



Report of the Georgia Council on Criminal Justice Reform

January 2014

Judge Michael P. Boggs
Co-Chair

W. Thomas Worthy
Co-Chair

I. EXECUTIVE SUMMARY

Between 1990 and 2011, Georgia's prison population more than doubled to nearly 56,000 inmates. State spending on corrections soared as well, from \$492 million to more than \$1 billion annually. Despite this substantial investment, Georgia's 30% recidivism rate had remained virtually unchanged for a decade. Five-year projections forecast additional growth in the incarcerated population and another \$264 million in prison costs prior to the adult corrections and juvenile justice reforms of 2012 and 2013, respectively.

Resolving to enhance the public safety of our communities and control spending by improving the performance of the state's correctional system, the Georgia General Assembly established the Special Council on Criminal Justice Reform for Georgians (Special Council) in 2011. In its first year, the Special Council produced policy recommendations that led to significant adult corrections reforms enacted through HB 1176, which passed the General Assembly unanimously and was signed into law by Gov. Nathan Deal on May 2, 2012.

Soon after, Governor Deal extended the term of the Special Council, expanded its membership and broadened its focus to include Georgia's poorly-performing, high-cost juvenile justice system. After an extensive analysis of the juvenile system and input from a broad spectrum of stakeholders, the Council developed a package of data-driven policy proposals. Many were subsequently included as wide-ranging reforms in HB 242, which was adopted unanimously by the General Assembly and signed by Governor Deal on May 2, 2013.

Since these landmark laws and related administrative policies took effect, Georgia's prison population has held steady and the enormous backlog of inmates in county jails awaiting transfer to either a prison, a Probation Detention Center, or a treatment facility has been virtually eliminated, resulting in significant cost savings. In addition, the proportion of violent and sex offenders in prison increased from 58% in January 2009 to 64% in June of 2013. This shifting offender profile shows that, as intended, Georgia is increasingly focusing expensive prison space on dangerous offenders while using more cost-effective, community-based sanctions for less serious lawbreakers.

Reforms affecting the juvenile system took effect just recently, at the start of 2014, so the full impact remains to be seen. But progress is evident. For example, an incentive grant program is already underway, with \$6 million in state and federal funds distributed to evidence-based programs serving 49 counties. These first-year grant awards are serving regions representing nearly 70% of Georgia's at-risk youth, and providing supporting services and strategies proven to reduce juvenile recidivism.

The Next Phase

In March of 2013, the General Assembly passed, and Governor Deal subsequently signed, HB 349, which spawned a second round of criminal justice reforms designed to improve public safety while conserving tax dollars. Media attention focused largely on a provision of the bill that allowed judges, in certain circumstances, to deviate from mandatory minimum sentences in some drug-related cases, including those involving defendants who are low-level players, rather than kingpins. The legislation also statutorily created the Georgia Council on Criminal Justice Reform (Council), giving it a new, five-year mandate to promote public safety through better oversight and management of the adult and juvenile correctional systems.

On June 28, 2013, Governor Deal issued an executive order appointing 15 members to the newly constituted Council. In addition to legislative representation, this Council includes members of the judiciary, the defense bar, prosecution ranks, the business sector, the faith community, and law enforcement. Under HB 349, Council members serve five-year terms. With a longer tenure, members enjoy continuity and the ability to tackle more complex projects. In addition, longer terms enable Council members to expand their expertise while overseeing and guiding system change over time.

From its inception, the Council's priorities have been to protect public safety while controlling prison costs and holding offenders accountable. This Council is now in a critical third phase of work, and those priorities continue to drive its agenda. With important reforms well underway in the adult and juvenile corrections systems, Governor Deal asked Council members to turn their spotlight to offender reentry, the critical junction between incarceration and the commencement of community life.

To complement the Council's newest initiative, Governor Deal created, by executive order, the Governor's Office of Transition, Support and Reentry. The mission of the office, which began work July 1, 2013, is to promote successful offender reentry, reduce recidivism, and ensure that cost savings from justice reforms are reinvested in evidence-based, community-centered services. The office is led by former Rep. Jay Neal, who resigned from his legislative seat to oversee this important initiative.

Why Reentry?

Despite extensive national attention to refining prisoner reentry approaches over the past decade, in most states the return-to-prison recidivism rates of former prisoners have not changed substantially. Such is the case in Georgia. In 2013, this Council conducted a review of Georgia's reentry services and found that while a good deal of laudable work was underway, the effort suffered from balkanization and numerous barriers to success. Given that finding, Council members decided to partner with the Michigan-based Center for Justice Innovation and reentry expert Dennis Schrantz. After extensive data analysis and meetings with stakeholders in multiple

jurisdictions, a core team of state agency stakeholders facilitated by Schrantz developed the Georgia Prisoner Reentry Initiative (GA-PRI), which lays the foundation for a five-year effort expected to make Georgia a leader in recidivism reduction.

Approved by the Council in December, the GA-PRI is centered around the principle that every returning citizen released from prison should have the tools and support needed to succeed in the community. Its key objectives are two-fold: first, to improve public safety by reducing crimes committed by former offenders and thereby reducing the number of crime victims, and secondly, to increase 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 into the community. The bulk of this report to the General Assembly focuses on the Reentry Initiative and related preliminary recommendations adopted by this Council. These include policy changes that are critically needed to remove barriers former offenders face as they reenter society and attempt, often unsuccessfully, to obtain work and housing.

While reentry was the centerpiece of this Council's 2013 work, members also approved a set of recommendations for civil forfeiture reform. In addition, this Council continued its vigilance over the implementation of earlier legislation affecting the Georgia correctional system. Specifically, members approved detailed performance review measures for the adult and juvenile systems that will ensure reforms are carried out effectively in order to deliver anticipated results. The Council also recommends passage of two clean-up bills to clarify terminology, better align Georgia law with relevant federal law, and make other modest modifications to HB 1176, HB 349 and HB 242.

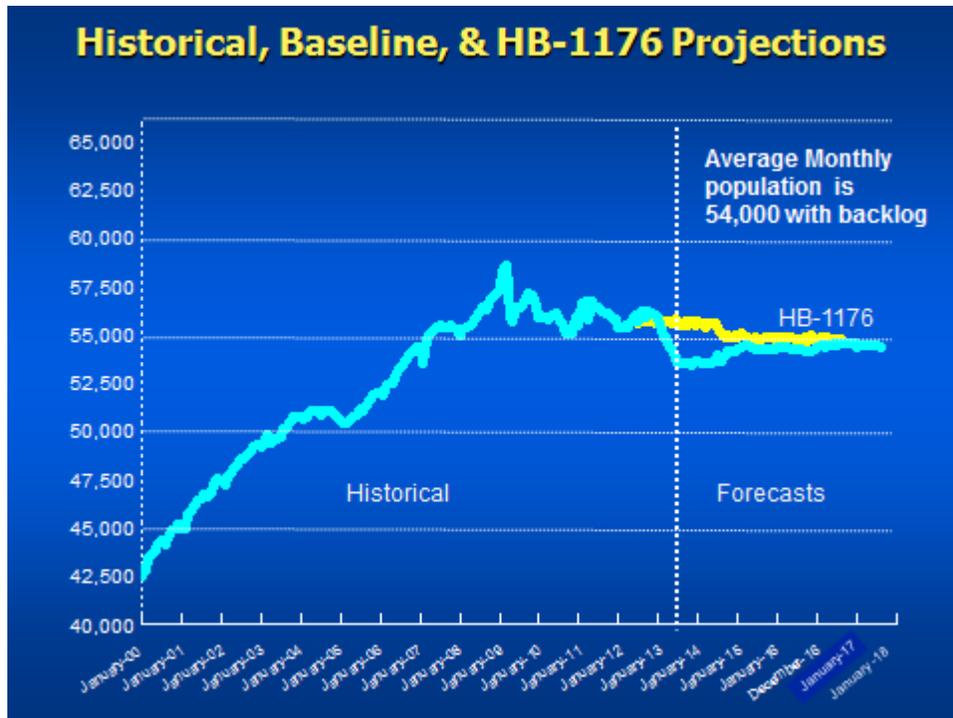
The Council respectfully submits this final report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, Chief Justice of the Supreme Court, and Chief Judge of the Georgia Court of Appeals for full consideration during the 2014 legislative session.

Members of the Georgia Council on Criminal Justice Reform

Hon. Michael P. Boggs (Co-Chair)	Judge, Court of Appeals of Georgia
Thomas Worthy (Co-Chair)	Deputy Executive Counsel, Office of Governor Nathan Deal
Scott Berry	Sheriff, Oconee County
Hon. Jason Deal	Superior Court Judge, Northeastern Judicial Circuit
Hon. Steven Teske	Juvenile Court Judge, Clayton County
Hon. B. J. Pak	Representative, District 108
Hon. Bill Cowsert	Senator, District 46
Jackie Johnson	District Attorney, Brunswick Judicial Circuit
Christine Van Dross	Public Defender, Clayton County
Katie Jo Ballard	Director, Governor's Office for Children and Families
Paul Bolster	Executive Director, Georgia Supportive Housing Assn.
Rev. Darrell Elligan	Pastor, True Light Baptist Church
Henry Kelly	Project Executive, Georgia Power Company
Teresa Roseborough	Executive Vice President, General Counsel, and Corporate Secretary, The Home Depot
J. P. Taylor	Coordinator, Problem Solving Court, Pataula Judicial Circuit

II. BACKGROUND AND EARLY COUNCIL INITIATIVES

At the start of 2011, Georgia’s adult correctional system was straining after two decades of inmate population growth. State prisons were operating at 107 percent of capacity, and recent data showed that Georgia’s incarceration rate—1 in 70 adults behind bars—was the fourth highest in the nation. The annual budget for corrections topped \$1 billion, and 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 would face \$264 million in new costs to accommodate the growth. Despite the substantial investment in corrections, Georgia’s recidivism rate—the proportion of inmates reconvicted within three years of release—had remained virtually unchanged for a decade, stuck at roughly 30 percent.



While vexing, Georgia’s problems were not unique. Across the country, state prison populations and corrections budgets have expanded rapidly in recent decades, prompting more than a dozen states, including Texas, Michigan, South Carolina, and Oregon, to embark on reforms to rein in corrections spending and obtain better public safety outcomes from their criminal justice systems. Many legislatures have chosen to enact “justice reinvestment” policies that control costs by allocating prison space for serious, violent offenders, and reinvesting part of the savings into evidence-based strategies proven to reduce reoffending.¹

¹Pew Center on the States, *Public Safety in Oregon* (Washington, D.C.: The Pew Charitable Trusts, May 28, 2013).

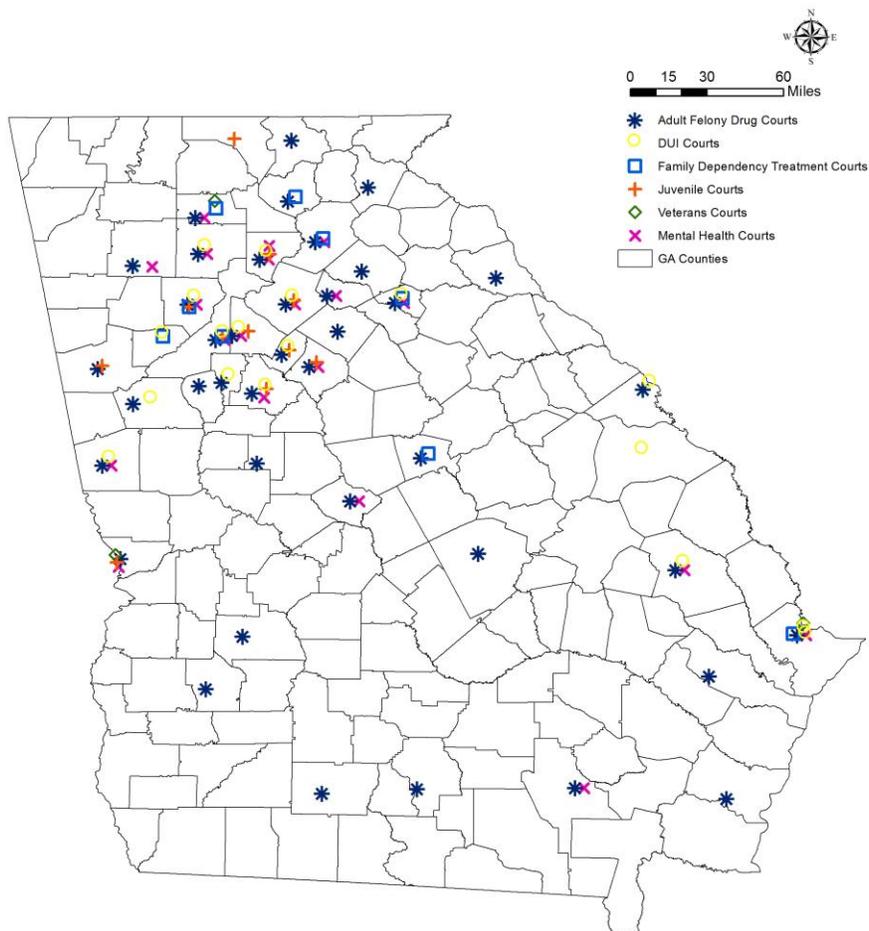
In 2011, Georgia joined that list. Determined to improve public safety, hold offenders accountable, and stabilize prison spending, the Georgia General Assembly passed, and Governor Deal signed, HB 265 to create the bipartisan, inter-branch Special Council on Criminal Justice Reform for Georgians. The Special Council's mandate was to:

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

In its first year, the Council scrutinized sentencing and corrections data to identify factors driving prison growth. With technical assistance from the Public Safety Performance Project of the Pew Center on the States (Pew), members also examined state policies and practices, and gathered input from prosecutors, sheriffs, crime victim advocates, county officials, and other stakeholders. In November 2011, the Council released a comprehensive report detailing its findings and proposing a broad range of data-driven reforms.

At the request of Governor Deal, many of these policy proposals were included in HB 1176, which passed unanimously in both chambers of the Georgia General Assembly and was signed by the Governor on May 2, 2012. The law was expected to avert the projected 8 percent growth of the inmate population and the associated cost increase of \$264 million. Through accompanying budget initiatives, the General Assembly reinvested more than \$17 million of the prison savings into measures designed to improve public safety by reducing recidivism through expanding and supporting accountability courts, and strengthening probation and parole supervision. Similar budget initiatives were taken last year ensuring that now over \$22 million has been reinvested in accountability courts throughout the state.

FY2014 State Funded Accountability Court Locations



This map was created using the FY 2014 Directory of State Funded Accountability Courts. This map does not include Child Support Courts, Domestic Violence Courts and other problem-solving courts across the state that do not receive state funds. Map created by Ren Yang-Hafner, Operations Analyst and Caroline Neidhold, SAC Intern, at the Statistical Analysis Center at the Criminal Justice Coordinating Council. Map date January 8, 2014. For questions or concerns please contact: Ren.Yang@cjc.gov.

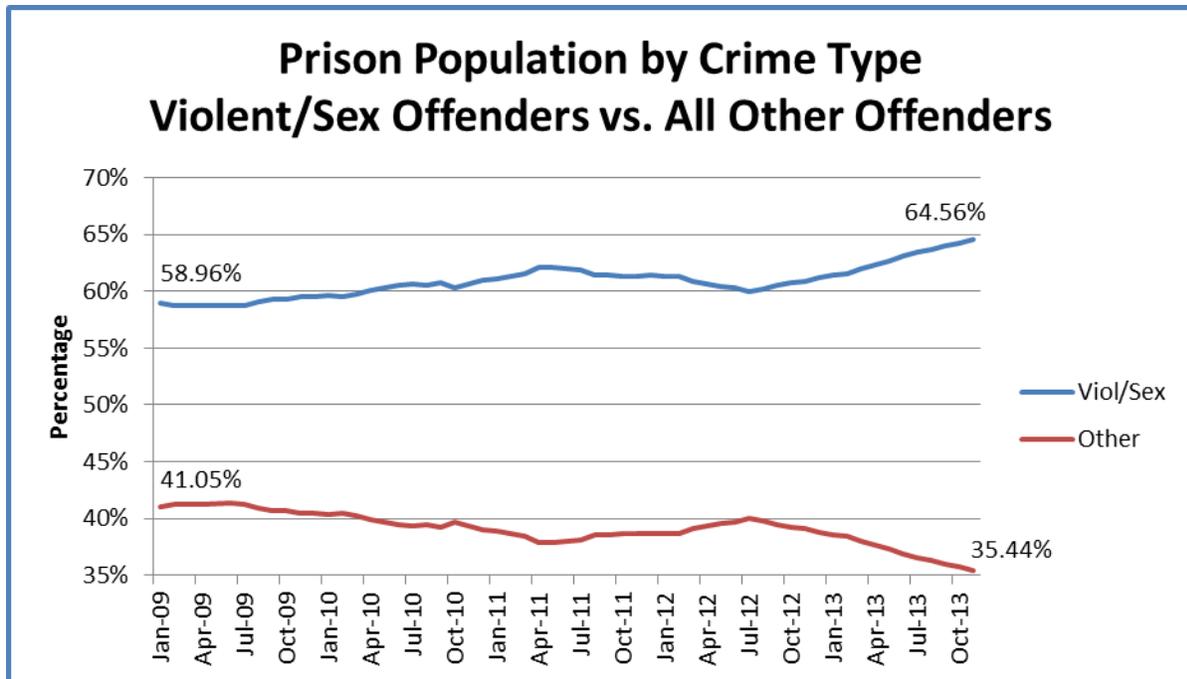
“We studied this important issue for a year, met with all the stakeholders, weighed the pros and cons, and delivered a product that passed with total support from both sides of the aisle. That’s amazing, particularly on an issue that’s so often at the center of partisan divides.”

Governor Nathan Deal

Adult System Impacts

Passage of HB 1176 and the adoption of related administrative policies set in motion broad reforms across the adult correctional system. Many long-term impacts remain to be seen. But overall, the prison population has held steady, and progress is also evident in the changing composition of that population. Between January 2009 and June 2013, the proportion of violent

and sex offenders in prison increased from 58% to 64%.² Clearly, Georgia is moving steadily toward a critical goal: focusing expensive prison space on dangerous offenders while using more cost-effective, community-based sanctions for those convicted of less serious crimes.



Other important system improvements initiated by HB 1176 and policies adopted in concert with the legislation include:

Electronic Records Submission Over the past decade, the Georgia Department of Corrections paid counties more than \$170 million to house state inmates awaiting transfer from county jails to prison. HB 1176 reduced this offender backlog by mandating that “sentencing packets,” once sent by mail, be transmitted electronically between systems. The electronic submissions began in July 2012 and were fully implemented statewide by fall of 2013. Meanwhile, prison intake and parole procedures were also improved through the use of technology. Altogether, these changes reduced the weekly jail backlog from more than 1,600 offenders in July 2012 to approximately 250 by the end of December 2013, significantly shrinking payouts of state funds to counties and reducing overcrowding in some county jails.³

Probation Detention Center Cap In mid-2012, more than 800 offenders were in county jails awaiting admission to Probation Detention Centers (PDCs). While the centers were designed for short-term stays of up to 120 days, the average length of stay for those leaving a PDC in FY 2011 had grown to 183 days. The jail backlog was a constant source of tension between state and

² Georgia Department of Corrections

³ Ibid.

local government due to the costs of housing state inmates awaiting transfer. HB 1176 imposed a cap of 180 days on PDC sentences, ensuring that beds became available more frequently. Less than one year after the cap took effect, the waiting list for PDCs was virtually eliminated.⁴

Expanded Sentencing Options In its 2011 report to the Legislature, the Council noted that 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 called for expanded access to effective treatment programs around the state.

In 2012, three Pre-Release Centers used to prepare offenders prior to their return to the community were slated for closure due to budgetary constraints. Noting the need for additional community treatment beds, the Governor’s Office converted one facility to a 200-bed male RSAT facility and two facilities for use in treating male and female offenders with addictions and co-occurring mental health disorders. All told, the move created 600 beds and provided judges with prison alternatives for suitable offenders, typically probation violators.⁵

Jail Population Drop An increased focus on accountability courts, electronic record submission, the probation detention center cap, and expanding options for judges have contributed to a reduction in Georgia's jail population. According to the Department of Community Affairs *County Inmate Jail Population Report*, in January of 2011, Georgia's county jail capacity was 45,212 with 4,564 empty beds. By December of 2013, 2,209 additional beds had been added bringing the total jail capacity to 47,421. However, during that same time frame, the jail population decreased from 40,648 to 35,111 leaving 12,310 empty jail beds. These open jail beds have contributed to substantial savings for counties as fewer offenders are housed. Additionally it has allowed several counties to create innovative treatment and transitional programs using the available jail beds.

The Max-Out Reentry Program (MORE) Research shows that inmates released to parole supervision are less likely to be rearrested and reincarcerated for new crimes than those offenders who exit prison with no parole or probation supervision, a group commonly called “max outs.” Concerned about such findings, the Council in its 2012 report urged the State Board of Pardons and Parole and the Georgia Department of Corrections to provide transitional support to max outs, who number between 1,200 and 1,500 annually. (Note: Some offenders max out because they are required by statute to remain incarcerated for their entire sentence, while others are denied parole by the Parole Board because of the seriousness of their offense.)

⁴ Ibid.

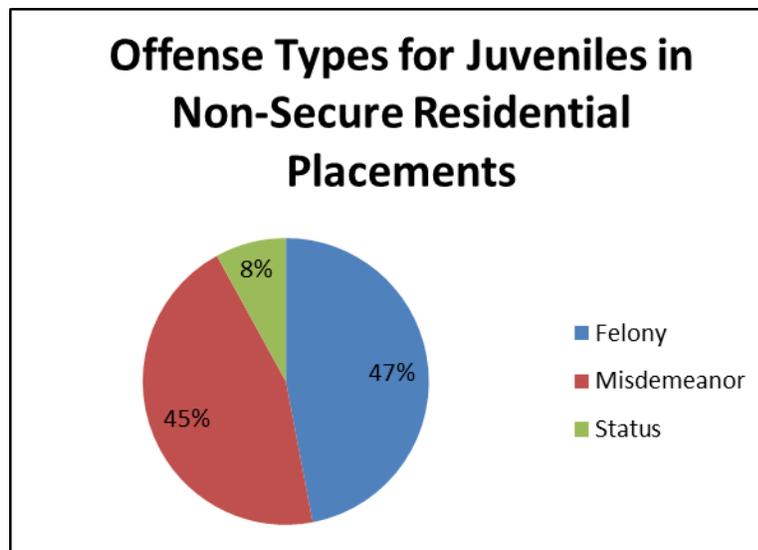
⁵ Georgia Department of Corrections.

Under the MORE Program, offenders nearing the end of their sentence are shifted to one of 13 transitional centers, similar to halfway houses, where they are paired with specialized parole officers for as long as six months. The officers help offenders establish access to outside mental health and substance abuse services, stable housing, and employment prior to release, thereby increasing successful reintegration, reducing recidivism and improving public safety. For calendar year 2013, 421 offenders were referred to the program, with 155 cases successfully maxing out. Additionally, 25 offenders previously deemed max outs by the Parole Board were granted parole.⁶

Second Chance Act Grant Complementing the Council focus on reentry, the Department of Corrections has been awarded a \$100,000 grant under the Second Chance Act to enhance recidivism reduction efforts. The Comprehensive Statewide Adult Recidivism Reduction Planning Grant will be used to buttress efforts under the Georgia Prisoner Reentry Initiative, expanding offender access to housing, healthcare, vocational help, and educational services. The grant efforts will target Atlanta-area max out offenders who are assessed as high risk and high-risk probationers, parolees, and accountability court referrals in Columbus.

A Shift to Juvenile Justice

With a solid framework for reform of the adult system in place after the 2012 legislative session, Governor Deal decided to shift attention to juvenile justice. The Governor issued an executive



order extending the Council's term and expanding its membership, and asked Council appointees to oversee implementation of HB 1176 while broadening their focus to include the justice system for Georgia's youth.⁷

⁶ Ibid.

⁷ Executive Order extending the Governor's Special Council on Criminal Justice Reform, signed by Gov. Nathan Deal on May 24, 2012.

Following that direction, the Council solicited input from a wide variety of stakeholders as part of a detailed analysis of Georgia’s juvenile justice laws, facilities, administration, programs, and outcomes. The findings showed an expensive system heavily reliant on out-of-home facilities that were producing poor results, for taxpayers and youth alike. In particular, the cost of the state’s secure residential facilities averaged \$90,000 per bed per year. And while the majority of juveniles in out-of-home placements were felony offenders, nearly one in four were adjudicated for low-level offenses, including misdemeanors or status offenses. Four in ten, meanwhile, were assessed as a low risk to reoffend.

The results of this correctional approach were discouraging at best. Despite costs of more than \$300 million annually, more than half of the youth in the juvenile system were re-adjudicated delinquent or convicted of a criminal offense within three years of release, a rate that had held steady since 2003. For those released from Georgia’s secure youth development campuses, the recidivism rate was 65 percent, a proportion that had increased by six percentage points since 2003.⁸

Seeking to reduce reoffending and control costs, the Council produced a set of data-driven policy recommendations aimed at focusing expensive out-of-home facilities on serious, higher-risk youth and strengthening evidence-based supervision and programs. Many of the proposals were included in HB 242, which passed both chambers of the General Assembly unanimously and was signed into law by Governor Nathan Deal on May 2, 2013.

Juvenile System Impacts

The Council’s initiatives are expected to save an estimated \$85 million through 2018 and avoid the need to open two additional juvenile residential facilities. HB 242 also streamlined and revised the state code relating to juvenile justice and child welfare, including creating new processes for cases involving children in need of services.

“Saying you’re against it is like saying you’re against Santa Claus. Nobody wants kids locked up.”

***Gwinnett District Attorney Danny Porter, 2013 Council Member
The Atlanta Journal-Constitution, Dec. 31, 2013***

The new framework for juvenile justice took effect on January 1, 2014, so its impact on recidivism and system costs largely remain to be seen. Already underway, however, is an incentive grant program intended to expand evidence-based programs and practices at the county level. This initiative was launched after the Council found that many of Georgia’s regions lack

⁸*Report of the Special Council on Criminal Justice Reform for Georgians, December 2012.*

community-based programs, leaving juvenile court judges with few dispositional options short of commitment to state facilities.⁹

On April 16, 2013, Governor Deal signed an executive order creating the Juvenile Justice Incentive Funding Committee. The committee was charged with managing the grant program and allocating \$5 million in state funds, plus another \$1 million in federal dollars, to evidence-based community services and programs that have been shown to reduce juvenile recidivism. Interventions shown to be effective with juvenile populations include Multi-Systemic Therapy; Family Functional Therapy; Thinking For A Change; Aggression Replacement Training, and Seven Challenges.

Starting anything new comes with a learning curve. But overall we feel we have made excellent progress towards implementing these evidence-based services across the grant counties.”

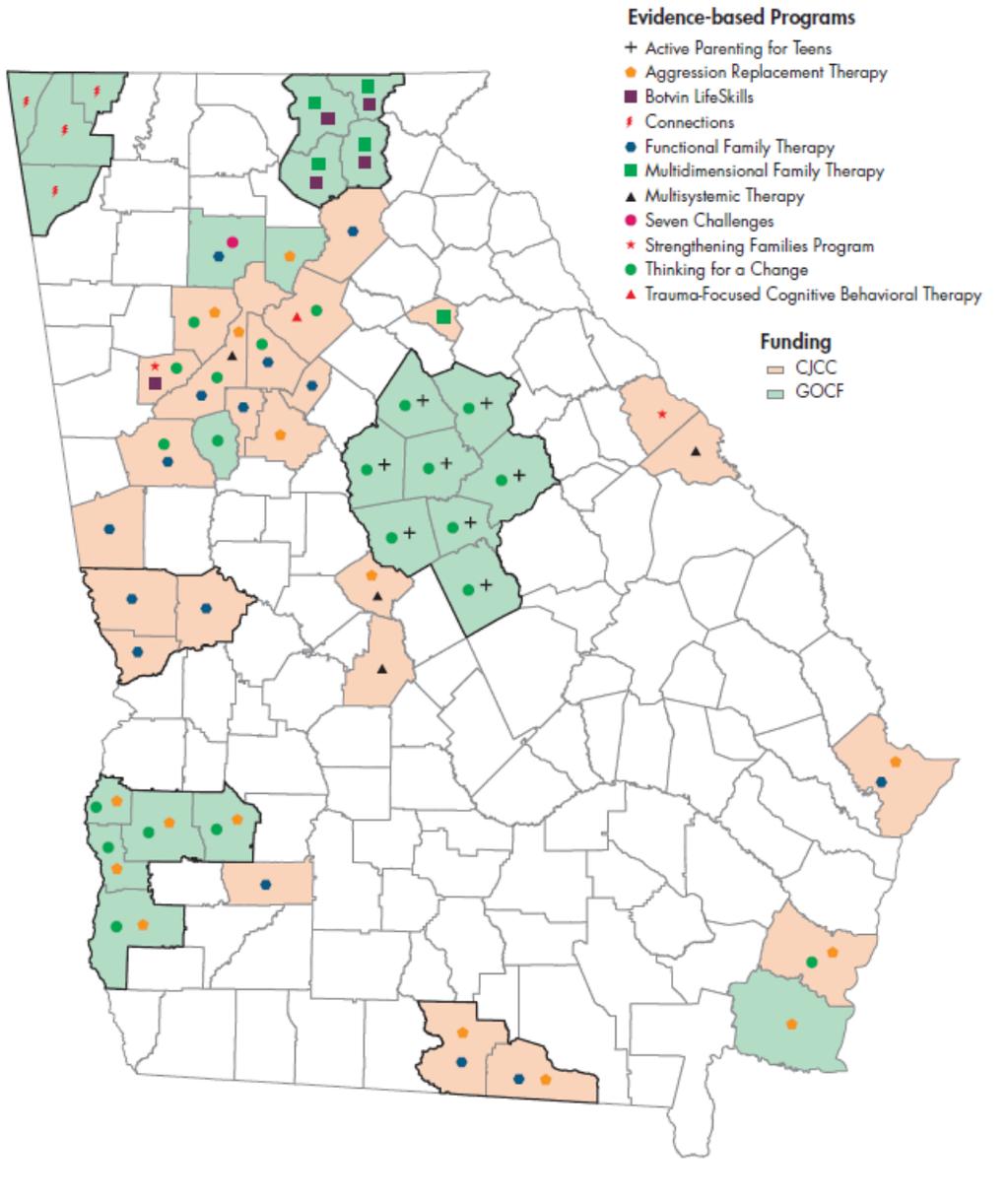
***Joe Vignati, Administrator, Governor’s Office for Children & Families
Presentation to Department of Juvenile Justice Board, December 20, 2013***

After reviewing 35 grant applications, the committee made 29 awards serving 49 counties, which represent nearly 70% of Georgia’s at-risk youth. The first-year grant awards, totaling \$5.6 million, will run from August 1, 2013 - June 30, 2014.¹⁰ *(Note: See map of grant distribution on following page.)*

⁹Report of the Special Council on Criminal Justice Reform for Georgians, December 2012.

¹⁰Governor’s Office for Children and Families.

Juvenile Justice Reinvestment Grant Programming by County, 2013



III. IMPROVING PRISONER REENTRY

In March of 2013, the General Assembly passed HB 349, which gave the Georgia Council on Criminal Justice Reform permanence in statute. Governor Deal signed the legislation a month later and on June 28, 2013, issued an executive order appointing 15 members to the Council.¹¹ HB 239 specified that this Council would include appointees from both chambers of the General Assembly as well as one prosecutor, one criminal defense attorney, one sheriff, and representation from the judiciary and the Governor's Office.

Since launching criminal justice reform in 2011, Governor Deal and Council members have sought to protect public safety while controlling prison costs and holding offenders accountable. While the make-up of the Council has changed, the fundamental mission has not. Indeed, those objectives are driving forces behind a critical new phase of work launched in mid-2013, improving prisoner reentry.

The National Context

Despite extensive national attention to reforming prisoner reentry approaches in the last decade, in most states the return-to-prison recidivism rates of former prisoners have not changed substantially. The most recent comprehensive study of state-level offender recidivism was performed by the Pew Center on the States for their 2011 report entitled *State of Recidivism: the Revolving Door of America's Prisons*.¹² Pew defined recidivism as a technical violation or a new crime committed by a former prisoner that resulted in the offender's return to prison. The study's findings showed that, out of the 33 states that reported recidivism data for both the 1999 and 2004 release cohorts, only 17 states had a decrease in recidivism and 16 states had an increase in recidivism. Only six of the 33 states achieved a drop in recidivism of greater than 10%.¹³

National reform efforts over the past decade have focused on making communities safer by reducing recidivism among former state prisoners through improvements to prisoner reentry policy within jurisdictions. Beginning in 2003, the National Institute of Corrections (NIC) and the National Governors' Association (NGA) sponsored multi-state academies and provided a year of on-site technical assistance to improve prisoner-reentry strategic planning within 17 participating states, including Georgia.¹⁴ Both NIC and NGA emphasized the development of

¹¹ Executive order appointing members of the Georgia Council on Criminal Justice Reform, signed by Gov. Nathan Deal, June 28, 2013.

¹² Pew Center for the States, *The State of Recidivism: The Revolving Door of America's Prisons* (Washington, D.C.: The Pew Charitable Trusts, 2011).

¹³ *Ibid.*, 10. Based on the Pew Report, the cohort of 16,951 prison releases from 1999-2002, 38% had a parole violation, a new crime that resulted in a return to prison (Pew's definition of recidivism) compared to the 2004-2007 cohort of 18,972 who had a 34.8% recidivism rate. According to Georgia Department of Corrections data (7-15-13), the re-conviction rate of former prisoners has ranged from 28% in 2001 to the lowest in 10 years at 26.6% in 2010.

¹⁴ Georgia, Idaho, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Dakota, Oregon, Rhode Island, Tennessee, Texas, and Virginia. Georgia created the Georgia Reentry Improvement Program,

high-level strategic plans. These plans, they believed, would enable jurisdictions to defend their progress while they worked to complete the enormous changes within their systems that are required to see a lasting impact on crime and recidivism reduction.

More recently, the federal Second Chance Act (SCA) required that participating jurisdictions develop and implement comprehensive strategic plans to reduce recidivism.¹⁵ But most SCA grants are for program-level efforts designed to reduce recidivism for a relatively small, targeted group of program participants as opposed to wholesale system change, and there is scant evidence of large-scale sustainable reforms that reduce recidivism.¹⁶ One of the primary reasons for this lack of success is that the work of moving from planning to implementation for system-wide change requires an extraordinary level of coordination and capacity. Research shows that efforts aimed at implementing evidence-based practices which have the benefit of expert and organized guidance have a much higher—and much quicker—success rate at implementation.¹⁷

Over the past decade, knowledge of the science related to *developing and identifying* evidence-based policies, practices and programs has improved. However, the application of the emerging science about how to *implement and sustain* these policies, practices and programs with fidelity that results in improved outcomes—particularly on a large scale—lags behind. Researchers have established the need to achieve a better link between what research evidence shows works and how to implement that research on the ground, particularly with recidivism reduction.¹⁸ Clearer guidance is needed in the field on how to implement research findings and how to successfully replicate well-performing programs in prisons and parole agencies and their human service delivery partners in the community.¹⁹

The Georgia Prisoner Reentry Initiative

This Council launched the Georgia Prisoner Reentry Initiative in November 2013 with the vision that every returning citizen released from prison will have the tools and support needed to succeed in the community. In order to make this vision a reality, the mission of the GA-PRI is to improve public safety by reducing crime through implementation of a seamless plan of services and supervision developed with each returning citizen—delivered through state and local collaboration—from the time they enter prison through their successful transition, reintegration,

which included a number of improvements in the system, including specific evidence-based practices, and prepares the state well for the work ahead.

¹⁵ 110th Congress, *Second Chance Act of 2007: Community Safety through Recidivism Prevention*, Washington, DC: U.S. Government, 2008. <http://www.govtrack.us/congress/bills/110/hr1593>.

¹⁶ For example, see articles in Stephen M. Haas (Ed.), *Justice Research and Policy; Toward Evidence-Based Decision Making in Community Corrections: Research and Strategies for Successful Implementation* 15, No. 1 (2013).

¹⁷ Dean L. Fixsen et al., *Implementation Research: A Synthesis of the Literature*. Tampa, FL: University of South Florida, Louis de la Parte Florida Mental Health Institute, The National Implementation Research Network, 2005.

¹⁸ *Ibid.*

¹⁹ Thomas E. Feucht and Christopher A. Innes, “Creating Research Evidence: Work to Enhance the Capacity of Justice Agencies for Generating Evidence,” in *Contemporary Issues in Criminal Justice Policy*, eds. Natasha Frost, Joshua Freilich, and Todd Clear, 7 - 16. (Belmont, CA: Wadsworth, 2009).

and aftercare in the community. The initiative gives Georgia the tools to become a national leader among states in recidivism reduction.

The fundamental goals of the GA-PRI are to: (1) Promote public safety by reducing the threat of harm to persons, families and their property by citizens returning to their communities from prison; and (2) Increase success rates of returning citizens who transition from prison by fostering effective, evidence-based risk and need management and treatment, returning citizen accountability, and safe family, community and victim participation.

Performance measures to determine the degree that these goals are met include measurements of increased public safety through the reduction of recidivism (as measured by re-conviction and return to prison) and successful completion of community supervision.²⁰

At the heart of the initiative is the Georgia Prisoner Reentry Initiative Framework (Framework). The Framework was designed for Georgia but builds on approaches for reentry improvement developed by the National Prisoner Reentry Council, as outlined in its Reentry Policy Council Report,²¹ and the National Institute of Corrections through its Transition from Prison to Community (TPC) Model.²² These approaches provide guidance for specific justice policies that will be considered in Georgia as the “Targets for Change” to improve prisoner reentry. These Targets for Change are categorized within the three TPC Model phases (Getting Ready, the Institutional Phase; Going Home, the Pre-Release Phase; and Staying Home, the Community Supervision and Discharge Phase) and seven primary decision points that comprise the reentry process (See sidebar, next page).

For each Target for Change, goals and operational expectations are included, as well as references for further reading to specific pages within the voluminous Reentry Policy Council Report and other publications that pertain specifically to the Target for Change that is being addressed. Thus, the Framework provides a practical guide to help direct Georgia’s plan to meet the policy goals and operational expectations of this Council. The Framework also frees state agencies to begin to focus immediately on implementation. Importantly, the Framework underscores the three overarching policy and practice considerations that must be in place to truly reform a returning citizen’s behavior: Transition Accountability Planning, Case Management, and Evidence-Based Practices.

²⁰ See Section V, Oversight and Accountability, for detail about the “Risk-Adjusted Recidivism Plan” and the intention to determine changes in the re-conviction and re-imprisonment rates for returning citizens that are stratified to allow analyses for differing rates based on level of risk. As a result, the risk levels of prisoners are expected to change over time and will be measured by a new “prison population risk tool” being developed.

²¹ Reentry Policy Council. *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community*. New York: Council of State Governments, January 2005.

²² Peggy Burke, *TPC Reentry Handbook: Implementing the NIC Transition from Prison to the Community Model*. Washington D.C.: U.S. Department of Justice. National Institute of Corrections, August 2008.

In addition to the oversight responsibilities of this Council, Georgia benefits from a wealth of technical assistance that was provided for the development and implementation of the GA-PRI Framework. These technical partners include the Vera Institute for Justice, the Council of State Governments, the Center for Justice Innovation, and Pew.

The Framework provides state agencies and local partners with the tools to move from planning to implementation and to accurately measure changes in recidivism. By moving reentry planning beyond high-level strategy to a focus on carefully scripted actions, the GA-PRI can quickly make Georgia a leader in recidivism reduction.

2014 Priorities for Prisoner Reentry Reform

The priorities for implementation of the GA-PRI Framework include an improved transition accountability planning process with each returning citizen, from the point of imprisonment through successful discharge from post-release community supervision,²³ with an emphasis on safe, affordable housing and employment.

This careful case planning will be driven by a validated, objective

GA Prisoner Reentry Initiative Framework

PHASE 1: GETTING READY

- 1. Assessment And Classification**
 - 1.1. Development of Intake Procedures
- 2. Returning Citizen Behavior And Programming**
 - 2.1. Development of Programming Plan
 - 2.2. Physical Health Care
 - 2.3. Mental Health Care
 - 2.4. Substance Abuse Treatment
 - 2.5. Children & Family Support
 - 2.6. Behaviors & Attitudes
 - 2.7. Education
 - 2.8. Technical Training
 - 2.9. Work Experience

PHASE 2: GOING HOME

- 3. Returning Citizen Release Preparation**
 - 3.1. Development of Parole & Reentry Plan (TAP2)
 - 3.2. Housing
 - 3.3. Continuity of Care Planning
 - 3.4. Working with Potential Employers
 - 3.5. Employment Upon Release
 - 3.6. Identification and Benefits
 - 3.7. Release Preparation for Families
 - 3.8. Release Preparation for Victims
- 4. Release Decision Making**
 - 4.1. Advising the Releasing Authority
 - 4.2. Release Decision

PHASE 3: STAYING HOME

- 5. Supervision And Services**
 - 5.1. Design of Supervision & Treatment Strategy (TAP3)
 - 5.2. Implementation of Supervision & Treatment Strategy
 - 5.3. Maintaining Continuity of Care and Housing
 - 5.4. Job Development and Supportive Employment
- 6. Revocation Decision Making**
 - 6.1. Graduated Responses
- 7. Discharge And Aftercare**
 - 7.1. Development of Discharge/Aftercare Plan (TAP4)

2014 PRIORITIES HIGHLIGHTED IN RED

²³ In Georgia, post-release community supervision includes parole supervision as well as for some cases, who have concurrent active cases, probation and parole supervision, and for some cases, who max-out from prison, probation supervision.

assessment of each returning prisoner's risks, needs and strengths.

Transition Accountability Planning

Transition Accountability Plans (TAP) are concise guides, driven by a validated assessment of risks, needs and strengths, that describe goals for each returning citizen's successful transition along with a corresponding schedule of actions for the returning citizen, prison staff, the releasing authority, community supervision staff, and partnering agencies. The TAP spans the phases of the transition process and agency boundaries to ensure continuity of services and supervision between prisons and community. Increased certainty will motivate returning citizens to participate in the TAP process and to become engaged in fulfilling their responsibilities, and will ensure that all parties are held accountable for timely performance of their respective responsibilities.

Goal: To establish the comprehensive and standardized use of assessment-driven TAPs at four critical points in the returning citizen transition process that succinctly describe for the returning citizen, the staff, and the community exactly what is expected for returning citizen success.

Policy Expectations: Prisoner reentry policies are defined as formal, written rules and agreements that define standard practices for agencies engaged in the transition process. Georgia's policies regarding the TAP process currently include or are expected to include, the following provisions:

- TAPs are driven by a validated risk, needs and strengths assessment instrument that is used at prison intake and at subsequent major decision points in the corrections/parole/post-release supervision process.
- As a result of these assessments, the TAPs consist of the returning citizen's Treatment Plan updated at critical junctures in the transition process and are prepared at prison intake, at the point of the parole decision, at the point of return to the community, and at the point of discharge from parole supervision.
- TAPs are a collaborative product involving prison staff, the returning citizen, the releasing authority, community supervision officers, human services providers (public and/or private), victims, and neighborhood and community organizations.
- The TAP policy clearly states that the objective of the TAP process is to increase both overall community protection by lowering risk to persons and property and by increasing each returning citizen's prospects for successful return to and self-sufficiency in the community.

Sustainable, Affordable and Safe Housing

Following incarceration, many returning citizens join the growing number of individuals in the general population struggling to obtain safe, stable and affordable housing. But former offenders face additional barriers in seeking access to the scarce housing options available. Court orders, state laws, local ordinances, and conditions of release often restrict the locations in which a returning citizen can seek housing. In the private rental market, many landlords are unwilling to rent to individuals with a criminal record. Due to exclusions in federal housing assistance policy and the broad discretion of local public housing authorities to add exclusions, individuals with a criminal history are not eligible for many forms of public housing assistance.

Although family is a key resource for many returning citizens, staying with relatives is not always an option. Some families are unwilling, perhaps as a result of prior criminal behavior, to welcome an individual back into the home. In other cases, families may not have the resources to support another unemployed family member or may be putting their own public housing assistance in jeopardy by opening their home to a relative with a criminal record.

Given such barriers, it is not surprising that incarceration puts returning prisoners at a greater risk for homelessness. A certain proportion of incoming prisoners were homeless before their incarceration, and at least as many end up homeless for some period of time after leaving prison. For those with histories of mental illness, the likelihood is still greater. Nationally, surveys of homeless assistance providers and individuals who use their services have found that about 54 percent of currently homeless clients had been in jail or prison at some point in their lives.²⁴ The consequences of insufficient housing extend beyond the prisoner. Research indicates that parolees without stable housing may face a higher risk of parole failure, whether through re-arrest for a new crime or failure to meet basic parole requirements. Studies indicate that the likelihood of arrest increases 25 percent each time a parolee changes address.²⁵

Goal: To facilitate access to stable housing upon re-entry into the community.²⁶

Policy Expectations: Formal written rules and agreements defining the standard practice for agencies engaged in improving access to stable housing should include the following provisions:

- Facility staff, parole and probation staff, and community-based transition planners work with returning citizens to assess individual housing needs and identify the appropriate housing option for each incarcerated individual well before release. The housing planning

²⁴ M.R. Burt, Y.A. Laudan, T. Douglas, J. Valente, E. Lee, and B. Iwen, *Homelessness: Programs and the People They Serve: Findings From the National Survey of Homeless Assistance Providers and Clients* (Washington, DC: U.S. Department of Housing and Urban Development, 1999).

²⁵ Tammy Meredith, John Speir, Sharon Johnson, and Heather Hull, *Enhancing Parole Decision-Making Through the Automation of Risk Assessment*, (Atlanta, GA: Applied Research Services, Inc., 2003).

²⁶ Report of the ReEntry Policy Council, pgs. 256-281

process includes an assessment of the feasibility, safety and appropriateness of an individual living with family members after his or her release from prison.

- A full range of housing options (i.e. supportive housing, transitional housing, affordable private rental housing) will be accessed to accommodate individuals returning to the community.
- In order to make certain that returning citizens are not discharged from prison into homelessness, individuals leaving prison without a documented housing plan and those with histories of homelessness are included among the homeless priority population, in order to facilitate their access to supportive housing and other housing services.
- Returning citizens receive information and training on strategies for finding/maintaining housing and their legal rights as tenants.

Job Development and Supportive Employment

Research has consistently shown that offenders who find stable employment soon after release from incarceration are less likely to recidivate.²⁷ Employment not only provides the income needed to meet basic needs but also provides the means to become a productive member of the community.

“Supporting the transition and reentry for those who have been in prison is an undertaking that government alone can’t do.”

***Governor Nathan Deal
Atlanta Rotary Club, December 16, 2013***

However, among job seekers, individuals with criminal records, particularly those recently released from incarceration, face unique hurdles. Compared to the general population, returning offenders tend to have less work experience, less education, and fewer marketable skills.²⁸ They frequently return to communities already hit hard by unemployment, where job prospects and access to employment services are limited and contact with a social network that can provide job leads is rare.²⁹ Furthermore, the stigma of a criminal record, spotty work histories, low education and skill levels, and physical and mental health problems take many jobs out of reach for returning offenders.³⁰

²⁷ For example, see: Miles D. Harer, *Recidivism of Federal Prisoners Released in 1987*, (Federal Bureau of Prisons, Office of Research and Evaluation: Washington, D.C, 1994); Mark W. Lipsey, *What Works: Reducing Reoffending*, (West Sussex, U.K.: Wiley, 1995); Robert J. Sampson and John H. Laub, “A Life Course Theory of Cumulative Disadvantage and the Stability of Delinquency,” Terence P. Thornberry (ed.) *Developmental Theories of Crime and Delinquency, Advances in Criminological Theory, Volume 7*, (New Brunswick, NJ: Transaction, 1997, p 133 – 161); and Christopher Uggen, “Work as a Turning Point in the Life Course of Criminals: A Duration Model of Age, Employment and Recidivism.” *American Sociological Review* 67 (2000) 529-546.

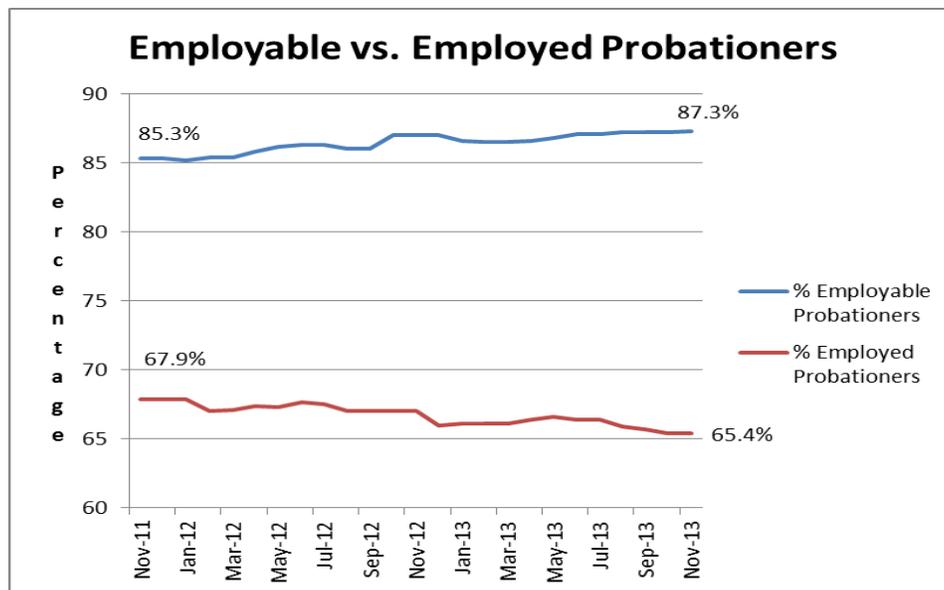
²⁸ Abigail Coppock, “Transitional jobs: Overcoming barriers to employment” *Advocates Forum* (2007) 34-48.

²⁹ *Report of the ReEntry Policy Council*, pgs. 306-316; 383-389.

³⁰ Harry J. Holzer, Steven Raphael, and Michael A. Stoll, “Employment Barriers Facing Ex-Offenders” (paper presented at The Urban Institute’s Reentry Roundtable, Washington, DC, May 19–20, 2003).

Many former offenders also lack necessary identification documents, access to transportation, and childcare for dependent children. To a lesser extent, many recently released prisoners have unstable housing situations that may prevent access to employment. Restrictions on the type of employment a former prisoner may obtain, and practices of parole or probation agencies may pose additional obstacles to obtaining and holding a job for those under supervision.

Predetermined reporting requirements and supervision fees may be particularly burdensome. Estimates show that the proportion of prisoners who have a job secured before release ranges among states from 14 percent to just under 50 percent.³¹ For those lacking employment upon release, job placement organizations can play a key role. Transitional employment can provide released prisoners with access to income, structure, and additional supervision to assist in the transition from custody to freedom.



Goals: To recognize and address the obstacles that make it difficult for a returning citizen to obtain and retain viable employment while under community supervision; and to connect returning citizens to employment, including supportive employment and employment services, before their release to the community.

Policy Expectations: Formal written rules and agreements that define the standard practice for agencies engaged in improving employment outcomes among returning citizens are expected to include the following provisions:

³¹ Christy Visher, Nancy G. La Vigne, and Jill Farrell, *Illinois Prisoners' Reflections on Returning Home* (Washington DC: The Urban Institute, 2003) and Steven Steurer, Linda Smith, and Alice Tracy, *Three-State Recidivism Study* (Lanham, MD: Correctional Educational Association, 2001).

- Supportive transitional employment programs are supported and promoted across agencies.
- Staff charged with community supervision work towards sustainable employment for returning citizens.
- Work-release programs are available as a transition between work inside a correctional facility and work after release into the community.
- Community members and community-based services act as intermediaries between employers and job-seeking individuals who have been incarcerated.
- Returning citizens receive written information about prospective employers in their community and/or community employment service providers well in advance of the anticipated release date.
- Prior to discharge, returning citizens receive official documentation of treatment plan completion and any training received while incarcerated.

The GA-PRI Framework Development Process

The GA-PRI is a state/local partnership led by this Council and managed by the Governor's Office of Transition, Support and Reentry (GOTSR). In 2013, the initial phase of work on the Initiative involved a core team of state agency representatives from the Office of the Governor, the Governor's Office of Planning and Budget, the Georgia Department of Corrections, the State Board of Pardons and Paroles, the Georgia Department of Juvenile Justice, the Georgia Department of Behavioral Health and Developmental Disabilities, the Georgia Department of Community Health, the Georgia Department of Human Services, the Technical College System of Georgia, the Governor's Office of Workforce Development, and the Georgia Department of Labor. This core team, the GA-PRI Implementation Steering Team (IST), is chaired by Jay Neal, executive director of GOTSR, whose office provides staff support. The IST reports to this Council.

Now that this Council has adopted the Framework as the roadmap for the Reentry Initiative, the IST will expand to include community representatives, particularly from human services organizations, non-profit institutions and faith-based partners. These additions will enhance the team's perspective and help it expand and become firmly established statewide. For practical purposes, the Framework should be viewed as a *preliminary* plan that will be strengthened dramatically through full community engagement.

In order to build collaboration and progress toward full-scale, statewide implementation, this Council, the IST and the GOTSR will continue to identify critical barriers to the successful reintegration of Georgia's returning citizens. In the short term, our goals are to:

- Identify barriers in each state department or agency that may hinder the successful transition of offenders returning to communities, and develop and implement policies, procedures, and programs to overcome such barriers.
- Identify methods to improve collaboration and coordination of offender transition services, including cross-training, information-sharing systems, and policies, procedures, and programs that measure offender reentry management with well-defined, performance-based outcomes.
- Consult with local agencies, organizations, and community leaders with expertise in the areas of prison facilities, parole decision-making, reentry, and community supervision to collaborate on offender transition issues and ways of improving operations.
- Consult with representatives from professional associations, volunteer and faith-based organizations, and local treatment and rehabilitation agencies to collaborate on offender transition issues and ways of improving operations.
- Provide recommendations to the Governor as to how the Governor and other state departments and agencies may assist this Council in overcoming the barriers it has identified to the successful transition and reintegration of offenders returning to communities.
- Provide recommendations to the Governor on how state laws and sentencing guidelines may be improved in order to contribute to the successful transition and reintegration of offenders into society and reduce recidivism.

2014 Policy Recommendations

In addition to adopting the Framework, establishing the IST and supporting its early work, this Council has identified barriers to reentry and developed policy recommendations to overcome these barriers. These recommendations fit squarely within the Framework and this Council recognizes that full implementation of the Framework will generate additional policy reforms Council members will consider in the coming years. Keeping with the tradition of this Council, all of these recommendations are consensus-based and passed the Council unanimously. The Council's recommendations respectfully submitted for the General Assembly's and the Governor's consideration are outlined below.

Transition Accountability Planning

Creating a four-step Transition Accountability Planning System (TAP)

- **Barriers:** The IST identified over 30 barriers to instituting a comprehensive Transition Accountability Planning system, including the breadth and depth of the assessments that are completed throughout the justice process, how information is collected, stored and shared, and the range of services and programs that are available to respond to prisoners' and returning citizens' individual and family needs.

- **Recommendation:** Direct the IST to create a Plan of Action for each barrier to determine *who* will do *what* and *when* in order to eliminate the barrier.

Housing and Support for Returning Citizens

Regional Housing Coordinators

- **Barrier:** While the shortage of affordable housing is a common problem for people who lack financial resources, the dilemma is more challenging for people with conviction records, both in the private housing market and in public and Section 8-supported housing. Even if they are eligible, many returning offenders are unaware of the housing options available to them in their community.
- **Recommendation:** Create five Reentry Housing Coordinator positions under the direction and programmatic control of the Governor's Reentry Office to assist offenders in securing housing in partnership with Community Impact Programs (CIP). The five CIPs in Georgia (Atlanta, Macon, Savannah, Columbus, and Augusta) partner with local law enforcement and community stakeholders to help offenders reenter society through assistance with housing, employment, substance abuse treatment, mental health care, education, and life skills. Each of the five Reentry Housing Coordinators will work in one of the CIPs to help high-risk offenders and offenders with special needs find housing, as these groups are often the most challenging to place.

Supportive Housing Development

- **Barrier:** The Federal Low Income Housing Tax Credit (LIHTC) program is administered by the Department of Community Affairs through an annual Qualified Application Plan (QAP). Developers apply to DCA under the QAP for the right to sell the federal income tax credits to finance the development of their new affordable housing projects. The QAP governs the competition between developers and contains the state priorities for the type, location and quality of the housing as well as providing specific rules for the competition. The competition is based on points that the state allocates based on its affordable housing priorities. Currently, developers who agree to include supportive housing in their projects are eligible for up to six points in the competition, but inclusion of supportive housing in an application is appropriately the choice of the applicant/developer. If the applicant/developer chooses to take the points for supportive housing, there is currently no responsibility to provide the services.
- **Recommendation:** Include language in the QAP that requires the applicant/developer to provide evidence of a memorandum of agreement with a Community Service Board or private provider before a developer is eligible for supportive housing points. In addition, require the Department of Community

Affairs to monitor the applicant/developers to ensure that the supportive housing units they have committed to provide in their application under the QAP are appropriately implemented.

Access to Food Stamps

- **Barrier:** The federal welfare law imposes a lifetime ban on anyone convicted of a drug-related felony from receiving federally funded food stamps and cash assistance (Temporary Assistance to Needy Families, or TANF). The law gives states the option of passing legislation to limit the ban or eliminate it altogether.
- **Recommendation:** If the General Assembly chooses to enact a comprehensive reform of food stamps and TANF in Georgia, including, but not limited to, more vigorous enforcement against fraud, abuse and waste it should consider lifting the lifetime ban on food stamps and cash assistance for ex-offenders who have received and continue to hold a certificate of program completion issued by the Department of Corrections (see below) and systematically demonstrate successful compliance with probation or parole supervision. An appropriate method for monitoring compliance must be available so that probation and parole officers can temporarily reinstate the ban for offenders who violate conditions until it is permanently reinstated by a judge or the State Board of Pardons and Paroles during a revocation proceeding.

Employment for Returning Citizens

Driver's License Suspensions for Controlled Substances Violations

- **Barrier:** Current Georgia law requires a six-month suspension of a drug offender's driver's license upon conviction of *any* violation of the Georgia Controlled Substances Act, without regard to whether the offense was related to the operation of a vehicle.³²
- **Recommendation:** Authorize a modification, at the judge's discretion, of the automatic driver's license suspension for minor drug offenses when the offense is not directly related to the operation of a vehicle. Any exemption from the automatic suspension rule by the judge must be conditioned upon the successful participation in and completion of any and all treatment and programs required of the offender while incarcerated or on probation/parole. Restoring the offender's driver's license shall be an *earned* benefit.

“Ban the Box”

- **Barrier:** Prospective employees of the State of Georgia are required to disclose convictions on their initial employment applications. This practice may exclude a

³² O.C.G.A. § 40-5-75.

returning citizen from consideration, even if he or she is otherwise qualified for the position and the conviction has little or no bearing on the work to be performed.

- **Recommendation:** Require the state to “ban the box” on appropriate employment applications and instead require that the applicant disclose any criminal history during a face-to-face interview with the employing agency. Applications for positions in which a criminal history would be an immediate disqualification (i.e. public safety jobs or highly sensitive governmental positions) would continue to require the initial disclosure.³³

“If they can find employment, if they can find a place to live, I believe many of them will work hard to earn their place in society.”

Governor Nathan Deal
Addressing the Atlanta Press Club, April 30, 2013

Criminal Histories/Records

- **Barrier:** HB 1176 (2012) and HB 349 (2013) included provisions related to the restrictions of certain criminal histories. This Council appreciates the need to balance an employer’s right to know about the background of potential employees against the potential employee’s right to receive the appropriate protection already accorded to them by state law.
- **Recommendation:** Develop procedures through which an individual can demand that a Consumer Reporting Agency³⁴ correct any report containing any aspect of that person’s criminal history which is inaccurate or does not appropriately restrict information as required by existing state law. In addition, create a private cause of action with treble damages against Consumer Reporting Agencies if said reports are published by the agency and do not reflect the demanded corrections. This Council further recommends that the General Assembly clarify the venue provisions for this new cause of action, as a long-arm statute may be appropriate.

Liability Protection for Employers

- **Barrier:** Employers may be subject to civil liability for failing to exercise ordinary care in hiring and retaining employees. They can be found liable for negligent hiring or retention if they knew or should have known of an employee’s dangerous or criminal propensities.³⁵

³³ Ten states and more than 50 local jurisdictions across the U.S. – including Atlanta – have adopted “ban the box” in the past nine years. Most of these (including Atlanta) only regulate public employers.

³⁴ Consumer Reporting Agencies are private companies that collect criminal history and other background information on individual consumers for employers, housing providers and a variety of other authorized uses.

³⁵ O.C.G.A. § 34-7-20; Munroe v. Universal Health Servs., Inc., 596 S.E.2d 604, 606 (Ga. 2004).

- **Recommendation:** Require that the Georgia Department of Corrections issue appropriate offenders a certificate that certifies the completion of any required treatment plan and any vocational training while that offender was incarcerated and compliance with any reentry plan while that offender is on probation/parole. The Department shall promulgate rules and regulations governing the issuance of these certificates and a procedure whereby they can be revoked and appropriate notice of revocation is provided.
 - ✓ **Option 1:** For the offenses within the scope of an aforementioned certificate issued by the Department of Corrections, the existence of the certificate shall create a rebuttable presumption of the exercise of due care to protect employers or other institutions in all negligence suits related to the employment of, provision of housing to or admission to educational programs for an ex-offender to whom the certificate was issued, so long as the employer or institution knew of the certificate at the time of the allegedly negligent act and included it in the ex-offender's records.
 - ✓ **Option 2:** For those offenses within the scope of an aforementioned certificate issued by the Department of Corrections, the existence of the certificate shall provide immunity in any action against an employer or institution alleging lack of due care in hiring, retaining, leasing to, or admitting to a school or program with respect to the ex-offender to whom the certificate was issued, so long as the employer or institution knew of the certificate at the time of the allegedly negligent act and included it in the ex-offender's records. The certificate would have no impact on other negligence suits.³⁶

³⁶ *North Carolina:* In a negligence action, a Certificate of Relief is a bar to any action alleging lack of due care in hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business or engaging in activity with the individual to whom the Certificate of Relief was issued, if the person against whom suit is brought knew of the Certificate of Relief at the time of the alleged negligence. (N.C. Gen. Stat. § 15A-173.5)

Ohio: A Certificate of Qualification for Employment provides immunity for employers from negligent hiring liability based on their hiring an individual with a criminal record when they know they are hiring an individual to whom a certificate has been issued. The certificate is available to an individual either six months or one year after completing his or her sentence, depending on the offense, based on certain specified factors. (ORC Ann. 2953.25).

IV. Civil Forfeiture Reform

While reentry accounted for the bulk of this Council's attention in 2013, Governor Deal also asked members to examine Georgia's civil asset forfeiture laws and reach consensus on policy proposals to improve transparency and accountability. The Governor's directive followed reports that some public officials have recently come under scrutiny for their use of forfeiture funds under their control.^{37 38}

Civil forfeiture reform has received increasing attention nationwide in recent years. The Virginia-based Institute for Justice, in particular, has championed stricter seizure rules for law enforcement, including a requirement that a person be convicted of a crime before any assets must be forfeited.³⁹ On the legislative front, lawmakers have pushed for reform in Michigan, Minnesota, Tennessee, and Texas, among other states.

In Georgia, no single agency tracks how much property is seized and how the proceeds are spent. Police and sheriffs departments are required to file yearly reports on their seizures and spending of assets, but only a fraction of Georgia's 159 counties have consistently posted such reports and there is no penalty for failure to comply. There is no legal requirement for district attorneys to post their records.

Under current state law, Georgia law enforcement officials can seize property that they believe was either used in the commission of a crime or was acquired through crime, including cars, homes and cash. Law enforcement must show probable cause to believe that property was crime-related to justify its confiscation.

Civil forfeiture reform was a top issue during the 2013 session of the Georgia General Assembly. HB 1, introduced by Judiciary Chairman Rep. Wendell Willard (R-Sandy Springs), sought a substantial overhaul of the forfeiture system, including limits on the authority of sheriffs and district attorneys to seize and spend assets. In addition, the bill would have raised the level of proof required before government could seize property, establishing a standard of clear and convincing evidence as opposed to probable cause. The measure also would have forced law enforcement officials to make greater efforts to notify owners when property was seized. After large protests, HB 1 failed to reach a vote in the House. However, the legislation is likely to return in the 2014 session.

Responding to Governor Deal's request, this Council formed a sub-committee to examine the state's civil forfeiture statutes and recommend reform. The Council approved four preliminary

³⁷ Willoughby Mariano, *GBI to Examine Fulton DA's Forfeiture Spending*, The Atlanta Journal-Constitution (June 17, 2013).

³⁸ Greg Bluestein and Willoughby Mariano, *Stricter Rules for Forfeiture Funds Gain Political Momentum*, The Atlanta Journal-Constitution (June 23, 2013).

³⁹ Institute for Justice, Arlington, VA, <http://www.ij.org/executive-summary-2>

recommendations, listed below. They are hereby submitted to the Legislature in the spirit of providing proposals that have received broad support from stakeholders.

Recommendation 1: Standardize the procedure to be used in all forfeiture cases. Currently, Georgia has 34 different forfeiture statutes. Fourteen different procedures are used under those laws, while three provide no procedure at all. Standardizing the procedure would expedite the return of property to innocent owners while also accelerating the forfeiture process for property that has been properly seized.

Recommendation 2: While leaving the “law enforcement” purpose for the use of forfeiture funds the same, require the adoption of statewide rules related to the specific expenditures of the funds. A consistent set of clearly stated rules would eliminate guesswork about what is and what is not an appropriate expenditure of seized assets. The Peace Officer Standards and Training Council (P.O.S.T.) should adopt and promulgate the rules for law enforcement. The Prosecuting Attorneys’ Council of Georgia (PAC) should adopt and promulgate the rules for prosecutors.

Recommendation 3: Require the standardization and improvement of the state’s forfeiture reporting requirements. All agencies should be required to submit a report to the Georgia Department of Audits and Accounts on an annual basis, even if no forfeitures or expenditures are listed for that particular year. These annual reports should be filed in addition to any documents required under local reporting requirements. To ensure consistency, each report should include information specified under rules promulgated by P.O.S.T. and PAC. The requirement of an annual report would provide for greater transparency and accountability.

Recommendation 4: Protect innocent owners by requiring an expedited judicial process for recovery of improperly forfeited property. Every claim by a property owner is entitled to a determination on its merits and shall not be rejected on technicalities alone. To ensure fairness, state law should require that the judicial proceeding occur within a reasonable timeframe. If necessary to meet deadlines, other classes of courts should be authorized to hear forfeiture cases.

V. Oversight and Implementation

In its 2012 report to the Legislature, the Council recommended ongoing oversight of criminal justice reforms to ensure long-term success and sustainability. Governor Deal and his appointees to this Council fully endorse that message. Clear, detailed performance measures are essential to help Georgia carry out these fundamental changes and enjoy the public safety and fiscal dividends at the end of the rainbow.

With that in mind, this Council directed its Oversight and Implementation Committee to develop a comprehensive list of performance measures to track the progress of reforms and ensure accountability. The measures will help the Governor, Legislature and the courts assess how well reforms are implemented and highlight areas where improvements are needed.

Performance Measures

In both the criminal and juvenile justice reform efforts of 2012 and 2013, the Council articulated two broad goals: (1) concentrate prison and secure juvenile confinement beds on serious, chronic and violent offenders (or, in the parlance of the profession, “use the hard beds for the hard offenders”); and (2) reduce the recidivism rate. With assistance from the Georgia Department of Corrections, Administrative Office of the Courts, State Board of Pardons and Paroles, Department of Juvenile Justice and Governor’s Office of Children and Families, this Council has developed measures to provide a deeper understanding of outcomes in these two critical areas. The Vera Institute of Justice, the Annie E. Casey Foundation and Pew provided help with this project as part of the Justice Reinvestment Initiative, a federal program of the U.S. Department of Justice’s Bureau of Justice Assistance.

The performance measures include both general and specific indicators. The general indicators evaluate whether the overall purpose of the reforms is being achieved, while the specific indicators monitor the status of individual provisions and programs. Each indicator requires that certain measures be tracked from the outset, including baseline measures, to reveal both intended and unintended impacts over time. If the reforms are not meeting their intended goals, the findings can be traced to a specific measure so that the oversight organization can isolate what requires attention. The outcomes will be included in progress reports to the Oversight and Implementation Committee.

Stakeholders were engaged in the development of the performance measures and helped identify expected impacts. Participating in this process allowed stakeholders to better understand the expectations and their continued roles in the implementation of reforms.

Measures of Prison/Juvenile Facility Populations

The 2012 and 2013 reforms each contained a variety of statutory and programmatic changes designed to ensure that the most expensive correctional resources – prisons and secure juvenile beds – are focused on serious, chronic and violent offenders. HB 1176, for example, increased prison terms for certain offenders while diverting many lower-level property and drug offenders to drug courts and alternatives. The juvenile reforms split the list of designated felony offenses in two, allowing longer commitments for higher-risk youth, and created an incentive funding grant program to encourage counties to keep minor offenders in their homes and engaged in community-based programs proven to reduce recidivism.

This Council created performance measures that will capture the extent to which these multiple provisions are, together, achieving the intended results. Traditionally, the composition of the adult inmate population has been measured and discussed solely in terms of the percentage of inmates whose current commitment offense is violent. The state's recent reforms reflect a more nuanced understanding of offender behavior and appropriate sanctions that go beyond current offense to include prior criminal/delinquent history and risk level. For example, an offender might not have been sentenced to prison for a violent offense but may have several prior violent-crime convictions. Conversely, an inmate may have committed a violent offense but have no prior record and be at low risk of recidivism.

The measures will combine the offense and risk information to paint a more accurate picture of whether the reforms are creating the intended effects and how incarcerated populations are changing over time. Ultimately, the measures will help the state understand whether the “hard” offenders are in the state's hard beds.

Measures of Recidivism

Several of the 2012 and 2013 reforms were aimed at reducing the rate at which offenders return to the system. The adult system changes, for example, expanded authority to use electronic monitoring and reinvested more than \$17 million in prison savings into residential substance abuse treatment programs and accountability courts. The juvenile legislation required the DJJ to include evidence-based programs in its continuum of services and authorized the placement of more lower-risk juveniles on administrative caseloads, allowing probation officers to concentrate efforts on youth requiring more intensive supervision. The recommendations in this year's Council report build on these reforms and will further reduce the recidivism rate.

To understand whether these efforts are working, the state must adopt more detailed measures of recidivism. The reforms are expected to change the composition of the prison population; this, in turn, will influence recidivism rates. Thus, to most effectively use recidivism as a performance measure, the Oversight Committee must be sure any evaluation accounts for changes in the incarcerated population. One way to achieve this goal is to account for the risk-level of both

incarcerated and released offenders, and to stratify recidivism rates by both risk level and supervision type to assess reform impacts in a more sophisticated way.

To accomplish that, this Council is constructing a more robust set of recidivism measures to ensure that the state can evaluate actual trends in recidivism. These measures will help assess whether policies, practices and programs are effective and identify areas for improvement.

In the adult system, recidivism measures will include:

- Reconviction of former prisoners.
- Return to prison at 6-month intervals for 6 years following release (current practice) for either a new crime or for a technical violation of post-release supervision.
- Whether the return to prison was for a new conviction (by offense category); new arrest (by offense category); or a violation of the terms of supervision (technical violation).
- Adjustment or stratification of reported recidivism rates by offender risk levels, using the Next Generation Assessment (NGA) tool under development and measuring risk level at the time of placement.

Similar measures will be used in the juvenile system:

- The state will maintain the current recidivism definition: a new offense that results in adjudication in juvenile or adult court within 3 years post-release from placement.
- Risk-adjusted recidivism rates will be calculated based on the new Pre-Dispositional Risk Assessment (PDRA).
- Once that tool is finalized, it will be applied retroactively to create a trend line. One challenge will be obtaining PDRA scores for youth probated in independent counties that are not receiving state grant funds, as these counties are not required to administer PDRA's or enter information into the state's juvenile information system.

Specific Measures

Please see the **Appendix** of this report to view tables outlining the performance measures guiding oversight of the adult and juvenile reforms. Council members approved the measures at their final meeting of 2013.

Additional Recommendations for Reform

To complement the landmark laws passed by the General Assembly in 2012 and 2013, Governor Deal and this Council recommend several other actions that will enhance the earlier reform efforts and bring continued improvements to the adult and juvenile correctional systems. Detailed below, these measures remain faithful to this Council's goals of controlling spending, promoting public safety and improving outcomes for offenders.

For the adult system, minor tweaks are needed to cement the policies set forth in HB 1176 and HB 349 regarding clarity of language and the parole eligibility of certain drug offenders. Specifically, Council members recommend passage of a clean-up bill to clarify the definition of the term “solid substance” from HB 1176 and make clear the ability of persons convicted of trafficking drugs to be eligible for parole when the person is not eligible for the reduced sentencing created by HB 349.

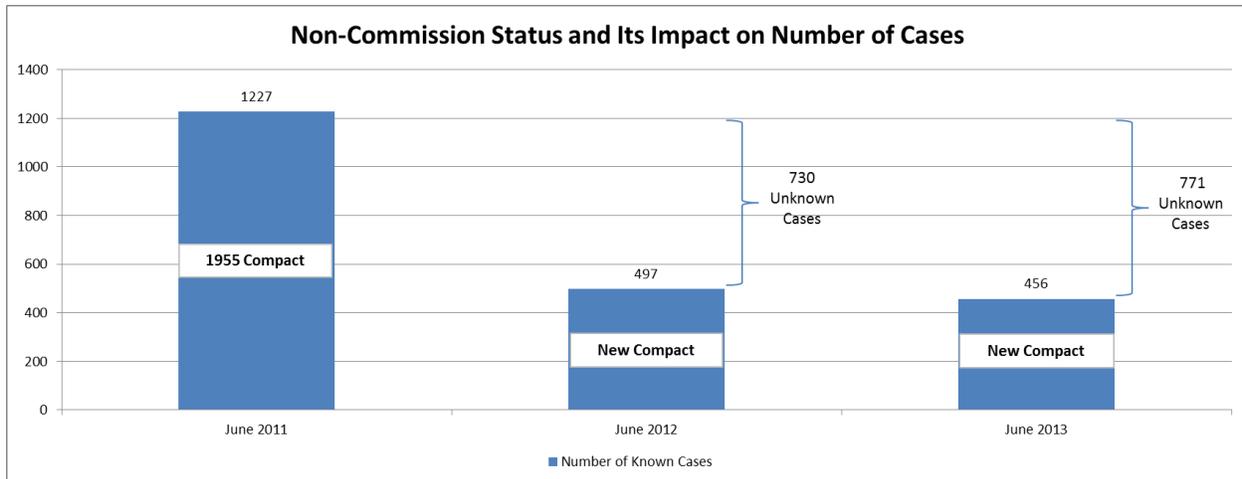
On the juvenile side, HB 242 entirely rewrote the Georgia Juvenile Code. While the concept and wording of the sweeping bill evolved over many years and incorporated recommendations of the Council, the interim allowed time for judges, attorneys, and interested parties to more fully review the bill. As a result, this Council suggests revising the law to:

- Correct terminology, grammatical mistakes, and cross-references;
- Better align Georgia law with relevant federal law; and
- Improve consistency of language within the Juvenile Code.

Interstate Compact for Juveniles

Youth and juveniles under correctional supervision will occasionally run away, abscond or move across state lines in some permissible way. Handling the movement of juveniles across state lines can be costly and burdensome, and can also create confusion about which state bears the financial burden of continued supervision and which state is responsible for the safe return of youth. The Interstate Compact for Juveniles is a formal agreement among states defining responsibility or the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and in so doing, have endangered their own safety and the safety of others. Member states formally recognize that each is responsible for the safe return of juveniles who have impermissibly left their state of residence. Currently, Georgia is the only nonmember.

Georgia, which was a member of the original 1955 interstate compact, saw a dramatic decrease in compact cases from June 2011 to June 2012 due to its sudden Non-Compact Status, when it did not join the new compact in 2010. As a result, at this time, Georgia is no longer being notified of incoming youth from Compact member states, presenting potential public safety risks as well as increasing costs to Georgia’s juvenile justice system in the form of new commitments. Additionally, Georgia, while being financially responsible for the safe return of its own runaway youth, is finding it increasingly difficult to force Compact member states to bear the financial burden for the safe return of their youth.



Unknown cases in the above graph illustrate that more than 700 unknown juvenile offenders were in Georgia annually due to the state’s Non-Compact Status without any notice given to DJJ regarding their criminal background. Therefore, the Department was not able to notify local authorities or provide appropriate supervision.

Goal: To enhance public safety through collaborative supervision in the United States to prevent new crimes from being committed in Georgia by non-Georgia juveniles. In addition, the goal is to provide for the safe return of absconded or runaway youth to their home state.

Policy Recommendation: This Council recommends that Georgia enact legislation to join the Interstate Compact for Juveniles. The Council expects Compact membership would:

- Ensure that adjudicated juveniles and status offenders subject to the Compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state.
- Ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected.
- Lead to the return of juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return.
- Provide for the effective tracking and supervision of juveniles.
- Establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments or any other criminal or juvenile justice agency with jurisdiction over juvenile offenders.
- Equitably allocate the costs, benefits and obligations of the Compact member states.

Title IV-E and Georgia Youth

Title IV-E of the Social Security Act provides federal matching funds to help states pay for youth involved in the child welfare system who are out-of-home, or are at-risk of being placed out-of-home, and who meet eligibility requirements. The federal assistance pays part of the cost of maintenance for the youth out-of-home as well as administration and training costs. In 2005, 32 states reported that they utilized Title IV-E funds to support out-of-home placements for eligible youth in their juvenile justice systems.

Federal regulations require the following judicial determinations be met to claim Title IV-E funding:

- Placement and care responsibility must be given to the Department of Juvenile Justice in the first court order removing the child from the home.
- The first court order that authorizes removal from the home must provide detailed and child-specific best interest/contrary to the welfare language.
- The Court must certify that reasonable efforts were made to avoid the youth's removal from the home within 60 days.

If the "contrary to the welfare" and "reasonable efforts" language were included in delinquency court orders for Department of Juvenile Justice (DJJ) youth, DJJ would have claimed an additional \$4.2 million for FY 2012 and FY 2013 (an average of 44 youth per quarter). The 2012 Special Council directed DJJ to examine the possibility and cost-effectiveness of claiming Title IV-E funding for eligible youth. DJJ estimates an increase of \$2 million a year in additional federal reimbursement based on last year's data of Title IV-E eligible DJJ youth without the required Title IV-E language in their court orders.

To realize these additional funds, DJJ will do the following:

- Conduct training to encourage judges to include a "contrary to the welfare" finding in detention orders.
- Develop agency policy to ensure case plans include required Title IV-E elements as well as a process to implement and guide periodic six-month case plan reviews. These reviews will be conducted by an administrative panel, include the parent or caretaker, and also include an individual not directly involved with the youth under review, as required by federal Title IV-E regulations.
- Establish, by July 1, 2014, a process for transmitting the required case management and demographic data on Title IV-E-eligible DJJ youth to the federal oversight agency. DJJ will accomplish this either via a vendor that will collect and manage this data or by utilizing existing DJJ/Department of Family

and Children Services (DFCS) eligibility staff to enter the required data into the existing DFCS system (“SHINES”).

In addition to these actions by DJJ, O.C.G.A. § 15-11-600 must be changed to provide juvenile judges with guidance to include the necessary Title IV-E language regarding reasonable efforts made to prevent removal from the home in the disposition order. This Council recommends that the General Assembly make the required legislative change.

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Mike Cuccaro, Assistant Director

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APPENDIX: PERFORMANCE MEASURE TABLES

Adult System Performance Measures

Policy Area	Policy Goal(s)	System Measures	Performance Measures
Changes to criminal statutes	Focus prison beds on most serious offenders	<ul style="list-style-type: none"> Prison population composition measures (including offense and risk levels, under development) 	<ul style="list-style-type: none"> For each of the affected offenses, the number of inmates for whom that offense is the most serious offense of conviction
Accountability Courts (AOC)	<ul style="list-style-type: none"> Sentencing alternatives Reduce recidivism Fiscal savings 	<ul style="list-style-type: none"> The number of active participants, graduates and terminations from accountability courts Grant-funded courts opened and closed Graduates' recidivism rate (by risk) 	<ul style="list-style-type: none"> Accountability courts certifications The number reviewed and accepted into accountability courts Participants' risk assessment levels Reasons for participant terminations Employment rate of participants
Implement Evidence Based Practices (GDC)	<ul style="list-style-type: none"> Reduce recidivism Address criminogenic risks and needs. Successful completions of parole and probation 	<ul style="list-style-type: none"> The number of people who complete probation and parole supervision successfully The number of probation or parole violations (technical or new crime) The recidivism rate of people leaving prison and probationers, adjusted for risk 	<ul style="list-style-type: none"> The risk assessment levels of probationers The risk assessment levels of prisoners The number of people completing in-prison programming Changes in risk levels of program participants Admissions and wait lists for PDCs Admissions and wait lists for RSATs Admissions to DRCs. The number assigned to PRCC
Electronic Sentencing Packets (GDC and AOC)	<ul style="list-style-type: none"> Reduce time in jail awaiting transfer to prison 	<ul style="list-style-type: none"> The number of people in jail awaiting transfer to prison 	<ul style="list-style-type: none"> The number of electronic sentencing packets received Days between transfer of sentence to state and prison transfer
Graduated Sanctions (GDC)	<ul style="list-style-type: none"> Incentivize compliance with supervision. Focus resources on high-risk offenders. Consistency of sanctions across officers/regions. Judicial efficiency 	<ul style="list-style-type: none"> Violations of conditions of supervision, either technical or new crimes. The number of people who complete supervision successfully The recidivism rate of POM offenders 	<ul style="list-style-type: none"> Courts using POM Cases sentenced to POM Cases diverted from court calendars The number and type of positive responses
Probation Detention Centers (GDC)	Reduce time in jail before transfer to PDC in a manner that improves public safety	<ul style="list-style-type: none"> Violations of conditions of supervision, either technical or new crimes. The number of people who complete supervision successfully The recidivism rate of PDC participants 	<ul style="list-style-type: none"> The number admitted and released from PDC The average LOS at PDC The number awaiting transfer from jail to PDC Average LOS in jail awaiting transfer to PDC

Juvenile System Performance Measures

RECOMMENDATIONS	PRIORITIZED OUTCOMES FOR STAKEHOLDER REVIEW	PERFORMANCE MEASURES
1. <i>Create 2 class DF system</i>	<ol style="list-style-type: none"> 1. A proportion Class B DFs are expected to be placed in NSRs or the community (based on risk profile) – <i>expect to see results within first 12 months post-HB 242 effective date (1/1/15)</i> 2. Both classes of DFs are expected to have lower average LOS because of the removal of mandatory minimum commitment time and the cap on class B dispositions; class B DFs are expected to have lower average LOS than Class A – <i>expect to see results after 18 months post-HB 242 effective date (7/1/15)</i> 3. There should be a reduction in the backlog of youth awaiting placements in YDC – <i>expect to see results within first 12 months post-HB 242 effective date (1/1/15)¹</i> 	<ol style="list-style-type: none"> 1. Restrictive custody orders for Class A and Class B DFs (by risk level) 2. Length of stay on disposition for Class A and Class B DFs (by risk level) 3. Backlog in RYDC awaiting placement in YDC
2. <i>No status or misdemeanor offenders (with exceptions) disposed to out-of-home</i>	<ol style="list-style-type: none"> 4. Felons & qualifying misdemeanants should be only out-of-home placements (DJJ commitments and STP dispositions) – <i>expect to see results within first 3-6 months post-legislative effective date (4/1/14-7/1/14)</i> 	<ol style="list-style-type: none"> 4. The percentage and number of youth in qualifying and non-qualifying offense categories going to out-of-home and community placements (identify total reduction in non-qualifying/status commitments)
3. <i>Performance Incentive Structure</i>	<ol style="list-style-type: none"> 5. For counties participating in fiscal incentive program, felony DJJ commitments and STP dispositions are expected to decline – <i>expect to see results within first 8 months post-RFP start date (9/1/14)</i> 	<ol style="list-style-type: none"> 5. Felony commitments and STP dispositions in all counties
4. <i>A: Assessment for detention</i> <i>B: Assessment for risk</i>	<ol style="list-style-type: none"> 6. DAIs should be administered for all detention cases pre-detention 7. DAI recommendations are expected to match detention decisions (consider standing orders/override cases separately) 8. Risk assessments should be administered for all cases possibly resulting in out of home placement <i>For all assessment outcomes, expect to see results within 12 months post-HB 242 effective date (1/1/15)</i> 	<ol style="list-style-type: none"> 6. Utilization of detention assessments 7. Consistency of detention and DJJ dispositional placements with tool recommendations (matched with assessed risk scores) 8. Utilization of pre-disposition risk assessments
5. <i>Structured Decision Making</i>	<ol style="list-style-type: none"> 9. Court Personnel will utilize the SDM matrix 10. DJJ placement decisions should match SDM matrix <i>For all SDM outcomes, expect to see results within 12 months post-HB 242 effective date (1/1/15)</i> 	<ol style="list-style-type: none"> 9. Court Personnel utilization of SDM matrix 10. Consistency of placement decisions with SDM recommendation
6. <i>Administrative Caseloads for Probation</i>	<ol style="list-style-type: none"> 11. Youth will be placed on an administrative caseload [timeline for dependent counties starts 1/1/14] [timeline for independent counties TBD] 	<ol style="list-style-type: none"> 11. Number and risk profile of youth on administrative caseload, and percent of the total supervision caseload that they represent
7. <i>Reinvest Savings</i>	<ol style="list-style-type: none"> 12. More funding should go to community placements and less funding should go to out-of-home placements – <i>expect to see results in FY 18 budget</i> 	<ol style="list-style-type: none"> 12. Annual budget and expenditure data
8. <i>Require Evidence-Based Practices</i>	<ol style="list-style-type: none"> 13. Use and availability of evidence-based community programming is expected to increase – <i>expect to see results in second year of fiscal incentive program (7/1/14)</i> 	<ol style="list-style-type: none"> 13. EBP programs and slots participating counties

¹ Measurement should begin after new RYDC slated for construction is completed and in use.