GOVERNOR'S COMMISSION ON CRIMINAL JUSTICE STANDARDS & GOALS

NOVEMBER, 1974

Georgia - REPORT OF THE GOVERNOR'S COMMISSION ON CRIMINAL JUSTICE STANDARDS & GOALS

Governor's Commission on Criminal Justice Standards and Goals

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November, 1974

TO: The People of Georgia
Criminal Justice and Law Enforcement Officials
The Georgia General Assembly

Crime and its effects are touching the lives of growing numbers of Georgians at an alarming rate. The need to improve the effectiveness of our criminal justice system is increasingly apparent. We need only to look as far as our daily news to see the inadequacies of our present system. Symptoms of these inadequacies are highlighted by an increasing crime rate, a growing backlog of court cases, a rising prison population and the lengthened stay of individuals in the criminal justice system.

In order to aggressively identify and address the needs of Georgia's criminal justice system, I established the Governor's Commission on Criminal Justice Standards and Goals on May 23, 1974. The purpose of the Commission was to identify appropriate standards and goals to guide Georgia's criminal justice system and to make recommendations to improve the effectiveness of the system.

The 28-member Commission included District Attorneys, a Sheriff, Police Chief, Attorneys-at-Law, Superior Court Judges, Legislators, Court Administrators and State officials. As the State's Chief Executive, I served as Chairman and have personally reviewed and evaluated each of the many recommendations resulting from this in-depth study.

The Commission's efforts focused on those issues where the greatest and most immediate impact in improving the effectiveness of Georgia's criminal justice system could be made. It also reviewed 172 of 495 standards and goals published recently by the National Advisory Commission on Criminal Justice Standards and Goals. A second phase of the study will be initiated in January, 1975, under the direction of the State Crime Commission, to address the remainder of the National Advisory Commission's standards.

During this final year of my Administration, I have placed the highest priority upon and fullest commitment of available resources toward the immediate and meaningful improvement of Georgia's criminal justice system. The recommendations submitted herein represent the results of the study by the Commission to improve the effective administration of justice in our State.

I am sure that you will join with me in expressing deep appreciation to these dedicated Georgians who have given so unselfishly of their time and talent to make this study possible.

Sincerely,

Jimmy Carter

Jimmy Carter
Governor

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During the first year of Governor Carter's administration, he initiated the "Goals for Georgia" Program. This program provided Georgians an opportunity to set the direction of their State Government. "Goals for Georgia" identified concerns which needed to be addressed by all law enforcement agencies. Eighty-one percent of those agencies surveyed indicated a need for higher standards for law enforcement. In December, 1972, the State and Local Government Coordination Study translated specific law enforcement needs into legislative, policy and administrative recommendations.

The State's crime rate continues to be a major public concern. From 1969 to 1973, violent crimes in Georgia increased by 89 percent and property crimes increased by 63 percent. During that same period, rural Georgia's crime rate soared by 105 percent as compared to a 64 percent increase in major metropolitan areas. The increase in criminal activity has demonstrated the lack of coordination and efficiency with which criminal justice agencies in the State are operated.

The National Advisory Commission on Criminal Justice Standards and Goals conducted a fourteen-month study of the nation's criminal justice problems which was concluded in January of 1973. The study was supported by the Law Enforcement Assistance Administration (LEAA), under the Omnibus Crime Control and Safe Streets Act of 1968.

In January, 1974, LEAA demonstrated its commitment to the implementation of these standards and goals by making funds available to encourage State action. Accordingly, Governor Carter initiated the difficult process of planning and implementing a comprehensive criminal justice standards and goals study. Preliminary plans were completed in early March, 1974, and submitted to Governor Carter to formally initiate a full Commission study.

The first task facing the Commission was to determine the status of the national standards as related to Georgia's criminal justice system. This was accomplished by surveying Georgia's State and local agencies. The State Crime Commission coordinated the survey process and correlated all agency responses. From the surveyed respondents, it was determined that a total of 32 National Advisory Commission standards and ten recommendations were already in effect in State or local criminal justice agencies, leaving 387 standards and 66 recommendations to be addressed.

Final planning was completed in late April, 1974, to implement a two-phase study. In addition to those standards and recommendations already implemented, 113 standards and 17 recommendations were selected to be addressed in Phase I on the basis of their immediate impact through policy, budgetary and legislative action by the State. Phase II will address the remaining 274 standards and 49 recommendations.

INTRODUCTION

Phase I encompassed:

- A preliminary review of the National Advisory Commission standards,
- A detailed review of the National Advisory Commission standards and the adoption of any additional goals,
- The preparation for a Phase I final report to be concluded by December 31, 1974, and
- Providing implementation assistance to applicable criminal justice agencies.

A project director and two assistant project directors were assigned overall responsibility for the project. Each provided direction by coordinating, monitoring and supervising the day-to-day activities of the study teams with the task forces and Commission.

The Commission members were divided into six working task forces. Study teams were created to work with each of the six task forces. Each team was composed of selected professionals from the State Crime Commission and State and local agencies. The study teams identified criminal justice problems, researched, collected and analyzed data, and gathered the information necessary to prepare recommendation memorandums. Over 1,200 staff man-days were needed to complete recommendations for the Commission.

The six task forces were established to work in the designated study areas of Corrections, Courts, Crime Prevention, Personnel Development, Police and Systems. The task forces provided direction and expertise to the teams for the complete development of recommendations. They were additionally responsible for the final review and adoption of team recommendations before presentation to the full Commission.

The Governor's Commission on Criminal Justice Standards and Goals officially terminates on December 31, 1974. The Commission addressed 172 standards and recommendations out of the total of 495 identified by the National Advisory Commission.

The recommendations contained in this report will take several years to implement fully. However, the results of the Commission efforts will provide Georgia a blueprint to improve the quality of our administration of justice. This report presents a summary of the Commission's efforts by issue. Each issue contains a statement of the Problem, selected Findings, the Commission Recommendations and the Implementation actions necessary. Detailed memorandums and working papers support the summary information presented in this document. Additional information on this study and its recommendations can be obtained through the State Crime Commission.

CORRECTIONS

SUMMARY OF RECOMMENDATIONS

- Juvenile status offenders, such as truants, runaways and ungovernables, should be handled outside of the juvenile court system and be diverted to agencies which deal with their problems in a more appropriate manner. In addition, greater emphasis should be placed using alternatives other than detention in a jail or in juvenile detention facilities to supervise arrested youths prior to their trial. Priority should be given to financing the most cost effective alternatives first, such as supervised home release and attention homes.

- A comprehensive statewide presentence program should be organized under the Judicial Council of the State of Georgia. This program should emphasize diversion and pretrial release and offer a full range of treatment options designed to meet the individual needs of offenders.

- Minimum standards for the humane operation of local jails should be upgraded in certain areas and expanded to cover all State and local penal facilities. Although current standard-setting and inspection responsibilities should be continued, the enforcement of all jail and prison standards should be given to a unit reporting directly to the Board of Corrections. Also, persons who have been injured while confined in a jail or penal facility should be allowed, under limited circumstances, to recover damages from the governmental unit that operates the facility.

- Existing juvenile incarceration alternatives should be expanded immediately by 25 percent through the addition of one group home, one day center and two community treatment centers. The Department of Human Resources should develop a detailed plan to guide the future expansion of these alternatives and publish guidelines which will encourage their use.

- Increased alternatives to adult incarceration should be provided by increasing probation field staff and facilities and by introducing two new categories of intensive probation supervision.

- Selected inmates who can function in a community setting should be assigned to prerelease centers in or near their home communities three months prior to release. This will ease the inmates' transition from institutional to community life and should help reduce the recidivism rate. The existing number of community-based prerelease centers should be expanded to handle the increased caseloads.

- The new women's prison in Milledgeville should be provided with adequate diagnostic and classification services and should also serve as a prison for women convicted of serious offenses. Community treatment centers should be opened in the major urban areas to house and treat women convicted of less serious offenses.

- A three-person Release Review Board, reporting to the Board of Human Resources, should be established to review all release recommendations from juvenile incarceration institutions. In addition, the Department of Human Resources should develop uniform release procedures for use by all juvenile incarceration facilities.

- A committee should be created by executive order to seek out potential candidates for Pardons and Paroles Board membership and to nominate them to the Governor. Minimum qualifications, including a bachelors degree, should be established for Board candidates.

- An act similar to the Youthful Offender Act should be passed for first offenders who have not been convicted of capital crimes. Persons sentenced under the proposed act would be eligible for early parole consideration based on the successful completion of a specified rehabilitation program.

- The State should provide legal counsel to all indigent defendants during the parole revocation process. This will provide offenders with adequate due process during parole proceedings.

ALTERNATIVES TO JUVENILE DETENTION

PROBLEM

Due to the lack of sufficient detention alternatives in Georgia, several thousand more juveniles are being held in jails and juvenile detention facilities than should be.

FINDINGS

Detention is defined as the maintenance of an accused person in secure custody at any time between the arrest and the trial. This is distinguished from incarceration which applies to maintaining a convicted offender in secure custody following the trial.

In Georgia, youths under seventeen years of age who have been charged with either delinquent acts or status offenses may be arrested and brought into juvenile court. Delinquent acts include shoplifting, burglary and other offenses punishable under criminal law. Status offenses include truancy, ungovernable behavior, runaway, violation of curfew and other acts which would not be considered crimes if committed by an adult.

During 1973, over 38,500 juveniles were arrested, of which 35 percent were charged with status offenses. Based on the limited statistics available, it is estimated that about 5,900 were detained in regional youth development centers and 1,600 were confined in local jails. The total of 7,500 juveniles who were detained represents about nineteen percent of those arrested. The average detention period ranges between two and three weeks.

The Juvenile Court Code states that juveniles shall not be detained prior to the filing of charges unless detention is required under at least one of the following conditions:

- To protect the person or property of others or of the youth;
- Because the youth may abscond or be removed from the jurisdiction of the court.
- Because the youth has no parent, guardian, custodian or other person able to provide supervision and care for him and return him to the court when required.
- An order for his detention has been made by the court.

Most of the juveniles who are not detained are released to the supervision of a parent or guardian. In some cases, juveniles are allowed to live at home but are placed under the supervision of a court services worker. Other juveniles are given special counseling and training programs and are diverted from further prosecution.

If a juvenile's home environment is considered undesirable, he might be placed in an attention home. These are privately operated homes which are under contract with the State to provide bed spaces for youths awaiting a hearing on the charges against them. Juveniles placed in attention homes are also under the supervision of court service workers.

Other forms of supervision are available as alternatives to juvenile incarceration. These include group homes, which provide living accommodations as well as intensive supervision and counseling. In addition, there are several non-residential incarceration alternatives, such as community treatment centers and day centers, which provide supervision and specialized counseling and training. According to the Department of Human Resources, spaces are occasionally available for short periods of time in some of these programs.

Most national correctional authorities consider the prolonged confinement of juvenile offenders to be undesirable, particularly the confinement of status offenders in the same facilities as juveniles charged with crimes. In addition, detention is far more expensive than any of the alternatives. It costs $26 per day to keep a child in a regional youth development center versus $6 per day in an attention home. Based on detention practices followed in other states, Georgia is detaining almost 6,000 more juveniles per year than is desirable.

RECOMMENDATION

The Commission recommends that the number of juveniles eligible for detention be reduced by handling status offenders, such as truants, runaways and ungovernables, outside of the juvenile justice system and by increasing the use of diversion. For those juveniles accused of delinquent offenses, the use of existing alternatives to formal detention, such as home release and attention homes, should be expanded. In addition, available spaces in existing group homes and other alternatives to incarceration should be employed rather than detention. Finally, the Department of Human Resources should immediately begin to compile the necessary statistical information to determine how many juveniles could be served by each of several alternatives to detention and where each of these alternatives should be located. Priority should be given to financing the most cost effective alternatives first, such as supervised home release and attention homes.

One of the Commission members objected to the removal of status offenders from the juvenile justice system and filed a minority report on this subject. This report considers status offenses to represent maladjustments inside a child or family which are serious enough to warrant court attention. The report further states that

juvenile courts provide a means by which society can force parents and children to seek help which they are unwilling to seek voluntarily. A minority recommendation is made to retain status offenders under the juvenile justice system, but to increase diversion of these offenders wherever possible.

IMPLEMENTATION

The following steps should be taken to implement the Commission's recommendations:

- Legislation should be introduced which eliminates status offenses from the Juvenile Court Code and provides for more appropriate remedies for those offenses. For example, the responsibility for eliminating truancy should be given to the Department of Education and to the truant's parents or guardians. If anyone should be legally responsible for seeing that a child goes to school, it should be the child's parents or guardians. In the case of runaway or ungovernable children, the child's parents or guardians should be required to seek counseling and other services from the Department of Human Resources. Detailed procedures for handling status offenders outside of the juvenile justice system should be developed during Phase II of the Standards and Goals study effort.
- The Department of Human Resources should identify the capacity and available spaces in existing programs which serve as alternatives to both detention and incarceration.
- The Department of Human Resources should develop and publish criteria and procedures which encourage the use of home release and other detention alternatives. Emphasis should be placed on using the most cost effective alternatives first. Formal detention should be used only as a last resort.
- The Department of Human Resources should begin developing statistics on arrested juveniles which include the numbers of juveniles arrested, diverted from prosecution, assigned to a detention alternative, detained but eligible for a detention alternative if available, and released following detention. All statistics should be compiled by offense and place of arrest.
- Based on these statistics, the projected capabilities and locations of the detention alternatives desired for Fiscal Year 1976 should be determined and a budget request prepared accordingly. Priority should be given to financing the expansion of the most cost effective detention alternatives first, such as supervised home release and attention homes.

DIVERSION AND OTHER PRESENTENCE PROGRAMS

PROBLEM

Diversion and pretrial release are two recent innovations in the criminal justice field which attempt to minimize the unnecessary exposure of non-serious offenders to the harmful effects of jails and prisons. Although these programs appear to have been successful in reducing the recidivism rate in other states, Georgia's efforts in these areas have been limited to two pilot projects.

FINDINGS

At the present time, the treatment options available to persons in presentence status are provided through either diversion or pretrial release programs. A diversion program attempts to intervene in a case prior to trial and offers a defendant the opportunity to participate in a special community-based rehabilitation program tailored to his individual needs. When the person successfully completes the program, the prosecutor will consider dropping the charges against him. Pretrial release programs have as their primary goals the release of persons detained while awaiting trial and their later appearance at trial. The release programs try to arrange the release of persons awaiting trial who do not present a great danger to society and who cannot make bail. Release programs often will find jobs for individuals while they are awaiting trial, and couseling services are usually provided. Some release programs also make referrals to special community-based treatment options.

There are currently 89 pretrial release programs and 46 diversion programs in operation in seventeen states throughout the United States. In a survey of all of the release programs and 28 of the diversion programs, it was reported that eighteen percent of the diversion programs are part of a probation or parole agency, while five percent are court administered and another five percent are administered through the prosecutor's office. Between fifteen percent and thirty percent of the pretrial release programs are administered by the court.

Although no details are available on the method of gathering statistics or on the definition of recidivism used, most of the pretrial diversion programs have indicated a recidivism rate of less than ten percent. Pretrial release programs can be found throughout the country and in some instances appear to be more successful than the traditional bail system in assuring appearance at trial.

There are presently two major presentence service programs operating in Georgia. One is the Atlanta Pretrial Intervention Project which became operational in July, 1972. The project was established by the U. S. and Georgia Departments of Labor and operates within the court system of Fulton County. The project has screeners who review the arrest records each day. If an individual meets the basic eligibility requirements, he is then interviewed and told about the project. If the person desires to be in the project and the District Attorney's office approves, the defendant signs a waiver of speedy trial and is told that charges may be dropped if he successfully completes the program. The prosecutor then formally agrees not to seek an indictment. An individual is sent to the project for ninety days with one thirty-day extension allowed.

The Atlanta project assigns counselors to offenders at the time they enter the program. The counselor determines the participant's needs and designs a personalized program which may secure training, education or employment for each individual. The project has its own job development unit which performs job placement. Behavior modification, counseling and educational services are mostly provided in-house; however, referrals to community facilities are made. Since the program began, 52 percent of all participants received in-house educational instruction and 21 percent were placed in outside educational programs. Atlanta's diversion program has been completed by 75 percent of the people who started it, and the charges against them were dropped. As of June 15, 1974, 420 persons had completed the program since January 1, 1974.

The other major presentence service program in Georgia is the Cobb Judicial Circuit's Pretrial Court Services Agency. This agency was started by the Superior Court of Cobb County and has a staff of five. Arrested persons are contacted at the initial appearance where they are told that if they cannot or do not want to make bail, then they can participate in the pretrial release program. Screeners conduct an interview and background check on each individual, and this information is presented to the judge so that he can decide whether to reduce bond or merely release an individual on condition that he accept the supervision of the court services agency. Participants in this program are helped in finding employment, and people with special mental or physical problems are referred to the County Health Department. Since its inception in August, 1973, the pretrial release program has had only six percent of the releasees fail to appear for trial, while traditional bond releasees failed to appear twenty percent of the time. The project reports on the actions of the releasee during his release period, and the judge takes this into consideration in sentencing if the releasee is convicted.

Throughout the State, there is some informal diversion of drug abusers and alcoholics to drug and alcohol treatment centers by prosecutors, but there is no prescribed procedure for this "informal diversion." Similarly, no standard procedure is used throughout the State to refer accused persons to rehabilitative services available through the Vocational Rehabilitation program and the State Department of Education.

RECOMMENDATION

The Commission recommends that a comprehensive statewide presentence services program be developed which offers a full range of treatment options designed to meet the individual needs of offenders. This program should rely on the treatment options available in each judicial circuit. The program should be organized under the Judicial Council of the State of Georgia.

IMPLEMENTATION

Legislation should be introduced in the 1975 General Assembly to establish a presentence services program under the Administrative Office of the Courts, Judicial Council. The Governor should request that the Council establish an advisory board on presentence programs composed of representative judges, district attorneys and defense attorneys as well as personnel experienced in corrections, mental health and vocational rehabilitation.

The Administrative Office of the Courts, with the approval of the Superior Court Judge in the respective judicial circuits, should employ persons to perform screening, counseling and treatment referral functions. These persons should be assigned to judicial circuits on a basis of caseload needs.

Implementation of this program should be done in three phases:

- Phase I should institute pretrial release on a statewide basis. This facet of the program will only require screeners and counselors and could be started immediately.
- Phase II should establish pilot diversion programs in four judicial circuits of the State. The four circuits selected should be different in population density and geographic location.
- Phase III should implement a complete and comprehensive presentence services program utilizing available community treatment resources in each judicial circuit in the State.

JAIL AND PRISON STANDARDS

PROBLEM

Georgia's present standards for the safe and humane operation of jails and prisons fall short of those minimum standards proposed by leading national correctional authorities and by the federal courts. In addition, the

standards currently provided by Georgia law and regulation are not adequately enforced; almost ninety percent of all local jails fall short of fire safety standards alone. Finally, the legal remedies available to those injured because of substandard jails and prison conditions are inadequate.

FINDINGS

Despite the fact that Georgia, since its earliest days, has sought by various means to protect persons held in jail, the conditions in many of the over 150 county jails and 220 municipal jails are a disgrace. Eighty-six percent of these jails have not met the basic safety requirements of the State Fire Marshal and 59 percent do not meet the minimum health and sanitation requirements set by the Department of Human Resources. These requirements are not new; they existed prior to the enactment of the "Minimum Jail Standards Act" in 1973, which specifically required that jails be inspected and that they meet fire safety, health and sanitation standards. Even though the Minimum Jail Standards Act represents a significant improvement over previous laws in this area, it does not provide guidance in several critical areas identified by national correctional authorities and by the federal courts. Also, several of the standards adopted under the present law do not meet national requirements.

Although local governments are directly responsible for the conditions in their jails, the State must also bear part of the responsibility since the State agencies charged by law with inspecting jails have failed to adequately enforce these laws. This failure can in part be traced to the fragmentation of inspection and enforcement responsibility between the Fire Marshal and the Department of Human Resources such that neither is completely responsible for coordination or enforcement. At the same time, the State has weakened the incentive for local governments to maintain safe and sanitary jails and to protect prisoners from abuse by granting counties and municipalities immunity from civil suit.

In defending their failure to enforce jail standards, the State agencies point out that local communities would have no alternative places to house their prisoners if the local jails were closed. Local communities, on the other hand, maintain that they do not have sufficient financial resources to correct many of their jail deficiencies.

Finally, it should be noted that while the law provides minimum standards for local jails, it does not apply to the State penal system or the county correctional institutions.

RECOMMENDATION

The Commission recommends that minimum jail standards be applied to all facilities and institutions used for the incarceration or detention of adults. In addition, the Department of Corrections/Offender Rehabilitation should be required to establish and enforce standards in the following areas:

- Jail and prison operations, including the requirement for a full-time jailor on duty at all times.
- Jail and prison administration and record keeping.
- Protection of inmates.
- Security.

The Commission also recommends that the Department of Human Resources be required to establish and enforce recreational program standards and to revise its current regulations to upgrade the lighting standards. In addition, the Department of Human Resources should require that medical personnel be supervised by a physician and that inmates have access to public health facilities as necessary. Finally, the Department of Human Resources should revise and reissue its minimum jail standards in accordance with the Administrative Procedures Act.

Inspection responsibility should remain with those agencies currently designated by law, but the Department of Corrections/Offender Rehabilitation should be made responsible for the overall enforcement of the standards and for providing technical assistance. In order to give this function the desired degree of autonomy, it should be established as a separate unit reporting to the Board of Corrections and should be headed by a person whose job is classified under the Merit System. This unit would also be responsible for enforcing the standards for State and county correctional institutions with clear responsibility to take the following actions regarding facilities which do not meet minimum standards:

- Transfer inmates to a facility which meets the standards and require the appropriate local government responsible for the substandard facility to pay for their subsistence.
- Order the appropriate local government to correct the deficiencies.
- Close the facility after a reasonable period not to exceed one year, if the deficiencies are not corrected.

In addition, an advisory committee should be established which consists of representatives of municipal and county governments, the Department of Human Resources, the Department of Corrections/Offender Rehabilitation, the State Fire Marshal and the Department of Law. The advisory committee would coordinate all proposed changes to the standards and the enforcement procedures.

Inspections by paid outside consultants should be permitted in areas where State expertise is weak or lacking. Consideration should be given to having the entire inspection program evaluated periodically by an outside party.

Persons who have been injured while confined in a penal or detention facility operated by the State or its political subdivision should be allowed, under limited circumstances, to recover damages from the governmental unit that operates the facility. The maximum amount of liability should be fixed by law. The two circumstances under which governmental immunity would be removed are as follows:

- Where an employee of that governmental unit willfully injured the inmate.
- Where the injury directly resulted from a failure to comply with the State's minimum jail standards as long as that failure had been made known to the governmental unit in charge of the facility.

If the pending Constitutional amendment is ratified which creates a Court of Claims, damage suits of jail inmates, as well as inmates of State and county correctional institutions, should be processed by that court.

IMPLEMENTATION

These recommendations would require legislation. Since many of the existing jail statutes are out of date, consideration should be given to comprehensively revising existing jail laws and consolidating them into a single act.

Since the enforcement unit in the Department of Corrections/Offender Rehabilitation will rely on other agencies to inspect jails in their areas of expertise, procedures which report inspection results to that unit will have to be developed. Pending enactment of this legislation, the Board of Human Resources should upgrade its current standards for lighting and require that jail medical personnel be supervised by a physician and that inmates have access to local public health facilities as necessary.

ALTERNATIVES TO JUVENILE INCARCERATION

PROBLEM

Many children who are now incarcerated are serving their first term in an institution or have been convicted of a status offense rather than a criminal act. Both State and national authorities on juvenile corrections agree that the problems of most of these juveniles could be treated better in community-based programs if such programs were available.

FINDINGS

After a juvenile has been judged guilty of a delinquent or unruly act, he may be put on probation or committed to the care of the Department of Human Resources. The commitment period lasts for two years or until the child is discharged from the Department and may be extended for an additional two years if the court deems it necessary.

At present, almost 1,100 of the juveniles committed to the Department of Human Resources are incarcerated in four youth development centers and nine regional youth development centers located throughout the State. In addition, many of these centers have waiting lists of juveniles who will be placed there as soon as space becomes available. Available statistics show that approximately sixty percent of these incarcerated juveniles are serving their first term in an institution although they may have committed previous offenses. It is also estimated that approximately thirty percent of all incarcerated juveniles were convicted of status offenses, such as truancy or running away, which would not be considered crimes if committed by adults.

It is generally held by most national authorities that community-based services contribute considerably more to rehabilitation than does incarceration. In the past few years, the Department of Human Resources has strengthened its community-based rehabilitative programs for juveniles committed to it by establishing "special projects" in the high commitment areas of the State. These new programs substantially bolster the treatment alternatives available to juvenile courts and the communities served and are described in greater detail as follows:

- *Day Center Program*—There are four day centers located in the State. The day center program is designed primarily for the male offender between the ages of twelve and fifteen. Each juvenile must have a home or residence in the general vicinity of the day center and the committing judge must concur with the plan to place the juvenile in a community-based program. The day center program offers a four-pronged approach to treatment: individualized education, guidance and counseling, recreational therapy and cultural enrichment.
- *Group Home Program*—Youths selected for this program are those who have the potential for success in community-based programs but who are unable to live with parents, relatives or in foster homes. The goal of the group home program is the successful re-integration of the juvenile into the community. There are currently three homes for boys and two homes for girls. The homes serve a statewide population.
- *Community Treatment Centers*—There are two of these centers located in Atlanta and one center located in Columbus, Gainesville, Griffin, Newnan, Thomaston, Thomasville and Albany. Caseloads are limited to fifteen youths per worker to allow ample time to work on an intensive basis with each youth and his family. Those youths in the program continue to reside in their homes while participating in the activities at the center.

The use of probation as an alternative to incarceration is a common and growing practice in Georgia. Juvenile Court and Superior Court Judges are permitted by law to probate a juvenile without committing the youth to the Department of Human Resources and frequently exercise that option. In the seventeen counties in the State where county-supported juvenile court systems exist, supervision of probated youths is provided by county probation officers. Elsewhere in the State, supervision is provided by court service workers of the Department of Human Resources even though the probated youths are not committed to the Department. Whenever a youth is committed to the Department of Human Resources and an "alternate plan" which excludes incarceration is recommended by the Department, the committing judge is consulted before the alternate plan is enacted. The availability and use of alternate plans has made the incarceration of first offenders extremely rare. Individuals who commit serious offenses such as murder and rape are exempted from participation in alternate plans. Alternate plans may involve the use of one or more of the special projects discussed earlier.

RECOMMENDATION

The Commission recommends an immediate 25 percent expansion of existing incarceration alternatives by the establishment of one group home, one day center and two community treatment centers. Future expansion should be accomplished based on a detailed plan to be developed by the Department of Human Resources. In order to prepare this plan, the Department of Human Resources should begin immediately to compile statistics which will indicate the capabilities, locations and types of the needed incarceration alternatives.

The Commission also recommends that the Department of Human Resources develop and publish criteria for use at the disposition point and at the adjudication hearing which encourages the following practices, listed in order of priority:

- When possible, juveniles should be released to their own home without supervision pending the adjudication hearing.
- Youths should be released to their own home whenever possible even if supervision is required.
- If youths who can be released to the home require additional treatment such as that offered by a day center or a community treatment center, such treatment should be sought if it is locally available.
- If such treatment is not available but the youth could still be released to the home, another alternative to incarceration should be sought. Statistics should be accumulated in such cases to determine the need for the future allocation of treatment resources.
- If none of the above alternatives is considered feasible or is available, the juvenile should be incarcerated as a last resort.
- Incarcerated juveniles should be moved from youth development centers and regional youth development centers to a community-based program as soon as their attitudes indicate a willingness to be rehabilitated and space can be found in a program suited to their particular needs.

Finally, the Commission recommends that the Department of Human Resources consider freezing the construction of future incarceration facilities in order to promote the increased availability of incarceration alternatives.

IMPLEMENTATION

The Department of Human Resources should implement these recommendations by taking the appropriate administrative actions and by including the necessary funds in its budget request.

ALTERNATIVES TO ADULT INCARCERATION

PROBLEM

Although many judges are placing non-serious adult offenders on probation rather than sentencing them to prison, heavy probation caseloads and the lack of specialized treatment facilities are limiting the use of probation. This has resulted in the incarceration of many adult offenders whose chances for rehabilitation are greater under probation in a community environment than in a prison.

FINDINGS

Under present law, the sentencing judge in Georgia has several options when he imposes a prison sentence on an adult offender:

- Suspension of sentence with no supervision.
- Probation and release in the community.
- Commitment to a halfway house as a condition of probation, provided a halfway house is available to that particular judge.
- Commitment to prison.

Since suspension of a sentence occurs infrequently, probation to a halfway house or to community supervision is the most widely used alternative to prison. The significance of probation as an alternative to prison is demonstrated by the fact that over 17,000 adult offenders are currently under probation supervision whereas only about 10,000 are in prison.

The extent to which judges are willing to probate an offender's sentence rather than sending him to prison depends upon the seriousness of the crime, the number of prior offenses and the risk to the public of keeping the offender in the community. The use of probation also depends on the probation options available to the sentencing judge. All sentencing courts now have the probation options of suspended sentence, unsupervised probation, minimum supervision, medium supervision and maximum supervision. A few courts have the added option of commitment of an adult offender to a halfway house as a condition of probation. A more complete description of each of these options follows:

- *Suspended sentences, no supervision*—The probation/parole supervisor investigates violations, and sets up and attends revocation hearings.
- *Unsupervised probation*—The probationer keeps his probation/parole supervisor informed of his current address. Revocations are also handled.
- *Minimum probation*—The probationer reports to his probation/parole supervisor once a month by mail. Additionally, the supervisor meets the offender's family within thirty days after receiving the case for supervision.
- *Medium probation*—The probationer reports to his supervisor once a month for an in-depth interview. The supervisor meets the family within thirty days after beginning supervision, and makes at least one quarterly field contact with the employer, the home or the community.
- *Maximum probation*—One in-depth interview each month; family contact within thirty days after beginning supervision; one home, employment or community visit each month; and assignment of a volunteer.
- *Community halfway houses*—Probationers live in and work out of these houses. In addition, they receive individual and group counseling, job assistance and help with practical everyday life problems. These halfway houses, their locations and capacities are: the Gateway House, Atlanta, 60 residents; the Gainesville Treatment Center, Gainesville, 20 residents; the Macon Transitional Center, Macon, 16 residents; and the Athens Center for Repeat Offenders, Athens, 20 residents.

Four additional halfway houses, called Restitution Shelters, are in the process of being opened in Albany, Macon, Rome and Atlanta. The resident capacity of each of these houses will be twenty to forty inmates.

All of these halfway houses are presently funded through grants from LEAA. They have a combined capacity of 264 residents, or only 1.5 percent of all probationers.

The average caseload of a probation/parole supervisor who devotes full time to supervising cases is 160 offenders. Some supervisors devote full time to probation and parole investigations. Others make presentence and pre-parole investigations in addition to supervising offenders. Because of the extremely heavy supervision caseloads and the limited spaces available in halfway houses, it is generally conceded by judges that more offenders are being sentenced to prison than would be the case if more probation personnel and facilities were available.

RECOMMENDATION

The Commission recommends that existing adult probation field services be expanded by increasing staff and facilities and by introducing two new categories of intensive probation supervision. Specifically, the Commission recommends the establishment of a new category of probation supervision known as strict control probation. Each probationer who is placed under this supervision category must report to his supervisor, or the supervisor's designee, as frequently as daily or as infrequently as weekly. The probationer must give an account of his daily activities since his last report. The probation office should be located in the part of the community which will be most easily accessible to the probationers in that community. It will be open also during the evening hours. Besides emphasis on the conduct and behavior of the probationer, treatment services will also be provided each probationer based upon his individual needs. These services should include individual and group counseling, family planning and counseling, educational and skill training, and counseling in practical everyday living problems. These growth and developmental sessions would be conducted nightly. Probationers assigned to strict control would be offenders who would be sent to prison if this program was not available.

The Commission also recommends that twelve more halfway houses be provided to sentencing courts on a regional basis. Probationers would live in and work out of these houses. These probationers would ordinarily have been sent to prison if this alternative was not available. Types of houses would include:

- *General halfway houses*—These houses would be for those offenders who do not have special adjustment problems, but who need the structure of such an environment plus the treatment program which would include individual and group counseling, job assistance and help with practical everyday life problems.
- *Restitution centers*—These houses would be for those offenders who cannot make restitution to the injured party in one payment. Money to pay restitution to the victim of the offense would be withheld from the earnings of the resident and paid to the victim.

Special adjustment houses–These houses would be for offenders who have a special problem, such as alcoholism, or for offenders of a similar type, such as sex violators.

Work-study houses–These houses would be for serious offenders who would be incarcerated for relatively short periods of time, such as one to three months, and given intensive individual and group therapy. Then they would be released to a job in the community. Thereafter, periodically, such as one day a week or three consecutive days a month, the offender would return to this halfway house to continue his treatment services.

The Commission further recommends that staff be increased to reduce caseloads. Forty-eight additional probation/parole supervisors are needed to reduce the caseload of supervisors who devote full time to supervision to a manageable 100 cases per supervisor. In addition, funds should be provided to purchase needed services for offenders and all court support functions should be transferred to court workers employed by the judiciary.

IMPLEMENTATION

The following actions are required to implement the recommended improvements:

- The Department of Corrections/Offender Rehabilitation should immediately begin a study to determine the best locations for the needed additional community halfway houses, personnel needed, costs, best means of financing, and other related factors.
- Probation/parole staff should be increased as recommended.
- Funds should be obtained from or through the Vocational Rehabilitation program to enable probation/parole supervisors to purchase social, psychological and medical services for offenders.
- Transfer court support functions to court workers as these become available in each judicial circuit.

INMATE TRANSITIONAL PROGRAMS

PROBLEM

Presently, there are few programs in operation in Georgia's prisons which assist inmates in making a successful transition from a prison environment to community life. This successful transition is one of the most important factors in reducing the present high recidivism rate in Georgia.

FINDINGS

Virtually all of the national authorities on corrections agree that a prison environment has an adverse effect on an inmate's ability to successfully re-enter society upon release. Consequently, these authorities recommend that transitional programs be developed to assist the inmate in acquiring the job and social skills needed to support himself in a lawful manner. Although prerelease programs can be given in a prison, it is generally recommended that such programs be operated in transitional centers located in the community to which the inmate will return. In this way, the inmate could be helped to deal with actual, rather than simulated, problems in adjusting to community life.

Presently, there are no comprehensive statewide transitional programs in Georgia. However, there are several individual programs in operation at different correctional institutions which are described as follows:

- *Work Release and Educational Release*–The only present programs that offer the inmate the opportunity to function in the community are the work release and educational release programs. These programs are located in twelve institutions and in five community-based centers. Under these programs the inmate is allowed to leave the prison or community center in the morning, go to work or school in the community, and then return to confinement at night. In order for an inmate to be considered for these programs, he must be within two years of release, have a minimum security classification and not be serving a sentence for a crime of violence or sex offense.

  As of August, 1974, only 499 male and 46 female inmates out of a total of 10,000 were participating in work release or educational release programs in seventeen different locations in Georgia.

  Those inmates who are accepted into the work release program are required to pay $4.00 per day for their own subsistence. This money is then deposited in the State Treasury. Inmates on work release are able to send money to their dependents and establish savings accounts for use upon their release. Since they also pay State and federal income taxes, this program has been financially successful.

  A severe handicap to successful employment of inmates on work release as well as ex-offenders has been the State licensing restrictions. Currently Georgia has licensing restrictions on 53 occupations that prevent ex-offenders from engaging in many of the vocations for which they were trained while in prison, such as barbering and cosmetology.
- *Prerelease Orientation Program*–A prerelease orientation program was previously developed by the Department of Corrections/Offender Rehabilitation and implemented at Georgia Industrial Institute at Alto to teach the inmates to deal with living situations they had not encountered while in prison. However, due to severe overcrowding in the State prison system, the Pardons and Parole Board implemented early release policies and all the inmates

in the prerelease program were released. Since that time there have not been enough eligible inmates to begin a new program, so it was temporarily discontinued. However, the Department of Corrections/Offender Rehabilitation does plan to implement this program again, probably in January, 1975.

- *Volunteers in Corrections Program*—Another transitional program currently in operation is the Volunteers in Corrections Program administered by the Department of Corrections/Offender Rehabilitation. In this program a volunteer is assigned to an inmate ninety days prior to release. During this time the volunteer visits the inmate weekly. After discharge, the volunteer continues the weekly contacts for ninety days to assist the individual with job placement, societal changes and money management. This pilot program was begun at Stone Mountain Correctional Institution and has resulted in the return of only four inmates out of the 104 who have been released in the past fourteen months. One reason for the effectiveness of this particular program is that most of the inmates at Stone Mountain are residents of Atlanta and the same volunteer can provide follow-up services after release, whereas in other institutions the inmate usually returns to a different city after release.
- *Inmate Jaycee Chapters*—Inmate Jaycee Chapters also provide transitional programs by following the man through release and providing a Jaycee contact in his home town to provide him with a positive contact to support and help him. Presently, there are five inmate Jaycee Chapters in State correctional institutions with membership of over 300 inmates. This particular program has been developed to extend across State lines.
- *Labor Department Ex-Offender Program*—The Georgia Department of Labor currently has job counselors located in six State institutions to assist the inmates in finding employment both while in prison and after release. A prerelease interview is held with each inmate before discharge and the information is sent to a job counselor who handles the Labor Department's Ex-Offender Employment Program in the inmate's home town. These counselors, in turn, work not only with the parolee but also with the parole officer and the Division of Vocational Rehabilitation in meeting the needs of the ex-offender.

  In addition, the Department of Labor also receives a ninety-day advance printout of releases monthly from the State Board of Corrections. Copies of this list are sent to offices all over the State so the office in the inmate's home town is notified in advance of his release. A letter is then sent to the inmate explaining the Ex-Offender Employment Program, together with an attached directory of contact persons in each city of the State.

During Fiscal Year 1974 the Department of Offender Rehabilitation and State Board of Corrections released an average of 463 inmates per month from Georgia correctional institutions. Most of these inmates were released without any type of prerelease orientation training.

RECOMMENDATION

The Commission recommends that selected inmates who can function in a community setting be assigned to a prerelease center in or near their home community three months prior to release. Based on the present rate of release, it is recommended that State funds be appropriated for twenty-four community-based prerelease centers in thirteen major population centers.

It is further recommended that a designated number of spaces in these centers be held for parolees. The Pardons and Paroles Board can then use these centers in lieu of incarceration for individuals who have violated their parole.

In addition, during Phase II of this project, a study should be made of the licensing criteria of ex-offenders. Special focus should be directed toward removing licensing restrictions except for those occupations related to the crime the offender has committed.

Finally, legislation should be introduced in the next General Assembly to channel the Departmental revenues from work release back into the Department of Corrections/Offender Rehabilitation for appropriate redistribution among the community centers.

IMPLEMENTATION

The following steps should be taken to implement these recommendations:

- After the necessary funds have been authorized by the 1975 General Assembly, the Department of Corrections/Offender Rehabilitation should begin preparations to locate facilities, develop programs, and hire appropriate staff for the community prerelease centers. The opening of these centers should be phased over an eighteen-month period. Each region should open a new center every three months with the first four centers opening in July, 1975. All inmates who are within three months of release should be transferred to a community in which one of these centers is located. After all centers are operating, all inmates should then be transferred to the appropriate facility as soon as they become eligible.
- The Governor should introduce legislation in the next General Assembly to channel the work release maintenance funds back into the Department of Corrections/Offender Rehabilitation for appropriate redistribution among the community centers.

- During Phase II of this project, a study should be made of the licensing criteria of ex-offenders.

INSTITUTIONAL TREATMENT PROGRAMS FOR WOMEN

PROBLEM

Presently there are 298 women incarcerated at Georgia Rehabilitation Center for Women in Milledgeville. The building is old, overcrowded, in a serious state of disrepair and a fire hazard. Consequently, the present facility poses a severe threat to the well-being of the inmates incarcerated there. Although a new women's prison is under construction, it will be inadequate to handle the present inmate population. Also, the Department of Corrections/Offender Rehabilitation is subject to legal action which could result in a court order to release the inmates or transfer them to a facility which meets acceptable standards.

FINDINGS

The women's prison is severely understaffed in all areas. Only 42 correctional officers and three counselors are assigned there by the Department of Corrections/ Offender Rehabilitation, although three additional counselors are provided through federal grants. This results in a staff-inmate ratio of 1:7, about half that recommended by the U. S. Bureau of Prisons. In addition. there are only one recreation director and two teachers. Medical services are provided through Central State Hospital; however, there are no full-time doctors or nurses assigned to the women's prison. Treatment and rehabilitative services must necessarily be held to a minimum.

Adequate diagnostic and classification programs are presently non-existent for women. A grant to provide these services is currently awaiting approval, but it will provide only token services at best. Funded under the SEARCH project in California, and designed primarily to upgrade Criminal Justice Information Systems, this grant will provide only one additional counselor to be responsible for all testing, interviewing, verification and program planning.

Several deficiencies have been identified in Georgia's institutional treatment programs for women:

- Of the present population at the women's prison, it is estimated that approximately 75 percent could be released from incarceration and placed under community treatment.
- The present facility is not conducive to rehabilitation due to the inadequacies of the building, the overcrowding, the isolated location and the lack of adequate community resources.
- The lack of a diagnostic and classification process for women seriously impedes rehabilitative efforts as individual programmatic needs are not identified.
- The new prison for women presently under construction will also be inadequate. Designed for a capacity of 150, it will likewise be overcrowded. Moreover, being located in Milledgeville, the women will remain isolated from their families and adequate community resources.

RECOMMENDATION

The Commission recommends that State funds be appropriated to temporarily make the new prison in Milledgeville a Women's Diagnostic and Classification Center as well as a prison for serious women offenders. In addition, monies should be made available to open seven community treatment centers with qualified staff and varied rehabilitative programs in the six major urban areas, with two centers to be located in Atlanta. Finally, plans should be established by the Department of Corrections/Offender Rehabilitation to build a new prison for women in Atlanta, to eventually take over the functions of the Milledgeville institution.

IMPLEMENTATION

The following steps should be taken to implement the recommendations:

- In Fiscal Year 1975, the Department of Corrections/ Offender Rehabilitation should lease seven community treatment centers, hire appropriate staff and develop relevant treatment programs. They should then transfer 75 percent of the women now at Milledgeville to these centers as soon as possible. The remaining 25 percent should temporarily remain in the existing women's prison until the new facility at Milledgeville is completed.
- The Department should begin immediately to design diagnostic, classification and treatment programs relevant to the needs of women offenders and implement them at the new facility at Milledgeville.
- The Department should also begin immediately to plan a new women's prison in the Atlanta area, which will replace the new women's prison in Milledgeville.
- When the construction of this Atlanta facility is completed, probably in 1977, the Department can transfer those women at the new Milledgeville prison to the new Atlanta prison. It can then transfer 150 male prisoners from other facilities to the new Milledgeville prison as a partial effort to relieve current overcrowding.
- In long range planning, if the Department's regional community treatment center concept becomes a reality, consideration should be given toward abandoning the small, leased, community centers for women described above, in favor of incorporating their functions into the new regional community treatment centers.

JUVENILE PAROLE PRACTICES

PROBLEM

In general, the decision to release a youth from a juvenile incarceration institution is made by the director of each institution. Except where serious offenders are being considered, there is no independent review of these release decisions. Consequently, there is no assurance that each juvenile gets fair consideration or that the public is protected from the premature release of juveniles to relieve overcrowded institutions.

FINDINGS

The Department of Human Resources has the total release authority over juveniles who have been committed to the Department and incarcerated. Departmental policies which govern institutional release procedures follow:

- A youth classified as a serious offender must remain in the physical custody of a youth development center for a minimum of one year. Time spent in a regional detention facility may be considered as part of the year spent in custody. When center staff wish to request release of a serious offender, approval must first be obtained from the center director. Center staff will then inform the committing judge in writing that such plans are under consideration, giving him sufficient time to express an opinion or concern regarding the pending release. If the judge does not respond within a given time, it will be assumed that he has no objection to the aftercare plan. Aftercare plans will be reviewed by the Director of Youth Services, and the final decision to release will be made by the Director of Community Services. The release of a serious offender whose offense involved loss of life must be approved by the Board of Human Resources.
- Due to overcrowding in the youth development centers, certain youths are reviewed by center staff for release within the first sixty days of their admission to a center. These youths include all status offenders and, except for serious offenders, all first offenders and offenders for whom court service workers have requested early release. All other youths are reviewed for release after four months at a youth development center.
- If space in a youth development center is not available, a committed juvenile may serve his time of incarceration at a regional youth development center. These regional centers are used mainly as detention rather than incarceration facilities. This decision is made by the juvenile's court service worker with the concurrence of the worker's supervisor. Approximately ten percent or 150 of the juvenile offenders whose plan of care involves incarceration remain in the regional youth development centers.
- After a juvenile is released from an institution, his court service worker has the authority to set conditions of aftercare, and require these conditions be met by the juvenile. The court service worker, with the approval from his supervisor, may return the child to a youth development center for a violation of aftercare rules. The juvenile does not have the rights accorded an adult in parole revocation, such as the right to a fair hearing, representation by legal counsel, written notice of the charges, cross examination of witnesses, and the opportunity to explain his conduct to an impartial hearing officer. During Fiscal Year 1974 there were 140 juveniles returned to youth development centers for violations of their aftercare rules. These juveniles were not charged with crimes and court proceedings were not required to place them back into an institution.

During Fiscal Year 1974 there were 1,650 juveniles released from the youth development centers and 150 released from regional youth development centers. Although all centers follow Youth Services policy on early releases and length of stay for serious offenders, these centers do not have written release procedures and each institution operates independently. In addition, no written criteria exist as to what constitutes readiness for release.

In all facilities, the center director signs the release form for the Director of Youth Services. This form serves to indicate any changes in the plan of care for a committed juvenile, such as release from a youth development center to an aftercare plan or termination of custody. It does not contain any comments by institutional staff or indicate any reasons for the change. A copy of the release form is forwarded to the Youth Services Section, central office, for filing. In a particularly difficult case, this office's program director assigned to the youth development center may become involved in the release decision. This, however, is not a routine procedure. The central office does not receive information on juveniles whose release recommendations are negative. There are no appeals procedures for juveniles that have been denied release from youth development centers.

RECOMMENDATION

The Commission recommends the establishment of a three-person Release Review Board within the Department of Human Resources. The Release Review Board members should be appointed by and report to the Board of Human Resources. This would allow for maximum autonomy in decision making.

Board responsibilities should be:

- Review and approve all release recommendations, both for and against release, from the institutions.
- Visit the institutions for on-site review when such is warranted by a sensitive case.
- Maintain a follow-up system to assure that cases are reviewed at the appropriate time.
- Base release decisions on the uniform release criteria to be developed by the Department.
- Forward recommendations on actions pertaining to serious offenders to the appropriate higher authority.
- Review and approve all recommendations from the field on revocation.
- Notify the committing court when a juvenile is being considered for release.

In addition, the Department of Human Resources should develop uniform release procedures for use by all youth development centers.

IMPLEMENTATION

The Board of the Department of Human Resources should appoint three individuals to comprise the Release Review Board. One secretary should be hired to serve the Board.

SELECTION OF PARDONS AND PAROLES BOARD MEMBERS

PROBLEM

The decision to release an offender on parole can have as great an impact on the offender and on society as the sentence imposed by the judge. Despite the quasi-judicial role of the Pardons and Paroles Board, no systematic method exists for insuring the continued high quality of the Board members.

FINDINGS

The State Board of Pardons and Paroles was created in 1943 by an amendment to the Georgia Constitution and subsequent statutes define the composition of the Board and its responsibilities as follows:

- The Board shall consist of five members, appointed by the Governor but subject to confirmation by the Senate, to serve for terms of seven years.
- The Board has the power to grant reprieves, pardons, and paroles and to remit any part of a sentence except in cases of treason, impeachment and those involving the death penalty when the Governor refuses to suspend execution to enable further Board review.
- The Board may adopt and promulgate rules and regulations, including the practices and procedures to be utilized in matters pertaining to paroles, pardons and the remission of fines and forfeitures.
- The members shall devote full time to Board duties and will be paid $30,000 per year plus expenses.

The Pardons and Paroles Board is attached administratively to the Department of Corrections/Offender Rehabilitation and receives record-keeping and other administrative support from the Department. The Board functions as an independent body in making parole release and revocation decisions and the Department is responsible for the field supervision of parolees.

The present organizational structure of the Pardons and Paroles Board meets or exceeds most of the criteria set forth by national parole and correctional authorities. However, there is no formal mechanism to insure the continued high quality of Pardons and Paroles Board members. There are no minimum qualifications for Board members and the Governor may not be aware of qualified candidates to fill vacancies on the Board. In addition, it is desirable for Pardons and Paroles Board members to represent viewpoints from a variety of disciplines rather than a single background of experience. Present selection methods do not assure this variety, however.

RECOMMENDATION

The Commission recommends that a nominating committee be created by executive order to seek out potential candidates for Pardons and Paroles Board membership. The committee should be composed of persons broadly representative of the criminal justice field as well as the private sector. The Commission further recommends that minimum qualifications for Pardons and Paroles Board membership be established. Except for a requirement that Board members possess a bachelors degree from an accredited college or university, these qualifications should be broad in nature and should emphasize the importance of experience in decision making rather than specific academic achievement. In order for the Board to have the advantage of viewpoints from a variety of disciplines, the nominating committee should seek to maintain the following composition in Board membership:

- One person experienced in corrections.
- A lawyer or a person with legal training.
- A sociologist, a behavioral scientist or an educator.
- Two private citizens.

IMPLEMENTATION

A Pardons and Paroles Board Nominating Committee should be established by executive order and given the responsibility of recommending Board member candidates according to the provisions contained in the recommendation.

TIME REQUIREMENTS FOR PAROLE ELIGIBILITY

PROBLEM

Most inmates are routinely considered for release by the Pardons and Paroles Board after serving at least one third of their sentences. Research studies indicate no relationship between the length of time served and an inmate's readiness to re-enter the community as a law-abiding citizen. Therefore, some inmates may be spending more time in prison than desirable for their rehabilitation.

FINDINGS

Georgia law regarding parole sets a minimum amount of time that an offender must serve before he becomes eligible for parole. The specific time requirements depend on the nature of the sentence as follows:

- *Misdemeanor Sentences*–At the expiration of one third of the sentence or sentences or after serving six months, whichever is greater.
- *Felony Sentences*–At the expiration of one third of the sentence or after serving nine months, whichever is greater. Persons sentenced to 21 years or more become eligible after seven years.
- *Life Sentences*–At the expiration of the service of seven years.

The Georgia Constitution allows the Pardons and Paroles Board to remit any part of an offender's sentence and the rules and regulations of the Board permit the Board to make certain exceptions to the minimum time requirements. In practice, this authority has been used mainly to carry out special release programs for inmates who appear to be ready to return to the community as law-abiding citizens.

In 1972, the Georgia Youthful Offender Act was passed which offered a method by which an offender could be eligible for release at an indeterminate time prior to completing his sentence. This program is only available for certain offenders from the ages of 17 to 25 who are sentenced under the Youthful Offender Act.

To determine the length of an offender's incarceration, a Youthful Offender Board within the Department of Corrections/Offender Rehabilitation uses the "contracting process." The contract is a standard document which sets out the conditions of the offender's incarceration and contains an agreement by the offender to successfully complete certain rehabilitation programs. It also contains the Youthful Offender Board's agreement to consider the offender for a conditional release on a specified date contingent on the offender having met the goals established in the contract. Most contract periods last for about fourteen months.

Although the Youthful Offender Act gives release authority to the Youthful Offender Board, the Georgia Constitution reserves this authority for the Board of Pardons and Paroles. The Department of Corrections/Offender Rehabilitation is planning to introduce legislation in the upcoming General Assembly which will recognize the release authority of the Pardons and Paroles Board and formalize its relationship to the Department of Corrections/Offender Rehabilitation.

Because of judges' sentencing practices, the number of persons sentenced under the Youthful Offender Act is currently limited to five percent of the inmate population. Persons not sentenced under the Youthful Offender Act who have indicated a high rehabilitation potential are not systemmatically brought to the attention of the Pardons and Paroles Board prior to serving the minimum time related to their sentence. Therefore, these offenders may be incarcerated longer than necessary in terms of protection of the public or rehabilitation of the offender. According to the Department of Corrections/Offender Rehabilitation, the approximate direct cost to keep an offender in prison is $3700 annually as compared to approximately $250 annually to have an offender supervised on parole. Therefore, for each year that an offender is incarcerated that he could have served under parole supervision, the net cost to the State exceeds $3400.

RECOMMENDATION

The Commission recommends that legislation similar to the Youthful Offender Act be enacted by the General Assembly. Under such legislation, inmates would be eligible for parole consideration after successful completion of a prescribed treatment program. This treatment program should constitute a contract between the Department of Corrections/Offender Rehabilitation, the inmate and the Board of Pardons and Paroles. The act would be limited to those offenders convicted of non-capital crimes, who are to be incarcerated in an adult penal institution for the first time. The required time to be served before inmates sentenced under this act are eligible for parole should be set at one fourth of the sentence imposed. Finally, the inmates sentenced under the proposed act should be housed in separate institutions along with youthful offenders.

IMPLEMENTATION

The following actions are suggested in order to implement the above recommendation:

- New legislation should be developed and submitted to the General Assembly by the Governor.

- Three professional staff members and two secretaries should be hired to review and monitor contracts.
- Once the professional staff members are hired, present inmate records should be reviewed to determine how many first term offenders have completed treatment programs and would be eligible for immediate parole consideration.
- The Department of Corrections/Offender Rehabilitation should acquire additional treatment staff and resources for present and future incoming first-term offenders under the contract concept. Without at least a sampling of the treatment needs of the present first-term population, it is impossible to determine what resources will be required. However, if first-term offenders may be compared to prisoners sentenced under the Youthful Offender Act, most treatment contracts should be completed in approximately one year.
- Ten additional parole supervisors should be hired during Fiscal Year 1976 to handle the increased number of parolees.

DUE PROCESS DURING PAROLE PROCEEDINGS

PROBLEM

Although the Pardons and Paroles Board allows offenders the right to have counsel at parole revocation hearings, there is no means by which indigent offenders are provided legal representation. In this regard, Georgia's parole practices do not provide adequate due process as defined by federal court rulings.

FINDINGS

In general, "due process" refers to a set of legal procedures which have been established for the enforcement and protection of individual rights. Regarding "due process" for offenders during the parole process, court decisions have indicated that the following elements should be considered.

- Whether an offender may be represented by legal counsel.
- Whether the offender has advance notice of hearings or actions that may affect his status.
- Whether the offender may explain his conduct to an impartial hearing officer.
- Whether the offender may have witnesses present at parole hearings.
- Whether the offender may confront his accusers, as long as no threat to the accuser's safety exists.
- Whether adequate records are kept of actions affecting the offender's status.
- Whether preliminary revocation hearings are held at or near the site of the alleged violation.

In 1973, the U. S. Fifth District Court of Appeals ruled that "due process" rights do not apply to parole board proceedings dealing with granting or denial of parole to an offender. An earlier decision by the U. S. Supreme Court, however, provided that the right to due process must be available to offenders being considered for parole revocation.

Georgia law and the rules and regulations of the State Board of Pardons and Paroles go beyond many of these elements of due process during both parole granting and revocation proceedings. Federal court decisions have been particularly concerned with the provision of due process during parole revocation hearings. Although an offender is permitted to have legal counsel present at revocation hearings, no provision is made to provide counsel to indigent offenders.

RECOMMENDATION

The Commission recommends that the State provide legal counsel to all indigent offenders during the parole revocation process. This will provide offenders adequate due process during parole proceedings.

IMPLEMENTATION

Attorneys to represent indigent offenders during the parole revocation process should be appointed on a case-by-case basis by the appropriate indigent defender authority in the various judicial circuits.

COURTS

SUMMARY OF RECOMMENDATIONS

- Georgia should establish certain criteria and procedures to be used by all diversion programs to safeguard the constitutional protections accorded those accused of crimes and to prevent undue delay of prosecution.

- Georgia should not prohibit the use of plea negotiations, but should expressly recognize plea negotiations and establish statutory guidelines for their use.

- Pretrial release should include a broad range of alternatives besides bail. The only permissible purpose of bail should be to assure the presence of the accused at trial and the only relevant criterion in setting bail should be the likelihood of flight. Professional bail bondsmen should be prohibited.

- A formal procedure for limited pretrial discovery in criminal cases should be implemented in Georgia.

- Twelve-man juries in all felony cases and multiple count misdemeanor cases should be continued. Unanimous verdicts should also be retained.

- Regional juries should be permitted in Georgia and required in Superior Courts of a county whose population is less than 25,000.

- Georgia should adopt a combined system for providing indigent defense services including the use of assigned counsel and public defender systems. The basis of a statewide program for indigent defense services should be a public defender organization financed by the State.

- A presentence investigation and written report should be required in any felony case where a sentence of confinement exceeding two years can be imposed.

DIVERSION CRITERIA AND PROCEDURES

PROBLEM

Diversion is a potentially valuable alternative to prosecution. However, there are no provisions to safeguard the constitutional rights of the accused or to mitigate against the possible adverse effects of deferring prosecution.

FINDINGS

Pretrial diversion is a procedure authorized by legislation, court rule or prosecutorial initiative. Under such a procedure persons who are accused of certain criminal offenses and who meet pre-established criteria have their prosecution suspended for a specified period of time and are placed in a community-based rehabilitation program. Diversion is a treatment process for offenders that differs from traditional criminal justice programs because it comes before, rather than after, conviction. Its goals are: to unburden court dockets and thereby conserve judicial resources for more serious offenses, to reduce the incidence of offender recidivism by providing alternatives to incarceration, and to benefit society by training and placing previously unemployed persons in jobs. The major goal, however, is to reduce the number of individuals whose first criminal offense will start a pattern of continued criminal behavior.

Diversion differs from screening. Screening is a review undertaken by the prosecutor of those cases recommended for criminal prosecution. It is within the prosecutor's sole discretion to designate which cases will actually be prosecuted. Diversion, on the other hand, is the prosecutor's agreement not to prosecute, contingent on the defendant's successful completion of a rehabilitative program. The prosecutor's decision concerning diversion is often based on factors wholly apart from the sufficiency of the evidence. Because the decision is made informally, it is usually not visible to the public and not subject to control which would follow legislative authorization or court rule.

Currently, there are approximately fifty pretrial diversion programs in operation around the country with at least six more in the planning stage. Because each diversion program offers different services, each maintains its own criteria for selecting participants. It is notable, however, that most programs have similar criteria which include consideration of the following factors:

- Age limitations of between 17 and 28 years.
- Absence of a prior criminal record.
- Lists of particular criminal offenses that will exclude an offender from participation. These offenses generally include the more serious felonies involving violence against another person or involving drugs.
- Job skills and education. Since the purpose of pretrial diversion programs is to provide a defendant with a job skill and help him retain a job, emphasis is placed on defendants with unemployment or underemployment problems.
- Plea of guilty. Most diversion programs do not require guilty pleas. Those that do base the requirement on the premise that a defendant unwilling to accept his responsibility for the offense charged would not benefit from the program. The major justification, however, appears to be protection of the prosecution's case where diversion is unsuccessful.
- Residence in the community operating the diversion program.

Because the function of eligibility criteria is to select from the total number of criminal defendants a smaller number who will be allowed to participate in diversion, there is a question whether those excluded by criteria have been arbitrarily denied equal protection of the laws. The equal protection clause of the Fourteenth Amendment does not require that all persons be treated equally by the law, but does require that any distinctions between persons made by the law have some relation to the purpose for which the law was enacted. If the law affects the exercise of a fundamental constitutional right or makes a distinction based on race, religion or wealth, then the law must be supported by a compelling State interest. On the other hand, where fundamental rights are not present and there is no arbitrary classification, the State need demonstrate only that the law promotes a rational State interest.

Consideration also must be given to other constitutional safeguards concerning the procedures utilized in a diversion program. A criminal defendant who participates in a diversion program necessarily foregoes his right to trial and to the constitutional safeguards that surround that right. In order to assure that the defendant is not arbitrarily denied his constitutional rights, his participation in a diversionary program must be preceded by waiver of certain constitutional rights, to include the right to a speedy trial, the right to the assistance of counsel and the right against self-incrimination.

RECOMMENDATION

The Commission recommends that broad and general criteria be used as guidelines which thereby leave to the individual diversion program specific eligibility criteria. This approach recognizes that any set of eligibility criteria must be tailored to a particular program. Diversionary treatment should be

available for first offenders and others where the prospects for successful rehabilitation warrant. Further, consideration as to whether or not to divert, should include such factors as:

- The potential punishment in the case of conviction.
- Whether the crime involved violence against another.
- Whether a weapon was involved.
- The potential impact of noncriminal disposition on the victim and his family.
- Possible deterrent effect through automatic prosecution.
- Public response to a policy of noncriminal disposition. It is recommended that this determination be made for each substantive offense in order to equalize and standardize selection criteria to the greatest possible extent.

The same options available to an accused who is diverted should be available to those individuals who are not diverted and subsequently convicted, but who meet the diversion criteria. Restitution by the accused should be required if at all possible, and the accused should be accorded the assistance of counsel in deciding whether to accept or reject a prosecutor's offer to divert.

The Commission recommends that a decision to divert a particular accused be made as soon as possible after arrest.

Staff members from the diversion program should be required to interview those charged with an offense at an early time after arrest. It should be their responsibility to determine the accused's eligibility for diversionary treatment. The program staff members also should assure the accused's understanding of his rights and secure his willingness to participate. Because the diversion decision may occur before indictment, there may not be a constitutional requirement that counsel be provided the accused. However, it is recommended that counsel be made available to assure the accused's understanding of his rights and of the likely consequences of his facing criminal prosecution. Because this latter function involves a legal assessment of the accused's case, only trained counsel can adequately perform it. The staff report on each offender should be forwarded to the prosecutor for his final decision and should contain sufficient information about the accused to help the prosecutor make an informed decision.

There should be created a statutory accused-counsellor privilege for communications between the diversion participant and program staff members. This privilege should attach during the screening interview with the potential participant and continue throughout the accused's diversionary treatment. Without this privilege, anything the accused says to program staff members may be used against him in court. If he is assured that he may be completely candid with the program counsellors, the accused may be more willing to cooperate with those trying to help him. Increased communication between accused and counsellor can help the counsellor construct a rehabilitation program suited to the individual accused and his particular needs. Because a major benefit of pre-conviction diversionary rehabilitation is individualized treatment, this increased communication is essential to any program's effectiveness, and to protect the accused's privilege against self-incrimination.

The Commission recommends that the arrest record of any individual not indicted or otherwise prosecuted be expunged to the extent possible. The argument behind expungement rests on the assumption that an arrest record is a significant handicap for an individual who has been diverted for rehabilitation before conviction. An arrest record, as well as a prosecution and conviction record, stigmatizes the individual as untrustworthy and maladjusted. Expungement would assure that the successful diversion participant suffers no lingering embarrassment from his earlier conduct.

IMPLEMENTATION

Legislation will be needed.

PLEA NEGOTIATION

PROBLEM

Plea negotiations are usually carried out informally and privately, creating a sense of unease, suspicion and disrespect from both the criminal defendant and the general public. Recent recommendations that plea negotiations be abolished have raised many questions concerning the desirability of their continued use.

FINDINGS

Plea negotiation is a discussion process through which the prosecution and defense attorneys, with approval of the defendant, enter into an agreement. Under the agreement, the defendant agrees to plead guilty if the prosecutor will drop some related charge(s), accept a guilty plea to a less serious crime than charged, or attempt to secure a sentence favorable to the defendant. The entry of the plea by the defendant allows the prosecutor to handle more cases and spares the defendant from the cost and effects of a trial.

While there are no Georgia laws dealing directly with plea negotiations, the law does grant the defendant the right to withdraw a plea of guilty at any time prior to entry of judgement on the court record. In interpreting this law, the Supreme Court of Georgia has approved by implication the use of plea agreements.

The use of plea agreements is extensive, though no data exists concerning exact numbers. The process is thought to account for a large number of the guilty pleas, which are estimated to account for ninety per cent of all convictions. It is felt that abolition of the plea negotiation process would reduce the number of guilty pleas and place a trial burden upon the current resources of the court system which could not be handled without a substantial increase in court expenditures.

Georgia law does not require recording of plea agreements, but court decisions have required the record to show the plea was intelligently and voluntarily entered. The process has been criticized for unequal treatment. It is possible that defendants charged with similar crimes could receive different sentences under a plea agreement. The lack of a time limit in which negotiation should be completed is considered detrimental to proper management of a trial calendar. Where pleas can be entered on cases scheduled for trial, waste in jurors' time and other court costs can result from delay or rescheduling of the case. Georgia has little law relating to the use of improper persuasion to bring about guilty pleas. What law exists is not definitely stated, but it indicates that a defendant should not be misled and should be apprised of information in the possession of the prosecution. If the defendant is misled, the courts have decided that the plea is not knowingly or voluntarily made and should be permitted to be withdrawn.

Although not a widely used practice, some judges participate in the plea negotiation process by attempting to persuade defendants to plead guilty. This is not a desirable practice as the defendant, who is already in an unsteady psychological state, often views the judge as an almighty power. Therefore, any suggestions by the judge may have a subtle, coercive effect upon the defendant. Georgia law contains no provisions on judicial involvement in plea negotiations.

RECOMMENDATION

Because the administration of justice is served through the use of plea agreements, the Commission recommends that plea negotiations should not be prohibited, but should be expressly recognized. It is proper for the prosecuting attorney to enter into plea negotiations and for the court to consider the plea of guilty when the result will be fair to the defendant and will also serve the public interest. In determining the public interest, both the prosecuting attorneys and the courts should consider that:

- The victim and the victim's family are spared the trauma of a public trial.
- Restitution or compensation may be made available to the victim.
- The defendant by his plea has aided in insuring the prompt and certain application of correctional measures to him.
- The defendant has acknowledged his guilt and shown willingness to assume responsibility for his conduct.
- The concessions will make possible alternative correctional measures which are better adapted to achieving rehabilitative, protective, deterent or other correctional treatment, or will prevent undue harm to the defendant in the form of conviction.
- The defendant has made public trial unnecessary when there are good reasons for not having the case dealt with in a public trial.
- The defendant has given or offered cooperation when such cooperation has resulted or may result in the successful prosecution of other offenders engaged in equally serious or more serious criminal conduct.
- The defendant by his plea has aided in avoiding delay, including delay due to crowded dockets, in the disposition of other cases and thereby has increased the probability of prompt and certain application of correctional measures to other offenders.

The Commission recommends that no statewide statutory time limit be set for the initiation or termination of plea negotiations. However, each court, on its own initiative, should encourage the early entry of pleas.

The Commission recommends that no prosecutor should, in connection with plea discussions:

- Charge or threaten to charge the defendant or additional defendants with offenses for which the admissible evidence available to the prosecutor is insufficient to support a guilty verdict.
- Harrass the defendant by charging or threatening to charge him with additional crimes or charge additional defendants in order to induce the defendant to plead guilty to the original charge or charges.
- Threaten the defendant that if he pleads not guilty, his sentence or the charge against him may be more severe than that which is ordinarily imposed in the jurisdiction of similar cases on defendants who plead not guilty.
- Fail to fully disclose all evidence favorable to the defendant.

The Commission recommends that no legislation be enacted to implement the above recommendations, but believes that their adoption through use by the courts will be sufficient. The endorsement and support of these recommendations by the Judicial Council, the State Bar, the Council of Superior Court Judges, the County Court

Trial Judges and Solicitors Association, the District Attorneys Association and the Criminal Justice Council will greatly increase the effective implementation of these recommendations.

The Commission recommends legislation to provide that:

- All plea agreements should be disclosed to the court and the terms of the agreement should be part of the record of the case.
- No plea negotiations should take place until the defendant has been given an opportunity to be represented by an attorney. Once the defendant is represented by an attorney, all negotiations should be conducted only in the presence of and with the assistance of counsel.
- If the defendant insists on proceeding without counsel, an attorney should be appointed to assist the defendant and explain his constitutional rights, the nature of the charges against him, possible defenses to the charges, and the consequences of his plea.
- The court should be prohibited from initiating plea negotiations. It should participate in the negotiation process only after the negotiations have been completed or at the joint request of the prosecutor and defense counsel.
- When the court inquires into the negotiation process, it should, prior to formal entry of the plea, inform the defendant as to whether it accepts or rejects the plea agreement. If the judge rejects the agreement, the defendant should be allowed to withdraw his plea; however, if the judge accepts the agreement, the defendant should be prohibited from withdrawing his plea except by permission of the court.
- The defendant's guilty plea must be voluntarily and intelligently made. In making the determination that a guilty plea was made voluntarily and intelligently, the court must establish that the following criteria have been met:
  1. Unless the right to counsel is waived, counsel must be present during all plea negotiations..
  2. The defendant must be legally competent and must understand the nature of the charges made against him. The trial judge must determine in open court whether the defendant understands the nature of the charge and proceedings against him.
  3. The court must insure that the defendant understands his constitutional rights and the consequences a guilty plea has on these rights. Results of this inquiry should be made part of the court's record.
  4. The court must reject a guilty plea if the defendant was denied, during the plea negotiation, a constitutional or significant substantive right which he did not waive.
  5. The defendant must be informed of mandatory minimum and maximum sentences that may be imposed, including information concerning consecutive sentences, possible increased punishment due to habitual offender laws and laws affecting his eligibility for parole.
  6. The court should not accept a guilty plea which has been improperly induced.
  7. The court must determine that there is a factual basis for the plea and "reasonable cause" to believe the defendant guilty. Strict rules of evidence do not need to apply in this determination.
  8. The court may accept a guilty plea if it finds that it is reasonable for someone in the defendant's position to plead guilty even though the defendant does not admit that he is guilty.
  9. The trial judge may consider the public interest in his decision to accept or reject a plea.

IMPLEMENTATION

Legislation as indicated in the recommendation will be needed.

PRETRIAL RELEASE

PROBLEM

The purposes of bail in Georgia are to prevent punishment before conviction and to insure attendance of the accused at trial. Yet, the determination of whether or not the accused will be jailed prior to trial is made in most cases by a professional bondsman on the sole basis of the accused's ability to pay for the bondsman's services regardless of other factors that contribute to the risk of nonappearance for trial. This failure of the present bail system to consider those facts about an accused which determine his likelihood to appear at trial has resulted in an enormous and unnecessary expense to both the defendant and the public.

FINDINGS

The public must pay for the cost of detaining an individual accused of a crime and this cost has steadily increased with the rising crime rate and inflation. The personal and financial costs to the defendant are severe. His family is disrupted and humiliated and family relationships are unalterably damaged. The defendant also faces overcrowded and unsanitary jails and indiscriminate mixing with hardened offenders. While jailed the defendant cannot work to pay for his defense and his physical appearance at trial may be affected so that detention may actually prevent the accused from proving himself innocent. Studies show that persons jailed prior to trial

are more likely to be convicted and sentenced to prison than those who are not so detained.

The traditional system of releasing persons awaiting trial is posting money bail. In theory, the primary purpose of bail is to insure the appearance at trial of the accused. In practice, money bail makes pretrial release dependent upon the financial resources of the defendant rather than upon the risk of nonappearance. This is unsatisfactory from the public's and the defendant's point of view. It is virtually impossible to translate the risk of flight into dollars and cents. Moreover, when bail is finally set, it is usually determined through a haphazard and mechanical fashion in which the criminal charge rather than the defendant's stability and community ties dictates the amount of bail. Bail studies show that approximately fifty per cent of the urban accused are unable to make money bail at even the most modest levels, and consequently the impoverished defendant is jailed prior to trial, not because he is more likely to flee, but simply because he is poor.

The professional bondsman has emerged to meet the needs of accused persons who cannot make bail because they lack the cash or real estate. For the vast numbers who are unable to make bail, the professional bondsman is available twenty-four hours a day to secure their freedom for a price. It is the bondsman's responsibility to see that the defendant appears for trial, and to this end, he is supposed to maintain close contact with the defendant in order to deter his flight. The bondsman's decision to act as surety is based solely on monetary considerations, and not upon the accused's likelihood to return for trial.

Georgia continues to rely almost exclusively on the traditional system of money bail. State law does allow release on personal recognizance, but it contains no conditions for this non-monetary release. In fact, failure to appear is not a crime and the only penalty for bail jumping is forfeiture of the bond.

Information relevant to the pretrial release decision must be gathered and presented to an officer authorized to set bail in order for him to make an intelligent bail decision. Facts that are relevant to the bail decision are those which relate to the accused's likelihood of appearing for trial. Experiments show that an accused's stability and roots in the community are the most important factors in determining his likelihood to appear for trial.

RECOMMENDATION

The Commission recommends that the only permissible purpose of bail should be to assure the presence of the accused at trial and that the only relevant criterion in setting bail should be the likelihood of flight.

Enabling legislation should be enacted to provide that:

- A variety of alternatives to the detention of persons awaiting trial be authorized. Release on personal recognizance or execution of an unsecured appearance bond should be used wherever possible. Additional conditions may be authorized where necessary, but non-monetary conditions short of detention are preferred to money bail.
- Under no circumstances should any person be allowed to act as surety for compensation.
- Any conditions imposed upon a person's pretrial release should be the least onerous that are reasonably designed to assure the appearance of the accused at trial.
- Judicial officers should select, on the basis of information available to them, the first of the following alternatives that will reasonably assure the appearance of the accused at trial or, if no single condition gives that assurance, a combination of the following:
  1. Release on recognizance without further conditions;
  2. Release on the execution of an unsecured appearance bond in a specified amount;
  3. Release into the care of a qualified person or organization reasonably capable of assisting the accused to appear at trial;
  4. Release with restrictions on activities, associations, movements and residence reasonably related to securing the appearance of the accused at trial;
  5. Impositon of additional restrictions other than detention reasonably related to securing the appearance of the accused at trial;
  6. Release on the basis of financial security provided by the accused; and
  7. Continued detention of the accused in capital cases only.
- Information relevant to the pretrial release or detention decision should be gathered and presented to the judicial officer with the authority to set bail.
- Conditions substantially infringing upon the liberty of the accused may not be imposed for a period longer than prescribed by law for a committal hearing unless:
  1. At the preliminary commitment hearing, the accused is accorded the right to be represented by counsel, appointed counsel if he is indigent, to present evidence in his own behalf, to subpoena witnesses and to confront or cross examine witnesses against him; and
  2. The judicial officer finds substantial evidence that confinement or restrictive conditions are necessary to insure the presence of the accused at trial.
- Where conditions substantially infringing upon a defendant's liberty are imposed, such a decision

should be subject to review and reassessment by the court on request of the defendant or his counsel.

- Whenever the defendant is released pending trial subject to conditions, his release should not be revoked unless the judicial officer finds after a hearing that substantial new evidence indicates that the accused is unlikely to appear despite the conditions previously imposed or there is substantial evidence of a willful violation of one of the conditions of release and:
  1. The violation of the conditions is of a nature that involves a risk of non-appearance;
  2. The defendant is granted notice of the alleged violation, the right to be represented by counsel, appointed counsel if he is indigent, to subpoena witnesses in his own behalf, and to confront and cross examine witnesses against him; and
  3. Such hearings shall be reported.
- The defendant should be authorized to obtain judicial review of a decision revoking his release while awaiting trial.
- Whenever a judicial officer is reviewing a possible revocation of pretrial release, he or the reviewing court should be authorized to impose different or additional conditions in lieu of revoking the release and detaining the defendant.
- Willful failure to appear for trial be made a substantive criminal offense.
- Willful failure to appear for a felony charge, or a misdemeanor where the accused has left the State, be a felony. Willful failure to appear for a misdemeanor charge where the defendant has not left the State should be a misdemeanor.
- The person authorizing pretrial release be required to instruct the defendant on the conditions of his release, those steps that he must take to conform to those conditions, and the penalties to which he will be subjected if he fails to comply with those conditions. The defendant should be required to sign a form stating in detail the conditions of his release, and that he understands those conditions and the penalties for his failure to abide by them, and that he promises to follow the conditions.

IMPLEMENTATION

A single comprehensive revision of the Georgia laws concerning pretrial release and bail is required.

DISCOVERY

PROBLEM

Pretrial discovery is a procedure used in both civil and criminal cases. Under this procedure, the prosecutor or the defendant's attorney or both furnish each other with certain prescribed evidence that they intend to use at trial. Because it helps to provide both parties with all relevant evidence, criminal pretrial discovery increases the efficiency and reliability of the criminal trial to determine guilt or innocence.

Although a common practice in civil cases, formal pretrial discovery in criminal cases is very limited in Georgia. Defendants are forced to rely upon their own resources to gather facts and on the informal cooperation of the prosecutor to discover evidence.

FINDINGS

The Georgia courts will not order pretrial criminal discovery unless it is authorized by law. Georgia law contains only one statute dealing with discovery. It requires the prosecution to furnish the defense with a list of witnesses on whose testimony the charge is based. This law has been strictly interpreted by the courts with the defendant required to demand the list from the prosecutor prior to arraignment on the indictment. No unlisted witnesses may be called by the State at trial. Where a witness is known solely to the investigative officer, the prosecutor has not been held responsible for failing to provide the witness' name and his testimony has been allowed at trial.

Pretrial discovery for criminal cases has been accomplished in various degrees in most states and extensively in the federal court system by court rule or by statute. The Federal Rules of Criminal Procedure, effective as amended August 1, 1974, present the most comprehensive screening of pretrial discovery presently in use. In addition, other states and the federal system have utilized other court proceedings to promote discovery. Such proceedings include preliminary hearings, motions to suppress, discovery at trial and court decisions on the prosecutor's constitutional duty to disclose. However, the purpose of these proceedings is not discovery and their use as such can delay the court process. Because these procedures do not allow comprehensive pretrial discovery of the other party's cases, such motions, hearings and discovery at trial can operate only as supplements to a system of pretrial discovery.

In Georgia, a summary of evidence is presented at the commitment (preliminary) commitment hearing, but the defendant has no right to a copy. No statutory provisions permit discovery of statements of prosecution witnesses after their direct testimony, as in the federal system, and the code provision providing for notice to produce books, documents and other physical evidence in a party's possession is apparently limited to civil cases.

The Commission does not recommend a broad discovery requirement that the prosecution or defendant should disclose all evidence to be used at trial. However, a

specific enumeration of those things subject to disclosure would better aid the prosecution and defense in deciding what information is required to be disclosed. Finally, a specific enumeration would be easier to change, by additional requirements or deletions, as experience proves the workability of the system.

RECOMMENDATION

The Commission recommends that a formal procedure for limited pretrial discovery in criminal cases be implemented in Georgia to provide that:

- The prosecution be required, upon request, to disclose the names and addresses of intended State witnesses, their prior criminal records and that of the defendant, if such records are actually known to the prosecutor. Statements made by the defendant, results of medical examinations or scientific tests or experiments, and physical evidence belonging to the defendant or intended for use at trial should be disclosed.
- Immediately before a witness' direct testimony at trial, the prosecutor disclose any written statement made by a prosecution witness and signed or otherwise adopted or approved by the witness. Any stenographic, mechanical, electrical or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by a prosecution witness to an agent of the State and recorded contemporaneously with the making of such oral statements which are known to the prosecutor or in his possession should also be disclosed by the prosecutor.
- The defendant should be required to disclose names and addresses of witnesses he intends to call at trial, results or reports of examinations, tests or experiments, and physical evidence he intends to introduce at trial. The defendant should also be required to give notice of intent to rely on an alibi or insanity defense.
- A simplified system of procedures be developed to allow each party to adequately test the evidence.
- Discovery should commence shortly after indictment or accusation or no later than arraignment, by order of the court.
- Discovery should be reciprocal and mandatory. It should not require a court order before it may commence, and it should be automatic after initial written request by either party.
- The court should have discretion to issue protective orders restricting, deferring or excusing disclosure.
- Since protective orders are the only safeguard against abuse of discovery, the court should have wide discretion to issue them on a showing of cause. Factors to guide the judge in the exercise of his discretion should include the safety of the witness and others, a particular danger of perjury or witness intimidation, protection of information vital to the national security and the protection of business enterprises from economic reprisals.
- The prosecution should not be required to seek a protective order to prevent disclosure of an informant's name. Informers are a valuable investigative tool of the State and to require disclosure of their identity before trial would discourage their continued use by the prosecution and create a risk of intimidation. Disclosure of the informant's identity may still be required at trial.
- The trial judge be given great discretion in imposing sanctions for failure to comply with the discovery rule. Because the purpose of the sanctions is not to punish an offending party, but rather to discourage the exchange of relevant information, the judge should be allowed to grant a continuance, order discovery or take other appropriate measures under the circumstances.
- An affirmation of the prosecutor's constitutional duty to disclose be stated, which should be drafted in broad language in order to permit further refinement by the court.
- In all cases in which an accused is arrested prior to indictment, he should be guaranteed a preliminary hearing, which may only be waived before a judicial officer and after the defendant has been afforded ample opportunity to confer with counsel.

IMPLEMENTATION

Legislation in the form of one comprehensive bill will be required.

JURY SIZE AND COMPOSITION

PROBLEM

Because neither the Georgia law nor the federal law mandates a twelve-man jury or a unanimous verdict, questions have arisen concerning the continued desirability of maintaining these requirements. Do the economic considerations of twelve-man juries and unanimous verdicts outweigh the protection provided by their use to individuals accused of crimes?

FINDINGS

Though the United States Supreme Court in 1968 determined that a six-man jury would serve the essential functions of the jury and accordingly that the Congress and the States were free to experiment with jury size in criminal cases, the federal and Georgia courts still require a jury of twelve men unless there is consent by the defendant to a reduction in the number of jurors.

The Georgia Constitution has granted exclusive jurisdiction over felony cases to the Superior Courts, which are required

to have juries of twelve. In misdemeanor cases tried in the inferior courts, the Georgia Constitution permits juries of less than twelve but requires a minimum of five jurors in such cases. Consequently, in cases where there are multiple misdemeanor charges against a defendant, it is possible that, if convicted, such defendant may be sentenced to more than one to several years in prison by a five-man jury, while a jury of twelve persons is required in Superior Courts where a defendant may be sentenced to terms of more than a year for felony violations.

The twelve-man jury is an appropriate size to provide good group deliberation, to be free from intimidation, and to reach a just verdict. It interposes a sufficient number of laymen between the accused and the government to prevent government oppression in determination of guilt or innocence. It is also more likely that minority groups would be present on a large jury making it a more representative cross section of the community and less likely to be biased against the defendant. It can be argued that a larger jury would afford the accused even greater protection, but the State has a legitimate interest in minimizing jury size because of the cost and time factor.

As in the requirement for a twelve-man jury, neither the federal nor Georgia constitutional provisions require unanimous verdicts, though federal statutes have retained it and it has been upheld by the Georgia courts. While other states have allowed less than unanimous verdicts, there is no data at the present time upon which a convicing argument for the use of less than unanimous verdicts can be made.

Those who support unanimous verdicts argue that:

- Unanimity is necessary to insure full jury participation in the verdict;
- Unanimity insures that minority viewpoints will be considered;
- Unanimity is necessary to effectuate the reasonable doubt standard; and
- Unanimity helps safeguard the innocent from conviction.

Proponents of a non-unanimous jury argue that:

- The number of hung juries occasioned either by bribery or a juror's irrationality will be minimized;
- Unanimity often results in agreement by none and compromise by all despite the frequent absence of a rational basis for such compromise;
- There will be a savings of both time and money due to shorter jury deliberation time; and
- Fewer hung juries would result in second trials if unanimity were eliminated.

RECOMMENDATION

The Commission recommends the continued use of twelve jurors in all felony cases and recommends the use of twelve jurors in cases of multiple count misdemeanors. The Commission also recommends the use of any number of jurors, not less than five, in trials of single count misdemeanors.

The Commission recommends at this time that unanimous verdicts be retained in Georgia because so few jury statistics are available upon which to make any determination concerning the severity of jury verdicts that are a result of unreasonable compromise or hung juries caused by one irrational juror.

IMPLEMENTATION

A Constitutional Amendment will be required which would allow the General Assembly to prescribe any number not less than five for a trial or traverse jury except in felony or in multiple count misdemeanor cases where twelve jurors would be required.

JURY SELECTION

PROBLEM

In 123 out of 159 counties in Georgia, there are populations of less than 25,000 persons. Sixty-one of these counties have populations of less than 10,000 persons. When these population figures are reduced because of age and all other factors which permit a person to be excused from jury duty, the number of potential jurors may be too small to insure a fair and impartial verdict.

FINDINGS

Under present Georgia law, jury lists are selected by county, and within small county populations, it is more likely that persons selected for jury service may be related to or personally acquainted with one or more of the parties in a court action. Consequently, it has been found to be difficult to try cases in smaller counties involving a prominent citizen or alleged corruption of a public official, even though the structure of Georgia's Superior Courts, by circuits, provides a regional Superior Court Judge. Where the jurors are predisposed to convict or acquit, they tend to be predisposed because of their close personal knowledge of the person on trial. Likewise, when an "outsider" is charged with a crime against a local citizen, the small population from which the jury list is drawn almost assures that acquaintances and friends of the alleged victim will be on the jury.

RECOMMENDATION

The Commission recommends that regional juries should be permitted in Georgia and should be required in Superior

Courts of a county whose population, according to the most recent official census, is 25,000 persons or less. This would provide a broader base for drawing a jury panel and insure a fair and impartial jury uninfluenced by personalities and free from fear and intimidation.

The Commission recommends that for purposes of Superior Court jury selection, for both grand and petit juries, counties with 25,000 or smaller population should be combined within a circuit to make the most convenient geographical area possible. Jurors who would need to travel extreme distances could be excused from jury duty at the discretion of the court. In larger counties, the size of the population should be such that regional juries would not be needed to achieve the same statistical probability.

IMPLEMENTATION

The Georgia Constitution would have to be amended to allow for the selection of grand and traverse jurors from the judicial circuit or other appropriate geographic region within which the Superior Court is located to enable the Legislature to provide for regional jurors for the Superior Courts where suitable.

STATEWIDE INDIGENT DEFENSE

PROBLEM

While indigents have a right to appointed counsel at all critical stages of the criminal prosecution, the present system in Georgia for providing defense counsel is not adequate. Many persons entitled to counsel were not actually provided with an attorney, and in other instances persons who were not, in fact, indigent, have received the services of an attorney. Many counties have a critical shortage of attorneys available to handle indigent cases. Also, wide variations exist among the standards applied to determine indigency and the methods used to provide counsel. There are 128 courts in Georgia that have no system for providing defense attorneys for indigents and which continue to sentence some indigent defendants to imprisonment unconstitutionally. In 1972, thirty-eight counties spent less than $500 on indigent defenses and twenty-five of these counties paid nothing.

FINDINGS

Indigents have a right to appointed counsel at all critical stages of the criminal prosecution, including the preliminary commitment hearing, arraignment, post indictment procedures, trial and first appeal. The Supreme Court of the United States has not imposed a blanket rule requiring appointment of counsel at all probation and parole revocation hearings.

But, the Court has indicated that counsel may be necessary in certain cases where the individual claims that he did not violate the conditions of his release, and where there are substantial reasons that mitigate a violation and make revocation inappropriate. The Court also indicated possible need for counsel where it is doubtful that the individual is capable of speaking effectively for himself. The Georgia courts have stated that an indigent defendant does not have the right to counsel at a probation or parole revocation hearing.

The Georgia Constitution provides the right of a criminal defendant to defend himself and the Georgia courts have consistently held that once the defendant chooses to proceed to trial with or without counsel, he may not later change his mind and either obtain or dispense with a lawyer.

Georgia law provides flexibility in providing defense counsel to indigents through either individually appointed attorneys, non-profit legal aid agencies, a public defender office or a combination of these methods. The court or the county may determine the method of providing the defense. All expenses for that method must be paid by the county. Furthermore, no State agency is provided to coordinate or provide administrative services to the local defender systems.

Appointed attorneys representing indigents must provide the secretarial and other supportive services out of their own funds. As fees paid appointed attorneys are substantially below those earned in private practice, attorneys spending an adequate amount of time on a case may suffer a substantial loss. If an attorney limits his time on a case to avoid financial loss, he may not provide an adequate defense.

RECOMMENDATION

The Commission recommends that:

- Appointed counsel for indigents be available as soon as practicable after request of the accused but not later than the preliminary commitment hearing, and at all other stages thereafter through first appeal. The Commission recommends that no counsel be appointed unless indigency has been determined by the court. This determination should be made by the court as soon as practicable.
- Counsel be appointed at the request of indigents who face parole and probation revocation hearings. Again, the Commission recommends that no counsel be appointed unless indigency is determined by the court or the State Board of Pardons and Paroles.
- A defendant be strongly discouraged from defending his own case at trial. If the defendant insists upon defending his own case without counsel, the trial judge should

require a written waiver by the defendant of his right to counsel, stating that he understands the nature of the charges, the possible range of penalties for the offense with which he is charged, and possible defenses to the charge. Unless the defendant satisfies the judge that his waiver of counsel is "knowing and intelligent", the judge should deny the defendant his request to proceed without counsel. A Constitutional amendment would be required.

- Georgia adopt a combined system for providing indigent defense services including the use of assigned counsel and public defender systems. The basis of a statewide program for indigent defense services should be a public defender organization. The Commission recommends that the State of Georgia provide funds to finance this program.
- The defender offices should be governed by an impartial board consisting of private attorneys and other interested citizens in order to insure the independence of the defender's office. The continued participation of the State Bar should be encouraged throughout this system and the State Bar should appoint the attorney members of the board. The board should select a director to administer the public defender system while the board sets the general policy. Consideration should be given for circuits to continue or to establish defender systems meeting State criteria for quality defense services and supported by State grants.
- The continued use of assigned counsel in a combined defender system. The use of assigned counsel provides flexibility in helping the public defender deal with varying case loads and is also necessary for cases where the interests of individual defendants in a case may be in conflict, and the public defender office cannot handle both cases. Assigned counsel should be appointed from a panel of all those willing to accept appointments and who are competent in criminal law and procedure. The defender office can train assigned counsel and make the supportive services of his office available to them. The public defender could also handle the crucial early proceedings of the case where defendants frequently are not represented when counsel is assigned by the court.

IMPLEMENTATION

Legislation, including a Constitutional amendment, along with the appropriation of State funds will be required.

PRESENTENCE REPORTS

PROBLEM

If utilized, a presentence report provides information concerning the background of an offender which assists the judge in selecting a sentence. Georgia law currently provides for a presentence investigation and report regarding an offender after a determination of guilt and prior to sentencing. However, these reports have not been used as often and effectively as needed because of the manpower and time limitations of the probation/parole supervisors who are responsible for the preparation of these reports.

FINDINGS

The current use of presentence reports in Georgia courts is varied. Some courts use them often and some not at all. Where utilized, the reports are sometimes limited to investigations of those offenders accused of serious crimes. Other courts require a report only if it is believed that the offender will be a good subject for probation.

Georgia law also requires a hearing following a determination of guilt wherein the sole issue is that of the punishment to be imposed. The law requires the court to hear evidence in extenuation, mitigation or aggravation and to permit both the defendant and the prosecutor to present arguments regarding the sentence. In actual practice there is no correlation between the use of the presentence report and the presentence hearing because such hearing is most often held immediately after the entry of the plea or determination of guilt and is used primarily for presenting the court wtih the offender's prior record.

The Georgia courts have not interpreted the Georgia statute requiring presentence reports and hearings to mean that the sentencing decision is to be based solely on information presented at the sentence hearing. Consequently, the court may base the sentencing decision on information contained in the presentence report but not revealed at the presentence hearing. Additionally, there is no requirement that the offender be informed of any information in the report or of what factors influence the court's decision.

RECOMMENDATION

The Commission recommends that presentence investigations and written reports be required in any felony case where a sentence of confinement exceeding two years can be imposed. In order to allow for experimenting with various types of reports and kinds of information needed, it is recommended that the contents of the report not be specified in the legislation.

The Commission also recommends that the presentence investigation be permitted to begin prior to adjudication. This should only be allowed when the defendant, with the advice of counsel, initiates such action and signs a waiver. No information obtained prior to adjudication may be used against a defendant prior to the determination of guilt. Not only will this result in more efficiency for the courts and probation officers, thus relieving some of the manpower and time limitations, but it may also promote early releases from confinement for offenders.

As a matter of fairness, to ensure accuracy of information and to encourage the cooperation of the defendant in rehabilitation efforts, the Commission recommends that the contents of the presentence report be made available to the defendant and his counsel. The recommendation of the probation officer as to disposition should be separate and not disclosed to the offender. Exceptions to full disclosure for diagnostic and confidential material should be permitted at the discretion of the court. By requiring disclosure, by establishing guidelines for exceptions, and by requiring that reasons for withholding information be stated for the record, the practice of disclosure will be encouraged.

With disclosure of the presentence report to the defendant, a presentence hearing can become more meaningful in that the real basis for any sentencing decision can be made part of the record. Challenges to the accuracy of the contents of the report can be made prior to the sentencing hearing. The defense counsel can be prepared with feasible alternative sentencing dispositions because he will be aware of the factors being considered by the court.

IMPLEMENTATION

Legislation will be needed to implement these recommendations. Legislation will also be needed to permit the court to accept either a plea of guilty or a finding of guilt as final without a right to withdraw said plea. Additionally, legislation will be needed to permit a judge to enter an order adjudicating the defendant guilty and ordering a postponement of sentence pending a presentence investigation.

CRIME PREVENTION

SUMMARY OF RECOMMENDATIONS

- State legislation should be enacted requiring that all handgun owners meet minimum qualifications, possess a Handgun Owner's License and register all handguns. The purchase of a handgun should be preceded by a designated waiting period. The importation, manufacture, assembly, sale, possession and use of all substandard handguns and component parts should be prohibited.

- Georgia's "Campaign Financing Disclosure Act" should be amended to require all candidates for public office, political parties, and campaign organizations to disclose contributions and expenditures. A bipartisan State Campaign Ethics Commission should be created to enforce and administer the Act.

- The Department of Human Resources should develop a comprehensive system of alcohol treatment centers by combining the programs and organizations of the Drug Abuse Services Section and the Alcohol Services Section.

- All drug abuse treatment programs should be evaluated and monitored to ensure their effectiveness and safety. In addition, the Drug Abuse Services Section and the State Board of Education should establish a comprehensive statewide drug education program.

- Georgia should strengthen its Youth Services Bureaus through the establishment of a State supported pilot program.

- The State should re-emphasize and intensify the present crime prevention program, amend the State's building codes to include minimum security standards and encourage insurance companies to reduce theft insurance premiums when commercial and residential structures comply with security standards.

- Career education and extensive counseling within each school system of the State should be legislatively mandated through implementing the Adequate Program for Education in Georgia (APEG).

HANDGUN REGISTRATION AND LICENSING

PROBLEM

In 1973, nationwide statistics show that of the 19,510 estimated homicides, 53 percent were committed with handguns. Studies have shown that the handgun is the weapon most used in the commission of the majority of violent crimes where there is injury or death.

FINDINGS

The overall purpose of the Federal Gun Control Act of 1968 is to provide assistance to State and local governments in controlling firearms traffic within their jurisdictions. Several of its major provisions include curtailing mail order sales, regulating the interstate movement of firearms, prohibiting the importation of inexpensive, low quality handguns and surplus military firearms, and establishing a licensing procedure for firearms manufacturers and dealers. However, implementation of the Act is deficient in that it has not caused any significant reduction in the incidence of handgun-related crimes. One major deficiency is that while the importation of inexpensive, low quality handguns is prohibited, the importation of their component parts is not. This has resulted in the establishment of a flourishing domestic industry which manufactures and assembles such weapons, commonly known as "Saturday Night Specials."

Another deficiency of the 1968 Act is that it does not prohibit the purchase of handguns by criminals or other unsuitable persons. There are regulations with which legitimate dealers must comply, but this has no effect upon the hand-to-hand or "street" sales of used guns, which account for approximately 54 percent of all handgun transactions in the United States.

Under current Georgia laws, little difficulty is encountered by anyone who wishes to obtain a handgun. This is equally relevant to law-abiding citizens, criminals, alcoholics, habitual drug users and persons who are mentally or physically incompetent. In order to purchase a handgun, Georgia law requires only that the purchaser be at least 21 years of age. There is no State law requiring that the criminal history of the purchaser be researched, or that his mental, physical or emotional competency to handle a firearm be determined. Also, there is no State law requiring a mandatory waiting period to allow sufficient time for law enforcement agencies to conduct such an investigation.

Once the handgun has been purchased, there is no State law requiring that the weapon be registered with a law enforcement agency. The Federal Gun Control Act of 1968 requires that dealers keep records which identify the type, model, caliber and serial number of the weapons sold and the name, address, date and place of birth, height, weight and race of the purchaser. Each dealer must make such records available for inspection by law enforcement agencies upon request. However, the State does not compile and maintain this information in a central location. Therefore, law enforcement agencies do not have access to a combined source of information which would identify the owner of a confiscated handgun used in the commission of a crime.

In Atlanta, statistics for 1972 show that handguns were used in 53 percent of the 2,143 aggravated assaults. During that same year 69 percent of the 3,074 robberies in Atlanta involved the use of handguns. The Bureau of Alcohol, Tobacco and Firearms of the U. S. Department of the Treasury recently conducted a survey of handguns confiscated in crimes in New York, Detroit, Atlanta and New Orleans from July 1, 1973 through December, 1973. That survey showed that the "Saturday Night Special" accounted for 71 percent of the handgun-related crimes. In Atlanta alone, 592 "Specials" were confiscated during that six-month period which accounted for 72 percent of the handgun related crimes. The Bureau of Alcohol, Tobacco and Firearms survey further showed that most of the confiscated "Specials" found in Atlanta were originally purchased locally, primarily from twelve licensed Atlanta dealers. Neither the State of Georgia nor the City of Atlanta has a law banning the sale or possession of the "Saturday Night Special."

Sixteen states have laws requiring that handgun purchasers must obtain prior authorization from the local law enforcement agency before they take possession. Illinois, New York and Massachusetts require the purchaser to obtain a firearm owner's license or identification card issued by the local law enforcement agency as a prerequisite to purchasing a handgun. Both the purchase authorization and the owner's license are issued as a result of researching the applicant's background.

RECOMMENDATION

All handgun owners should be required to meet minimum qualifications, possess a Handgun Owner's License and register all handguns. The purchase of a handgun should be preceded by a designated waiting period. Finally, the importation, manufacture, assembly, sale, possession and use of all sub-standard handguns and component parts should be prohibited.

IMPLEMENTATION

The Georgia Bureau of Investigation, the Department of Public Safety and the State Crime Commission should be jointly responsible for defining minimum standards relating to the physical and mechanical characteristics of handguns. The expertise of persons in the munitions and weapons industries should be relied upon extensively for all necessary technical information. Once the standards are defined, they should be legislatively enacted. All handguns not meeting those standards should be declared illegal. Using the Illinois and the New York model, legislation should be introduced into the 1975 session of the General Assembly to effectuate a meaningful handgun registration and licensing law.

CAMPAIGN FINANCING

PROBLEM

The Georgia Campaign Financing and Disclosure Act, passed during the 1974 Session of the General Assembly, failed to cover all publically elected officials, political parties and campaign organizations, and also failed to provide a means of enforcement.

The Act originally created a State Campaign Ethics Commission and delineated the powers of the Commission. This Commission was to have been a bipartisan group which would have enforced the financial disclosure regulations. However, the Ethics Commission was deleted from the Act. Thus, the administration of the "Campaign Financing Disclosure Act" has become the responsibility of the Secretary of State, who is an elected official.

Another weakness in the Act is that it does not require the recipient of campaign expenditures to report those funds received.

FINDINGS

As initially adopted, the Act was intended to cover certain State officials and all elected county and municipal officials. However, because the title of the Act made no mention of county and municipal officials, the section of the Act referring to them was declared unconstitutional. Elected county and municipal officials, therefore, are not currently required to disclose campaign financing. The Act also failed to include candidates for judge, justice of the peace or district attorney.

The Georgia Act, as it now stands, forbids anonymous contributions and requires public disclosure of the expenditures and contributions related to a campaign for certain State offices. This legislation requires disclosure of all contributions and any expenditures in excess of $101 by the candidate, while the National Advisory Commission suggested that a candidate disclose his finances only after $1,000 has been raised or spent. The Georgia legislation also requires campaign financing reports to be filed with the Secretary of State who must make these reports available for copying and public inspection. These reports must be filed both before and after the general election.

RECOMMENDATION

Georgia's "Campaign Financing Disclosure Act" should be amended to cover all organizations, including political parties, involved in a campaign for public office and all candidates who are seeking elected office at the State, county and local levels.

All persons, firms or corporations receiving amounts in excess of $101 for goods, advertising or services performed in connection with any primary or general election campaign also should be required to file a report of same with the Secretary of State, listing the source and amount of the payment and a description of the goods or services being provided.

A bipartisan State Campaign Ethics Commission should be created to enforce disclosure requirements with authority:

- To receive, examine, summarize, publish and preserve campaign funding reports;
- To prescribe the form on which these reports are to be made;
- To publicize the data contained in the reports;
- To audit these reports; and
- To have subpoena powers and other authority necessary to conduct compliance investigations.

IMPLEMENTATION

An amendment to the Campaign Financing and Disclosure Act should be introduced in the 1975 General Assembly. In addition, appropriations should be provided for the Campaign Ethics Commission and its staff.

ALCOHOL ABUSE TREATMENT

PROBLEM

According to the FBI, 56 percent of all reported arrests in this country in 1972 were for alcohol-related offenses such as drunkenness, liquor law violations and drunk driving, or for other offenses which often involve drinking. Unlike other drugs, the abuse of alcohol in all documented instances has a significant correlation with crime.

The effectiveness of current alcohol treatment programs, however, has not been determined because of insufficient evaluation criteria and procedures.

FINDINGS

There are approximately nine million alcoholics in this country, 150,000 of whom reside in Georgia. The majority of alcoholics are not the skid row variety, but are found at every level of society.

The most frequently cited study of the relationship between alcohol and violence indicated that alcohol was present in 64 percent of all criminal homocide cases which occured during the year of the study. The study further showed that when alcohol was present, it was used by both the offender and the victim. Other crimes which bear a significant relationship to alcohol abuse are aggravated assaults, sexual offenses and, to a lesser extent, robberies.

The Alcohol Services Section of the State Department of Human Resources is charged with administering the alcoholism programs in Georgia. In 1972, the Division of Mental Health implemented an "open door" policy for detoxification, emergency treatment and rehabilitation in order to develop statewide services for alcoholics. This required that all State hospitals be open seven days a week, 24-hours a day. Presenting oneself at any facility was sufficient criterion for admission.

At present, there are 34 community-based alcoholism treatment programs in Georgia. Of these, 13 are located in mental health centers and 21 are alcoholism treatment programs in State or county centers. There are also eight regional mental health hospitals, six operational and two under construction, that are sixty-bed facilities for long-term in-patient treatment where out-patient facilities cannot treat a person successfully. Every county in the State is now covered by a mental health service area.

There are also six halfway houses, or rehabilitation residences, in Georgia for those individuals needing support while re-entering society.

The Georgia Alcoholism Act of 1974, which becomes effective July 1, 1975, will decriminalize public drunkenness, and will assist in removing the drunk and alcoholic from the criminal justice system. At present, there are not enough facilities to treat the individuals who will be affected by this Act.

RECOMMENDATION

The Commission recommends that the Department of Human Resources develop and maintain a comprehensive system of alcoholic treatment centers in the State.

This could be effectively done by combining the organizations and resources of the Alcohol Services Section and the Drug Abuse Services Section within the State Division of Mental Health.

In addition, the Commission recommends that:

- The newly created section prepare a multi-year drug treatment plan for the State which would include quantified goals and objectives for the reduction of alcohol abuse.
- Alcohol treatment centers be established in each mental health service area to effectively treat all alcoholic patients.
- The new section be responsible for the coordination of all alcohol treatment programs in the State with the affected segments of the criminal justice system.
- The new section be responsible for the comprehensive evaluation of all established goals and objectives identified in its plan.

IMPLEMENTATION

Implementation of these recommendations should be accomplished through policy directive of the Board of Human Resources.

DRUG ABUSE TREATMENT AND EDUCATION

PROBLEM

Adequate evaluation has not been done to determine the success of any of Georgia's drug treatment or education programs. There is no common definition of "drug addict" or "drug abuse," no agreement on the number of persons affected and, with the exception of alcohol, there are no definitive studies showing the relationship between drug use and crime. The use of drugs among youth is on the rise and present drug education methods appear to be ineffective.

FINDINGS

There are no accurate estimates of the number of drug users and abusers in the United States and Georgia. Estimates for Georgia range from 5,000 to 50,000 depending on the definition of various terms. Also, there are no studies presently available which can establish a definite causal relationship between the use of drugs and criminal activity. Inaccurate statements by public officials concerning the alleged relationship have caused fear and the tendency to blame much of the criminal activity on drug abuse.

The Drug Abuse Services Section of the State Department of Human Resources utilizes a comprehensive treatment approach for assisting drug-dependent individuals.

This approach includes the following:

- Central intake and diagnostic services for individuals referred from the criminal justice system and other sources;
- Compulsory treatment for those individuals from the criminal justice system who need guidance in dealing with their drug problem;
- Crisis intervention and emergency treatment provided by State, county or local agencies.
- Other treatment methods offered by the Drug Abuse Services Section include methadone maintenance, therapeutic communities and drug-free day care.

Since 1971, when the Georgia Narcotic Treatment Program was established, little evaluation has been done to determine the success of any of Georgia's treatment programs. Such evaluation, done on a thorough, extensive basis, would be the only method of guiding the future direction of these programs. At present we do not know the following:

- The abstinence rate of those individuals completing treatment programs;
- The rate of client recidivisism;
- The tracking of individuals either dropping from or completing treatment programs;
- Whether there can be a reduction of crime based on treatment; and
- Whether the treatment programs are meeting all their goals and objectives. It should be noted that lack of evaluation is prevalent for most of these programs throughout the nation.

The Georgia Department of Education requires that every student in grades five through twelve must receive annual instruction concerning the danger of drugs, including alcohol. Ten hours of instruction per year are given to every student; however, local schools must determine the content, subject matter and specific guidelines for drug instruction. In some metropolitan areas, the education is intense, but some rural systems feel that they do not and will not have a drug problem and their programs reflect this attitude. Past and present efforts in drug education have concentrated on the traditional practice of providing pharmacological information on drugs, disseminating information or pamphlets, and presenting talks by ex-addicts on the effects of drugs. These practices are still being followed in Georgia schools and have proved to be ineffective.

RECOMMENDATION

The Commission recommends that evaluation and monitoring of all drug abuse treatment programs be mandated to determine and ensure each program's effectiveness and safety. This evaluation would permit client follow-up and tracking to determine the success of treatment. Research capabilities throughout the State should be utilized to identify new treatment methods and to improve presently ineffective methods.

The Commission further recommends that a comprehensive drug education program be developed by the Drug Abuse Services Section of the Department of Human Resources and implemented in the State's public school systems. The Drug Abuse Services Section also should develop a drug education plan for organizations other than public school systems.

IMPLEMENTATION

The Drug Abuse Services Section should prepare an annual drug treatment plan for the State which would include quantified goals and objectives for the reduction of illicit drug use. Also, present drug treatment facilities should be expanded to treat all drug clients.

Comprehensive evaluation of all established goals and objectives must be identified in the State plan and evaluation of all components of the drug abuse treatment programs and operations must be completed within a two-year period.

The Drug Abuse Services Section should be given the authority to plan, coordinate, monitor and license all drug abuse education programs including those in the public school systems. Additionally, a policy directive should re-emphasize the responsibility of the State Board of Education to plan, coordinate and monitor all public school drug education programs.

YOUTH SERVICES BUREAUS

PROBLEM

The 1972 *Uniform Crime Report*, prepared by the Federal Bureau of Investigation, shows that, on a national basis, over fifty percent of all property offense arrests involve persons under eighteen years of age. The report also shows that persons under the age of eighteen referred to juvenile courts constitute about one fourth of all persons charged with forcible rape, half of all persons charged with burglary and larceny and more than half of all persons charged with auto theft.

In Georgia, the records of the Department of Human Resources reveal that in calendar year 1972, 34,522 cases were handled in the State's juvenile courts, a fifteen percent increase over the previous year. In calendar year 1973, the number of cases disposed of by juvenile courts was 50,394,

or a 32 percent increase over 1972. Commitments of youth to State institutions have increased at an average rate of ten percent each year for the last five years.

FINDINGS

California was the first state in the nation to establish and fund Youth Services Bureaus. California's bureaus are established under the Youth Services Bureaus Act introduced in the California Legislature in 1968. Special funding over a three-year period permitted the Youth Authority's Division of Research and Development to evaluate the effectiveness of these State bureaus. The results of California's evaluation show that for the areas served, juvenile arrests were substantially reduced. Also, the number of juvenile arrests referred to probation intake decreased between twenty and forty percent in four of the five bureau service areas where data were available.

Georgia currently has a total of five Youth Services Bureaus operating in four cities. Each of Georgia's Youth Services Bureaus is designed to serve an average of 240 youths per year at an annual cost that ranges between $50,000 and $70,000. The paid staff of each Bureau consists of a director, an assistant director, a secretary and two to four counselors and outreach persons. The paid staff activity is supplemented by volunteer services in tutoring and other special activities of the Bureau.

RECOMMENDATION

Georgia should strengthen its Youth Services Bureaus through the establishment of a State supported pilot program.

IMPLEMENTATION

The State Crime Commission should develop new criteria for funding Youth Services Bureaus in Georgia. These criteria should incorporate both the successful features of the California experience and the applicable National Advisory Commission Standards. The new criteria should then be included in the State's 1976 Annual Action Program which is submitted to the Law Enforcement Assistance Administration (LEAA) for Block Grant funding.

Upon approval by LEAA, the Youth Services Bureau projects should be funded by the State Crime Commission as a three-year pilot program. One of the features of each pilot project should be an evaluation at the end of the three-year pilot period. The current Youth Services Bureau program would, in effect, serve as the State's pilot program using the available federal funds. If the evaluation demonstrates the success of the pilot program, the State should fund the continuation and expansion of the Youth Services Bureau concept.

CRIMINAL OPPORTUNITY REDUCTION

PROBLEM

In the United States, violent crimes have increased 67 percent and property crimes have increased 53 percent since 1967, according to the 1972 *Uniform Crime Report*. As the crime rate continues to rise, the criminal justice system has maintained its traditional approach of utilizing punitive and corrective measures. This approach, which is founded on the principle of working with individuals only after they have entered the system, is expensive and has a low rate of success.

During the years 1968–1972, reported crimes in Georgia increased by 89 percent. This increase included not only property crimes but also homicide, forcible rape, aggravated assault and robbery. If crime in Georgia were to increase in the next five years at the same rate as it did in the five-year period from 1967 to 1972, the number of serious crimes would almost double.

FINDINGS

Crime prevention has been defined by the National Crime Prevention Institute as "... the anticipation, the recognition, and the appraisal of a crime risk and the initiation of some action to remove or reduce it."

The most recent method of crime prevention to receive major emphasis is the mechanical approach of crime prevention. By placing obstacles in the path of the would-be offender to make committing the crime more difficult, mechanical crime prevention goes beyond devices aimed at providing security. The success of the mechanical method of crime prevention is dependent upon the reduction of opportunities. Therefore, a criminal's desire and ability to commit an act is reduced, and legitimate paths to success become more inviting to the potential criminal.

The largest single crime prevention effort in the nation is currently being implemented in the City of Atlanta with an LEAA Impact project entitled Target Hardening-Opportunity Reduction (THOR). Target Hardening-Opportunity Reduction is implementing programs that actively apply the definition of crime prevention adopted by the National Crime Prevention Institute and is primarily focused upon the crimes of burglary, rape and robbery. During the 24-month project, THOR proposes to reduce burglary by nineteen percent and commercial and residential robbery by eight percent.

Building code ordinances in some parts of the nation have been revised to include security standards which will reduce criminal opportunities. Such legislation can help address opportunity reduction and is felt to be successful in preventing crime.

The criminal opportunity reduction programs implemented in various parts of the nation that have proven successful are those which involve property identification, premise security surveys, street lighting, neighborhood watches and building design improvements.

RECOMMENDATION

The State should re-emphasize and intensify the present crime prevention program of the Georgia Bureau of Investigation and provide crime prevention training through the Georgia Police Academy. In addition, the State's building codes should be amended to include minimum security standards and encourage insurance companies to reduce theft insurance premiums when commercial and residential structures comply with security standards.

IMPLEMENTATION

The Georgia Bureau of Investigation should give high priority to training agents as crime prevention specialists at the National Crime Prevention Institute, placing an agent in each of its regional offices. In addition, it should re-establish and implement a statewide crime prevention public information campaign.

The Georgia Police Academy should establish a one-week crime prevention training course to be taught quarterly for local law enforcement personnel, and provide a minimum of 24 hours of crime prevention instruction in Policy Academy mandate training classes.

The current legislation which establishes minimum standard building codes should be amended to include minimum standards and procedures to reduce the opportunity for criminal activity on private premises. Local units of government should be encouraged to adopt a similar or more stringent security code for inclusion in their current building codes.

The State Comptroller General should formally encourage insurance companies throughout the State to reduce theft insurance premiums for commercial and residential structures complying with minimum security standards.

CAREER EDUCATION AND COUNSELING

PROBLEM

Evidence strongly supports the link between delinquent and criminal activity and the failings of the educational system to meet the needs of the various segments of the population. The 1972 *Uniform Crime Report* of the Federal Bureau of Investigation indicates that 50 percent of all property offense arrests involve persons of school age.

FINDINGS

The Georgia Department of Education reports that 38 percent of those students entering the eighth grade during the period 1966–67 left school before the end of their twelfth grade year. Of those persons arrested in the Atlanta area during 1973 for the crimes of homocide, rape, robbery, aggravated assault and burglary, sixty percent had less than a twelfth grade education and seven percent had less than an eighth grade education. The Atlanta Police Department reports that for the first six months of 1974, persons under sixteen years of age accounted for thirteen percent of all rape arrests, fifteen percent of all larceny arrests and forty-five percent of all auto theft arrests. Juvenile delinquency and subsequent criminal activity are not only a trait of school dropouts, but also of many school students.

The educational system must meet the needs of all its youth by providing an education for personal enrichment, career guidance, and career preparation, whatever the pupil's occupational inclination. Of the many factors that characterize the needs of all pupils, potential dropout or not, three are predominant:

- The need to be liked, respected, and made to feel worthwhile by responsive adults.
- The need to have feelings of achievement that are realistic,
- The need to relate to feelings of success and self-worth in school activities. The fulfillment of these needs is a prerequisite to crime prevention.

One attempt to meet these needs has been the development of vocational education curricula in the school system. The majority of school districts in all states have curricula that are devoted to vocational education and which are successful in developing job skills for a minority of the schools' populations. Too often, however, vocational programs are identified and activated only as a stopgap measure for the potential dropout and not as a method to prepare the majority of students for future employment. Our educational system should de-emphasize the distinctions between vocational and academic education, and the separation of students who participate in these programs.

A second area of emphasis has been school pupil/parent counseling to help fulfill the needs of students. Potential school dropouts and their parents are counseled in accordance with a planned program, which also includes followup studies of school dropouts and summer counseling services as needed. Studies of these counseling programs have established the validity of such an approach. Where there is a lack of school counselors, the difficulties and frustrations of many students lead to delinquent behavior.

A third concept which addresses the needs of school children is career education. Under this concept, the primary emphasis is on career education while the student achieves his potential in academic skills such as reading, math and writing. The ultimate goal of career education is to teach the student the rudiments of personally selected occupations and to increase his retention of abstract academic material by relating it to career experiences.

Counseling at the public school level has been for many years an identified need but a low priority due to the lack of funding. Oakland County, Michigan, documented a fifty percent reduction in delinquency by combining efforts of the local school board and the juvenile court in programs where the court's staff counselors were assigned to assist and advise delinquent pupils.

Georgia addressed these concerns through the Adequate Program for Education in Georgia Act. The Aequate Program for Education in Georgia (APEG) Act, will take effect on July 1, 1975. This Act contains 33 broadly-based conceptual recommendations. Some are designed to be readily implemented while others will not be feasible until financing or other resources are identified.

RECOMMENDATION

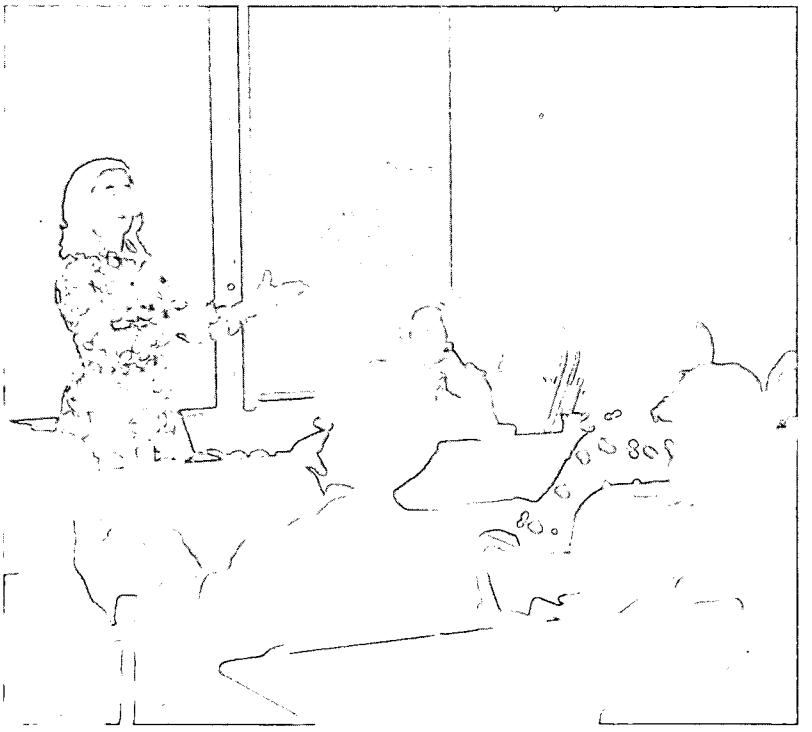
Implement the Adequate Program for Education in Georgia (APEG) and legislatively mandate implementation of career education and extensive counseling within each school system of the State.

IMPLEMENTATION

The Adequate Program for Education should be implemented and should emphasize the career education and counseling in all school systems within the State.

A State plan for career education and counseling in every school system should be written. This plan should specify minimum requirements for each system, goals and objectives of the programs, and plans for evaluation of the training provided to instructors and counselors.

Quarterly evaluations of career education and counseling programs should be established for the entire State, and determination of the effect these programs have on the criminal justice system should be done.



PERSONNEL DEVELOPMENT

SUMMARY OF RECOMMENDATIONS

- When required, the Governor should fill vacant or newly created judgeships from candidates proposed by a Constitutionally created Judicial Nominating Commission. All judges should be elected in Georgia on a nonpartisan basis in elections held during years other than the years of general elections.

- The State should upgrade and expand minimum standards for police recruitment and selection and provide annual in-service and advanced training to all local law enforcement officials. In addition, the State should certify law enforcement agencies based on their compliance with the minimum standards, and pay the employers' portion of a standard fringe benefit package for agencies so certified.

- The State should upgrade police training and certification standards, adopt physical facility standards for training academies, implement an in-service career development program and provide funds to accomplish these goals by the end of 1976.

- The Administrative Office of the Courts should develop and coordinate a comprehensive training program for judges, clerks, court reporters and other court personnel. Current training programs should be continued, encouraged and coordinated through the Administrative Office of the Courts.

- The State should establish a Georgia Correctional Officers Standards and Training Council to develop minimum standards for the selection, qualification and training of all personnel employed by State and local correctional institutions. This Council also should provide training programs and certify local correctional personnel as being properly qualified and trained to hold their positions.

SELECTION, ELECTION AND TENURE OF JUDGES

PROBLEM

During the current administration, a Judicial Nominating Commission has been used to nominate candidates for selection by the Governor to fill unexpired terms or newly created judgeships in Georgia. This method has proved to be effective, but having been created by Executive Order, is subject to a change in future administrations. Also, the present method of electing judges by popular vote at the end of each term subjects candidates to the influences of partisan politics.

FINDINGS

The Georgia Constitution provides that Justices of the Supreme Court and Judges of the Court of Appeals and the Superior Courts be elected by the people. Vacancies which occur during a term, however, are filled by the Governor. Since vacancies usually occur during a term, a majority of the appellate court and superior court judges were originally appointed by the Governor. Prior to the use of the Judicial Nominating Commission, there was no mechanism whereby many qualified candidates who never became involved in politics were considered for appointment.

Election of judges does not always seek out the best and most qualified judicial candidates. Popular elections encourage popular decisions, because most voters have difficulty obtaining adequate information about judicial candidates.

In all Georgia elections above the municipal level, candidates are identified by party label and elected on a partisan basis. Therefore, all judicial candidates appear on the ballot as nominees of a political party. The influence of political parties is heightened by the judicial elections being held at the same time as presidential, gubernatorial and legislative races. This is especially true in years when one party may be strongly favored or disfavored by the electorate.

Candidates for judicial office cannot campaign in the same way as a candidate for Governor and the State Legislature. Candidates for judicial office are governed by the Code of Judicial Conduct which limits their ability to announce their political philosophies. Judicial campaigns also must compete with the large number of other campaigns in general election years. This requires a larger expenditure of campaign funds than would be necessary if elections were held at other times. The frequency of elections also adds to the financial burden of a judicial campaign.

RECOMMENDATION

The Commission recommends that a system of merit for the selection of judges to fill vacancies or newly created judgeships be legislatively established. A Judicial Nominating Commission should be established having ten members. Five of the members should be appointed by the Governor as citizen members to serve concurrently with his term. In addition, five members of the State Bar should serve ex-officio: the President, the Immediate Past President, the Next Immediate Past President, the President-elect and the President of the Younger Lawyers Section.

The Commission should submit to the Governor a list of five qualified nominees for each judicial vacancy, and must hold at least one public hearing to consider recommendations regarding such nominations before submitting the list. The Governor must act within 30 days; should the Governor fail to act within 30 days, the power of appointment would shift to the Judicial Nominating Commission.

All judges should be elected in Georgia on a nonpartisan basis in elections held during years other than the years of general elections. Trial judges should be selected for a term of six years and appellate judges for a term of eight years. All judges should be prohibited by law from participating in partisan political activity.

IMPLEMENTATION

Legislation will be required to implement these recommendations. The Constitution should be amended to provide for the creation of a Judicial Nominating Commission and to change the terms of some judgeships.

RECRUITMENT, SELECTION AND RETENTION OF POLICE PERSONNEL

PROBLEM

Law enforcement agencies throughout Georgia have experienced serious difficulties in recruiting and retaining competent personnel. Not only is the quality of law enforcement service substandard in many cases, but the annual attrition rate among statewide police agencies has been as high as 44 percent. The Georgia Peace Officers Standards and Training Council has provided minimal leadership in addressing this problem.

FINDINGS

The major factors contributing to the low quality of law enforcement service and the high attrition rate can be categorized as deficiencies in the recruitment, selection and retention of personnel. Each of these processes is related to and has a direct influence on the others. Specific deficiencies which have contributed to the problem are:

- *No statewide police recruitment plan*—Each law enforcement agency is left to its own devices to identify and attract prospective police personnel.
- *No standardized job classification system for sworn or civilian employees*—Lateral transfers from one law enforcement agency to another are not possible in most cases.
- *Limited fringe benefits*—Georgia has no statewide police insurance or retirement plan, although several individual plans do exist.
- *No minimum salaries for peace officers except sheriffs*—Salaries range from $3,000 to $9,438 for entry-level police officers throughout Georgia, and approximately fifty percent of the officers currently employed have found it necessary to hold a second job.
- *Limited scope of minimum qualifications*—Minimum qualifications for police recruits were established by the Georgia Peace Officers Standards and Training Act of 1970; however, there are no minimum qualifications for sheriffs, who are elected by popular vote. Also, only two of 517 law enforcement agencies in the State require any college education as a prerequisite to employment.
- *Inadequate training requirements*—The Georgia Peace-Officers Standards and Training Act requires that all police officers must receive 114 hours of training within one year of employment; however, it does not require that recruits must receive training before they carry a gun and begin active duty. Also, there is no requirement in Georgia for in-service or advanced training beyond the initial recruit training.
- *No performance-based promotion criteria*—There are very few promotion programs which encourage career development based on merit and performance. Only twenty percent of the State's law enforcement agencies have stated specific promotion criteria related to job performance, and only six percent of the local agencies offer salary incentives for educational achievements beyond high school.

RECOMMENDATION

The Commission recommends that the State establish minimum standards for recruitment and selection, increase required recruit training to 240 hours, and provide annual in-service and advanced training.

In addition, the State should develop a statewide job classification plan for sworn and civilian employees, a statewide promotional plan based on merit and a statewide fringe benefit program. Also, the State should encourage local police agencies to establish minimum salaries.

The State should certify law enforcement agencies based on the agency's compliance with these standards, and pay the employers' portion of the fringe benefit package for agencies so certified. Requirements for certification should include, in addition to the above, twenty-four hour patrol and radio communications service, and regualr reporting of crime and law enforcement statistics to the Georgia Crime Information Center.

The responsibility for development of statewide standards and agency certification requirements should be assigned to the Peace Officers Standards and Training Council. In addition, the Council should be strengthened by the establishment of minimum qualifications for the Executive Director and the professional staff. The Chairman of the Council should be appointed by the Governor from its membership, and the Council by-laws should be amended to provide for removal of members who are chronic absentees.

IMPLEMENTATION

This recommendation should be implemented by amending the Georgia Peace Officers Standards and Training Act of 1970.

POLICE TRAINING

PROBLEM

Only half of all peace officers covered under the Georgia Peace Officers Standards and Training Act of 1970 are presently certified as having met basic education and training requirements. The primary reason for this low percentage of certified police personnel is the lack of training.

In addition, seventy percent of Georgia's law enforcement officers are exempt from the mandated training, either because of tenure prior to passage of the Act or because they are hired as part-time officers. State law enforcement officers in Georgia have had an average of 249 total hours of training, while local officers have had an average of only 119 hours.

FINDINGS

There are thirteen certified police academies in Georgia, each offering instruction which meets the State's mandated training requirements. Officers are currently being certified

at a rate of 1,350 per year, approximately 600 of whom are being trained at the Georgia Police Academy. The number of graduates from the Georgia Police Academy approximately equals the total of all other academy graduates combined.

Among the various academies in Georgia, training hours range from a low of 114 to a high of 640. Also, no written standards have been developed for physical facilities, curriculum, instructor certification, visual aids or resource materials. At least four academies are used primarily to serve the specific needs of the law enforcement agency which sponsors them. There are no assurances of quality instruction control, or whether course content meets peace officer needs.

RECOMMENDATION

The Commission recommends that the State upgrade police training and certification standards, adopt physical facility standards for training academies, implement an in-service career development program and provide funds to accomplish these goals by the end of 1976. Specifically, minimum recruit training should be at least 240 hours and should be independently evaluated by 1978, with future course lengths determined administratively without further legislative enactments. During 1975, in-service career development certification programs should be developed. This program should contain a forty-hour police refresher course, an eighty-hour intermediate course and a forty-hour advance course. The police refresher course should be taught annually to all officers with two years of service, and policy and procedures for annual re-certification of all officers should be developed.

By the end of 1976, an eighty-hour instructor training program to be attended by the 406 currently certified instructors, as well as an eighty-hour middle management training program, should be implemented.

IMPLEMENTATION

An amendment to the Georgia Peace Officers Standards and Training Act of 1970 should be introduced in the 1975 General Assembly to implement these recommendations. Phase II of the Criminal Justice Standards and Goals process should determine what measures should be initiated to insure that local law enforcement agencies can participate in this training.

TRAINING FOR JUDGES, PROSECUTORS AND PUBLIC DEFENDERS

PROBLEM

Little formal training is provided for judges or judicial support personnel when they first enter the court system, or on a continuing basis throughout their careers.

FINDINGS

Professional associations, private groups, colleges and universities have offered the primary training for judges, prosecutors and public defenders. Prior to the availability of LEAA funds, training of court personnel was financed by counties and private grants and by individuals attending training workshops and seminars of various kinds. Although the need for this type of training is well documented, Georgia has not assumed the responsibility for training of judicial and other court personnel.

RECOMMENDATION

The Commission recommends that the Administrative Office of the Courts develop and coordinate a comprehensive training program for judges, clerks, court reporters and other court personnel. Current training programs of the Institute for Continuing Legal Education, the universities and other agencies should be continued, encouraged and coordinated through the Administrative Office of the Courts.

The Georgia Courts Journal, now published by the Administrative Office of the Courts, should be continued, expanded and made available to all court personnel in Georgia. In addition, the Judicial Council should develop bench and training manuals for judges and other court personnel

The Administrative Office of the Courts should develop a design for training of judges and other court personnel based on the recognition that various functions require different course materials and instruction techniques. Such a design should include detailed course outlines; learning objectives of the various courses; class duration, setting and location; instructor qualifications; and coordination of existing training programs.

IMPLEMENTATION

The responsibility for accomplishing these recommendations should be assigned to the Administrative Office of the Courts by an amendment to the Act which created the Judicial Council.

MINIMUM RECRUITMENT, SELECTION, RETENTION AND TRAINING STANDARDS FOR ALL CORRECTIONS PERSONNEL

PROBLEM

At the local level, there are virtually no standards for qualification or selection of correctional personnel. There are few, if any, programs concerned with upgrading educational and/or vocational skills of custodial staff in local institutions.

FINDINGS

Most State correctional employees receive the benefit of both orientation and in-service training, although there appears to be no legal requirement for such training. In addition, almost all employees of the State Department of Corrections/Offender Rehabilitation are covered by the State Merit System. Qualifications are set by the employing organizations and are implemented in testing, screening and certification by the Merit System.

The only training available to local correctional personnel currently consists of a 40-hour program for 200 employees of the county correctional institutions. The use of a mobile unit makes this instruction available to local agencies.

RECOMMENDATION

The Commission recommends that the State establish minimum standards for selection, qualification and training of all personnel employed by State and local correctional institutions. It should also provide training programs and certify local correctional personnel as being properly qualified and trained to hold such positions.

There should be created a Georgia Correctional Officers Standards and Training Council, similar to the Peace Officers Standards and Training Council which now exists for enforcing minimum standards for peace officers. The Correctional Officers Standards and Training Council should establish by 1976 minimum standards for selection, qualifications and training of all personnel employed by State and local correctional institutions. The Council should be authorized to employ a staff to develop and implement training programs for State and local agencies, and certify local correctional personnel. The staff should develop job definitions, classifications, qualifications and selection procedures for all local correctional institutions, including sheriffs' offices.

IMPLEMENTATION

Legislation should be introduced which establishes a Georgia Correctional Officers Standards and Training Council and assigns to it the recommended responsibilities. The newly created Council should be attached to the Department of Corrections/Offender Rehabilitation for administrative purposes.

POLICE

SUMMARY OF RECOMMENDATIONS

- The Attorney General should be authorized to appoint a special prosecutor, to call a State grand jury and to monitor all citizen complaints in order to effectively combat corruption and misconduct in government.

- The authority of the Georgia Bureau of Investigation should be expanded to include statewide investigation of organized crime, narcotics, kidnapping and corruption and misconduct in government, and the execution of arrest warrants for cases it is investigating.

- Basic standards to institute 24 hour patrols, full-time communications, police response to calls within 20 minutes and improved personnel practices for all police operations in the State should be established.

- Local law enforcement agencies should continue to rely on the Georgia Bureau of Investigation and the State Crime Laboratory for specialized investigative services. Also, the GBI Outreach Program should be properly funded to provide local law enforcement agencies with needed investigative training.

- The State Crime Commission should assess the technical assistance needs of criminal justice agencies and consider expansion of its capabilities to meet those needs.

- Legislation should be enacted which creates a statewide mutual aid plan to be used for controlling unusual occurrences at the local level.

- The State Crime Commission should be responsible for the development of a comprehensive vehicle management program for police agencies. This program should be developed with the assistance of the Department of Administrative Services and should contain guidelines for determining fleet needs and suggested improvements.

- The State should create and fund a position of court liaison officer in each judicial circuit to schedule police officers as witnesses, expedite cases from police agencies to prosecutors' offices and provide liaison between police and the courts.

- The State should strengthen the role of existing regional criminal justice advisory councils and concentrate their efforts on expediting cases through the system, providing better service to the community and reintegrating the offender into the community.

CORRUPTION AND MISCONDUCT IN GOVERNMENT

PROBLEM

Most State and local units of government in Georgia are honest and forthright in their attempts to identify corrupt public officials. However, corruption in Georgia cannot be effectively checked as long as the primary responsibility for investigating cases of corruption lies with those very agencies which are, themselves, charged with corruption.

FINDINGS

The problem of misconduct in government is compounded by the ability of a corrupt official to cover up the evidence and impede investigations. Also, many local law enforcement and government agencies tend to view State-level investigation and prosecution of corruption cases as tools which could be used for blatantly political purposes.

There is a growing number of citizen complaints about government misconduct at the local level. In recent months, several of these complaints have been brought to the attention of the Governor, particularly those that relate to organized crime. Also, corruption is becoming a concern to many Georgians who are bringing their complaints directly to the Governor's Office.

RECOMMENDATION

The Commission recommends that the State Attorney General be provided with the following specific powers to combat corruption and misconduct by State and local government officials:

- *Appointment of a Special Prosecutor*—A Special Prosecutor could be appointed for investigation of specific cases as needs arise, or could be retained on a full-time basis. The Prosecutor should coordinate his investigations with the Georgia Bureau of Investigation.
- *The calling of a State Grand Jury*—The State Grand Jury should be assembled through a process yet to be determined, but which will assure random selection of jurors. Such a body could be called periodically or could be established as a permanent investigative body at the discretion of the Attorney General.
- *Reception of citizen complaints*—In addition to directly receiving citizen complaints against corruption, the State should require all State and local governmental agencies to forward to the Attorney General copies of all citizen complaints of corruption or misconduct. This process would allow the Attorney General to determine areas in need of investigation.

Initially, the local or State governmental agency against whom the complaint is registered should be given an opportunity to resolve it internally. The State should require that all such governmental agencies develop and implement written policies and procedures for processing corruption and misconduct complaints. These should include the following provisions:

- A code of ethics addressing corruption and misconduct.
- A definition of the terms "corruption" and "misconduct" as they relate to police and public officials.
- The assurance to the public that all complaints will receive immediate attention and written response, and that copies of such complaints will be forwarded to the Office of the Attorney General.
- The drafting of a final report detailing the findings of the investigation, copies of which should be sent to both the Attorney General and the complaintant.

IMPLEMENTATION

Inasmuch as Georgia law does not currently provide the Attorney General with the responsibilities outlined in this recommendation, a legislative act is required to grant him this authority. This legislation should also contain definitions of the abuses addressed in this recommendation and the persons and officials who may be objects of resulting investigations.

AUTHORITY OF THE GEORGIA BUREAU OF INVESTIGATION

PROBLEM

Currently, the Georgia Bureau of Investigation (GBI) has original authority only in cases involving State property, unusual cases which the Governor directly orders the GBI to investigate and cases in which a local community requests assistance from the GBI. Furthermore, the GBI has no arrest authority except for cases involving State property, even when the GBI has original investigative authority. These restrictions on the investigative and arrest authority of the GBI severely limit its effectiveness.

FINDINGS

The State statute which describes the authority of the GBI is somewhat confusing and severely limits that authority. The GBI ". . . is empowered to act in cooperation with any other law enforcement agency of this State or of any city, county, or other division thereof, but shall not cooperate with local authorities in preventing the commission of criminal offenses, except on property owned by the State or its departments, bureaus, commissions, or authorities, other than

traffic violations on the roads and highways and related offenses, nor in detecting and apprehending, off of the roads and highways, those charged with other than traffic and related offenses against the criminal laws of this, or any other State, or the United States, without specific authority and direction of the Director of Public Safety."

Although the statutory arrest and investigative authority of the GBI are limited, an Executive Order issued in 1964 appears to broaden that authority. The Executive Order deems it ". . . necessary that members of the Georgia Bureau of Investigation be given authority to conduct investigations and make arrests in any county or municipality in the State." This expanded authority is currently being used by the GBI.

Since criminal activity often crosses jurisdictional boundaries, law enforcement officials should be authorized to cross those boundaries to conduct investigations and make arrests. The primary advantage of cross-jurisdictional investigative authority is the ability to pursue significant criminal suspects in all regions of their operation when it is difficult or impossible to gather evidence in one jurisdiction. Cross-jurisdictional authority should be limited to only that law enforcement agency which is large enough to handle statewide authority and which has the necessary expertise to conduct specialized investigations.

Cross-jurisdictional criminal activity is most frequent in cases involving certain types of crime. The authority of any law enforcement agency to have cross-jurisdictional investigation and arrest powers, therefore, should be limited to certain specific crimes.

RECOMMENDATION

The Commission recommends that the GBI be empowered to serve and execute warrants under any circumstances where it is legally involved in an investigation. To be legally involved in an investigation, the GBI should be invited in by local officials for general investigations, but should have full enforcement authority for violations in the following categories:

- Organized Crime (any continuous criminal activity by two or more persons where such activity has as its purpose a financial profit);
- Narcotics;
- Kidnapping;
- Corruption and misconduct in Government.

The Commission further recommends that GBI policy be established and enforced which would severely restrict its activities outside these categories.

IMPLEMENTATION

The changes suggested in this recommendation should be enacted by legislation which clarifies and expands the investigative and arrest authority of the GBI.

STANDARDS FOR ADEQUATE POLICE SERVICE

PROBLEM

While some law enforcement agencies are capable of meeting citizen demands, others are totally ineffective in providing basic law enforcement services. For example, only sixteen percent of the 517 law enforcement agencies in Georgia presently provide 24-hour police services. The Georgia State Patrol is among those agencies which do not provide 24-hour services.

In addition, many local law enforcement agencies do not have well defined operating procedures.

FINDINGS

The National Advisory Commission on Criminal Justice Standards and Goals concluded that every police agency should provide police service and respond to police emergency situations 24 hours a day. The National Advisory Commission further concluded that if any police agency is unable to provide these services, the services should be provided by an agreement with an agency capable of providing them.

Written policies and procedures for specific situations exist in many departments, while other departments require officers to react to situations on individual intuition or experience. This not only places the officer in jeopardy as a result of his response, but it also places the local government in the hazardous position of defending the officer if his actions were inappropriate.

The time required for police to respond to emergency situations is one indication of the adequacy of the police services. Satisfactory police response time facilitates improved crime scene protection, investigation, and apprehension of the suspects. In Georgia, response times range from twenty to thirty minutes in some areas to sixty to seventy-five minutes in other areas.

RECOMMENDATION

The Commission recommends that basic standards and objectives be established for all police operations in the State. These standards and objectives should include the following:

- *Patrol*–Visible patrol should be instituted around the clock seven days a week for authorities governing over 5,000 population. Authorities governing less than

5,000 population should be encouraged to consider consolidation, contracting or pooling of resources in order to provide full-time police service. Further, the Georgia State Patrol should institute 24-hour patrol.

- *Communications*—Full-time communications with access to the State communications network should be provided.
- *Organization*—Each police organization should be structured under a single executive who has the responsibility for all police service.
- *Systems*—All police organizations should be required to report needed information to the Georgia Crime Information Center.
- *Response*—On a first response patrol basis, police agencies should be able to respond within 20 minutes. On second response investigative basis, they should be able to respond within 40 minutes.
- *Investigation*—Investigative services should be available on a backup basis when needed.
- *Records*—Police agencies should maintain records and reports to be used within a three-year period.
- *Specialists*—Police agencies should have access to and utilize, when feasible, State specialists in investigations, traffic and accident analysis, polygraph and crime laboratories.
- *Recruitment*—Police officers should be recruited for career work in law enforcement rather than for interim employment.
- *Hiring*—Standards for the hiring of police officers should be established and should be compatible with State standards.
- *Promotions and Evaluations*—Promotions, demotions, assignments, evaluations and hiring should be based on merit and work performance rather than on patronage or favoritism.

IMPLEMENTATION

Legislation should be enacted which will establish these recommended minimum standards for all affected law enforcement agencies. Compliance with these recommended standards should be required on a phased basis. By the end of 1975, the following standards should be implemented:

- Organization
- Systems
- Records
- Recruitment
- Hiring
- Promotions and Evaluations

By the end of 1976, the following standards should be implemented:

- Patrol
- Communications
- Response
- Investigation
- Specialists

Compliance with the legislation should be monitored by the Georgia Peace Officers Standards and Training Council, which should be authorized to certify those agencies in compliance.

SPECIALIZED INVESTIGATIVE SERVICES

PROBLEM

Local police agencies in most instances cannot afford to provide a full range of specialized investigative services such as laboratory analysis, auto theft investigation, intelligence gathering and polygraph examinations. However, the availability of such services is critical to the successful investigation of some crimes.

FINDINGS

Since many local law enforcement agencies have not been able to justify the need for full-time expertise in many special investigative services, the Georgia Bureau of Investigation has developed highly trained units which are made available to such agencies. The State Crime Laboratory, a Division of the GBI, provides laboratory analyses, evidence investigation and post mortem examinations and autopsies for local law enforcement agencies on a request basis. The State Crime Laboratory has its main facility in Atlanta, with branches in Savannah and Columbus. Under its approved master plan, it will establish additional laboratories in Macon, Augusta, Tifton and Dalton to serve the entire State more effectively.

In addition, the GBI provides sworn personnel to local agencies:

- Through its regional offices and special investigative squads (auto theft, major case, intelligence and organized crime) to conduct sophisticated investigative services;
- Through the Georgia Crime Information Center Latent Finger Print Section to conduct crime scene searches and scientific evidence analysis;
- Through its Polygraph Unit to conduct criminal and pre-employment polygraph examinations, and
- Through its Crime Prevention Unit to design and conduct prevention programs.

Also, the GBI invites sworn officers of local agencies to attend the GBI pre-service and in-service training schools. These schools conduct sessions designed to teach and improve the special investigative skills of police officers. Requests from local agencies to place their officers in such programs currently exceed the capacity of training facilities and staff by 200 percent.

Recently, the GBI has proposed that its Outreach Program be aimed at providing sixty-four hours of training to 720 local law enforcement officers on the following subjects:

- Protecting crime scenes.
- Recording of crime scenes using notes, sketches and photographs.
- Locating, collecting, marking and tagging physical evidence.
- Inventorying, receipting for and safeguarding physical evidence.
- Utilizing the services of the State Crime Laboratory and preparing requests for laboratory examinations of physical evidence.
- Interviewing cooperative and reluctant complaintants, victims and witnesses.
- Advising suspects of their rights, obtaining valid waivers and conducting interviews and interrogations of suspects.
- Conducting problem interviews.
- Recording oral testimony.
- Utilizing GBI polygraph support services.
- Preparing affidavits to support issuance of search and arrest warrants.
- Making returns of search and arrest warrants.
- Preparing cases, including Georgia Crime Information Center reports.
- Participating in pre-trial conferences with prosecutors.
- Testifying in court.

This program is being developed based on a June, 1974, directive from the State Board of Public Safety that the GBI should immediately begin sharing its expertise with local law enforcement agencies through a training program presented in several locations throughout the State. The Peace Officers Standards and Training Council also has approved the program and has requested that it be presented in certified law enforcement academies.

RECOMMENDATION

The Commission recommends that the State continue to provide special investigative services through the GBI. The Commission further recommends that the State Crime Laboratory continue to provide services through its regional crime lab concept with the option of contracting with private laboratories where economically justified. In addition, the Commission recommends that the GBI Outreach Program be provided with the necessary funding to operate until such time as the program can be transferred to authorized training academies.

IMPLEMENTATION

Funds should be appropriated to insure that the above special investigative and crime lab services are made available to local law enforcement agencies. Also, the State Crime Commission should assign a high priority to funding the GBI Outreach Program over several years period.

MANAGEMENT AND TECHNICAL ASSISTANCE FOR LOCAL CRIMINAL JUSTICE AGENCIES

PROBLEM

At the present time, management and technical assistance services are not available to local criminal justice agencies on a regular basis. A recent survey indicated that 61 percent of all local police agencies in Georgia feel that the State should make available to local law enforcement agencies specialized services in the areas of management and technical assistance. Sixty-nine percent of the agencies indicated that they would utilize a State technical assistance team with expertise in organization and program anaiysis.

FINDINGS

Local criminal justice agenices need technical assistance services for two reasons. First, there is the need to objectively review police procedures and programs on a regular basis. Second, local law enforcement agencies need to have access to expertise in specialized fields in which their particular agency might be deficient. Such evaluations and specialized assistance should be provided by or through the State. Agencies which provide such assistance on a limited basis are the Georgia Bureau of Investigation, the various police academies, the University of Georgia Institute of Government, the Department of Public Safety, the District Attorneys' Association, the State Crime Commission and the Department of Community Development. Except for the State Crime Commission, criminal justice technical assistance is only a minor function for these agencies.

The State Crime Commission is currently responsible for coordinating requests for technical assistance from State and local criminal justice agencies. It is unknown whether the current technical assistance demands are greater than the assistance available.

RECOMMENDATION

The Commission recommends that the State Crime Commission determine both the current and future technical assistance needs of criminal justice agencies and assess the ability of the various agencies to answer those needs. Based on the result of this assessment, the State should consider expansion of its capabilities to provide criminal justice technical assistance.

IMPLEMENTATION

Implementation of this recommendation can be done within the existing authority of the State Crime Commission.

CONTROL OF UNUSUAL OCCURRENCES

PROBLEM

At the present time, the Georgia State Patrol, and in some cases the National Guard, are the principal resources used by local communities in dealing with unusual occurrences such as natural disasters and civil unrest. This practice has not only proved to be very costly but in many cases a faster and more appropriate response to these occurrences could be provided by local agencies.

FINDINGS

During the past three years, the Georgia State Patrol has devoted over twelve thousand man-hours to duties related to the control of unusual occurrences, at an estimated minimal cost to the State of $30,000. Much more costly is the expense incurred in calling out the National Guard. Between April 8 and 11, 1968, the State spent $84,350 to send the Guard to Atlanta on a riot readiness alert.The Guard was not placed into action in this situation. The largest recent expense for Guard duty in Georgia was incurred between May 11 and 18, 1970, when the Guard was called upon for riot duty in Augusta and Athens. Some 2,612 National Guard personnel were called to those scenes, costing the State $211,500.

The use of the State Patrol as the first line of defense in controlling unusual occurrences presents several problems other than the high cost. First, the State Patrol's two-hour average response time compares unfavorably with the 45 minute average response time experienced by two regions of the State which participate in mutual aid agreements. Second, most communities in the State do not have comprehensive written plans for the control of unusual occurrences since they can depend on the State Patrol. Third, upon entering the emergency area, the State Patrol places into effect its own comprehensive plan for controlling the disorder. The State Patrol's plan, however, may not take into consideration the specific needs of the local community and may lead to a reduced level of confidence in the local law enforcement units. Fourth, even the State Patrol and the National Guard working together may not be able to cope with unusual occurrences if they are severe and take place simultaneously in separate communities within the State. Finally, any disturbance which requires the commitment of a large number of State Troopers would weaken the ability of the State Patrol to perform its normal duties.

RECOMMENDATION

The Commission recommends the establishment of a statewide mutual aid plan for the control of unusual occurrences at the local level. The statewide plan should require mutual aid agreements among local governments and should detail the method by which such agreements can be placed into effect. Under the term of each mutual aid agreement, the first call for outside aid should be directed to a pre-determined law enforcement officer who, in turn, could call upon the region-wide coordinator. The State's Adjutant General should act as the statewide coordinator for the regional programs and provide liaison with the Governor's Office where necessary.

To insure the effectiveness of all the mutual aid programs in the State, the Commission further recommends that the State provide the following:

- A specialized regional training program for local law enforcement officials and municipal and county leaders in developing comprehensive plans of action for the control of unusual occurrences.
- Increased unusual occurrence training in the State's police academies.
- An ongoing technical assistance program directed toward familiarizing local law enforcement agencies with new unusual occurrence methods and material, encouraging these agencies to conduct in-house training exercises, and developing and encouraging interagency and intercommunity agreements relating to the joint provision of services and personnel.

IMPLEMENTATION

Legislation should be enacted which requires the establishment of regional mutual aid agreements for the control of unusual occurrences. In addition, the State Crime Commission should coordinate the program to provide unusual occurrence technical assistance to local law enforcement agencies.

POLICE TRANSPORTATION

PROBLEM

Other than salaries, transportation is the most expensive item in the typical police agency budget. However, law enforcement agencies in Georgia have limited access to expertise in the area of motor vehicle management.

FINDINGS

All local law enforcement agencies are invited and encouraged to participate in the State's "police package" plan for procurement of automobiles. Under this plan, low cost, high quality standardized police vehicles are purchased in large quantities for the Georgia State Patrol and other State law enforcement agencies. Participation in this plan, however, is not mandatory for local law enforcement agencies. During the past year, only nine percent of all local law enforcement agencies purchased their vehicles through the State police package plan.

Currently, the State is doing very little to help provide high quality and cost-effective maintenance programs for police agencies. There is no special inspection or certification procedure for police vehicles and the State maintains only one major police garage to serve its own law enforcement vehicles. Hence, many State law enforcement vehicles and all local law enforcement vehicles are maintained either by the local dealer or by local private garages.

Another deficiency is in the area of police officer driver safety. At the present time, only the State Patrol offers pursuit driver training courses to its members. Furthermore, only three of every ten local law enforcement agencies conduct fleet safety programs which insure adequate driver training, vehicle inspection and problem-driver detection procedures. This is particularly alarming in light of a National Safety Council study which found that three of every four police vehicles in the nation were involved in accidents between 1967 and 1969. It is also alarming in light of the National Advisory Commission's finding that "after salary costs, transportation is the most expensive item in the typical police agency budget, and represents the greatest fiscal management challenge to the police agency." It would appear that Georgia is certainly no exception to these findings. The Atlanta Police Department reported a total of 553 accidents involving only 441 police cars during 1973. Each car averaged 1.25 accidents during the year. The total repair bill for these accidents was almost $115,000, and the accident rate is running even higher this year. More importantly, the Atlanta Police Department estimates that as many as 75 percent of its accidents are caused by carelessness on the part of the officers during routine driving.

Although law enforcement technical assistance is provided to local agencies from several sources, none of these sources provides assistance in the area of fleet management. Among state agencies, only the State Crime Commission is properly authorized and capable of providing fleet management assistance to local law enforcement agencies. The State Crime Commission does not have the staff expertise to provide fleet management assistance, but can do so through its access to Law Enforcement Assistance Administration grants.

RECOMMENDATION

The Commission recommends that the State Crime Commission be responsible for the development of a comprehensive fleet management program for police agencies. The program should be adaptable to all law enforcement agencies and should contain guidelines for determining fleet needs and suggested improvements.

To help work toward improved police vehicle safety, the following actions should be taken:

- When purchasing new vehicles, all State and local police agencies should be required to conform to vehicle safety and performance specifications as set forth jointly by the Department of Public Safety and the Department of Administrative Services.
- The Department of Administrative Services should broaden its current specification package in order to accommodate the fleet needs of all police agencies throughout the State.
- A program of statewide recognition for police officers with exceptional driving records should be initiated.
- Defensive driving training should be provided at all accredited police academies throughout the State and a special pursuit driving course should be initiated at the Georgia Police Academy.

IMPLEMENTATION

Legislation should be enacted to require all State and local police agencies to conform to the Department of Administrative Services' vehicle safety and performance specifications. In addition, the Department of Administrative Services should provide fleet management consulting services through the State Crime Commission. Also, the current vehicle specification packages should be broadened and a program of statewide recognition for officers with exceptional safe driving records should be initiated. Furthermore, the Peace Officers Standards and Training Council, which is responsible for the curricula of the Georgia police academies, should direct all academies to include expanded driver training courses as set forth in this recommendation.

POLICE ACTIVITIES IN COURT CASES

PROBLEM

No mechanism presently exists to facilitate cooperation between police and the courts in such areas as scheduling police officers as witnesses and following up on dismissed and non-prosecuted cases.

FINDINGS

There exists very little cooperation between the police and the courts. Cases are prepared by the police and the results of investigations are turned over to the prosecutor for his action, with no follow-up. The prosecutor then decides whether to continue prosecution, to ask for dismissal or to refuse to prosecute the case.

Basic scheduling conflicts exist between police and the courts. Many times, police officers are required to spend several hours in a courtroom waiting for their turn to testify. This not only deprives the officer of his off-duty time, but also precludes him from responding to police situations. Officers are spending an average of ten man-hours per month in the courtroom. This time is far in excess of the actual time needed for testimony and cross-examination.

In a recent survey of local law enforcement agencies, several questions were posed regarding coordination and cooperation between police and the courts. In a sample involving a cross-section of small, medium and large police departments, 77 percent of those surveyed stated that their agencies maintain liaison with the prosecutor. However, most of this liaison is on an informal basis. An active liaison with the prosecutor to aid in officer scheduling, case preparation and review of dismissed or non-prosecuted cases is lacking.

RECOMMENDATION

The Commission recommends that the State create and fund a position of court liaison officer in each judicial circuit to be responsible for:

- Scheduling of police officers as witnesses;
- Providing police agencies with dispositions on convicted or non-prosecuted cases;
- Expediting cases from police agencies to the prosecutor's office; and
- Providing liaison between police and the courts.

These liaison officers should have minimum qualifications consisting of a management, criminal justice or related degree. Some experience in law enforcement or court-related functions also would be helpful. Judicial circuits with relatively light work loads may delegate this function to either an assistant district attorney or an investigator in the district attorney's office.

IMPLEMENTATION

The State Crime Commission should assign a high funding priority to two court liaison pilot projects during Fiscal Year 1976. Placement of court liaison officers in all judicial circuits should be considered after evaluation by the State Crime Commission determines whether these projects have been successful.

INTERAGENCY COOPERATION AND COORDINATION

PROBLEM

Present efforts to promote cooperation and coordination among criminal justice agencies through regional councils have been largely ineffective.

FINDINGS

The State Crime Commission operates on a statewide basis performing a planning and coordinating function in the administration of LEAA funds to cities and counties. The State is divided into 18 Area Planning and Development Commissions which administer funds and make grant applications on a regional level. The person responsible for each of these regional applications is the law enforcement planner on the staff of the Area Planning and Development Commission. Each Area Planning and Development Commission has established a regional criminal justice advisory council responsible for setting priorities for funding within the area. These councils, however, are ineffective and do not function in an active manner. Similarly, the Georgia Bureau of Investigation has established a "Council of Twenty" in each of its nine regions to allow for citizen input. These councils, however, are no longer active.

RECOMMENDATION

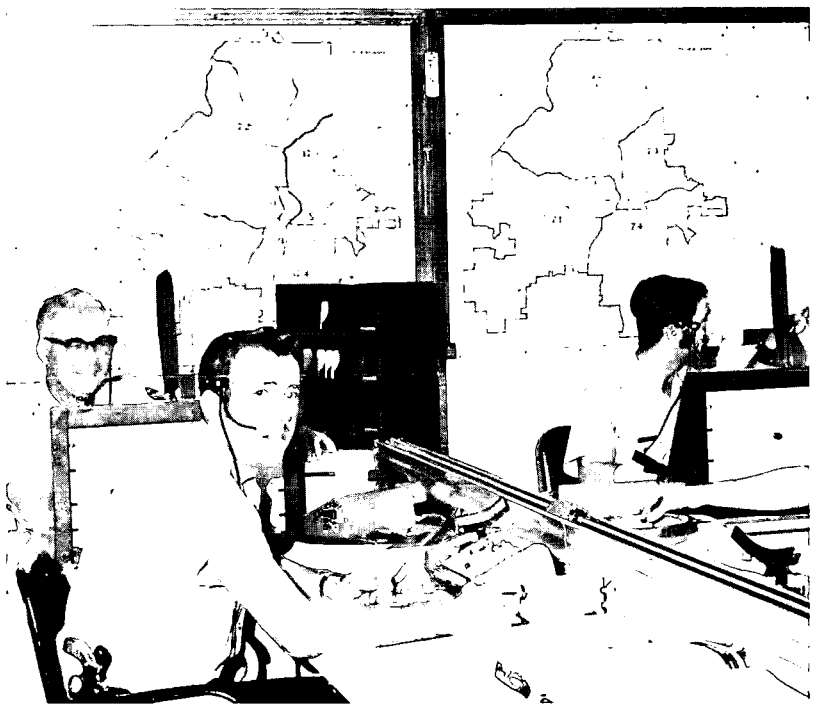
The Commission recommends that the State, through the State Crime Commission, strengthen the role of existing regional criminal justice advisory councils by consolidating them with the Georgia Bureau of Investigation Councils of Twenty. These newly defined criminal justice coordinating councils located in each of the eighteen Area Planning and Development Commissions should be representative of all components of the criminal justice system. In addition to their former roles, they should concentrate their efforts on improving the processing of cases through the system, better service to the community and reintegration of the offender into the community. Specifically, these councils should:

- Provide direction in setting goals and objectives in criminal justice for each Area Planning and Development Commission;

- Prioritize goals at the Area Planning and Development Commission level;
- Make recommendations on local grant applications as to their consistency with the State plan;
- Request funds for special projects or experiments which would affect the total Area Planning and Development Commission's area;
- Provide liaison and coordination among the elements in the criminal justice system; and
- Monitor the effectiveness of programs in operation that have been or will be funded through LEAA.

IMPLEMENTATION

Action should be taken immediately by the State Crime Commission to work with Area Planning and Development Commissions in creating these criminal justice councils.



SYSTEMS

SUMMARY OF RECOMMENDATIONS

- The emphasis of the State Crime Commission should be shifted from distributing federal funds to criminal justice planning and evaluation. Also, the Commission's planning process should be scheduled to conform to the State's budget and planning cycle so that resulting plans can achieve maximum impact.

- The composition of the Georgia Crime Information Center Advisory Committee should be changed to include balanced representation from the general public and the criminal justice community to assure protection of personal privacy without unduly limiting the effectiveness of criminal justice agencies.

- The Department of Administrative Services should be authorized to provide, at no charge, radio system design and engineering services to local law enforcement agencies, and to coordinate all public safety radio frequency applications for State and local government agencies. Also, the Department should prepare a standard radio operating procedures manual for use by all law enforcement agencies and which also can be used to develop a training program by the Peace Officers Standards and Training Council.

CRIMINAL JUSTICE PLANNING

PROBLEM

Statewide comprehensive criminal justice planning is essential to assure that manpower and financial resources are used most effectively. However, planning presently is performed by many State and local agencies in a largely uncoordinated fashion.

FINDINGS

Georgia's criminal justice system includes segments of the executive and the judicial branches at both the State and local level. While many of these agencies engage in criminal justice planning, there is a wide variance in the nature and quality of planning and in the degree to which plans are used in the budgetary process. Prior to the creation of the State Crime Commission, no agency was authorized to coordinate plans and implement and evaluate programs designed to achieve common goals. The State Crime Commission was created to satisfy a requirement of federal crime control legislation and is authorized to:

- Coordinate and develop annual comprehensive criminal justice plans for the reduction of crime;
- Allocate federal crime control funds to criminal justice agencies based on annual plans;
- Provide or secure technical assistance to State and local criminal justice agencies; and
- Analyze and publish statewide crime statistics.

Organizationally, the Commission is attached to the State Department of Community Development for administrative purposes. Since the Commission was created in compliance with federal regulations, the possibility exists that Commission functions will cease upon termination of federal legislation. Without systemwide coordination of plans, unbiased evaluation, objective crime analysis and technical expertise, Georgia's approach to dealing with the crime problem likely would be fragmented and ineffective.

Even with systemwide planning authority, previous Comprehensive Criminal Justice Plans developed by the Commission have not been totally effective. Three reasons for these failures are a preoccupation with distributing federal funds; a lack of coordination between budgeting for the expenditure of federal funds and the expenditure of other funds; and a lack of data to adequately identify problems, establish quantifiable goals and determine successes and failures.

Although the federal crime control legislation of 1969 and 1973 both emphasize statewide criminal justice planning, federal directives have emphasized the flow of federal funds. As a result, the Commission has been preoccupied with the allocation and administration of federal funds at the expense of other functions such as planning, coordination, technical assistance and evaluation. This has led directly to State, regional and local criminal justice plans and programs being developed primarily for the purpose of receiving federal funds. When the availability of federal funds is eliminated, many of these plans and programs will be discontinued.

Criminal justice planning done by the State Crime Commission is not fully utilized in the budget processes of State and local agencies. Currently, federal funds allocated by the Commission represent less than six percent of all expenditures for criminal justice programs in the State. The planning required for this small portion of expenditures has no appreciable impact on the total criminal justice system. Also, the effect of the programs funded has no appreciable impact on the reduction of crime.

The Georgia Criminal Justice Information System, being developed by the Georgia Crime Information Center, will supply the Commission with most of the data needed for effective planning. However, the Commission's data analysis function will not reach its full potential until the computerized Criminal Justice Information System is fully implemented in late 1975. Development of this system is on schedule, but implementation costs are much higher than originally proposed. To remain on schedule, increased State funding will be required.

RECOMMENDATION

The Commission recommends that the State Crime Commission continue to perform its current role and responsibilities as a unit of State government attached to the Department of Community Development. However, emphasis should immediately be shifted from distributing federal funds to criminal justice planning and evaluation. As a part of this shift, the Commission's criminal justice planning process should be scheduled to conform to the State's budget cycle. The Comprehensive Criminal Justice Plan can then be utilized more effectively by the Office of Planning and Budget in the development of programs and policies. Also, evaluation techniques should be built into the planning process in order to measure the success of individual projects and programs.

In addition, it is recommended that the State criminal justice planning be continued beyond the duration of the current federal crime program as should the State's responsibilities for providing crime statistics analysis and

technical assistance. Finally, the State should provide increased funds to the Georgia Crime Information Center to facilitate completion of the Criminal Justice Information System as scheduled.

IMPLEMENTATION

The State Crime Commission should immediately begin review and revision of its planning and evaluation process in cooperation with State and local criminal justice agencies. The Georgia Crime Information Center should be given high priority for additional funding to continue development and operation of the Georgia Criminal Justice Information System.

SECURITY AND PRIVACY OF CRIMINAL OFFENDER DATA

PROBLEM

Georgia needs to protect individual rights to privacy while providing the criminal justice system with data necessary for its effective operation.

FINDINGS

Criminal activity is not limited by geographical boundaries, making the sharing of criminal justice information necessary statewide. Access to criminal justice information in a timely and reliable fashion not only improves criminal justice agencies' effectiveness but also increases the safety factor of law enforcement officers and citizens alike. The need for interstate and intrastate communication of vital information relating to crime events, criminal offenders and criminal activity has led to development of Georgia's computer-based Criminal Justice Information System with a capacity for permanent storage, rapid retrieval and national coverage. Increased utilization of sophisticated technology has, in turn, led to public concern about the increased vulnerability of an individual's right to privacy. Certainly, privacy can become seriously threatened when the information contained in a statewide or national system is inaccurate and/or incomplete, improperly disseminated and used, and unprotected against accidental or intentional damage or alteration.

Congressional and public concern with the potential hazard to personal privacy has resulted in several proposals to legislate national rules on the quality, use and dissemination of criminal justice information. However, Georgia has already taken steps to minimize the potential hazard to personal privacy and to maximize the security of criminal justice information through systems design and legislative provisions. The Georgia Crime Information Center Act of 1973 created the Georgia Crime Information Center to develop and maintain Georgia's Criminal Justice Information System. This Act also limits use and dissemination of criminal justice information to criminal justice agencies, allows an individual to challenge the accuracy of information collected about him, and creates an Advisory Council to advise the Georgia Crime Information Center in the operation and control of the information system.

The Advisory Council is responsible for advising and assisting the Center in the establishment of policies which:

- Provide for the efficient and effective use of the Criminal Justice Information System;
- Ensure that the scope of the system is limited to information needed;
- Establish that adequate security and privacy safeguards are incorporated in the Center's operations; and
- Institute appropriate disciplinary measures to be taken by the Center in the event of violations by participating agencies.

The Advisory Council membership is primarily representative of users of the Criminal Justice Information System and as such is weighted towards criminal justice interests. The potential for developing information regulations favorable to criminal justice agencies at the expense of personal privacy appears to exist since only two of fourteen members represent public interest.

Due to the inactivity of the Advisory Council, the Center has made decisions in the absence of policy guidance. For example, no security and privacy regulations have been promulgated by the Advisory Council. Since the Advisory Council is not required to report to the Governor nor to the public, neither the Governor nor the public is made aware of security and privacy measures established by the Center. Without assurances to the public, concern about the protection of personal privacy will continue to increase.

The Georgia Crime Information Center Act of 1973 is generally consistent with existing and proposed federal legislation and provides a basis of authorization for the protection of personal privacy without unduly limiting the effectiveness of criminal justice agencies. However, security and privacy regulations need to be established to guide the Center and participating agencies' activity and to assure enforcement of the Act. A system for certifying that user agencies are in compliance with established rules and regulations needs to be developed.

RECOMMENDATION

The Commission recommends that the composition of the Georgia Crime Information Center Advisory Council be

changed to include greater representation from the general public and to recognize its importance by naming the Governor as its Chairman. Membership should be balanced with seven persons representing criminal justice agencies and seven persons representing the general public. Also, the Advisory Council's role should be expanded to authorize the Council to annually report to the public the types and uses of data collected, and the safeguards adopted to protect individual privacy.

IMPLEMENTATION

The Georgia Crime Information Center Act of 1973 should be amended to alter its composition and to provide for annual reporting to the public.

INEFFICIENT USE OF LIMITED RADIO FREQUENCY RESOURCES

PROBLEM

Many law enforcement agencies do not make the most efficient use of the radio frequencies. This inefficiency is caused by the lack of standardized and efficient radio operating procedures, and the use of improperly designed radio communications systems that do not fulfill the using agency's requirements.

FINDINGS

The State of Georgia has established three statewide police radio frequencies for use by State and local enforcement agencies during emergencies and other situations requiring interagency coordination. These existing statewide radio frequencies are adequate to support Georgia's State and local interagency coordination requirements, provided they are used in accordance with their intended purposes. However, this is not being done. Local law enforcement agencies are required by their license from the Federal Communications Commission to operate on specific local frequencies for conducting daily routine activities, and on the statewide frequencies only for interagency coordination purposes. While almost all municipal police departments are using their local frequencies, many sheriffs' departments have equipment which is capable of using only the statewide frequencies.

The Telecommunications Consolidation Act of 1973 authorized the Department of Administrative Services to formulate and implement a plan for a statewide telecommunications system to serve State government. This law assigns to the Department of Administrative Services the responsibility for the design, procurement, installation and maintenance of all radio communications systems operated by agencies of the State government, including State law enforcement agencies.

However, there is no statutory authority for the State to provide comprehensive radio communications system engineering assistance to local governments. The Department attempts to assist local agencies upon request whenever possible. However, due to limitations of time, manpower, financial resources, and the priority of State-level activities, such assistance is generally of a review and advisory nature rather than actual engineering assistance.

Most local agencies do not have access to systems engineering assistance and must therefore rely upon the various manufacturer's sales representatives for the identification of deficiencies, as well as for the design of a proper system. Since most sales personnel do not have the technical engineering background required of a professional systems engineer, the manufacturer's assistance has been of questionable value to those agencies who are financially unable to obtain this service through other sources. Profit motivation is a factor in radio systems designed by equipment manufacturers. This can result in unnecessarily sophisticated equipment and systems, accompanied by excess costs to the agency.

In the past, many radio systems were designed to radiate the strongest signal possible in order to obtain the greatest radio coverage area. Maximum antenna height and maximum transmitter power came to be considered as primary requirements of any mobile radio system. This did not pose a problem when radio systems were much fewer in number and mobile units frequently traveled greater distances from the base station. However, in view of the tremendous growth in the number of radio systems in use today, plus the fact all radio frequencies must be shared with other systems in other geographical areas, such factors are now a serious detriment to the efficient operation of any radio system. It is now necessary that all radio systems be designed to meet stringent system performance criteria based primarily upon the user's actual communications needs, the economical selection of equipment, the prevention of interference to other systems, and the most efficient use of the frequency spectrum.

The Department of Administrative Services presently applies such criteria to the design and modification of the State's radio communications systems. The same criteria should also be applied to the design of local law enforcement systems.

The Federal Communications Commission requires that evidence of frequency coordination be submitted with all radio license applications. Frequency coordination is the process of selecting and recommending a suitable frequency for use by the license applicant which will cause

the least amount of interference to other systems. The State and local governments presently use the coordination services provided by the Georgia Chapter of the Associated Public Safety Communications Officers, Inc., a non-profit association of communications personnel involved in the administrative, technical and operational fields of public safety radio communications. Georgia's access to this service is through the Georgia organization's frequency coordinator and is dependent upon the continued functioning of its Georgia chapter.

In addition to the problem of using incorrect frequencies, the lack of efficient radio operating procedures is another significant cause of inefficient frequency utilization. The State Crime Commission's Police Radio Communications Plan provides for the shared use of local frequencies in order to conserve limited frequency resources and to promote adjacent agency cooperation. In order for all users to have equal and ready access to the frequencies, it is necessary that each user agency employ efficient and rapid operating procedures, and that such procedures be standardized among all agencies sharing a particular frequency. However, it has been learned that such procedures are not in general use by most agencies, and that there is widespread use of many local law enforcement radio systems for conducting personal and other non-law enforcement related activities. This causes a severe reduction in the amount of air time available to an agency in conducting official law enforcement activities. No evidence has been found which would indicate the intentional non-use of efficient operating procedures by any law enforcement agency. Instead, it was found that formal training in correct radio operating procedures is unavailable to the enforcement officers. New officers usually learn from others, thereby perpetuating the existing practices and presenting no opportunity for improvement.

Even if an agency realizes that its operating procedures are inadequate, the agency usually does not have access to the assistance it needs to correct the problem. The Georgia State Patrol and the larger metropolitan agencies have set forth efficient procedures for using their radio systems. Most smaller agencies, however, lack the expertise to do this.

RECOMMENDATION

The Commission recommends that the Department of Administrative Services be authorized to provide, at no charge, radio system design and engineering services to local law enforcement agencies, to ensure that all systems are technically capable of fulfilling both local and interagency communications requirements. It is further recommended that the Department of Administrative Services be charged with the responsibility of coordinating all public safety radio frequency applications for State and local government agencies with the State.

In addition, the Department of Administrative Services, in cooperation with the State Crime Commission, should prepare a standard radio operating procedures manual for use by all law enforcement agencies. The Georgia Peace Officers Standards and Training Council should develop a comprehensive training course from the manual, to be included in the law enforcement training curricula. Also, the Department of Public Safety should insure that proper procedures are complied with by all agencies when using the interstate coordinating frequencies.

IMPLEMENTATION

Legislation authorizing the Department of Administrative Services to provide radio services to local law enforcement agencies and to coordinate all public safety radio frequency applications is needed. Preparation of the standard radio operating procedures manual should be undertaken through establishment of an LEAA grant by the State Crime Commission. The Georgia State Patrol should seek authorization from the Board of Public Safety to begin its monitoring of statewide radio frequencies.

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