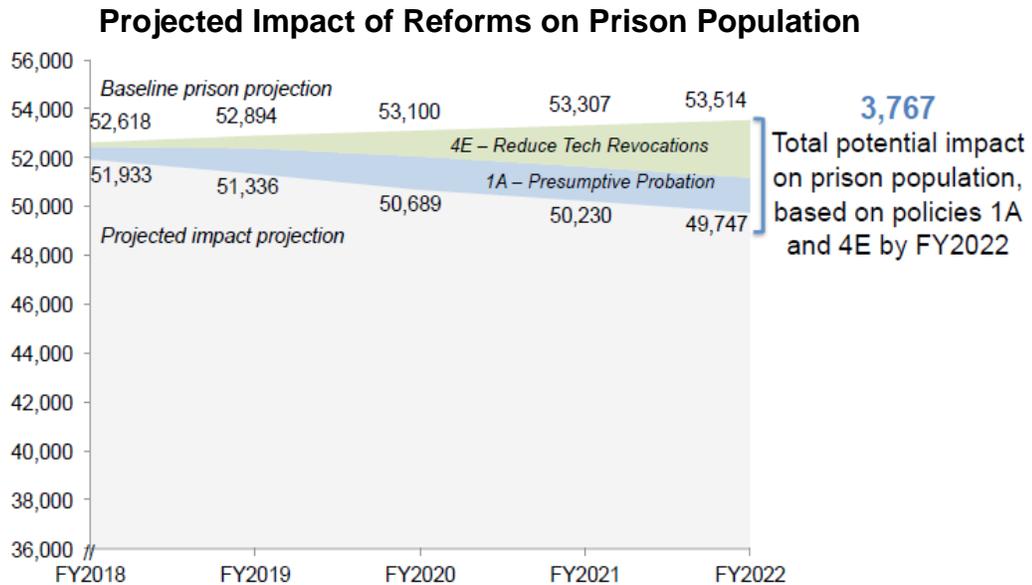
Based on its findings, the Council adopted five policy recommendations to ensure Georgia’s felony probation system holds people in the criminal justice system accountable while reducing recidivism and lowering taxpayer costs. Projections developed by CSG, in collaboration with GDC and DCS, indicate that if adopted, the policy recommendations could produce significant benefits for the state, both fiscally and in terms of public safety. By ensuring that high-risk people on probation receive more intensive supervision, the policies are likely to reduce recidivism, meaning there will be fewer victims and fewer expensive returns to prison. In addition, a Council proposal recommending that certain low-risk people on probation be shifted to unsupervised status after two years could significantly reduce officer caseloads, leading to further savings.



The Council’s policy recommendations are forecasted to reduce the projected felony probation population growth by an estimated 43,830 people between FY2018 and FY2022, partly due to a shift of almost 30,000 cases to unsupervised status. As a result, about 140 probation officers supervising low-risk people could be reassigned to caseloads composed of people who are more likely to recidivate. That reassignment would enable Georgia to avoid spending about \$7.3 million that would otherwise be used to hire more officers to reduce caseloads.

Under current statutes and administrative policies, Georgia’s prison population is projected to grow by 2 percent (or 1,140 people), from 52,374 people in FY2016 to 53,514 people in FY2022. The Council’s recommendations are estimated to reduce this growth by up to 5 percent (or 2,627 beds) by FY2022. Under that scenario, the state

could avoid spending as much as \$245 million that would otherwise be needed to accommodate the projected growth.<sup>26</sup>



To reduce reoffending and increase public safety statewide, policymakers must reinvest a portion of total averted costs over a five-year period in recidivism-reduction strategies. Such strategies include cognitive-behavioral programming, substance use treatment, probation officer training, programming evaluations, and validation of risk and needs assessment tools.

**Recommendation 1:** Use probation, programming, and treatment to reduce recidivism among people convicted of a non-violent property or drug offense for the first time.

- A. Create a rebuttable presumption of probation upon the first conviction for certain felony drug and property offenses.
  - i. The rebuttable presumption may be overcome by a preponderance of the evidence, would require written findings of fact and be subject to direct appeal.

**Recommendation 2:** Enable the reduction of lengthy probation sentences for non-violent offenses as an incentive for good behavior while a person is on probation.

- A. Upon the first conviction for non-violent felony property or drug offenses, direct probation sentences would include a Behavioral Incentive Date (BID) not to exceed three years. If a person remains in compliance, achieves case plan objectives, has no new arrests, and has paid all restitution prior to reaching the

incentive date, notice would go to the court and prosecuting attorney and the probation would be terminated, unless the prosecuting attorney objects and requests a hearing.

- B. Require DCS to file a petition to the court for early termination of probation sentences after a person serves three years on supervision if the following conditions apply: 1) The person has been compliant with general and special conditions of probation while on active supervision and has no new arrests; 2) Any restitution ordered has been paid in full; and 3) The person is sentenced to a non-violent property or drug offense.

***Recommendation 3:*** Focus supervision resources on people at the beginning of their supervision terms to reduce caseloads and deliver more meaningful supervision.

- A. Reduce recidivism by ensuring that high-risk people on probation receive intensive, meaningful engagement in the first two years on supervision. Reduce caseloads for officers supervising high-risk people to enable increased contacts and engagement.
- B. Amend §17-10-1(a)(2), to permit DCS to exercise discretion as to whether to move a person on probation to unsupervised status after two years.
  - i. This approach could be applied retroactively.
  - ii. This approach would still require that any restitution ordered be paid in full prior to allowing someone to be moved to unsupervised status.

***Recommendation 4:*** Improve the cost-effectiveness of responses to probation and parole violations.

- A. For people sentenced to split sentences, require those on parole to follow probation conditions set by the judge in addition to any parole conditions set by the parole board, and enable officers to use responses to violations for people on parole similar to those they are allowed to use for people on probation.
- B. Require that a proactive case plan to reduce recidivism be developed for any person on probation who is assessed as moderate to high risk of reoffending. The proactive case plan should be adjusted as the likelihood of recidivism changes.
- C. Evaluate the entire Residential Substance Abuse Treatment (RSAT) program and adjust the mix of residential and aftercare portions of the current 15-month approach based on the findings to maximize the number of people served while producing the greatest reduction in recidivism.
  - i. Require a risk and needs assessment and a determination of substance use disorder to be conducted prior to placement in an RSAT facility.

- ii. Improve criteria for RSAT placement; for example, allow it to be used as a response to probation violation behavior for people who are at a moderate to high risk of reoffending in which substance use plays a role.
- D. Expand state-funded access to community-based treatment for people on probation who are at a high risk of reoffending and have substance use treatment needs, but who may not require a full RSAT program.
- E. Provide judges and DCS with additional tools needed to reduce by 50 percent the number of people who violate conditions of their probation and are revoked to prison.
  - i. Provide additional funding to accountability courts to support the cost of either putting that person into an accountability court and/or revoking the person onto a specialized probation revocation caseload.
  - ii. Develop a specialized pre-revocation caseload within DCS that consists of no more than 30 people, and allow officers to give people on probation state-funded vouchers for services and programs to address the person's risk and needs and stabilize them in the community. Such services would include electronic monitoring, transitional housing, intensive outpatient treatment, employment services, and educational or vocational assistance.
    - Officers should be allowed to use swift, certain, and proportionate sanctions in response to violations for people on specialized probation revocation caseloads.
- F. Require corrections officials and DCS to collaborate to enhance the impact of probation detention centers by including cognitive-behavioral treatment, among other programs.

***Recommendation 5: Improve the handling, tracking, and equitable administration of legal financial obligations in both misdemeanor and felony probation.***

- A. Establish a rebuttable presumption of indigence and waive fines, fees, and surcharges for felony sentences, similar to the misdemeanor probation approach.
- B. Confirm that payment of restitution is prioritized over payment of outstanding fines, fees and surcharges on the county level.
  - i. Establish a statewide financial database to track any and all restitution, fines, fees, and surcharges ordered, amounts collected, and individual indigence. Require the database to automatically crosscheck the collection of legal financial obligations at the state and county levels, as well as consolidate orders by individual, not just by number of probation cases.

- ii. Streamline the process by which victims receive restitution payments that have been collected on their behalf.
- C. Establish a unified data system to collect information about people on misdemeanor probation.
- D. Evaluate quality of programming in probation detention centers, RSATs, Integrated Treatment Facilities, DRCs, and DRC Lites at least once every five years.
- E. Require that risk assessment instruments used within GDC and DCS be revalidated at least once every five years.

## **Other Adult System Findings and Recommendations**

In addition to the Council's work in the realm of felony probation, the Council considered issues brought before it by stakeholders and members. In doing so, the Council was able to foster discussion and develop recommendations to ameliorate problems brought before it, as has been the Council's practice in past years. This year, those additional areas included: parole, accountability courts, identification issues, criminal data exchange and e-filing, and driving related issues.

### **Parole Recommendations**

The Council's subcommittees on probation and sentencing also examined the operations of the State Board of Pardons and Paroles (Board). Though the subcommittees did not reach a conclusion on many parole-specific proposals, the full Council did consider input from the subcommittees and stakeholders on the Board's practices and processes, adopting four recommendations.

One issue raised consistently by prosecutors was the difficulty of making an effective objection to the Board. By its nature, executive clemency can leave a misplaced impression of intentional secrecy, in part because clemency is a discretionary power. Within the past several years, the Prosecuting Attorneys Council and the Board have agreed to enhance the solicitation of input from prosecutors and victims when a prospective parolee is serving a sentence for a serious crime, as defined by Georgia law. The Council recommends codifying this practice and seeking other ways to accommodate input from prosecutors and victims while ensuring that the Board can effectively carry out its duties.

Another concern focused on whether people on parole who are subject to revocation are granted access to incarceration alternatives, as people on probation are. These alternatives include probation detention centers, residential substance abuse treatment

centers, and accountability courts. Because of the Board's past practices and its constitutional status as a separate executive entity, concern was raised that people on parole were not provided access to such alternatives due to their custodial status. The Council recommends clarifying by statute that such alternatives shall be available to the Board and that the Board shall utilize those alternatives where appropriate.

The Council also discussed the significant number of people who are subject to two rounds of supervision – parole and probation – upon completion of their incarceration term. Such consecutive supervision terms present two challenges. First, these individuals are often subject to two different sets of conditions, those of parole and those of probation. To provide clarity and consistency, the Council recommends that the Board impose any conditions of a subsequent probation sentence as conditions of parole.

Second, among this split sentence group, people serving sentences for non-violent property and drug offenses should be considered for commutation of the remainder of their parole terms. This action would build on the recommendations of the probation and sentencing subcommittees, allowing supervision resources to be focused on those most in need of oversight. As of January 2017, approximately 1,300 parolees were serving time on parole for nonviolent property and drug offenses and were facing an average subsequent probation sentence of ten years. The Council recommends that the Board consider commuting these individuals to probation if the person's circumstances and a successful period of parole supervision support such a decision. This proposal would allow the Board to consider on a case-by-case basis whether a commutation is appropriate and could result in benefits to supervision resources similar to those recommended by the Council with respect to felony probation.

The Council believes these four recommendations fortify the pivotal role the Board plays in exercising executive clemency consistent with the key goals of Georgia's criminal justice reform initiative – controlling taxpayer costs, holding offenders accountable, and protecting public safety. The Council is grateful to Board Chairman Terry Barnard, Executive Director Chris Barnett, and Board members for their collaboration and personal attention to these issues.

***Recommendation 1:*** *The Council recommends that the State Board of Pardons and Paroles improves opportunities for prosecutor and victim input in the parole determination process.*

**Recommendation 2:** *The Council recommends that the State Board of Pardons and Paroles ensures that parolees have access to all appropriate alternatives to incarceration upon revocation.*

**Recommendation 3:** *The Council recommends that for people sentenced to split sentences, conditions of a subsequent probation term should also be imposed during parole by the State Board of Pardons and Paroles.*

**Recommendation 4:** *The Council recommends that the State Board of Pardons and Paroles consider commuting sentences of parolees who are serving a split sentence for a non-violent property or drug offense after the satisfactory completion a period of parole supervision.*

### Accountability Court Recommendations

**Recommendation 1:** *Accountability courts receiving state funding should serve an appropriate number of people as determined by the Council of Accountability Court Judges (CACJ).*

Accountability courts are an important component of Georgia's criminal justice reform efforts, and Governor Deal has emphasized the need for increased availability of such courts as well as programs that are appropriately tailored for individual participants.<sup>27</sup> As such, Georgia should establish criteria requiring courts to serve an appropriate number of people based on each judicial circuit's population and geography. In setting a baseline, CACJ should consider a circuit's geographic size, its total population, the number of judges receiving a supplement, and the number of persons with appropriate offenses entering the prison system within that circuit.

**Recommendation 2:** *The Georgia General Assembly should clarify in statute that Department of Community Supervision (DCS) officers should be permitted to assist accountability courts with their community supervision where needed and when resources are available.*

Accountability courts, by their very nature, require additional time from judges, attorneys, participants, and supervision officers. In order to ensure accountability court judges exercise effective supervision over program participants, the state must make clear that DCS resources can be used in the court setting.

**Recommendation 3:** *The Georgia General Assembly should align the Veterans Court statute with other accountability court statutes to require certification based on specifications to be established by the Council of Accountability Court Judges (CACJ).*

Due to legislative changes when the statute was first passed, the veterans court certification statute does not require adherence to CACJ guidelines. This leads to a concern that veterans courts in the state could be receiving state funds without properly following CACJ best practices for those courts. The Council believes that veterans courts should undergo a certification process analogous to other accountability courts.

**Recommendation 4:** *To ensure the success of Family Treatment Courts (FTC), the Council recommends enabling circuits to employ part-time juvenile court judges. The Council also recommends clarifying the referral process for such courts and including Division of Family and Children Services (DFCS) employees in collaborative planning groups.*

Four years ago, Casey Family Programs (Casey) and Georgia's FTCs entered a partnership to focus the work of the FTCs on parents who have lost custody of their children due to drug addiction. The goal of the FTC is to help reunify parents and children by determining a parent's appropriate level of substance abuse treatment and by implementing evidence-based programs with a proven record of success. With the support of the Council, the partnership with Casey has created an FTC unlike any other that meets the needs of parents and children and provides permanency for kids in healthy, substance-free families.

The success of Georgia's FTCs is especially significant because of an ongoing heroin epidemic that has been the cause of close to 40 percent of foster care placements in Georgia through 2016.<sup>28</sup> To help address the needs of affected families, the FTC program has expanded from nine courts to 11, and planning for seven new FTCs is underway. Despite such advancements, large parts of Georgia lack a treatment court and many existing FTCs are operating below their maximum capacity. One barrier has been the lack of judicial time to focus on expanding or enhancing FTCs. As such, the Council recommends allowing circuits to use funds for an additional part-time juvenile court judge to assist with juvenile court work when deemed appropriate by the CACJ.

The Council also recommends requiring a written protocol, consistent with CACJ certification criteria, to help officials better assess whether cases involving reports of abuse or neglect should be referred to an FTC. In addition, the Council proposes that there be a presumption of referral to FTC upon adjudication of a dependent child as a result of substance abuse by a parent. Finally, to further strengthen FTCs, collaboration

between DFCS and such courts should be improved through the inclusion of DFCS employees in the interdisciplinary planning group provided for in statute.

### Identification for People Leaving Prison

**Recommendation:** *The Council recommends that Georgia's Department of Driver Services and Department of Corrections create and support a program to provide people with identification cards, and driver's licenses where applicable, upon release from state correctional facilities. The Council also recommends that the Department of Juvenile Justice (DJJ) explore the compatibility of the program with DJJ facilities for juveniles under state custody or supervision.*

One key component of a person's successful transition from prison to the community is the ability to obtain identification, either a driver's license or state identification card. Possession of such a document is essential to an individual's job search but also a near necessity in modern day-to-day life. At the Council's direction, Georgia's Department of Driver Services (DDS) and Department of Corrections (GDC) have launched a three-phase program to help inmates nearing release with the challenging and time-consuming process of compiling documents and obtaining licenses or identification cards.

The project began with GDC submitting a list of people scheduled to be released from prison within the next year. DDS then vetted these people and placed them into one of three appropriate phases. Phase one began in August 2016 and focused on inmates who had previously received a REAL ID complaint card from DDS and had valid facial and signature images on file. Phase two included prisoners who had valid facial and signature images on file and but who may have lacked proof of identity, a social security number, and a residential address. Phase three will include all other inmates who have never been issued a Georgia driver's license or identification card.

In November 2016, GDC and DDS initiated an electronic image exchange that allows correctional staff to scan an individual's required documentation and electronically submit it to DDS for issuance of a license. The program, which began in August, had issued 2,500 identifications by the end of 2016.<sup>29</sup>

Given the early success of the program, the Council fully endorses it and recommends continued state support of the initiative. Further, the Council also recommends that DJJ and DDS explore the possibility of creating a similar program for juveniles under state custody or supervision.

## Criminal Justice E-Filing

***Recommendation:*** *The Council recommends the creation of a statewide criminal justice e-filing program to improve efficiency in the courts and provide accurate and instantaneous criminal justice data.*

In 2014, Senate Resolution 986 created the Senate Unified Courts Technology Study Committee. That committee recommended, among other things, the creation of a data system that allows “real-time updating of criminal record information.” Since the recommendation, various stakeholder groups have undertaken projects to accomplish the goal with varying degrees of success but no final, statewide product. In late 2016 a new *ad hoc* committee including state and local agencies was formed to explore a statewide e-filing initiative. The amended FY2017 budget provides funding to push the work of this committee towards full implementation.

Under the current proposal, the state would fund a criminal e-filing pilot program that would expand statewide between 2018 and 2021. The pilot program will be conducted in three judicial circuits (Northeastern, Bell-Forsyth, Cherokee) selected because of their existing technological integration and the presence of suitable vendors within their boundaries. With coordination provided by a partnership of the Georgia Bureau of Investigation and the Georgia Technology Authority, the state plans to host a technology hub that pushes and pulls data from criminal justice agencies’ existing, and varied, case management systems – first at the local level within the pilot circuits and then among all of Georgia’s 49 judicial circuits.

The Council endorses this effort, which will provide for rapid updating of arrest and jail data and exchange of criminal case disposition and supervision data while minimizing local disruption by utilizing existing case management systems. During its work on revising the First Offender Act (FOA) and other reforms in recent years, the Council became aware of the critical need for an e-filing system that provides rapid updating of criminal data. One compelling example was the thousands of FOA cases that had not been sealed simply because a petition to close or seal the case had not been filed. As a result, individuals who had successfully completed requirements under the FOA were not receiving benefits of the act, such as record restriction for employment background checks. In addition, many charges for violent offenses have been discovered as “open” and subject to removal under Georgia law from viewing by the public – though not law enforcement. In 2016, the Georgia Criminal Information Center began a conviction recovery project and found close to 42,000 open arrests. While the Center was able to match a disposition to over 34,000 of these arrests and thus close them, e-filing would help curb the accumulation of additional open dispositions in state criminal records.

## Driving Related Recommendations

The Council also adopted four recommendations related to Georgia statutes governing driving violations.

***Recommendation 1:*** *In cases involving a person's failure to appear for a non-serious traffic violation, courts should send notice and schedule a subsequent date before ordering suspension of the individual's driver's license and issuing a bench warrant.*

Under current law, if an individual fails to appear in court to answer a driving citation, that person's license is automatically suspended and a bench warrant may be issued for that person. This can often result in the arrest of an individual during a subsequent routine traffic stop for failure to pay or appear in court for a relatively minor traffic violation. In many courts throughout the state, local jurisdictions have prevented this problem by adopting a policy of a second notice, often by postcard, prior to issuing a bench warrant for failure to appear. The Council recommends that statute be amended to require this second solicitation of individuals, with the aim that it may reduce the number of persons placed in a county jail, albeit for a short period of time, for the most minor of offenses.

The Council also evaluated and recommends three additional legislative fixes. First, under current law a habitual violator may apply for a probationary license (HVPL) after serving the two-year suspension required by law. However, if the person has a *lifetime* conviction of Underage Possession of Alcohol or a non-driving controlled substance violation it renders them ineligible for an HVPL. Such a requirement is not rationally related to recent conduct and the Council recommends it be eliminated to give a judge discretion in these circumstances. Second, current law provides for two different probationary licenses when an individual is convicted of a third DUI drugs in five years—a Habitual Violator License or a less restrictive Controlled Substance Permit. The Council recommends clarifying the law such that only the HVPL is available, as was originally intended. Finally, in its 2016 report the Council recommended that reinstatement of driver's licenses be permitted by operation of law for those who committed a non-driving controlled substance offense and would not be suspended under law embodied in SB 100 (2015). In the legislation containing this change however, SB 367 (2016), a few individuals were missed due to a gap in effective dates. As such, the Council recommends these individuals receive the benefits of SB 100 and SB 367.

***Recommendation 2:*** *The Council recommends removing the lifetime prohibition on obtaining a Habitual Violator Probationary License, after the required period of*

*suspension, if the person had ever been convicted of non-driving controlled substance or underage alcohol violations.*

**Recommendation 3:** *The Council recommends that the statutory conflict present in situations involving a 3<sup>rd</sup> in five years DUI Drugs be clarified to state that those individuals are only eligible for a Habitual Violator Permit*

**Recommendation 4:** *The Council recommends clarifying legislation passed last year regarding non-driving controlled substance violations for under 18 year-olds such that all affected youth are relieved.*

## **Reentry: Update and Recommendations**

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### **The Georgia Prisoner Reentry Initiative**

The Georgia Prisoner Reentry Initiative (GA-PRI) is a five-year plan to help Georgia ensure that every person released from prison has the tools and support needed to succeed in the community. Launched by the Council in 2014, 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. To monitor the public safety effects of reforms, officials are tracking recidivism (defined as a new felony conviction within three years of release) and offenders' successful completion of community supervision.

The GA-PRI was 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 was designed to reduce the overall statewide recidivism rate by seven 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 overall rate reduction.

In 2015, DCS was created and then expanded to include within its mission the Governor's Office of Transition, Support, and Reentry. This organizational change increased efficiencies and cost-effectiveness by placing the supervision of both probationers and parolees within one agency. It also provided for the new agency to oversee the GA-PRI. Under the direction of DCS, the initiative has continued to advance

its mission, working toward fulfillment of the Council recommendations. In doing so, the investment made by the state is astounding in such a short period of time.

Since the implementation of GA-PRI, DCS has developed an “in-reach process” to improve access to resources immediately upon release. In-reach staff begin with interviews with individual inmates scheduled for release and help provide resources to that inmate as he or she works toward reentering society. The current in-reach staff provide services at 49 state facilities (32 state prisons, four private prisons, and 13 transitional centers). Similarly, the in-reach staff and GDC have identified peer mentors to assist GA-PRI program participants.

***“Georgia’s latest reform bill touches on school discipline, correctional education for youth, the accuracy of criminal records, fees and fines, and occupational licensing. From the community to the cell block to the courtroom, this bill will both enhance justice and promote safety, serving as an example for the nation.”***

***President Barack Obama  
April 27, 2016***

To fortify the initiative, DCS has also worked to build community resources for released offenders to ease their reentry and help reduce recidivism. Community coordinators have been hired in 17 pilot counties, with housing coordinators working in six counties. These individuals help organize and promote employment fairs and recruit community organizations to become partners in the reentry process. One subset of these community groups is the Stations of Hope program involving faith-based groups. To date, 385 congregations have committed to become Stations of Hope, offering reentering persons access to various forms of assistance such as food, clothing, and shelter.

Finally, consistent with Council recommendations, DCS has engaged Applied Research Services to develop appropriate metrics to determine impact and outcome evaluations of GA-PRI. The impact evaluation aims to analyze the comparative outcomes of individuals under GA-PRI versus historical cohorts, while the outcome evaluation compares current GA-PRI individuals to those not participating in GA-PRI. These evaluations are already underway but at this early stage, no scientifically reliable data exists. A preliminary look at the data, however, suggests that the initiative is moving individual recidivism outcomes, and thus broader rates, in the right direction.

## 2017 Reentry Recommendations

***Recommendation 1:*** *The Council recommends that the State of Georgia seek compliance with the U.S. Department of Housing and Urban Development’s Fair Housing Guidance (April 4, 2016) related to the use of criminal backgrounds in making leasing decisions, making clear that blanket bans on renting to persons based on a prior arrest or incarceration are prohibited.*

In April 2016, the U.S. Department of Housing and Urban Development (HUD) issued guidance specifying in which cases outright denial of housing violates the Fair Housing Act. Generally, the guidance says that when a housing provider’s seemingly neutral policy or practice has a discriminatory effect, such as restricting access to housing on the basis of criminal history, and has a disparate impact on individuals of a particular race, national origin, or other protected class, the policy or practice is unlawful if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the housing provider, or if the interest could be served by another practice that has a less discriminatory effect.

The Council, through its recommendations, and Governor Deal, in his actions on issues such as “ban the box,” have provided strong leadership in helping those previously convicted of crimes overcome barriers in society. This recommendation continues that record and is in keeping with the Council’s position that outright bans often unfairly penalize people for past actions. The recommendation could be carried out by encouragement of private landlords and also through conditions placed on state grant awards by the Department of Community Affairs. Additionally, Georgia law provides protections to landlords who lease to people with a criminal history that have completed programs established by GDC and/or DCS.

***Recommendation 2:*** *The Council recommends that the Department of Community Supervision expand its “in-reach” capacity by including staff for the effort at each state prison, enabling the department to engage more offenders in case planning prior to release.*

An integral component of successful reentry is sustained prison “in-reach” coordinated through the use of a reentry case plan. Such plans serve as an accountability tool that contains details related to supervision, treatment, and services and are used by a transition team that includes prison staff, community supervision staff, and service providers. Initial development of a reentry case plan begins during the end of an offender’s incarceration and becomes an evolving document that guides supervision for GA-PRI participants. Through its current in-reach specialists, DCS has made

approximately 6,200 in-reach contacts with prisoners scheduled for release. While this number represents a significant accomplishment, expansion of this initiative could produce greater outcomes.

Partnerships with local universities, colleges, and community-based organizations may be sought to utilize students to assist with case management, planning, and local capacity building.

***Recommendation 3:*** *The Council recommends that the Department of Behavioral Health and Developmental Disabilities' Forensic Peer Mentor Program be expanded to all 15 Day Reporting Centers and to the eight prisons with the highest percentage of inmates with Level 3 and 4 mental illness.*

Since its inception, the Forensic Peer Mentor Program has been a highlight of reentry efforts, with wardens, participants, and mentors praising its impact. Early evaluations show reduced recidivism among participants at a rate of less than 10 percent (recidivism here is measured by jail, prison or psychiatric readmission to date). The peer mentorship program has also provided a positive impact to the mentors as well, giving the individuals a sense of responsibility and accomplishment.

***Recommendation 4:*** *The Council recommends that accountability court participants be granted access to and use of the Reentry Partnership Housing (RPH) program and the Transitional Housing for Offender Reentry (THOR) directory of resources.*

Accountability courts currently have access to the THOR Directory and referral process via the DCS website. DCS maintains the THOR directory of housing resources and performs periodic site visits to monitor compliance with prescribed standards. Expanding the Reentry Partnership Housing (RPH) program to accountability courts would require a modification of the MOU between GDC, DCS, and DCA. The RPH program is intended to mitigate the high cost of continued incarceration of homeless inmates who had been granted parole or were released to probation, by paying a temporary monthly stipend to providers for room and board. Similar to that covered population, accountability court participants are those who would otherwise be occupying jail or prison space. Additionally, reliable housing is necessary for accountability court participation. As such, this expansion would enable accountability courts to ensure housing stability for participants in their programs.

***Recommendation 5:*** *The Council recommends that the Reentry Partnership Housing program be expanded by recruiting new providers in locations where additional and expanded programs are needed.*

Acquiring affordable housing is a challenge that most people face soon after leaving prison. Obtaining housing is complicated by several factors, including the scarcity of affordable and available housing, legal barriers, discrimination against ex-offenders, and strict eligibility requirements for federally subsidized housing.<sup>30</sup>

A supportive housing environment is an essential aspect of reentry but also is an eligibility requirement for participation in an accountability court. The goal of the Reentry Partnership Housing program is to provide short-term financial assistance to help stabilize an individual's reentry and enhance his or her ability to remain crime-free. By working closely with a network of housing coordinators, DCS has approved 110 housing providers. Although this number is significant, the need for additional housing providers remains great, and specific geographic areas in the state remain under-served.

***Recommendation 6:*** *The Council recommends that the state of Georgia continue its support for the Department of Behavioral Health and Developmental Disabilities' Community Integrated Housing model and analyze its suitability for Level 4 mental health cases that need greater supervision than other forms of supportive housing.*

Community Integrated Housing was designed to facilitate the reentry of forensic patients who had committed serious crimes and had lived in a state mental health hospital for long periods of time. These homes are managed and staffed by Department of Behavioral Health and Developmental Disabilities (DBHDD) employees, many of whom have worked in forensic units. While the housing has 24-hour staff, residents participate in both supervised and unsupervised community activities. Their reintegration into community functioning proceeds at a pace that is appropriate to their circumstances.

Community Integrated Housing has been welcomed by Superior Court judges, enabling them to authorize community reintegration of individuals who would otherwise not be granted a discharge from the state hospital. Generally, courts allow trial visitation to the home and, upon success, approve a conditional discharge in which the court retains jurisdiction and DBHDD continues oversight with annual reports to the court.

***Recommendation 7:*** *The Council recommends that the Department of Community Supervision develop standards for a local reentry collaborative involving sheriffs, police, public defenders, community service boards, legal services, nonprofits, faith-based organizations, and officials representing corrections and the mental health system.*

Successful reentry models rely heavily on collaboration and the engagement of committed community stakeholders. Several counties have begun to form their own

reentry working groups to serve returning persons at the local level. The Family Connection model may be a useful example of coalition building. To ensure continuous quality improvement of reentry efforts in Georgia and also to encourage the development of additional local reentry partnerships, DCS should adopt a framework and standards to guide local reentry collaborative efforts.

***Recommendation 8:*** *The Council recommends that the Department of Community Supervision provide program and treatment completion certificates similar to those issued under a program operated by the Department of Corrections.*

Under a program created pursuant to a Council recommendation, inmates in GDC facilities can complete programs targeting drug addiction, recidivist behavior, or work training as appropriate and receive certificates. The Department of Corrections has issued approximately 5,000 such completion certificates. Individuals holding these certificates have advantages in searching for housing and work opportunities as possession of such a certificate gives an employer or landlord a presumption of due care in tort claims brought for hiring or leasing to that person.

The Council recommends a statutory change allowing DCS to create and implement similar programs for probationers giving those individuals the same advantages.

***Recommendation 9:*** *The Council recommends that the State of Georgia suspend, rather than terminate, Medicaid eligibility upon incarceration. This action would allow people leaving jails or prison to obtain timely access to health care services, which is particularly important for those with severe mental health issues.*

States are prohibited from using federal funds to finance health care for individuals who are incarcerated. Federal requirements, however, are silent as to whether eligibility for such federal programs must be terminated or suspended. As such, many states, including Georgia, have opted to terminate eligibility upon incarceration, which creates bureaucratic hurdles for individuals once their eligibility is restored upon release.

When Medicaid benefits are terminated, people leaving prison often find themselves without health care services for months while reapplying for coverage. This gap in care can lead to unnecessary hospitalizations and can be particularly debilitating for people with mental illness. In addition, interruptions in care can also lead to returns to the criminal justice system.

Suspension policies, by contrast, require Medicaid to be reactivated once an eligible individual is released from custody, allowing them to obtain the care and services they

need in a timely manner. Moving towards a Medicaid suspension policy can enhance smooth transitions back into the community while reducing the risk of negative health outcomes or re-incarceration. Prior to release, patients can be screened during the in-reach process to determine eligibility and enrollment in Medicaid. Not only might suspension reduce negative criminal and mental health outcomes, but it could also cut costs by reducing returns to the criminal justice system as well as emergency room visits.

## Juvenile System: Update and Recommendations

### Juvenile System Update

Following the successful enactment of adult reforms in 2012, Governor Deal asked the Special Council to examine Georgia's juvenile justice system, which was heavily reliant on expensive, out-of-home facilities that were producing poor results for taxpayers and youth alike. Among other problems, the cost of Georgia's secure residential facilities was alarming – averaging \$90,000 per bed per year. The disappointing outcomes produced by the \$300-million juvenile justice system made it difficult to justify such investment. More than half the youth in the system were re-adjudicated delinquent or convicted of a criminal offense within three years of release. For those released from Georgia's secure youth development campuses, the recidivism rate was worse – a disturbing 65 percent.<sup>31</sup>

***“As a sitting judge, I never thought I would see the day when I would have the evidence-based tools to make a difference in the prevention and treatment of delinquency. I thank Governor Deal for his leadership in creating a reform process that advances what works in juvenile justice and is smart on crime.”***

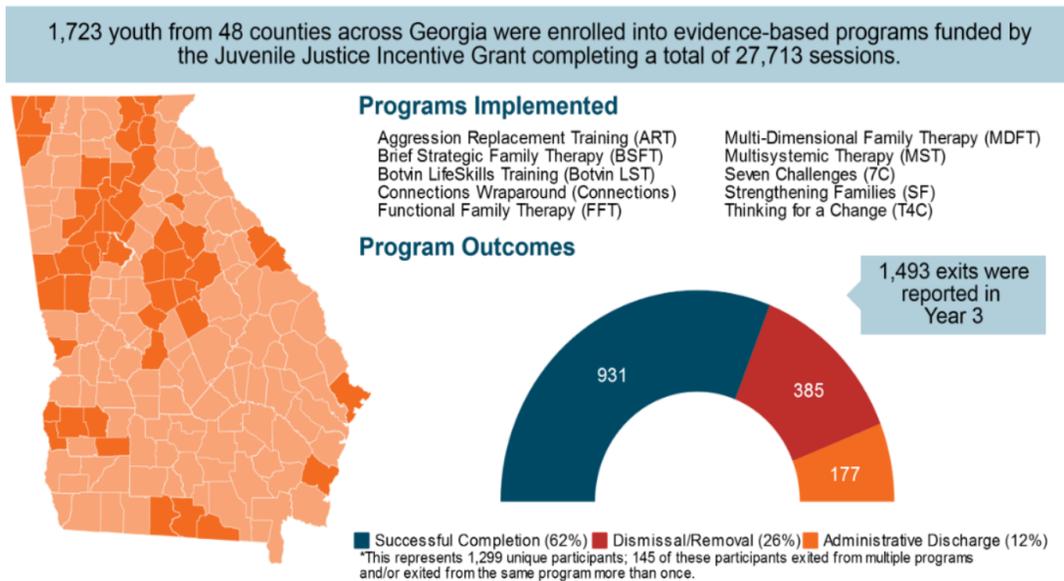
***Clayton County Juvenile Court Judge Steve Teske  
February, 2017***

After an extensive analysis of juvenile justice data and input from a broad spectrum of stakeholders, the Council developed a package of policy proposals designed to focus out-of-home placements on juveniles who had committed more serious offenses and divert lower risk youth into programs proven to reduce recidivism. Many of the recommendations formed the foundation of HB 242, a sweeping rewrite of the juvenile code that passed the General Assembly without a single “no” vote and was signed into law by Governor Deal on May 2, 2013.

## A Different Approach

Passage of HB 242 prompted a major culture change in juvenile courts and Georgia’s detention of youth. Once the legislation took effect in January 2014, juvenile courts, in partnership with the Department, were governed by a new mandate: *“to preserve and strengthen family relationships in order to allow each child to live in safety and security.”* Under the banner of that revised philosophy, the system adopted multiple changes in policy and practice. Prior to detaining or incarcerating a youth, for example, juvenile courts are required to use standardized risk and needs assessments to determine the youth’s risk of reoffending and types of services needed. In addition, most youth who commit status offenses, such as truancy, may not be detained in secure facilities and must be treated in the community. Secure placement is typically reserved for those who commit serious crimes or repeat offenses.

To encourage the spread of evidence-based programs in the community, Georgia created a voluntary incentive grant program, which has helped counties make strong progress in reducing their use of out-of-home placements and establishing community alternatives. Since its inception in 2013, the Juvenile Justice Incentive Grant Program has directed more than \$30 million to evidence-based programs throughout the state.



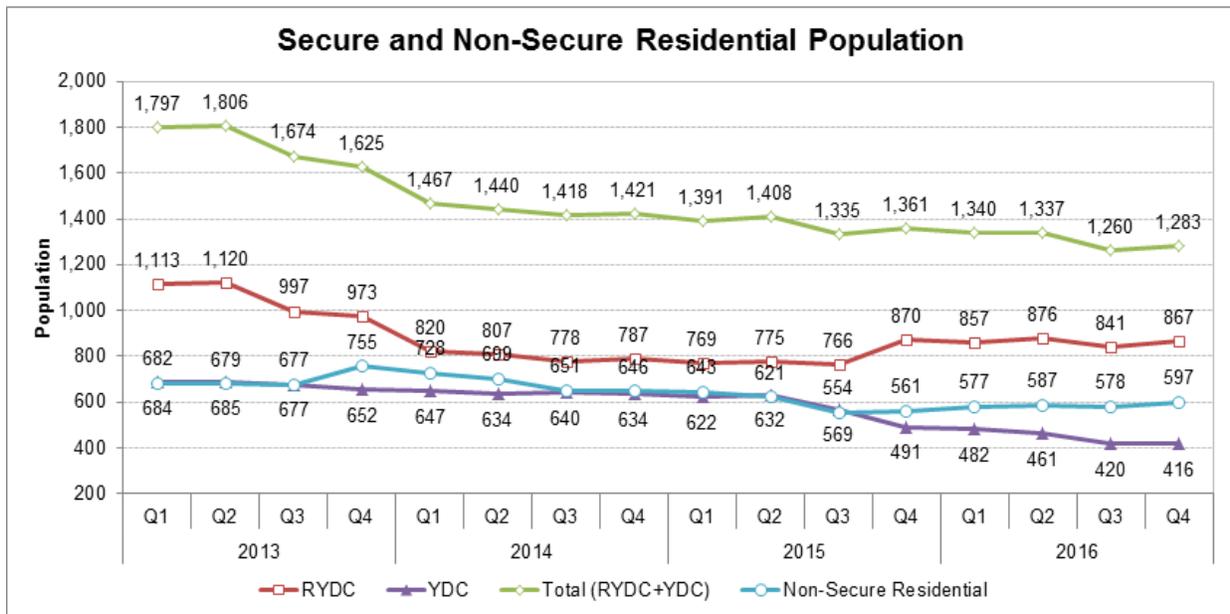
Source: Criminal Justice Coordinating Council/ Carl Vinson Institute of Government

In FY2016, the grant program’s third year, 28 grantees in 48 counties served 1,723 Georgia juveniles through 10 primary programs. The programs are listed in a National Institute of Justice-sponsored registry and are deemed “effective” or “promising” for reducing criminogenic behavior by juveniles. In addition to providing courts with

alternatives to out-of-home placements, the grants helped reduce short-term program admissions and felony commitments to DJJ by 53 percent across the participating counties. Nearly all of the youth served were scored as medium- or high-risk in their pre-disposition assessments, and approximately two-thirds of participants successfully completed their programs.<sup>32</sup>

### Fewer Youth in Secure Confinement

Other signs of progress since passage of HB 242 include a steady decline in the population in secure confinement. Since 2013, Georgia has reduced its number of youth in secure confinement by 36 percent and the number of youth in secure detention by 11 percent. During that same time frame, overall juvenile commitments to the Department of Juvenile Justice have decreased by 46 percent. These decreases have occurred during a period when Georgia’s juvenile population, aged 10-16, has grown by over 2 percent, an increase of over 223,000 youth. Every judicial circuit in Georgia now has access to an evidence-based intervention for juveniles, reflecting a commitment to increase the availability of programs proven to reduce juvenile recidivism. To ensure the right youth are enrolled in the right programs, Georgia now consistently uses validated assessment instruments to properly evaluate and place youth in appropriate settings, based on their individual risk level and needs. Overall, the shrinking juvenile commitment population has enabled the state to take two detention centers and one Youth Development Campus off-line, representing 269 beds.



Source: Georgia Department of Juvenile Justice

## **Juvenile System Recommendations**

The Council's juvenile discussion was focused on three broad areas: the Juvenile Detention Alternatives Initiative, juvenile incompetency, and parental involvement with delinquent youth. With these topics in mind, the Council sought to continue protecting public safety while also ensuring the continued use of alternatives to detention, statistically shown to reduce recidivism.

### **Juvenile Detention Alternatives Initiative**

To strengthen Georgia's reform efforts on behalf of the state's youth, Governor Deal in 2015 established a state-level executive committee to improve delivery of juvenile justice services. As a function of this work, the governor and committee adopted the Juvenile Detention Alternatives Initiative (JDAI) as the operational philosophy for juvenile justice in Georgia.

Launched 25 years ago by the Annie E. Casey Foundation, the JDAI now operates in 39 states.<sup>33</sup> The purpose of JDAI is to help jurisdictions reduce reliance on secure detention while ensuring public safety. The initiative aims to provide better outcomes for youth by:

- Eliminating the inappropriate or unnecessary use of secure detention;
- Minimizing re-arrest and failure-to-appear rates pending adjudication;
- Ensuring appropriate conditions of confinement in secure facilities;
- Redirecting public finances to sustain successful reforms; and
- Reducing racial, ethnic, and gender disparities.

The JDAI process is carried out in three stages, beginning with a readiness assessment that provides professionals on the front lines with detailed information on the background, purpose, achievements, and eight core strategies of JDAI. Next comes a system assessment, during which representatives, including the Georgia state coordinator and Annie E. Casey technical assistance provider, conduct interviews with each stakeholder in the county. These initial steps produce a full analysis, data capture, and operational understanding of the system.<sup>34</sup>

In Georgia, the state's rollout of JDAI has begun in counties with the highest rates of detentions and commitments. From there, the initiative will grow to encompass 49 circuits. The first group of counties targeted for JDAI implementation, in the first quarter of 2017, are Athens-Clarke, Chatham, Fulton, Glynn, and Newton. The roll out will be directed by the state JDAI coordinator, Whitney Dickens.

**Recommendation 1:** *The Council recommends that funds be included in the FY 2018 state budget to enable the growth of the JDAI by funding an expanded staffing model, covering the state by regions with additional experts.*

**Recommendation 2:** *The Council recommends that funds be included in the FY 2018 state budget to cover travel and training expenses for the JDAI coordinator, staff, and stakeholders who are involved in the participating JDAI circuits.*

### Juvenile Incompetency and Parental Accountability

When a child is deemed incompetent to stand trial in Georgia, the child is released from DJJ custody within five days and is typically issued a treatment plan. Such plans, however, are largely voluntary and completed by youth and their families on an outpatient basis. In some cases, such youth are found delinquent and released repeatedly due to a lack of treatment resources for youth. Occasionally, such cases result in tragedy. In November 2016, for example, two teenagers who had been delinquent and released repeatedly after being found incompetent to stand trial were involved in a high-profile, deadly shooting of an Atlanta man at a gas station. These juveniles are now being tried as adults.<sup>35</sup>

Youth who are incompetent to stand trial but still pose a significant safety risk represent a relatively small yet troubling gap in the current juvenile justice framework. As such, the Council recommends both ensuring that Juvenile Court judges have the ability to detain the youth temporarily and also using subject matter experts at the Department of Behavioral Health and Developmental Disabilities and DJJ to develop a long-term treatment model for such youth.

On a related note, the Council found that a lack of family oversight also plays a role in delinquency, with research showing that the level of parental involvement with a youth has a direct effect on delinquency cases.<sup>36</sup> Increased parental involvement could help interrupt the cycle of delinquency and divert at-risk children away from detention, particularly if judges were able to hold parents accountable. Importantly, however, the Council recommends that this strategy be implemented only in the civil, and not criminal, context.

The Council adopted three recommendations in response to concerns about apparent gaps in the juvenile justice framework:

**Recommendation 1:** *The Council recommends that when a child is found incompetent to proceed to trial but presents a significant risk to community safety, the law should allow the court to temporarily detain the child prior to adjudication, when no less*

*restrictive alternatives that adequately protect public safety exist. This step would ensure the protection of the community and proper assessment and treatment interventions for the child.*

**Recommendation 2:** *The Council recommends that the Department of Behavioral Health and Developmental Disabilities and the Department of Juvenile Justice develop and adopt a protocol for long-term treatment and rehabilitation of juveniles who are deemed incompetent to stand trial but present a risk to public safety.*

**Recommendation 3:** *The Council recommends that the juvenile justice system encourage parental accountability and involvement in cases where a child is repeatedly found delinquent, in need of services, or dependent, and where increased parental involvement is in the best interests of the child and likely to ameliorate public safety concerns.*

## Looking Forward

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Throughout its six years of work, the Council has been honored to see its recommendations adopted through legislation passed with large majorities in the Georgia General Assembly. Unlike many policy areas, criminal justice reform is now embraced with overwhelming bipartisan support throughout the country, and that has certainly been the case in Georgia. State lawmakers and Governor Deal deserve praise for enacting a series of transformative sentencing and correctional improvements based on data and the best available science about what works to reduce criminal offending. While there is much left to accomplish, the bulk of the Council's work is now embodied in statute and our panel is scheduled to sunset at the end of June 2018.

Over the coming months, the Council expects to continue discussing criminal justice issues presented by the stakeholders who have been essential to its success, including prosecutors, members of the defense bar, law enforcement officials, service providers, non-profit organizations, and advocacy groups. Additionally, the Council intends to give further consideration to traffic offenses found in Title 40 and study whether the state is effectively managing roadway safety by enforcing criminal penalties, and also examine whether justice is being equitably administered in certain "party to a crime" situations. Finally, the Council will focus a significant portion of its remaining time on ensuring the sustainability of Georgia's criminal justice reforms. This effort will include determining how best to reinvest cost savings from reforms to ensure positive results in public safety and also a concerted effort to educate those administering justice in Georgia about the new policies and practices that have moved the state forward in such a short period of time.

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Hon. Terry Barnard (Chairman, Board of Pardons and Paroles)

Hon. Ezell Brown (Sheriff)

Hon. Verda Colvin (Superior Court)

Hon. Greg Dozier (Commissioner, Georgia Department of Corrections)

Hon. Chuck Efration (State Representative)

Hon. Rebecca Grist (Macon-Bibb County Solicitor)  
Hon. Rich Golick (State Representative)  
Hon. Horace Johnson (Superior Court Judge)  
Hon. Shawn LaGrua (Superior Court Judge)  
Hon. C. LaTain Kell (Superior Court Judge)  
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## Endnotes

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<sup>1</sup> See, for example, O.C.G.A. § 42-2-11 or § 42-3-2 where “Recidivism’ means returning to prison or jail within three years of being placed on probation or being discharged or released from a department or jail facility.” See also,

<sup>2</sup> Special Council on Criminal Justice Reform for Georgians. (2011). *Report of the Special Council on Criminal Justice Reform for Georgians*. Retrieved from [http://dcs.georgia.gov/sites/dcs.georgia.gov/files/related\\_files/site\\_page/2011-GA-Council-Report-FINALDRAFT.pdf](http://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/2011-GA-Council-Report-FINALDRAFT.pdf)

<sup>3</sup> Ibid.

<sup>4</sup> Pew Center on the States. (March 2009). *One in 31: The long reach of American corrections*. Retrieved from The Pew Charitable Trusts website: [http://www.pewtrusts.org/~media/assets/2009/03/02/pspp\\_1in31\\_report\\_final\\_web\\_32609.pdf](http://www.pewtrusts.org/~media/assets/2009/03/02/pspp_1in31_report_final_web_32609.pdf)

<sup>5</sup> Special Council on Criminal Justice Reform for Georgians. (2011). *Report of the Special Council on Criminal Justice Reform for Georgians*.

<sup>6</sup> Ibid.

<sup>7</sup> Pew Center on the States. (2012). *2012 Georgia Public Safety Reform*. Retrieved from The Pew Charitable Trusts website: [http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs\\_assets/2012/pewgeorgiasafetyreformpdf.pdf](http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2012/pewgeorgiasafetyreformpdf.pdf)

<sup>8</sup> Georgia Department of Corrections. (2017, January). *Georgia Department of Corrections AFY 17 & FY 18 budget request*. Testimony presented at House and Senate Appropriations Committees, Atlanta, GA. Retrieved from [http://www.house.ga.gov/budget/Documents/2017\\_Session/Corrections\\_Joint\\_%20Appropriations\\_Committee\\_Jan\\_2017.pdf](http://www.house.ga.gov/budget/Documents/2017_Session/Corrections_Joint_%20Appropriations_Committee_Jan_2017.pdf)

<sup>9</sup> Georgia Department of Corrections. (2017). *Friday Report – overview and contents*. Retrieved from [http://www.dcor.state.ga.us/sites/default/files/FridayReport2017\\_02\\_10.pdf](http://www.dcor.state.ga.us/sites/default/files/FridayReport2017_02_10.pdf)

<sup>10</sup> Georgia Council on Criminal Justice Reform. (2016). *Report of the Georgia Council on Criminal Justice Reform*. Retrieved from [http://dcs.georgia.gov/sites/dcs.georgia.gov/files/related\\_files/site\\_page/GA%20Council%20on%20Criminal%20Justice%20Reform%202016%20Report.pdf](http://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/GA%20Council%20on%20Criminal%20Justice%20Reform%202016%20Report.pdf)

<sup>11</sup> Ibid.

<sup>12</sup> Pew Center on the States. (2012). *2012 Georgia Public Safety Reform*. Retrieved from The Pew Charitable Trusts website: [http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs\\_assets/2012/pewgeorgiasafetyreformpdf.pdf](http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2012/pewgeorgiasafetyreformpdf.pdf)

<sup>13</sup> Georgia Department of Corrections.

<sup>14</sup> Criminal Justice Coordinating Council. (2017). *Building bridges and breaking barriers for victims & offenders, 2016 Annual Report*. Atlanta, GA.

<sup>15</sup> Ibid.

<sup>16</sup> Georgia Council on Criminal Justice Reform. (2016). *Report of the Georgia Council on Criminal Justice Reform*.

<sup>17</sup> Kaeble, D., Maruschak, L. M., & Bonczar, T. P. (2015). *Probation and parole in the United States, 2014* (NCJ 249057). Retrieved from Bureau of Justice Statistics website: <https://www.bjs.gov/content/pub/pdf/ppus14.pdf>

<sup>18</sup> The probation numbers combine both misdemeanor and felony probationers. One caveat regarding the 6,161 adults on probation in Georgia is that the misdemeanor rate is counted by cases and not people. For example, one person can have multiple cases.

<sup>19</sup> Kaeble, D., Maruschak, L. M., & Bonczar, T. P. (2015). *Probation and parole in the United States, 2014* (NCJ 249057).

<sup>20</sup> Data from the Georgia Department of Corrections does not capture cases where people on probation were reconvicted with a new offense and subsequently admitted to prison. Therefore, the prison admissions estimate is based on matching probation terminations to prison admissions where the termination was close to the prison admission date.

<sup>21</sup> This category excludes 1<sup>st</sup> degree burglary and drug trafficking.

<sup>22</sup> American Probation and Parole Association. (1991). Caseload Standard: APPA Issues Committee Report. *Perspectives*, 34-36. Retrieved from [https://www.appa-net.org/eweb/docs/APPA/stances/ip\\_CS.pdf](https://www.appa-net.org/eweb/docs/APPA/stances/ip_CS.pdf)

<sup>23</sup> The Council of State Governments Justice Center analysis of probation and inmate research files. Data reflect averages of people sentenced to probation with felony reconvictions in first three years of supervision, FY2009 – FY2012.

<sup>24</sup> The Council of State Governments Justice Center focus groups with community supervision officers, August 16 and 17, 2016.

<sup>25</sup> National Institute of Justice. (2012, February 3). Swift and certain sanctions are highly effective: Evaluation of the HOPE program,”. Retrieved from <https://www.nij.gov/topics/corrections/community/drug-offenders/pages/hawaii-hope.aspx>

<sup>26</sup> To estimate the impact of the Council’s recommendations, multiple assumptions were made by the Council of State Governments Justice Center. For example, it was assumed that 50 percent of people with no prior felony convictions who are currently being sentenced to prison for certain property or drug offenses would be sentenced to probation instead. Also, bed savings are based on an assumed average length of stay of 2.7 years in the Georgia Department of Corrections, since most people are statutorily parole eligible after one-third of their prison sentence.

<sup>27</sup> Governor Nathan Deal, letter to Council of Accountability Court Judges of Georgia, August 26, 2015.

<sup>28</sup> Eloy, M. (2016, June 3). Opioid epidemic drives more Georgia kids into state care. Atlanta, GA: WABE. Retrieved from <http://news.wabe.org/post/opioid-epidemic-drives-more-ga-kids-state-care>

<sup>29</sup> Georgia Department of Corrections.

<sup>30</sup> Justice Center, Council of State Governments. (n.d.). Focus area: Housing. Retrieved from <https://whatworks.csgjusticecenter.org/focus-area/housing>

<sup>31</sup> Special Council on Criminal Justice Reform for Georgians. (2012). *Report of the Special Council on Criminal Justice Reform for Georgians*. Retrieved from [http://dcs.georgia.gov/sites/dcs.georgia.gov/files/related\\_files/site\\_page/Report-Special-Council-Criminal-Justice-Final.pdf](http://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/Report-Special-Council-Criminal-Justice-Final.pdf)

<sup>32</sup> Carl Vinson Institute of Government, University of Georgia. (2016). *Georgia Juvenile Justice Incentive Grant, year three evaluation report: 2015-2016*. Retrieved from <https://cjcc.georgia.gov/sites/cjcc.georgia.gov/files/FY16%20Year%203%20Final%20Incentive%20Grant%20Report%20-%20CVIOG.pdf>

<sup>33</sup> Annie E. Casey Foundation. (n.d.). Juvenile Detention Alternatives Initiative. Retrieved from <http://www.aecf.org/work/juvenile-justice/jdai/>

<sup>34</sup> Ibid.

<sup>35</sup> Habersham, R. (2016, November 14). Cops: Teens in shooting case had 100 police interactions. *Atlanta Journal Constitution*. Retrieved from <http://www.ajc.com/news/crime--law/cops-teens-shooting-case-had-100-police-interactions/hby64gjLiLe9yAzvoZa5ZM/>

<sup>36</sup> Hoeve, M., Dubas, J. S., Eichelsheim, V. I., van der Laan, P. H., Smeenk, W., & Gerris, J. R. M. (2009). The Relationship Between Parenting and Delinquency: A Meta-analysis. *Journal of Abnormal Child Psychology*, 37(6), 749–775.  
<http://doi.org/10.1007/s10802-009-9310-8>