

Report of the Special Council on Criminal Justice Reform for Georgians

November 2011

Executive Summary

Criminal Justice Reform Process

Seeking new ways to protect public safety while controlling the growth of prison costs, the 2011 Georgia General Assembly passed HB 265 to establish the inter-branch Special Council on Criminal Justice Reform for Georgians (Council). Beginning in the summer of 2011, the Council members began a detailed analysis of Georgia's sentencing and corrections data and solicited input from a wide range of stakeholders to identify ways to improve public safety for the citizens of Georgia. The Council used that information to develop tailored policy options, including proposals that would invest a portion of any savings from averted prison spending into evidence-based strategies to improve public safety by strengthening probation and parole supervision and reducing recidivism.

Cost of Doing Nothing

During the past two decades, the prison population in Georgia has more than doubled to nearly 56,000 inmates. As a result, Georgia has one of the highest proportions of adult residents under correctional control. This growth has come at a substantial cost to Georgia's taxpayers. Today the state spends more than \$1 billion annually on corrections, up from \$492 million in FY 1990. Yet despite this growth in prison, Georgia taxpayers haven't received a better public safety return on their corrections dollars: the recidivism rate has remained unchanged at nearly 30 percent throughout the past decade. If current policies remain in place, analysis indicates that Georgia's prison population will rise by another 8 percent to reach nearly 60,000 inmates by 2016, presenting the state with the need to spend an additional \$264 million to expand capacity.

Opportunities for Reform

The Council's analysis revealed that inmate population growth is due in large part to policy decisions about who is being sent to prison and how long they stay. The data shows that drug and property offenders represent almost 60 percent of all admissions. Importantly, many of these offenders are identified as lower-risk. In 2010, Georgia courts sent more than 5,000 lower-risk drug and property offenders to prison who have never been to prison before, accounting for 25 percent of all admissions. Looking more closely at drug admissions, more than 3,200 offenders are admitted to prison each year on a drug possession conviction (as opposed to a sales or trafficking conviction), and two-thirds of these inmates are assessed as being a lower-risk to re-offend.

The Council also identified several challenges to the state's ability to effectively supervise offenders on probation and parole and provide interventions that can reduce the likelihood of reoffending. Since 2000, Georgia's felony probation population has grown by 22 percent to 156,000 and the state's parole population has grown by 9 percent to 22,000. Currently, probation and parole agencies operate effective programs using evidence-based tools to identify and supervise higher risk offenders. But the Council's analysis shows that these options are limited and supervision agencies do not have the resources required to supervise offenders adequately. With greater investment in these and other programs and expansion to additional sites to serve more offenders, the state can reduce recidivism and create viable sentencing options for judges that can achieve better public safety outcomes at a lower cost.

Policy Options

This report provides analysis and options for policymakers to consider. These policy options increase public safety and avert the growth currently projected for the state's prison population. The Council considered these recommendations and options and, despite not reaching consensus on every one, agreed to forward the report to the legislature for consideration and action in the 2012 legislative session.

The Council recommends that where potential savings are achieved, a portion should be reinvested into those options proven to reduce recidivism and improve public safety. These include expanding the availability of drug and other accountability courts and strengthening community supervision. The Council also recommends investing in effective information and performance measurement systems.

Impact

Many of the policy proposals in this report focus on improving community-based supervision, sanctions and services as well as other practices proven to reduce recidivism, which are essential to improving public safety. Some of these proposals will require investment by the state. In order to allow for this reinvestment, the policy proposals in this report provide the legislature with options to avert much if not all of the projected growth in the prison population and corresponding costs over the next five years.

Acknowledgements

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Overview of the Council's Work

Seeking new ways to protect public safety while controlling the growth of prison costs, the 2011 Georgia General Assembly passed HB 265 to establish the inter-branch Special Council on Criminal Justice Reform for Georgians (Council). The legislation also created a Special Joint Committee on Georgia Criminal Justice Reform (Joint Committee), made up of members from both legislative chambers, to consider the recommendations of the Council in the 2012 legislative session.

The state's leaders laid out the following goals for the council:

- “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.”¹

Beginning in the summer of 2011, the Council members (see sidebar) began a detailed analysis of Georgia’s sentencing and corrections data and solicited input from a wide range of stakeholders to identify ways to improve public safety for the citizens of Georgia. The Council used that information to develop tailored policy options, including proposals that would invest a portion of any savings from averted prison spending into evidence-based practices (EBP)² to improve public safety by strengthening probation and parole supervision and reducing recidivism.

The Council received technical assistance from the Public Safety Performance Project of the Pew Center on the States (Pew) in conjunction with the Justice Reinvestment Initiative of the U.S. Department of Justice. Pew has provided assistance to over a dozen states by analyzing data to identify the drivers of prison growth and by developing research-based, fiscally sound policy options to protect public safety, hold offenders accountable and contain corrections costs. In Georgia, Pew’s team was assisted by the Crime and Justice Institute and Applied Research Services, Inc.

The Council members divided into working groups to develop specific recommendations in three areas: sentencing and prison admissions; prison length-of-stay and parole; and community supervision. The working groups met individually throughout the summer and fall to review data, assess the state’s criminal justice system and existing policies, and to explore policy options before presenting their findings and recommendations to the Council. The Council then assembled a package of policy options with the underlying goal of protecting and improving public safety and compiled this report to the Governor, Lieutenant Governor, Speaker of the

¹ Letter to the U.S. Department of Justice and the Pew Center on the States dated May 27, 2011 and signed by Governor Nathan Deal, Chief Justice Carol W. Hunstein, Lieutenant Governor Casey Cagle, and Speaker David Ralston.

² “Evidence-based practices” refers to supervision policies, procedures, programs and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post-release supervision.

House of Representatives, and Chief Justice of the Supreme Court for full consideration by the Joint Committee.

Members of the Special Council on Criminal Justice Reform for Georgians

Gubernatorial Appointees

Hon. Todd Markle (Chair and designee of the Governor)	Superior Court Judge, Atlanta Judicial Circuit
Linda Evans	Member, Judicial Qualifications Commission
David McDade	District Attorney, Douglas County
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Senate Appointees

Sen. John Crosby	District 13, Tifton
Sen. Bill Hamrick	District 30, Carrollton
Sen. Ronald Ramsey	District 43, Decatur

House Appointees

Rep. Mary Margaret Oliver	District 83, Decatur
Rep. Jay Powell	District 171, Camilla
Rep. Willie Talton	District 145, Warner Robins

Judicial Branch Appointees

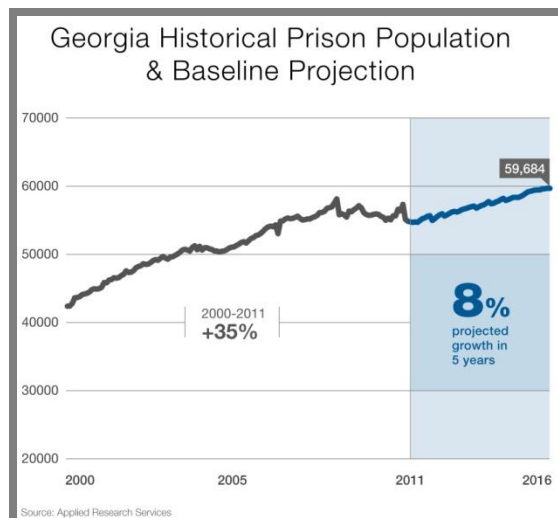
Hon. Carol Hunstein	Chief Justice, Supreme Court of Georgia
Hon. Michael P. Boggs	Superior Court Judge, Waycross Judicial Circuit
Hon. Ural Glanville	Superior Court Judge, Atlanta Judicial Circuit

Corrections Trends and the High Cost of Inaction

During the past two decades, the prison population in Georgia has more than doubled to nearly 56,000 inmates.³ Since 2000, the population has grown 35 percent.⁴

As a result, Georgia has one of the highest proportions of adult residents under correctional control. At year end 2007, 1 in 70 adults was behind bars in Georgia, compared to the national incarceration rate of 1 in 100 adults, and Georgia had the fourth highest incarceration rate in the country.⁵

This size and growth has come at a substantial cost to Georgia's taxpayers. Today, corrections costs the state more than \$1 billion per year,⁶ up from \$492 million in FY 1990.⁷



Yet despite this growth in prison population and spending, Georgia taxpayers haven't received a better return on their corrections dollars. The recidivism rate—the proportion of inmates who are reconvicted within three years of release—has remained unchanged, hovering just shy of 30 percent throughout the past decade.⁸

If current policies remain in place, analysis indicates that Georgia's prison population will rise by an additional 8 percent to reach nearly 60,000 inmates by 2016.⁹ With the state's existing prison facilities filled to 107 percent of their capacity,¹⁰ continued inmate growth creates the likelihood of new and substantial taxpayer burdens. Absent policy reform, the state faces the need to spend an additional \$264 million over the next five years in order to expand capacity to meet the projected increase in population.¹¹

³ Georgia Department of Corrections, Weekly Report. Includes prison inmates plus the jail backlog.

⁴ Georgia Department of Corrections, Weekly Report. Includes prison inmates plus the jail backlog.

⁵ Pew Center on the States, *One in 31: The Long Reach of American Corrections* (Washington, DC: The Pew Charitable Trusts, March 2009).

⁶ State of Georgia's Budget in Brief FY 2011 and FY 2012.

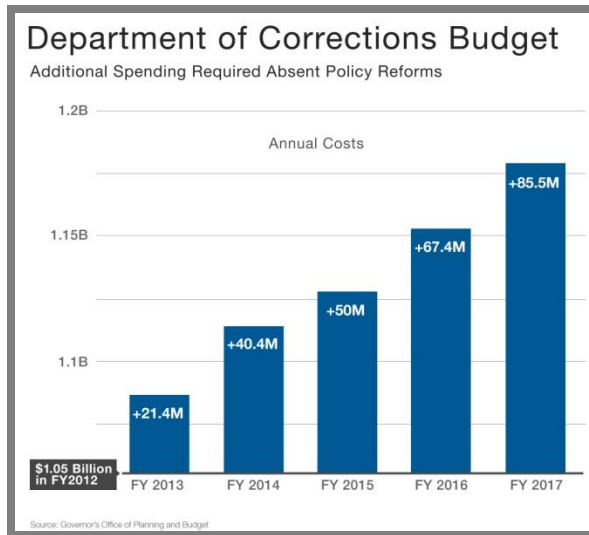
⁷ Georgia Department of Corrections, Budget in Brief, 1990. In inflation adjusted terms, the 1990 figure is \$854 million.

⁸ Georgia Department of Corrections.

⁹ Analysis conducted by Applied Research Services.

¹⁰ Georgia Department of Corrections as of July 1, 2011.

¹¹ Office of Planning and Budget.



Georgia's challenges are daunting but not unique. Across the country, state prison populations and corrections budgets have expanded rapidly in recent decades. Over the last 20 years, spending on corrections has been the second fastest growing state budget item behind Medicaid.¹²

Facing projections of significant increases in correctional costs due to the growth in their prison populations, many states have embraced a "justice reinvestment" strategy aimed at improving public safety and controlling corrections costs by reinvesting funds saved from averted prison growth into proven recidivism reduction strategies. For example, in

January 2007, Texas faced a projected shortfall up to 17,000 prison beds in just 5 years. Rather than spend \$523 million in the 2008-2009 biennium to accommodate this growth, policymakers passed a comprehensive package of reforms to address their projected growth and invested \$241 million in residential, diversion and treatment centers.

As a result, this law and order state has averted the need for an estimated \$2 billion in new prison construction before 2012.¹³ In fact, Texas is now closing a prison for the first time in its history.¹⁴ Most importantly, Texas' 2010 crime rate is the lowest since 1973. And Texas is not the only state that has succeeded in reducing both crime and imprisonment: all 19 states that cut their imprisonment rates between 1999 and 2009 also experienced a decline in their crime rates.¹⁵

Georgia's Corrections Challenges

Ensuring that there is enough prison space for violent, career criminals is essential to protecting public safety. In recent years, Georgia has made strides in using its corrections resources more effectively by devoting an increasing percentage of prison beds to violent offenders. Since 2000, the share of prison admissions for crimes against persons¹⁶ has grown by more than 6 percentage points.¹⁷ In addition, Georgia has made some progress in improving supervision,

¹² National Association of State Budget Officers, "State Expenditure Report FY 2006." December 2007. <http://www.nasbo.org/Publications/PDFs/fy2006er.pdf>.

¹³ Council of State Governments Justice Center, *Justice Reinvestment in Texas: Assessing the Impact of the 2007 Justice Reinvestment Initiative*. (New York: Council of State Governments Justice Center, 2009).

¹⁴ Grissom, Brandi. "Prison Closing Pleases City and Helps State Budget." *Texas Tribune*. August 19, 2011.

¹⁵ Pew Center on the States, *State of Recidivism: The Revolving Door of America's Prisons*. (Washington, DC: The Pew Charitable Trusts, April 2011).

¹⁶ The State Board of Pardons and Paroles has developed a list of crimes that are considered person offenses. This list currently includes 105 crimes and gets updated each year.

¹⁷ Georgia Department of Corrections.

sanctions and services, and increasing the use of evidence-based practices for offenders on community supervision.

These are laudable advances, but Georgia's correctional challenges persist. The Council conducted an extensive review of Georgia's corrections system, analyzing sentencing and corrections data to identify what is driving the growth in the state's prison population. In addition, it audited state policies and practices to better understand ways to improve the state's community corrections system.¹⁸ The Council identified several specific challenges during their analysis.

Prison Population

The Council determined that prison growth cannot simply be explained by an increase in crime. Like most states, despite some annual fluctuation, Georgia has experienced an overall decline of both violent and property crime rates. In the past decade, violent and property crime rates have fallen 20 and 21 percent, respectively.¹⁹ And despite a growing resident population, the total number of violent crimes reported to police in 2009 is the same as it was in 1999.²⁰

The Council's analysis revealed that inmate population growth is due in large part to policy decisions about who is being sent to prison and for how long. Today, Georgia prisons are at or beyond capacity and the Council identified several challenges regarding the prison population and its growth, including:

- The data shows that most individuals sentenced to prison are drug and property offenders, and these offenders are also staying behind bars for longer periods of time. Drug and property offenders represent almost 60 percent of all admissions.²¹ In fact, five of the top six most common prison admission offenses²² are drug and property offenses (burglary, forgery, possession of cocaine, theft by taking and theft by receiving stolen property).²³ The data indicates that for drug and property crimes, the average length of stay behind bars more than tripled between 1990 and 2010.²⁴
- Importantly, many of these offenders are identified as lower-risk,²⁵ meaning they are less likely to reoffend based on an assessment tool that measures offenders' criminal risk factors that research shows are related to criminal behavior. In 2010, Georgia courts sent

¹⁸ 2010 data unless otherwise noted.

¹⁹ Crimes Reported to Police, Georgia UCR, 1999-2009. In comparison, the national declines for violent and property crimes during the same period were 18 and 19 percent.
http://www2.fbi.gov/ucr/cius2009/data/table_01.html.

²⁰ US Census Bureau and Crimes Reported to Police, Georgia UCR, 1999-2009.

²¹ Georgia Department of Corrections.

²² Offense refers to the most serious conviction offense according to the Georgia Department of Corrections.

²³ Georgia Department of Corrections. Offenses are listed in order starting with the most common.

²⁴ *Ibid.* Analysis conducted by Applied Research Services. Average time served grew from 0.6 years in 1990 to 2.0 years in 2010.

²⁵ Defined as offenders who received a 1-- 4 score out of a 10 point scale on the Parole Board's static risk assessment. The 2003 parole static risk instrument is conducted on all GDC inmates and predicts the probability of re-arrest. The risk factors assessed are age at sentencing, primary offense, number of prior prison incarcerations, number of prior drug sale or possession convictions, number of prior probation revocations, number of prior parole revocations, history of mental illness, history of assault offenses or behavior, and history of drug/alcohol use.

more than 5,000 lower-risk drug and property offenders to prison who have never been to prison before, accounting for 25 percent of all admissions last year.²⁶

Looking more closely at drug admissions, more than 3,200 offenders are admitted to prison each year on a drug possession conviction (as opposed to a sales or trafficking conviction), and based on historical trends they are likely to spend approximately a year and a half in prison before returning to the community.²⁷ Yet two-thirds of these inmates are assessed as being a lower-risk to re-offend.²⁸ Research indicates that incarceration can lead to increased recidivism for certain offenders, and that this effect is strongest among felony drug offenders.²⁹

Community Corrections

The Council also identified several challenges to the state's ability to effectively supervise offenders on probation and parole and provide interventions that can reduce the likelihood of reoffending.

Similar to the state's growing prison population, the number of people on probation or parole in Georgia has also risen consistently. Since 2000, Georgia's felony probation population has grown by 22 percent³⁰ and the state's parole population has grown 9 percent.³¹ As of 2010, there were more than 156,000 felony probationers and 22,000 parolees being supervised in Georgia communities.³² In both 2009 and 2010, more offenders entered probation supervision than were discharged, a change from the previous three years,³³ Probation sentences are also twice as long – almost 7 years – as the national average.³⁴ The result of the growth trends is that supervision agencies are overburdened in their efforts to conduct effective supervision.

Further, services and programs to which officers refer offenders are either insufficient or unavailable in many areas of the state. Research makes clear that evidence-based interventions can reduce recidivism among medium- and high-risk offenders. However, Georgia struggles with limited services and programs in the community, notably for substance abuse and mental health services. Currently, there are only 33 drug courts in the state, covering less than 50 percent of the state's counties³⁵ and serving fewer than 3,000 offenders.³⁶ In addition, there are only 13 Day Reporting Centers (DRC), which are community-based supervision and service centers that handle between 80 and 120 offenders per center.³⁷ The state operates just three

²⁶ Analysis conducted by Applied Research Services.

²⁷ Analysis conducted by Applied Research Services.

²⁸ Analysis conducted by Applied Research Services.

²⁹ Spohn, Cassia and Holleran, David. "Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders." *Criminology* Volume: 40 Issue: 2 Dates: May 2002 Pages: 329-358.

³⁰ Georgia Department of Corrections, active probationers.

³¹ Georgia Board of Pardons and Paroles.

³² Georgia Department of Corrections.

³³ *Ibid.* In 2010, 33,807 offenders came off probation while 39,417 offenders were admitted to probation.

³⁴ Average probation sentence in Georgia is 6.83 years according to the Georgia Department of Corrections. Nationally the average sentence is three years and two months. Source: "Felony Sentences in State Courts." 2006, Bureau of Justice Statistics, December 2009. <http://bjs.ojp.usdoj.gov/content/pub/pdf/fssc06st.pdf>.

³⁵ Georgia Adult Felony Drug Courts, "Summary of Performance Measures," January 2010 - January 2011.

³⁶ Administrative Office of the Courts.

³⁷ Georgia Department of Corrections.

probation substance abuse treatment centers which provide residential treatment for 800 offenders on probation with serious substance abuse problems.³⁸

The lack of community-based options not only constrains probation officers, it limits sentencing options available to judges. Insufficient alternatives in the community can result in judges sending lower-risk offenders to prison simply to get them into treatment or some other program. There are currently more than 800 inmates housed in county jails awaiting a bed at a Probation Detention Center (PDC)³⁹ and another 750 inmates are in jails awaiting a slot at a Residential Substance Abuse Center (RSAT).⁴⁰

Currently, probation and parole agencies operate some effective programs using evidence-based tools to identify and supervise higher risk offenders. But the Council's analysis shows that these options are limited and supervision agencies do not have the resources required to supervise offenders effectively. With greater investment in these and other programs and expansion to additional sites to serve more offenders, the state can reduce recidivism and create viable sentencing options for judges that can achieve better public safety outcomes at a lower cost.

³⁸ Administrative Office of the Courts, "Facts about Georgia's Courts." Revised 2/23/2011.
[http://w2.georgiacourts.org/gac/files/Facts%20Sheet%20-Drug%20Court%20Programs%202-23-2011\(1\).pdf](http://w2.georgiacourts.org/gac/files/Facts%20Sheet%20-Drug%20Court%20Programs%202-23-2011(1).pdf).

³⁹ Georgia Department of Corrections.

⁴⁰ *Ibid.*

Policies to Protect Public Safety, Hold Offenders Accountable and Contain Corrections Costs

Georgia policymakers are looking for ways to increase public safety and to control corrections spending and growth in the prison population. Per its legislative mandate, the Council undertook an extensive review of the state's data and practices to analyze whether Georgia's laws, policies and practices were focused on reducing recidivism and improving public safety.

This report provides analysis and options for policymakers to consider to increase public safety and avert the growth currently projected for the state's prison population. It provides descriptions of each of the options. The Council strongly recommends that where potential savings are achieved, a portion be reinvested into those options that have been proven to reduce recidivism and improve public safety. These include expanding the availability of drug and other accountability courts and strengthening community supervision. The Council also suggests investing in effective information and performance measurement systems.

The following policy options are presented in three sections:

- The first section consists of recommendations to improve public safety and hold offenders accountable by improving the criminal justice system in Georgia, particularly focusing on strengthening community supervision, sanctions and services.
- The second section outlines potential sentencing reform options that will focus expensive prison beds on violent, career criminals and identify lower-level, non-violent offenders who could be effectively supervised in the community.
- The final section summarizes the priority reinvestment opportunities that the Council believes should be adopted by the legislature in order to improve public safety in Georgia.

Part I: Improving Public Safety and Holding Offenders Accountable

The Council's analysis indicated that Georgia has established several good community-based sentencing options, but that they are insufficient in scale and scope to meet current needs. These options often do not exist in many parts of the state and too many of the options have waiting lists.

In addition, the Council noted that the number of people on probation or parole in Georgia has risen consistently. Since 2000, Georgia's felony probation population has grown by 22 percent⁴¹ and the state's parole population has grown 9 percent.⁴² As of 2010, there were more than 156,000 felony probationers and 22,000 parolees being supervised in Georgia communities.⁴³ In both 2009 and 2010, more offenders entered probation supervision than were discharged.⁴⁴

⁴¹ Georgia Department of Corrections, active probationers.

⁴² Georgia Board of Pardons and Paroles.

⁴³ Georgia Department of Corrections.

⁴⁴ *Ibid.* In 2010, 33,807 offenders came off probation while 39,417 offenders were admitted to probation.

Finally, probation sentences are twice as long as the national average.⁴⁵ The result of these facts and trends is that supervision agencies are overburdened in their efforts to provide effective supervision.

Based on this analysis, the Council developed a number of recommendations to improve public safety and hold offenders accountable. The recommendations focus on four areas: (1) Ensuring access to effective community-based sanctions, (2) Strengthening community supervision, (3) Ensuring resources are used effectively, and (4) Improving government performance to achieve long-term success.

Ensure Access to Effective Community-Based Sanctions

Recommendation 1: Create a statewide system of accountability courts. The Council recommends expanding the number of accountability courts and implementing a comprehensive standards and evaluation system to ensure all accountability courts are effective at improving public safety. Georgia has a number of accountability courts currently operating, including drug courts, mental health courts, veterans' courts, and others, but some areas of the state do not have any accountability courts. Drug courts, for example, have been proven effective when they follow specific best practices both here in Georgia and across the country.⁴⁶ By creating a statewide system of accountability courts that establishes best practices, collects information on performance measures, increases funding and conditions funding on adherence to best practices, Georgia can ensure that its accountability courts are making the most of their potential to increase public safety and controlling costs.

Specifically, the Council recommends that:

1. the Administrative Office of the Courts develop an electronic information system for performance measurement and require the submission of performance data.
2. the Judicial Council Standing Committee on Accountability Courts define and publish standards and mandatory practices to be promulgated by the Judicial Council within 6 months.
3. the Administrative Office of the Courts condition the award of state funds on compliance with standards and best practices.
4. the Administrative Office of the Courts create a certification and review process to ensure programs are adhering to standards and mandatory practices to include onsite auditing and the provision of technical assistance with evidence-based practices.
5. the state expand funding for accountability courts. The Council considered several options, including (1) redirecting savings from other reforms in this report, (2)

⁴⁵ Average probation sentence in Georgia is 6.83 years according to the Georgia Department of Corrections. Nationally the average sentence is three years and two months. Source: "Felony Sentences in State Courts." 2006, Bureau of Justice Statistics, December 2009. <http://bjs.ojp.usdoj.gov/content/pub/pdf/fssc06st.pdf>.

⁴⁶ See National Highway Traffic Safety Administration, Department of Transportation, "An Evaluation of the Three Georgia DUI Courts." March 2011. <http://www.nhtsa.gov/staticfiles/nti/pdf/811450.pdf> and also Georgia Department of Audits and Accounts, "Judicial Branch Statewide Drug Court Programs Adult-Felony Drug Courts." September 2010.

<http://w2.georgiacourts.org/gac/files/Drug%20Court%20Performance%20Audit%20%20draft%202010.pdf>.

dedicating a percentage of the County Drug Abuse Treatment and Education (DATE) Fund to drug courts and expanding the number of offenses that could be considered for a DATE fine, and (3) implementing a minimum fine for any drug offense that would be dedicated to accountability courts.

This recommendation is also highlighted as a priority in the Reinvestment Options section.

Recommendation 2: Expand access to effective treatment and programming options in communities around the state. Georgia struggles with a lack of community intervention resources, notably for substance abuse and mental health services. This means that judges have limited non-prison sentencing options to choose from. Programs that do exist like residential substance abuse treatment programs (RSATs) and day reporting centers (DRCs) have significant wait lists and are not available in all parts of the state. The Council recommends expanding these resources immediately and using a portion of the savings identified in this report to support them, with particular attention to residential treatment beds and day reporting centers. Currently there are 750 inmates sitting in local jails awaiting a treatment bed.⁴⁷ If the state doubled the number of residential treatment beds available by opening 3 new facilities with 200 beds each, the state would nearly eliminate this backlog. In addition, GDC has identified 25 areas of the state in need of a DRC and to date has opened centers in 13 of those areas. If the state can open the remaining 12 sites, Georgia will have responded to the significant community-based programming needs throughout the state as each DRC can handle 80-125 offenders. DRC's are good sentencing options for many offenders, including those on probation and parole who have committed technical violations. In addition, the Council also discussed the possibility of drug court participants receiving expedited admission to these facilities since they have volunteered and acknowledged their addiction.

This recommendation is also highlighted as a priority in the Reinvestment Options section.

Strengthen Community Supervision

Recommendation 3: Require the implementation of Evidence-Based Practices. Research and practice over the past 25 years have identified new strategies and policies that can make a significant dent in recidivism rates. Ensuring that evidence-based practices (EBP) are used and that state funds are spent on EBP will ensure the state is getting the best public safety return on its investment. This recommendation would require that offenders on probation and parole are supervised in accordance with practices proven to reduce recidivism, and that state funds for offender programming are spent on programs that are evidence-based.⁴⁸ By adopting a comprehensive, research-based approach to supervision, corrections systems can reduce recidivism by up to 30 percent.⁴⁹ This significantly improves public safety and reduces costs.

⁴⁷ Georgia Department of Corrections.

⁴⁸ The Council recommends that "evidence-based practices" be defined in legislation.

⁴⁹ Andrews, D. A. and James Bonta, *The Psychology of Criminal Conduct*, 4th edition (Cincinnati: Anderson Publishing, 2006); MacKenzie, Doris L, "What Works In Corrections: Reducing the Criminal Activities of Offenders and Delinquents," (New York: Cambridge University Press, 2006); and Sherman, L.W., D. Gottfredson,

Recommendation 4: Create Performance Incentive Funding Pilot Projects. Evidence-based community corrections agencies can cut recidivism, but adequate funding for them is a perennial challenge in the criminal justice system. States and localities can align their fiscal relationships in ways that reward performance. If corrections agencies are successful in cutting the rate at which offenders are sent back to prison for new crimes or rule violations, the state reaps savings by avoiding prison costs. By sharing some of those savings with the successful agencies and localities, states can help build stronger community corrections systems without appropriating new funds. The incentive funding can be used to implement EBP, provide effective substance abuse treatment and other risk reduction programs, reduce caseloads and strengthen victim services. This recommendation would allow the Georgia Department of Corrections to work with localities to create up to 10 performance incentive funding pilot programs that provide fiscal incentives to reduce the rate at which offenders sent back to prison for new crimes or rule violations. The Council recommends that the pilots be conducted in circuits and that a local body, composed of local criminal justice stakeholders, oversee the pilot and receive and distribute funding. The Council also recommends that the legislation include requirements for the use of these dollars, and that this local body be tasked with using the funding in accordance with those requirements.

Recommendation 5: Implement mandatory supervision for all offenders who max-out their sentence. In 2010, 7,495 offenders released from prison had no parole supervision to follow. Of those offenders, 1,592 also had no probation supervision to follow meaning that they were released from prison with no supervision at all.⁵⁰ These offenders include serious and even some chronic offenders, and by requiring that offenders serve time on parole, parole officers can provide supervision while these offenders transition back into the community. They also can serve as a valuable resource to crime victims, who are eager for information concerning the offenders in their cases. This recommendation requires that all inmates who would be released without any supervision be transferred to parole supervision six months before their discharge date. The Council recommends that legislators consider the role that Transition Centers and other work release options could serve for these offenders. This recommendation would free up financial resources to pay for the cost of short and long-term increases to the parole population.

Ensure Georgia's Resources are Used Effectively

Recommendation 6: Improve Government Performance by Eliminating Dual Supervision. Currently some offenders are supervised by both probation and parole at the same time. However, it is unknown exactly how large this population is due to the difficulty of identifying these offenders through different information systems. Any overlap of time and resources to supervise offenders under both probation and parole is a significant waste of resources for the state. This recommendation would require GDC and the Board of Pardons and Paroles to identify a way to measure and track offenders who are dually supervised, whether as a result of the same or separate cases, and require that they develop rules governing how to eliminate such overlap.

D. L. MacKenzie, J. Eck, P. Reuter and S. Bushway, "Preventing Crime: What Works, What Doesn't and What's Promising," (Washington, D.C.: National Institute of Justice, 1997).

⁵⁰ Georgia Department of Corrections.

Recommendation 7: Implement Earned Compliance Credits for Probation and Parole. With the average probation sentence in Georgia twice as long as the national average, offenders stack up and stretch probation thin. Earned compliance credits allow agencies to devote time and effort to offenders who present a greater threat to community safety and who are more likely to benefit from supervision and programs. It also promises to enhance motivation and promote behavior change by providing offenders with incentives to meet the goals and conditions of supervision.⁵¹

This recommendation creates an earned compliance credit that would reduce the offender's term of probation by 20 days for each month that an offender (1) exhibits positive progression toward the goals and treatment of the offender's case plan,⁵² (2) has no new arrests, and (3) is current on payments for court ordered restitution, fines and fees. If the offender is convicted of a new crime, the offender's existing credits are lost. Offenders currently on probation or parole would be able to begin earning these credits immediately. In addition, an offender's earned compliance credits in no way affect the ability of the parole board to commute an offender's sentence, nor does it affect the ability of judges to amend their sentences as they see fit.

The Council had significant discussions about ways to ensure that offenders are compliant and, in particular, the Council discussed the use of drug testing to ensure compliance. With current resources and staffing, probation is only able to conduct about 6,000 drug tests per month, resulting in many offenders being tested infrequently or not at all.⁵³ Thus, the Council suggests that standards for drug testing be developed.

Recommendation 8: Expand the Performance Incentive Credit (PIC) program. Georgia can reserve prison space for higher-risk offenders and create incentives for offenders to participate in programming that will reduce the likelihood to reoffend upon release. This recommendation endorses changes that GDC and Board of Pardons and Paroles are making to the current PIC program. These changes, which include allowing offenders to earn up to 12 months of PIC time off their sentence for participation in work or risk reduction, should be codified in statute.

Recommendation 9: Improve the mechanism for ending probation for non-violent offenders on unsupervised or administrative supervision. Currently there are more than 50,000 probationers on unsupervised or administrative supervision.⁵⁴ Georgia law allows supervision officers to bring probationers back to court to request that supervision be terminated.⁵⁵ However, probation termination is frequently not sought or granted. Removing low-risk, non-violent probationers who have met all of their obligations, including restitution, from supervision caseloads allows officers to focus their time on moderate and high-risk offenders who need supervision. This recommendation would require that when an offender is placed on unsupervised or administrative supervision they are brought back before the judge to determine whether they

⁵¹ Pew Center on the States, *Policy Framework to Strengthen Community Corrections*. (Washington, DC: The Pew Charitable Trusts, December 2008).

⁵² The Council discussed what it meant to exhibit positive progression and suggests it at least include having no positive drug screens, attending programs, not having a reporting violation, following instructions, not changing residence without permission, and having valid employment or being exempt.

⁵³ Georgia Department of Corrections.

⁵⁴ Georgia Department of Corrections.

⁵⁵ O.C.G.A. § 42-8-37.

should be removed from probation. In addition, the Council suggests allowing judges to identify offenders at sentencing (through a check box on the sentencing form) for whom they would allow probation to be terminated, without returning to court, once the offenders have met all the obligations of the courts and been placed on unsupervised or administrative supervision.

Recommendation 10: Cap Sentences at Probation Detention Centers (PDCs). PDCs were meant to be 60 to 120 day programs.⁵⁶ According to GDC, the average length of stay for those leaving a PDC in FY 2011 was 183 days, with the average length of stay at one PDC reaching 254 days.⁵⁷ In addition, there are currently about 800 offenders in local jails awaiting a PDC bed.⁵⁸ Capping stays at PDCs would reduce the jail backlog by allowing more offenders into PDC beds. In addition, providing information to judges on the current utilization levels of PDCs and any current PDC backlog will assist judges in making the best decisions.

This recommendation would require a 180-day cap on the sentence at Probation Detention Centers. The Council discussed not applying this cap, however, to offenders receiving a suspended PDC sentence in order to participate in a drug court program. In addition, the Council suggests that the Georgia Department of Corrections be required or incentivized to remove an offender from a local jail if beds are available. The GDC would also be required to include information in the judicial information system on utilization levels of PDC's and any PDC backlog.

Improve Government Performance and Ensure Long-Term Success

Recommendation 11: Create a Criminal Justice Reform Oversight Council. This recommendation would create an oversight council composed of legislative, executive, and judicial branch members, as well as representatives from the various sectors of the criminal justice system at the state and local level. The Oversight Council would be a continuing organization charged with monitoring and reporting back to the General Assembly on the implementation of the Special Council's recommendations and the Special Committee's legislation. The Oversight Council would also be asked to make additional recommendations to the General Assembly on future legislation and policy options.

Several issues were raised by Council members that could not be fully addressed for this report, but that the Council members felt deserved further examination. The Oversight Council could examine these issues further. These issues include, but are not limited to, the following:

- Juvenile justice reform: Council members believe that a full examination of the state's juvenile justice system should be undertaken to develop recommendations for reform.
- Misdemeanor probation: Georgia's unique approach to supervising misdemeanor offenders in the community should be fully examined, including the financing and

⁵⁶ Georgia Department of Corrections.

⁵⁷ Georgia Department of Corrections.

⁵⁸ *Ibid.*

monitoring of private probation, to determine whether it meets the public safety needs of the state and whether it adheres to evidence-based practices.

- Battered person syndrome reforms: Some offenders currently incarcerated may not have been able to present evidence about abuse they endured. Council members believe that consideration of changes to the parole relief statute, ability to bring petitions to the Supreme Court, and ability to bring petitions to the Court of Appeals would allow for a fairer criminal justice system and could remove from the prison population people who do not present a threat to society.

Recommendation 12: Improve the electronic criminal justice information systems. Council members highlighted three areas of Georgia's current exchange of criminal justice information for improvement: providing information to judges about sentencing and parole practices, requiring submissions of electronic sentencing information to Corrections and Parole, and creating electronic notification of parole notifications to judges and prosecutors. This recommendation would require that GDC and Parole develop and maintain an information portal through the GDC website for judges with up to date sentencing and parole information. It would include average historical sentences by offense type across the state, circuit, and individual judge as well as information on how the guidelines rating chart works, crime severity levels, and risk scores. In addition, it would require that GDC, Parole and AOC develop and maintain a system to transmit sentencing packages electronically in coordination with the local courts, clerks, and sheriffs. Finally, it would also create an electronic notification process for the Parole Board.

This recommendation is also highlighted as a priority in the Reinvestment Options section.

Recommendation 13: Implement a performance auditing system. Internal audits by the Georgia Department of Corrections have shown significant strengths among the agency's programs and facilities. However these audits also indicate a fidelity problem among some programs and facilities operated by the department. For example, not all offender files contained structured case plans, case plans were inconsistent and sometimes were not linked to assessments, and risk was not always a factor in selecting offenders. In addition, approximately 40 percent of facilities that were audited received lower scores in 2010 than in 2009.⁵⁹ This recommendation would require that GDC and Parole develop a system to regularly conduct external audits of all programs, practices and facilities, require that they report yearly on such audits to the Oversight Council and detail how they are using the audits to improve outcomes and meet the evidence-based practices requirement. The Council also suggests that an evaluation of the Probation Options Management (POM) system be conducted on public safety outcomes, including recidivism, and that there be an ongoing evaluation of POM to ensure fidelity of implementation. POM has been shown to improve processes within the justice system, however a study has not been done to determine whether it is increasing public safety, including reducing recidivism rates among POM probationers.

This recommendation is also highlighted as a priority in the Reinvestment Options section.

⁵⁹ Georgia Programs Assessment Inventory 2009 and 2010 Reports.

Recommendation 14: Implement a systematic performance measurement model. Most performance measures in Georgia track processes such as case flow (new cases received, cases discharged, cases remaining), activity counts (number of office or field contacts completed, number of drug tests administered), or point-in-time snapshots (average caseload size, types of cases supervised). Such measures provide information about the agency workload, but fail to address the results achieved by the agency. The absence of outcome measures handicaps policy makers and others who wish to assess the overall performance of the agency, and also limits the ability of corrections executives to effectively manage their staff and resources. This recommendation would require that GDC and Parole implement a systematic performance measurement model that includes measures of outcomes in key performance areas and report yearly to the Oversight Council on key performance measures such as recidivism, employment, substance use, payment of victim restitution, compliance with “no contact” orders, and the overall performance of supervised individuals as measured by the type of discharge from supervision.

This recommendation is also highlighted as a priority in the Reinvestment Options section.

Part II: Focus Expensive Prison Beds on Serious Offenders

Drug and property offenders represent almost 60 percent of all admissions to Georgia prisons.⁶⁰ In fact, five of the top six most common prison admission offenses⁶¹ are drug and property offenses.⁶² The average time spent in prison for offenders convicted of drug and property offenses tripled between 1990 and 2010.⁶³

Importantly, many of these offenders are identified as lower-risk to reoffend.⁶⁴ In 2010, Georgia courts sent more than 5,000 lower-risk drug and property offenders to prison who had never been incarcerated before, accounting for 25 percent of all admissions last year.⁶⁵

Looking more closely at admissions for drug crimes, nearly 3,200 offenders entered prison following a conviction for drug possession (as opposed to trafficking or sales) and, based on historical trends, are likely to spend a year and a half in prison before returning to the community.⁶⁶ Yet two-thirds of these inmates were assessed as having a lower-risk to re-offend.⁶⁷

⁶⁰ Georgia Department of Corrections.

⁶¹ Offense refers to the most serious conviction offense according to the Department of Corrections.

⁶² Georgia Department of Corrections. The offenses are burglary, forgery, possession of cocaine, theft by taking and theft by receiving stolen property, listed in order starting with the most common.

⁶³ Georgia Department of Corrections, Analysis conducted by Applied Research Services. Average time served grew from 0.6 years in 1990 to 2.0 years in 2010. Based on analysis of cohorts of exiting prisoners.

⁶⁴ Defined as offenders who received a 1-- 4 score out of a 10 point scale on the Parole Board’s static risk assessment. The 2003 parole static risk instrument is conducted on all GDC inmates and predicts the probability of re-arrest. The risk factors assessed are age at sentencing, primary offense, number of prior prison incarcerations, number of prior drug sale or possession convictions, number of prior probation revocations, number of prior parole revocations, history of mental illness, history of assault offenses or behavior, and history of drug/alcohol use.

⁶⁵ Offenders received a Parole Board static score between 1 and 4.

⁶⁶ Analysis conducted by Applied Research Services.

⁶⁷ Analysis conducted by Applied Research Services Offenders received a Parole Board static score between 1 and 4 as defined in supra note 25.

Research suggests that incarceration can lead to increased recidivism for certain offenders, and that this effect is stronger for felony drug offenders.⁶⁸

The Council considered a number of options to identify low-risk offenders who could be effectively supervised in the community at a lower cost, ensuring prison beds are available for more high-risk offenders.

The Council developed general consensus around the options listed in Package 1 below. Details of these proposals would need to be specified by the legislature. These options would serve to avert a substantial portion of the growth in the prison population projected for the next five years. The Council also considered additional options that would further curtail correctional population and cost growth that it wanted to present to the legislature for its consideration. These are presented as Additional Options 1 and 2 below. Should policies be adopted that reduce the need for prison spending, the Council strongly recommends that at least a portion of any savings from these options should be reinvested to create a stronger system of community-based supervision, services and sanctions that will reduce recidivism.

Policy Options	Five Year Impacts (2011-2016)
<p>Package 1</p> <ul style="list-style-type: none"> • Theft • Burglary • Forgery • Front-end risk assessment • Mandatory minimum safety valve • Minor traffic offenses • Parole guidelines 	<p>Reduce projected prison growth by up to 3,300 offenders. Even if these reforms are implemented, the prison population will still grow by approximately 600 offenders by the end of the next five years.</p>
<p>Additional Policy Option 1</p> <ul style="list-style-type: none"> • Package 1 options plus • Create a proportionate scale of penalties for drug possession based on quantity 	<p>Reduce projected prison growth by up to an additional 700 beds (in addition to Package 1 impacts).</p>
<p>Additional Policy Option 2</p> <ul style="list-style-type: none"> • Package 1 options plus • Implement presumptive probation for possession of drugs 	<p>Reduce projected prison growth by approximately 300 to 900 additional beds (in addition to Package 1 impacts)</p>

⁶⁸ Spohn, Cassia and Holleran, David. "Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders." *Criminology* Volume:40 Issue:2 Dated:May 2002 Pages:329-358. Gendreau, P., & Swartz, K. (2009). "Validating the Principles of Effective Intervention: A Systematic Review of the Contributions of Meta-analysis in the Field of Corrections." *Victims & Offenders*, Volume: 4 Issue: 2 Pages: 148-169.

Policy Options: Package 1

The Council developed the following options for consideration by the legislature. These options focus on identifying low-risk, nonviolent offenders who could be effectively supervised in the community at a lower cost, ensuring prison beds are available for more dangerous offenders. The following policy options would reduce the projected growth in the prison population by up to 3,300 offenders over five years. However, even if these reforms are implemented, the prison population will still grow by approximately 600 offenders by the end of that time frame.

Package 1: Theft

The felony theft threshold in Georgia, last changed in 1982, is \$500.⁶⁹ Adjusting for inflation, this means that the felony standard has decreased by more than 50 percent (\$500 in 1982 is equivalent to more than \$1,100 today). In recent years, many other states have updated their felony thresholds. South Carolina raised its to \$2,000; Texas to \$1,500; and North Carolina to \$1,000.

The Council suggests increasing the theft threshold for certain theft offenses from \$500 to \$1,500 and instituting sentence ranges that correspond to the value of the theft, including increasing the sentencing range for higher values. This increase would apply to the following statutes: Theft by taking, by deception, by conversion, by receiving stolen property, by receiving property stolen in another state, by bringing stolen property into state, theft of services, of lost or mislaid property, and copper theft.

In addition, the Council suggests increasing the threshold of theft by shoplifting from \$300 to \$750.

Package 1: Burglary

The Council recognizes that burglary is a serious offense. However, Georgia's current burglary statute includes one sentencing range for all types of burglaries, spanning theft from an unoccupied tool shed to a nighttime invasion of an occupied home.⁷⁰ Some states create different degrees of burglary based on the specific type of burglary committed and the details of the offense. The Council suggests creating two degrees of burglary by separating burglary of unoccupied structures from dwellings. Second degree burglary would include burglaries of unoccupied structures, which would include structures such as tool sheds, barns, commercial buildings, railroad cars or other structures that are not lived in or are not meant to be lived in. First degree burglary would include burglaries of any dwelling, whether unoccupied or occupied.⁷¹ The Council also suggests adjusting the sentencing range to correspond to the degree of the offense, including raising the sentencing range for serious offenses that involve residential homes.

⁶⁹ O.C.G.A. § 16-8-12(a)(1) (1981), *as amended by* O.C.G.A. § 16-8-12(a)(1) (November 1, 1982).

⁷⁰ O.C.G.A. § 16-7-1.

⁷¹ The Council recommends that any legislation specifically define what is considered a dwelling, whether occupied or unoccupied, and what is considered an unoccupied structure.

Package 1: Forgery

The current forgery statute groups all types of forgeries together without distinguishing between the type of document that is forged. Some states create separate degrees of forgeries based on the specific type of forgery committed and the details of the offense. The Council suggests creating degrees of forgery by separating forgery of checks from forgeries of other documents and also implementing a differentiation for forgeries of checks above or below \$1,500. In addition, the Council suggests adjusting the deposit account fraud (“bad checks”) threshold from \$500 to \$1,500 for consistency. The Council also suggests adjusting the sentencing range to correspond to the degree of the offense, including raising the sentencing range for more serious forgeries.

Package 1: Mandatory Minimum Safety Valve

The Council suggests allowing judges to depart from mandatory minimum sentences for drug trafficking under the following specific circumstances:

- The interests of justice are served by a reduced minimum sentence;
- Public safety is likely to be improved with expedited access to risk-reduction programs;
- And the court specifies on the record the specific circumstances and reasons warranting this departure.

The Council recommends that a deviation floor be set whereby, if these criteria are met, the judge could reduce the minimum sentence by a certain percentage of the mandatory minimum, which would set a deviation floor ensuring some period of imprisonment for these offenders. The Council also recommends that the standard of review be determined in legislation for any appeals based on a deviation.

In addition to the crime of drug trafficking, the General Assembly may want to consider using this safety valve procedure with other crimes subject to mandatory minimums excluding sentences imposed for serious violent felonies as they are defined by O.C.G.A. § 17-10-6.1(a) (commonly referred to as the “seven deadly sins”).

Package 1: Front-End Risk Assessment

The Council suggests authorizing AOC and GDC to establish a pilot program that would implement a risk assessment tool to identify prison-bound, non-violent drug and property offenders (without a prior violent or sex conviction, prior drug sale or trafficking conviction) who could be diverted from prison.

The Council discussed the challenges to implementing a risk assessment for prison-bound offenders and felt that through a pilot program the AOC and GDC could work out these issues before expanding statewide. The Council discussed two possible implementation options that AOC and GDC could consider:

- Pre-Sentencing - Develop a tool that would identify those offenders most likely to be sentenced to prison. This group would be assessed by GDC before sentencing.

- Post-Sentencing - Develop a tool that would identify the lowest risk offenders for potential diversion (similar to Alabama) and require GDC to go back to the judge to request a different sentence for low-risk offenders.

Once the specific type of system is developed, the Council suggests that the legislature invest 50 percent of the projected savings achieved through diversions to improve community supervision and increase access to substance abuse and mental health services in the community. In addition, the Council suggests that the AOC and GDC report to the Oversight Council what the actual reduction in admissions was from the diversion programs. The Oversight Council should suggest to the legislature what the future reinvestment should be based on the percentage of offenders being diverted from prison compared to the baseline year of 2010.

Package 1: Minor traffic offenses

Currently, Georgia criminalizes minor traffic offenders while most other states treat them as violations with a fine as penalty. The numbers of traffic offenses that clog the court process are significant. The state has more than 2 million traffic offenses a year.⁷² Even though these offenses do not contribute to the prison population they indirectly impact other prison drivers like revocations because backlogs in courts are often impacted by heavy dockets including traffic cases.

The Council suggests changing minor traffic offenses from misdemeanors to violations, creating a new class of violations that are non-criminal for minor traffic offenses. It is suggested that this include offenses below four point violations, and thus would not include offenses such as DUI, driving with a suspended driver's license, or other serious traffic offenses.

The Council discussed options to enforce the fines imposed for such offenses, and recommend that the fines be tied to person's driver's license renewal and vehicle registration.

Package 1: Parole Guidelines

In 2008, the Parole Board implemented parole guidelines. The Council recommends requiring the Board of Pardons and Paroles to revalidate the guidelines every five years beginning in the year after enactment of these sentencing reforms so that the guidelines reflect current practice and standards.

Additional Policy Options

Georgia's prisons hold several thousand people serving time for possession of controlled substances. The Council examined the background of these offenders as well as the policies and practices leading to their incarceration. The Council concluded that these policies and the lack of sentencing options have both a public safety and a financial cost.

The Council found two significant factors in the high number of possession offenders admitted to prison. First, the sentencing laws related to drug offenses are broad compared with other states. Second, some communities have limited if any options for offenders. In order to improve public safety and reduce costs the Council considered several sentencing options for drug offenses.

⁷² Administration Office of the Courts.

However no consensus was reached. The Council includes in this report two of the specific options considered and recommends that state policymakers consider these options or other options to address how the state deals with offenders whose criminal conduct is largely driven by drug addiction.

The Council believes that in order for any change in sentencing practices to be effective, courts and probation officers must have options that address the treatment needs of the state. There must be a commitment to improve and expand the services currently available so that judges and the public believe that putting a person on probation will improve public safety. Toward that end, the recommendations elsewhere in this report related to day reporting centers, residential treatment centers and accountability courts should be a priority for the legislature in the coming year.

Additional Policy Option 1: Develop a simple drug possession offense based on weight.

Currently, the only weight threshold for drug offenses exists for trafficking offenses, which is 28 grams.⁷³ Possession includes any amount up to that level. The Council discussed creating a simple possession statute for cocaine and methamphetamine below a specific amount such as 1 gram.

This option will create additional burdens on the system, including on local governments and the Georgia Bureau of Investigation. The GBI would have to conduct additional tests in certain cases in order to positively identify the drugs up to that weight. The GBI has conducted a preliminary estimate and determined that it would require between \$1 and \$1.3 million in additional funding for drug chemistry scientists and equipment if this type of option was implemented.⁷⁴

This option could reduce the projected growth of the prison population by up to an additional 700 beds (in addition to Package 1 impacts).

Additional Policy Option 2: Presumptive probation for drug offenders. This option would require that any person convicted of possessing a controlled substance shall be presumed to be appropriate for a sentence of probation in lieu of a prison sentence so long as the person has not been convicted of a violent offense, a sex offense, or a trafficking offense. The presumption of probation may be overridden and a prison sentence may be imposed if the judge finds that other factors present a significant public safety risk.

In addition to a sentence of probation, the judge may require enhanced supervision and treatment depending on the offender's behavioral characteristics. These enhancements include accountability courts, day reporting centers, residential treatment centers and GPS monitoring. Determining the appropriate level of supervision and treatment shall be made using a validated assessment tool and the frequency and recency of similar drug arrests and convictions.

A similar presumption could also apply to those offenders convicted of low-level 1st or 2nd drug sale offenses but only if the offender shows that his or her criminal conduct was driven by drug

⁷³ O.C.G.A. § 16-13-31.

⁷⁴ Analysis by Georgia Bureau of Investigation.

addiction. In short, offenders could get probation in lieu of prison sentences if they were selling drugs to support their drug habit.

This option would reduce the growth of the prison population by approximately 300 to 900 additional beds (in addition to Package 1 impacts).

Part III: Reinvestment Priorities

In order to create a sentencing and corrections system that takes maximum advantage of research-based strategies to improve public safety, the Council recommends that the legislature consider specific reinvestment priorities detailed in this report. Among the top priorities of the Council members are providing reinvestment funds to expand accountability courts, residential treatment beds and day reporting centers. These programs will give greater options to judges and broaden access to effective alternatives for appropriate offenders.

In addition, the Council recommends that funding be provided to implement external audits of programs, implement a performance measurement system, and improve and integrate state and local criminal justice information systems. These recommendations will improve the performance of the criminal justice system and ensure long-term success and sustainability.

Finally, the Council recommends that funding be expanded to increase the prevalence and effectiveness of drug testing of offenders on community supervision and increase the use of GPS monitoring for appropriate offenders. These options will ensure that offenders are supervised effectively and are held accountable while on supervision.