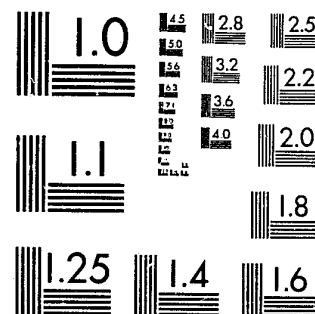


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## population management strategies

### A REVIEW OF SENTENCING PRACTICES AND OPTIONS

by  
JANE SELF  
planner

March 1982

PLANNING AND BUDGET SECTION  
Department of Offender Rehabilitation

88662

POPULATION MANAGEMENT STRATEGIES  
A REVIEW OF SENTENCING PRACTICES AND OPTIONS

U.S. Department of Justice  
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PLANNING AND BUDGET SECTION  
DEPARTMENT OF OFFENDER REHABILITATION

By

Jane Self, Planner  
March 1982

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## 1.0 BRIEFING SUMMARY

### POPULATION MANAGEMENT STRATEGIES A REVIEW OF SENTENCING PRACTICES AND OPTIONS PLANNING AND BUDGET SECTION MARCH, 1982

TITLE OF THE REPORT: "Population Management Strategies  
A Review of Sentencing Practices and Options"  
By Jane Self, Planner

PURPOSE:

To analyze sentencing practices in Georgia's Superior Court circuits and to assess the economic and prison population impact of selected sentencing options.

FINDINGS:

1. Georgia incarcerates more persons per 100,000 civilians than any other State in the U.S.
2. The crime rate is apparently unaffected by incarceration rates and incarceration rates do not necessarily reflect crime rates.
3. The use of various sentencing options by judges varies significantly among the 42 Superior Court circuits.
4. More circuits have reduced their use of split sentencing (which usually result in shorter incarceration periods) than increased it over the past four years.
5. The majority of Georgia's circuits have decreased the use of probation as an alternative to incarceration in the last four years.
6. The percentage of felons sentenced to prison for non-violent personal and property crimes has substantially increased since 1978.
7. In 1981, 49% of all admissions to prison were first offenders of non-violent crimes. Thirteen percent of all admissions were misdemeanants.
8. Although the average sentence length has slightly decreased over the past four years, over the last decade, it has increased 25%.
9. The sentencing severity has slightly declined from 1978 to 1981. However 1981 figures note an increase over 1980 in sentencing severity statewide.
10. Minor reductions in sentence lengths of convicted offenders could make a substantial difference in the inmate population and save the state as much as \$14.5 million over a two-year period.
11. Diversion of misdemeanants and first offenders to probation or diversion centers could result in 3500 fewer prisoners and saving of \$22 million in less than two years.

RECOMMENDATIONS:

1. Eliminate misdemeanants from the state prisons and increase the dollar amount for felony prosecution in theft cases to \$1,000.
2. Divert a substantially larger percentage of first offenders of non-violent crimes to intensive probation programs and/or diversion centers.
3. Increase the use of split sentences.
4. Decrease the average length of sentences for offenders sent to prison.
5. All legislation affecting prison population should be assessed for economic and population impact.
6. Study and consider establishing a sentencing guidelines commission for Georgia.
7. Determine impact of repealing or amending Habitual Offender laws and other minimum mandatory statutes.
8. Involve judiciary in reviewing overcrowded problem and developing viable solutions.
9. Work with other community groups and agencies to develop strategies for alleviating overcrowding.

## 2.0 INTRODUCTION

The Georgia Department of Offender Rehabilitation (DOR), which is administratively responsible for the state's prison and probation systems, has identified the increase in the offender population and subsequent prison overcrowding as its most critical concern. Two major factors determine the size of the inmate population: the number of admissions of offenders to prison and the length of time served by those offenders. Even slight increases in the number of admissions cause a significant increase in the prison population over a relatively short period of time. Increases in the average length of time served are not felt immediately. However, the long term impact of such a change can be enormous. The effect is delayed until the time when those offenders would have normally been released, and has been characterized as a "population time bomb."

Overcrowded prisons are not the result of one single phenomenon. Any meaningful attempt to solve the problem cannot focus on short term alleviation in any single area. Recognizing that, DOR held a policy workshop in April, 1981 to develop system-wide strategies for alleviating the overcrowding problem. Both budgetary and non-budgetary items were identified as well as short-term and long-term options.

Of the long-term options, one of the most important identified for further study was the sentencing process in Georgia and analysis of how admissions could possibly be managed more effectively at this point. Although DOR is not directly responsible for the sentencing process, the agency is responsible for providing accurate information and analysis that can assist in decision making related to the sentencing process.

The decisions about who goes to prison and for what length of time are basically made by the judiciary. The Parole Board has broad discretion on early releases of selected inmates under supervision. DOR administers an earned time system, that allows inmates to earn time off their sentences by maintaining a satisfactory level of behavior while in the institution. However, the Superior Court judges maintain the largest amount of control and discretion over the inmate population through the sentencing process.

When an offender is found guilty, the judge has five basic choices. He may sentence the offender to incarceration in prison, selecting the sentence length from the range mandated by law. He may probate the sentence, releasing the offender under supervision. He may probate the offender to a diversion center for residential supervision and services. He may also fine the offender or suspend a sentence. Additional options are primarily modifications or combinations of the alternatives listed above. The choice of the judge at this time has enormous impact on the use of bedspace in correctional institutions and diversion centers and on the level of services provided non-residentially through street probation.

This study was conducted to analyze the sentencing patterns of each of the Superior Court circuits in Georgia. Utilization of split sentences and of probation were studied as were the percentages of non-violent offenders and misdemeanants admitted from each circuit. The average sentence length and

severity index of each circuit were also studied. This analysis of sentencing provided the basis for determining how increased utilization of a few options could potentially control the population in Georgia's prisons.

## 2.1 STATEMENT OF THE PROBLEM

A number of options are available to judges when post-conviction sentencing decisions are made on who goes to prison and for how long. Among the 42 Superior Court judicial circuits in Georgia, there is wide discrepancy in utilizing these options. Some circuits, for example, probate a significantly larger percentage of first offense felons than other circuits. Some circuits hand down much longer sentences than others for similar types of offenses. Some circuits divert non-violent first offenders to probation or diversion centers more often than do other circuits.

The growth of the inmate population and overcrowding of prisons are becoming more serious each month as more offenders are receiving prison sentences. Consistent state-wide implementation of some of the judicial options already in place can make a substantial impact on overcrowding in Georgia's prisons.

## 2.2 PURPOSE OF THE STUDY

The purpose of this study is to analyze Georgia's judicial sentencing practices and trends by circuits and to determine the potential impact on the prison population and estimated costs of selected sentencing options. This study is not designed to be an academic exercise, but rather an analysis of existing options and of their impact. It could serve as an educational resource for the judiciary and legislature and for others who are involved in making decisions related to sentencing practices.

In order to gain perspective on the diversity of the sentencing practices among Georgia's circuits, incarceration rates and crime rates were compared by circuit. Specific sentencing practices studied were use of split sentencing, use of probation, types of offenses of those admitted to prison, average length of sentences, and the severity of sentences.

Impacts on prison population were determined for selected options and the cost of implementing each. Those options included eliminating misdemeanants from incarceration in state prisons, probating 10% of the non-violent first offenders, probating all non-violent first offenders, increasing use of split sentences to 50%, 60% and 70% of convicted felons, and raising the financial limit on differentiating a misdemeanor from a felony.

## 2.3 METHODOLOGY OF STUDY

Georgia is only one of many states experiencing problems managing its rapidly expanding prison population. A literature review was conducted to determine general approaches to reducing prison populations and to briefly explore the development of corrections from international and national perspectives. The review included an overview of sentencing reform in the United States and discussion of the philosophical bases for those reforms.

Analysis of Georgia's sentencing practices involved a comparison of the 42 judicial circuits by incarceration rates, crime rates, and use of various sentencing options during the past four years. Data from FY 1981 were used to



determine the potential impact of selected sentencing alternatives on Georgia's prison population. The calculations indicate the estimated differences in cost and incarcerated population for FY 1981 if certain options had been implemented.

The computerized data base of the Statistics Office of the Department of Offender Rehabilitation provided the basic data used to compare incarceration rates and sentencing practices of the circuits. Only inmates with new sentences were included in the data. Those admitted to prison for probation or parole revocations were excluded. Statistics on crime were obtained from the Georgia Crime Information Center.

The incarceration rate is the number of persons who are imprisoned per 100,000 civilians. Incarceration rates were determined by dividing the number of active prison inmates on a given date from each circuit by the general population of that circuit based on the 1980 Census data found in the 1980 Census of Population and Housing.

#### 2.4 BACKGROUND

The State of Georgia has been facing an increasingly serious problem of managing overcrowded prisons and jails during the past few years. While the total number of offenders admitted to prison continues to grow each month, the percentage of admissions for property and non-violent offenses is also growing. Even an ambitious institution building program by the Department of Offender Rehabilitation in recent years has been unable to provide enough beds to meet the demand.

In the past a number of "capacity" terms have been used. They have often been used interchangeably and in many cases incorrectly. DOR officially defined the terms in January 1982 while conducting a capacity study.

"Maximum Operating Capacity" is the maximum number of inmates that will be housed in an institution at any point in time. This includes all bedspaces that are routinely available for inmate assignment. As of March 1982, the maximum operating capacity stands at 9,972 in the state institutions, 2,400 in the county institutions and 478 in the transitional centers, a total of 12,850.

"Standard Capacity" is a figure defined in 1977 by an engineering consultant firm. Based on nationally defined standards and the floor space and general conditions of DOR's facilities, this figure represents the population the consultants thought could be adequately served in each facility. This figure is considerably smaller than maximum operating capacity. Even with the planned new construction of prisons in Georgia, the maximum operating capacity for state prisoners will barely keep pace with the projected prison population for the next several years. If the Department of Offender Rehabilitation were required to meet standard bedspace requirements, the discrepancy would be even more dramatic.

Beyond the constitutional considerations of overcrowded prisons and jails (at least 50% of the states are currently operating under court orders because of such violations), many other safety and health concerns are related. Crowded inmates have more stress, discomfort and psychosomatic illness complaints requiring more medical attention than those less crowded. There tends to be more stress and sick leave among staff at crowded prisons. Communicable diseases are more easily spread in institutions when there is less than about 80 square feet per person. Riots and other prison disturbances, often life-threatening to inmates and staff, are generally linked to overcrowded conditions.

Even before inmates can be processed into the state system, they are temporarily held in local county jails along with state prisoners waiting for trial appeals. This backlog of state prisoners in county jails has continually risen with over 1700 waiting for pick-up in February of this year. Also facing critical shortages in space, the sheriffs and officials responsible for these jails have identified the state prisoners awaiting transfer to DOR facilities as a cause of their overcrowding conditions.

All adult male offenders who are sentenced to serve time in Georgia prisons must be classified and tested (psychologically and medically) at the Georgia Diagnostic and Classification Center in Jackson, Georgia. Because of a lag in processing time due to inability to efficiently process the ever-increasing numbers of inmate admissions, this requirement creates a "bottleneck" in placing male inmates in state institutions.

At times this problem is exacerbated by the lack of appropriate, available bedspace in the institutions, which slows the movement of already classified new inmates from GD&CC to permanent assignments elsewhere. A similar problem exists for female inmates, who may complete the classification process in the diagnostic component of the Women's Unit, but be held there until bedspace becomes available for permanent placement.

There are many points in the overall criminal justice system where decisions are made that have both direct and indirect impact on the prison population. This begins with the Legislature, whose members interpret the desires of the public in determining what constitutes criminal activity, how offenses should be punished, and what funding will be allocated to state agencies to act on their decisions. It includes those who enforce the law such as the police and sheriffs, district attorneys, judges, and others who carry the legal process forward. Broad discretion exists at each decision point in the long chain of events which culminate in incarceration of people in prison. The overcrowding problem cannot be attributed to any one agency within the system nor solved at any one point.

Cognizant of the magnitude of the problem and the overall effect, DOR has been working with other agencies and focusing extensive internal efforts on developing strategies for alleviating the problems related to correctional overcrowding. Governor Busbee has declared the jail/prison overcrowding problem to be the primary legislative priority this session. This has resulted in a comprehensive legislative and budget package being considered during the 1982 legislative session.



### 3.0 REVIEW OF THE LITERATURE

There are many ways that governments have chosen to deal with citizens who violate society's laws. Very complex and sophisticated criminal justice systems have been developed in the attempt to maintain social order. Uneven social, political and economic development of nations around the world is reflected in the diverse system of criminal justice. However, every governmental jurisdiction has adopted certain rules or laws by which people are supposed to abide. In every jurisdiction there are violators of those laws and a set of sanctions which are designed to punish or reform persons who do not abide by that society's rules.

The purpose of this section is to briefly review some examples of how different societies deal with crime. Both foreign nations and different states within this country are included. Although comparisons, especially international ones, can only be made with caution due to tremendous diversity on many social, cultural, and economic dimensions, exposure to various methods and philosophies can stimulate thought and reexamination of our own approaches to solving problems. This literature review also looks specifically at the history of sentencing in the United States and the changing philosophical correctional models that have been applied.

When discussing the sentencing process, there are a number of terms that are quite often used interchangeably in the literature. For the purpose of this review, the following definitions apply to the sentencing terms used throughout this paper.

INDETERMINATE SENTENCE An open-ended sentence of a convicted offender within statutory authorization in which no specific amount of time to be served is stated (e.g. three to five years). The appropriate authority has complete power to release the inmate at any time with or without conditions within the sentenced time span (or in some cases even before the minimum).

DETERMINATE SENTENCE Although there are many variations of determinate sentences, it simply is a sentence for a specified length of years. It does not necessarily indicate that the offender will serve all of the years where good time and parole operations still affect sentence length.

FLAT SENTENCE A determinate sentence in which there is no possibility of reduction or increase during the time the offender is incarcerated. The legislature sets one sentence for each crime or degree of crime, which is imposed by the judge and which is served in full without any judicial or administrative discretion.

MANDATORY MINIMUM SENTENCE A legislatively set minimum sentence for certain specific crimes, categories of crime or categories of criminals. All discretion to go below the minimum is eliminated while broad discretion remains to exceed that minimum up to a statutory maximum.

PRESUMPTIVE SENTENCE A "normal" sentence for the "normal" offender which is predetermined by the legislature or other established sentencing body. Sentencing judges can vary from the norm only in exceptional (aggravating or mitigating circumstances) cases which must be justified by a written opinion.

### 3.1 INTERNATIONAL PERSPECTIVE

Most European countries are consciously moving away from the use of imprisonment as the primary means of dealing with criminals. The incarceration rates (number of people imprisoned per 100,000 persons) are with few exceptions substantially lower than that of the United States. In fact, only the Soviet Union and the Republic of South Africa have incarceration rates higher than the U.S.

In mid-1981, 244 U.S. citizens per 100,000 were incarcerated in prisons and jails.<sup>1</sup> South Africa's incarceration rate was 400 per 100,000; the Soviet Union's was 391.<sup>2</sup> On the other hand, France has an incarceration rate of 67 per 100,000, Denmark incarcerates 63, West Germany 60, Sweden 55, and The Netherlands 21.<sup>3</sup>

#### 3.1.1. The Netherlands

Partially as a result of many prominent Dutch citizens being imprisoned in their own prisons by the Nazis during World War II, the people of the Netherlands have developed an intolerance for imprisonment. Criminological research has proven to the Dutch that imprisonment is basically a futile approach to reducing crime.<sup>4</sup> Only the most serious offenders are sent to prison and for very short periods of time. Over 75% of Dutch prisoners serve less than 3 months in prison. Less than 4% serve more than a year.<sup>5</sup>

Double-celling and prison overcrowding are outlawed. When the number of persons given prison terms increases beyond the available bedspace, a waiting list is developed and admission is simply delayed until space is available.<sup>6</sup> Along with extremely short prison sentences for the serious offenders, the Dutch impose fines and probation on the less serious offenders. Often they don't prosecute first offenders at all.<sup>7</sup>

#### 3.1.2. Sweden

Legislators in Sweden view imprisonment as an act of revenge which fosters hatred of society and increases crime.<sup>8</sup> The Swedish philosophy has resulted in a new penal code that basically holds that the individual who violates the law is a product of society, who is therefore, not expected to assume full responsibility of his/her failure.<sup>9</sup> The new penal code has decriminalized many minor offenses and severely restricted the use of imprisonment. Other sanctions such as conditional probation, fines and special treatment are replacing prison sentences.

There also has been a substantial reduction of sentence lengths for those who are sent to prison. Only about 10% of offenders are sentenced to more than one year in prison, while approximately 25% receive four to twelve months. Most sentences are four months or less.<sup>10</sup>

#### 3.1.3. West Germany

Recent reforms in West Germany were inspired by a desire to humanize punishment and to rehabilitate offenders. Indefinite prison sentences have been rejected, fines have been substituted for short-term imprisonment and probation, and suspended sentences have been introduced as the primary sanctions for offenders. Prison terms longer than one year are reserved for persons who commit extremely serious crimes. The fine is the principal punishment used in over 85% of cases. The number of prisoners decreased 17.5% between 1966 to 1976 from 45,000 to 37,000. The use of probation expanded by 145%.<sup>11</sup>

#### 3.1.4. General Summary

Other European countries with low incarceration rates (including Denmark, France, and Great Britain) rely most heavily on short prison sentences and alternatives to imprisonment such as fines and probation or community service. The main ingredient contributing to the low incarceration rates and consequent reduced prison populations of these countries has been the commitment of the leading bodies and officials to adopt philosophies aimed at avoiding the dehumanizing effects of imprisonment and dealing with offenders in a variety of other ways.

Information on countries at the more punitive end of the spectrum is less readily available. Only the U.S.S.R. and the Republic of South Africa incarcerate a higher percentage of their citizens than does the United States. Both those countries are politically repressive and sources of statistics related to imprisonment may not be directly comparable due to the political climate.

### 3.2 OVERVIEW OF CORRECTIONS IN UNITED STATES

All of the alternatives to imprisonment that are being utilized in European countries are also available in the U.S. However, imprisonment has become the dominant form of criminal sentence utilized in the United States during the last two centuries and is likely to retain its central role in the criminal justice system for the foreseeable future.

A recent study conducted by Abt Associates for the National Institute of Justice has revealed that nationwide the number of prisoners has outstripped the capacity of most states to house them. The most rapid growth in prison population has occurred from 1972 to 1978. Penal institutions in the South have recorded the greatest gains. Many of the overcrowded prisons and jails surveyed have been found by courts to violate the constitutional rights of inmates because of the cramped conditions.<sup>12</sup>

Speculations about the causes of the rapid surge in prison population range from an increasing public pressure to "get tough on crime" to the economic dislocations of inflation and unemployment. In general the percentage of prisoners convicted for non-violent property or drug crimes has increased. Judges have handed out longer prison sentences. Parole boards have been more cautious in granting releases and have returned technical parole violators more quickly.<sup>13</sup>

A better understanding of this shift and the impact it has had on prison populations can be gained by briefly reviewing the goals of corrections and the historical development of criminal sentencing in this country.

#### 3.2.1. Goals of Criminal Sentencing

Criminal sentencing specifies the form in which justice shall be meted out to persons convicted of committing a crime. There are four major goals of the criminal sentence, especially the sentence of imprisonment.

- 1) DETERRENCE The punishment given to a person, or group of persons, for committing crimes is assumed to decrease the probability that others in the population at large will commit crimes. Its aim is to persuade or warn others not to break the laws of society.

- 2) INCAPACITATION Individuals who have been convicted of committing criminal acts are restrained from committing further crimes through sentencing. The opportunity to commit additional crimes can be inhibited by total or partial incarceration, as well as by various forms of supervised release back into society.
- 3) REHABILITATION/TREATMENT A variety of activities such as programs for alcoholics, counseling sessions, vocational training, and other programs as well as incarceration are aimed at reducing the probability that a convicted offender will commit future crimes. Rehabilitation seeks to alter the dynamics of the convicted criminal by attempting to redirect value systems or restructure personalities.
- 3) PUNISHMENT A convicted criminal is given a sentence aimed only at punishing or exacting retribution for the crime committed. Often referred to as "just deserts", this rationale assumes that a certain amount of punishment is deserved by a convicted offender.<sup>14</sup>

#### 3.2.2 History of Criminal Sentencing in the United States

During the Colonial period, the emphasis of criminal sentencing was on punishment - swift, public, and often quite harsh. Many techniques other than incarceration were used to protect society from the threat of crime. Unwanted individuals were amply warned out of town. Specific crimes were punished with specific penalties. Economic crimes were usually punished by a system of fines and orders of restitution. Petty offenders who were not deterred by fines or the whip and committed other crimes were subject to capital punishment. Incarceration as a punishment was practically nonexistent. The few community jails generally housed those waiting for trial or on forced labor.<sup>15</sup>

After the American Revolution, the states developed a new and "innovative" form of criminal sentencing in place of physical penalties - imprisonment. It was seen as a reform that provided a more humane way of dealing with offenders. It was believed that through discipline and labor, offenders could be "cured". Large penitentiaries were built and quickly populated. Sentences were fixed by the courts and did not include a minimum or maximum term subject to discretion. Courts were rarely concerned with correctional goals other than punishment for acts of crime.<sup>16</sup>

By the middle of the 19th century it was clear that penitentiaries had failed to reform prisoners. Prison reformers at that time perceived that the failure was a result of so much power being vested in the courts. The needs of individual prisoners were not being addressed by judges. The prison keepers, who were in a better position to judge when an offender was "reformed," had not been allowed any input into when prisoners should be released. Prison reformers argued that all judgments concerning the length of incarceration should be made by penologists or other experts, not the courts.

The indeterminate sentence was the logical solution, with release from prison being based on rehabilitative criteria. This form of sentencing has dominated correctional systems through the 20th century and has only recently started to change.

### 3.2.3 Current Correctional Models

The use of indeterminate sentencing is often referred to as the "medical model" or "rehabilitative model" for dealing with offenders. Medical terminology and methodology were frequently used in classifying prisoners and developing treatment plans for individual inmates. Prisoners' responses to rehabilitative programs were constantly monitored and evaluated. Upon recovery from their "criminal disease," prisoners were released.<sup>18</sup> By the early years of this century, parole boards had been established in almost all states and the federal government to administer the release of prisoners. These boards were authorized to release "cured" prisoners at any time with legislatively or judicially determined minimum and maximum limits.<sup>19</sup>

Skepticism toward the rehabilitation model and the indeterminate sentence began in the late 1960's. Major stimuli for the skepticism were the protests and riots by prisoners serving indeterminate sentences. The uncertainty about when they would be released became a major issue for prisoners. The uprising at Attica is generally credited with arousing judicial concern for the conditions of confinement.<sup>20</sup>

In the early 1970's criticisms of the indeterminate sentence began to appear in the literature. One of the first and most influential was a 1971 report prepared by the American Friends Service Committee, Struggle for Justice. This report cited the failure of the "treatment model" in actually rehabilitating offenders. Instead it promotes "inhumanity, discrimination, hypocrisy and a sense of injustice."<sup>21</sup> The report recommended the abolition of indeterminate sentencing and the adoption of a system in which punishment would be proportional to the act committed.

Other influential works described indeterminate sentencing as a "means of assuring much longer sentences for most prisoners than would normally be imposed by judges."<sup>22</sup> One scholarly judge expressed doubts about the possibility of rehabilitation or the ability to accurately identify the "dangerous" individual. The cruelty and injustice produced by indeterminate sentencing far outweigh the benefits claimed by its supporters.<sup>23</sup>

For the past decade the national trend has been towards more determinacy in sentencing. Justifications for using determinate sentences range from the findings that rehabilitation has had no appreciable effect on recidivism or on the increasing crime rate to the social concerns of reformers about the injustices of the indeterminate structure. This trend also reflects the philosophical shift of correctional professionals from the rehabilitation objective of sentencing to the "just deserts" aim--that law violators should receive the punishment they deserve. This viewpoint has been supported in many writings since the mid 1970's.<sup>24</sup>

In 1975, the "justice model" for corrections emerged to incorporate the general mood shift of correctional experts. This model emphasized fairness of prison system operations rather than rehabilitative impact. This model advocates that once a judge decides to imprison an offender, he must mete out a determinate and relatively uniform sentence for the kind of crime involved. This could be a

flat sentence of a set number of years, with discretion to add or subtract a year or two depending on aggravating or mitigating circumstances. At this point, discretion ends. The sentence is fixed and must be served. It can be reduced only by the inmate earning time off for good behavior. Prisoners know where they stand; there is no parole and the remaining discretionary junctures (probation, disciplinary violations) are bound by announced norms, clear standards and the mandates of procedure fairness.<sup>25</sup>

Most states have now adopted some form of fixed sentencing. Many states have eliminated parole release and several others have placed such decisions under the discipline of explicit standards. Determinate sentencing has taken a variety of forms.

The common features of determinacy include explicit and detailed standards specifying how much convicted offenders should be punished and procedures designed to ensure that prisoners are aware of expected release dates. The variables are which agencies set the standards (legislature, sentencing commission, parole board, etc.) and which implement the standards and decide on duration of sentences (judge, parole board, correctional staff).<sup>26</sup>

Some of the critics of the move towards determinacy have warned that it will lead to increasing prison populations with more severe sentences. In several states this has happened; including Indiana, New Mexico, California. Others such as Oregon have compensated the upward shift in penalties for the most serious offenses with reduction of penalties for lesser crimes.<sup>27</sup>

### 3.3. SENTENCING COMPARISONS WITHIN THE UNITED STATES

Most states have begun to look at the disparities of indeterminate sentencing and the multitude of problems that have accompanied it. Other states, experiencing population problems similar to Georgia, are addressing overcrowding from another perspective--the back end of the criminal justice process.

Following are four brief descriptions of what other states are doing. Two, California and Minnesota, have enacted major changes in sentencing laws. The other two states, Connecticut and Michigan, have enacted laws specifically designed to alleviate overcrowding.

#### 3.3.1 Sentencing Reform

States which have addressed sentencing reform in a very broad way include California and Minnesota. In these states issues included fairness and disparity of sentencing as well as population issues. Strategies for solving identified problems were broad and applied on a system-wide basis.

##### 3.3.1.1 California

Senate Bill 42 was passed by the California Legislature in 1976, became effective July 1, 1977 and is generally referred to as California's Determinate Sentencing Law (DSL). Enactment of DSL represented a major shift in the state's philosophy concerning crime and punishment. It was the first of a multitude of legislative acts that increased the seriousness of the consequences of criminal activity.<sup>28</sup>

DSL in California created a system where judges select a specific term of imprisonment from three term lengths established by the legislation, including a minimum, middle or "base", and maximum term. DSL also required that a statement of reasons be made public for the sentence chosen. It is presumed that the base term is appropriate for the convicted offense in the absence of mitigating or aggravating circumstances.<sup>29</sup> Some examples are shown below.

SENTENCING PROVISIONS IN CALIFORNIA

FELONY CATEGORY	BASE TERM	RANGE IN AGGRAVATION	RANGE IN MITIGATION	EXAMPLES
1	6 years	+ 1 year	- 1 year	Murder (Second Degree)
2	4 years	+ 1 year	- 1 year	Rape - Sale of Heroin
3	3 years	+ 1 year	- 1 year	Robbery (unarmed) Manslaughter
4	2 years	+ 1 year	- 8 months	Burglary-Grand Theft

Authority was removed from the parole board to grant parole prior to term. Parole has taken on the role of a period of transition with no effect on length of imprisonment.<sup>30</sup>

Since the passage of California's DSL, the trend in the legislature has been towards stiffening sentences. Penalties have been enacted for some crimes that are substantially more severe than penalties for equally serious or worse crimes.<sup>31</sup>

Other portions of the law lodged responsibility in a Community Release Board, responsible for reviewing each prison sentence for disparity within one year of the beginning of a convicted offender's term of commitment. This agency is now known as the Board of Prison Terms.<sup>32</sup>

The intent of the law was to reduce the disparity in prison terms that had been perceived under indeterminate sentencing. Stating the purpose of imprisonment as punishment, the law was designed to produce prison terms of similar length for those convicted of similar crimes. Time spent in prison was no longer to be a function of predictions of future criminality based on the degree of rehabilitation.<sup>33</sup> Two major studies of California's law have found that disparity in sentences has been reduced, and certainty of imprisonment given conviction has increased.<sup>34</sup>

Other results of these studies, however, indicate that prison population is rising at a faster rate than the state population, the crime rate, the arrest rate or the conviction rate because the post-conviction phase of the criminal justice system has become more punitive. Judges are more willing to use prison as a sentence, and the legal structure requires longer prison sentences.<sup>35</sup>

California did not attempt in its determinate sentencing statute to regulate the decision about whether to imprison--it only regulated the length of imprisonment. The decision to imprison remains with the judges with minimal guidance from the Judicial Council which was directed to develop rules regulating that decision. California's rise in commitment is largely a matter of not having standards for this vital aspect of sentencing.<sup>36</sup>

3.3.1.2 Minnesota

The Minnesota Sentencing Guidelines Commission was created in 1978 by the State Legislature. It was directed to reduce disparity in sentencing by promulgating statewide sentencing guidelines, but to achieve disparity reduction in a way that would halt the prison population increases and keep prison populations from exceeding capacity.<sup>37</sup> The stated purpose of the Minnesota sentencing guidelines is to "establish rational and consistent sentencing standards which reduce sentencing disparity and ensure that sanctions following conviction of a felony are proportional to the severity of the offense of conviction and the extent of the offender's criminal history."<sup>38</sup>

The Commission, which consists of judges, prosecutors, defense attorneys, public officials and private citizens, developed a criminal history index consistent with previous sentencing and releasing decisions. An offense seriousness score was also developed to rate criminal offenses according to their gravity. These two scores, criminal history and offense seriousness, were used to construct a two-dimensional sentencing table or matrix.<sup>39</sup>

Within the matrix are cells that indicate the recommended disposition: a term of confinement within a specified range, when imprisonment is the recommended sentence. Otherwise, a recommendation is made that imprisonment not be imposed. This matrix is used by judges to determine the appropriate sentence based on an offender's scores. If that cell prescribes a nonincarcerative disposition, the judge is free to choose any non-prison disposition, including a jail sentence of one year or less. The judge retains the authority to depart from the matrix disposition if he finds aggravating or mitigating circumstances.<sup>40</sup> (See Appendix I for matrix.)

The prison sanction is reserved principally for persons convicted of more serious offenses. Long terms of imprisonment are used sparingly. There has not been the overall escalation of penalties that has occurred in other states with determinate laws, nor the singling out of a few crimes for disproportionately stringent treatment such as in California.<sup>41</sup>

The Minnesota law abolishes parole release. All inmates sentenced after May 1, 1980 serve a fixed sentence, less a one-third deduction for good behavior.<sup>42</sup>

The Minnesota Guidelines have clearly stated goals: uniformity, equity, and certainty. Through the use of the matrix, these goals should be achieved. The Guidelines have restricted the range of judicial discretion without eliminating consideration of mitigating or aggravating circumstances. They are succinct, straightforward, and eminently readable.<sup>43</sup>

3.3.2 Overcrowding Options

The states discussed in this section, Connecticut and Michigan, also addressed sentencing issues. However, their main aim was to deal with prison overcrowding and actions taken were focused on that specific problem.

### 3.3.2.1 Connecticut

An emergency plan to reduce the prison population in Connecticut was enacted into law effective July 1, 1981. The law (Public Act #81-437) gives the commissioner of corrections and the state's judges authority to control prison population levels.

If the commissioner of corrections determines that there is prison overcrowding he may petition the court for a reduction of bond to a written promise to appear. Only pretrial inmates with the lowest bonds and least serious charges pending should be considered. The commissioner may also petition the chief court administrator to name a superior court judge to modify any inmate's sentence.

Modification of sentences will only be done if the court finds there is overcrowding which threatens the health and safety of the inmates and that there are no reasonable alternatives other than immediate release. Only inmates with the shortest time left to serve will be selected for release and must be released on parole.<sup>44</sup>

### 3.3.2.2 Michigan

Michigan's "Prison Overcrowding Emergency Powers Act" was signed into law in January, 1981. This act directs the governor to order the rapid reduction of the state prison population when it has been established that the number of inmates has been in excess of 12,874 for 30 consecutive days.

Under this law, unless the governor finds within 15 days that the corrections department has made a mistake, a state of emergency is declared. The minimum sentences of all prisoners who have established minimum prison terms are reduced by 90 days. Prisoners tentatively eligible for release are screened by the parole board which has the option of denying parole to inmates considered dangerous.

Once an emergency has been declared, the act remains in effect until the prison population is reduced to 95% of the 12,874.<sup>45</sup>

## 3.4 PRISON OVERCROWDING: NATIONAL OVERVIEW

As mentioned earlier the Abt Associates report found that most prisons and jails in this country are severely overcrowded. Of numerous options available to local, state and federal governments for alleviating prison overcrowding, this report suggests that additional prison construction may not be a viable solution. Researchers found that historically an increase in prison capacity generally resulted in an increase in the number of persons imprisoned--without assurances of a comparable growth in public safety.

The 5-volume report, American Prisons and Jails, recommends that prison space should be treated as a scarce resource and that states should adopt systematic policies for use of existing space. There are presently enormous variations on the reliance on imprisonment among the states as well as large disparities in the types of offenses represented in the prison population.

The study strongly suggests that minimal space needs of inmates be defined by each state in accordance with nationally recognized standards and that routine reports be made to the judiciary on prison capacity and the number of inmates released. This information would enable judges to consider the availability of space in determining sentences and minimize the potential for creating crowded conditions that violate constitutional safeguards.<sup>46</sup>

## 3.5 NOTES TO CHAPTER 3

<sup>1</sup>Jericho, National Moratorium on Prison Construction, Winter, 1981, No. 24,, pp. 6-7.

<sup>2</sup>Eugene Doleschal and Anne Newton, "International Rates of Imprisonment", National Council on Crime and Delinquency, 1981, p. 1.

<sup>3</sup>Ibid., pp. 2-3.

<sup>4</sup>Eugene Doleschal, "Rate and Length of Imprisonment", Crime & Delinquency, January 1977, Vol. 23, No. 1, p. 52.

<sup>5</sup>National Council on Crime and Delinquency, The Sourcebook on Alternatives to Prison in California, Report to Joint Rules Committee California Legislature, May 1980, p. 11.

<sup>6</sup>Ibid., p. 15.

<sup>7</sup>Doleschal, p. 52.

<sup>8</sup>Anne Newton, "Alternatives to Imprisonment: An International Perspective", Criminal Justice Abstracts, March 1981, Vol. 13, No. 1, p. 134.

<sup>9</sup>Doleschal, p. 55.

<sup>10</sup>Newton, p. 136.

<sup>11</sup>Ibid., p. 139.

<sup>12</sup>"New Federal Report on Prison and Jail Overcrowding Now Out", Corrections Digest, March 27, 1981, Vol. 12, No. 7, p. 9.

<sup>13</sup>Joan Mullen, American Prisons and Jails, Volume 1: Summary Findings and Policy Implications of a National Survey, National Institute of Justice, 1980, p. 23.

<sup>14</sup>Vincent O'Leary, Michael Gottfredson, and Arthur Gelman, "Contemporary Sentencing Proposals", Criminal Law Bulletin, Sept.-Oct. 1975, Vol. 11, No. 55, pp. 558-560.

<sup>15</sup>Alan M. Dershowitz, Background Paper for Fair and Certain Punishment, Twentieth Century Fund Task Force on Criminal Sentencing Report, 1976, pp. 83-84.

<sup>16</sup>Ibid., pp. 87-88.

<sup>17</sup>Ibid., pp. 90-91.

<sup>18</sup>Ibid., p. 97.

<sup>19</sup>David F. Greenberg and Drew Humphries, "The Cooptation of Fixed Sentencing Reform", Crime & Delinquency, April 1980, Vol. 26, No. 2, pp. 206-207.

<sup>20</sup>Richard Ku, American Prisons and Jails, Volume IV: Supplemental Report Case Studies of New Legislation Governing Sentencing and Release, National Institute of Justice, 1980, p. 14.



<sup>21</sup>American Friends Service Committee, Struggle for Justice: A Report on Crime and Punishment in America, 1971, p. 125.

<sup>22</sup>Jessica Mitford, Kind & Usual Punishment, 1973, p. 91.

<sup>23</sup>Marvin E. Frankel, Criminal Sentences: Law Without Order, 1973, p. 5.

<sup>24</sup>See, for example, Ernest van den Haag, Punishing Criminals, 1975; James Q. Wilson, Thinking About Crime, 1975; Andrew von Hirsch, Doing Justice: The Choice of Punishments, 1975.

<sup>25</sup>David Fogel, We Are The Living Proof: The Justice Model for Corrections, 1975.

<sup>26</sup>Andrew von Hirsch and Kathleen Hanrahan, "Determinate Penalty Systems in America: An Overview", Crime & Delinquency, July 1981, Vol. 27, No. 3, p. 294.

<sup>27</sup>*Ibid.*, p. 295.

<sup>28</sup>Arthur D. Little, Inc., Determinate and Indeterminate Sentence Law Comparisons Study: Feasibility of Adopting Law to a Sentencing Commission-Guideline Approach, Report to the California Legislature Joint Committee on Rules, May 1980, p. II-1.

<sup>29</sup>*Ibid.*, p. II-6.

<sup>30</sup>*Ibid.*, p. II-7.

<sup>31</sup>Von Hirsch and Hanrahan, p. 301.

<sup>32</sup>Little, p. ii.

<sup>33</sup>Ku, p. 71.

<sup>34</sup>See Arthur D. Little, Inc. and National Council on Crime and Delinquency studies.

<sup>35</sup>National Council on Crime and Delinquency, p. 126.

<sup>36</sup>Von Hirsch and Hanrahan, p. 302.

<sup>37</sup>Kay A. Knapp and Dale G. Parent, Impact of Sentencing Guidelines on the Minnesota Criminal Justice System: Establishment of Coordinated Sentencing and State Correctional Policy, Minnesota Sentencing Guidelines Commission, 1980, p. 1.

<sup>38</sup>*Ibid.*, p. 2.

<sup>39</sup>*Ibid.*, p. 6.

<sup>40</sup>Von Hirsch and Hanrahan, p. 305.

<sup>41</sup>*Ibid.*, p. 307.

<sup>42</sup>*Ibid.*, p. 304.

<sup>43</sup>Little, p. IV-21.

<sup>44</sup>Anthony P. Travisono, "Kudos for Connecticut's Response to Overcrowding", On the Line, American Correctional Association, Sep. 1981, Vol. 4, No. 6, pp. 1 and 4.

<sup>45</sup>"Michigan Governor to Invoke Emergency Overcrowding Act", Corrections Digest, April 10, 1981, Vol. 12, No. 8, p. 1.

<sup>46</sup>"New Federal Report on Prison and Jail Overcrowding Now Out", pp. 9-10.

#### 4.0 SENTENCING PRACTICES IN GEORGIA

Many different types of sentencing have been used during Georgia's history. An analysis of the most recent sentencing practices of Georgia's forty two Superior Court judicial circuits in recent years indicates certain trends in the utilization of sentencing options. There is wide discrepancy in use of those options among the circuits. A few of the existing options available to judges in sentencing are studied to determine potential population and economic impacts.

##### 4.1 HISTORICAL OVERVIEW

Prior to passage of Georgia's Penal Code of 1816, authorities punished persons convicted of crimes by whipping them, subjecting them to the pillory, or confining them in the common jails of the individual counties. The Code provided for building a state penitentiary at Milledgeville, which was completed in 1817. It was destroyed by Sherman's army in 1864, and the State was faced with the problem of what to do with its convicted criminals.

The solution pursued by the General Assembly was the convict lease system, under which the state's entire prison population labored in public and private works. Concern over abuses of this system led to its abolishment in 1908, although the Board of Offender Rehabilitation is still authorized to hire out prisoners to public entities for nonprofit public works. The General Assembly declared in 1908 that in the future all prisoners were to be incarcerated at a state prison farm or assigned to the counties for work on public roads.

The use of probation as an alternative to imprisonment was authorized in 1913. Probation permitted less dangerous offenders to be placed under community supervision in accord with certain conditions specified by the court to foster improvement in the offender's conduct and condition.

Georgia's sentencing history has ranged in severity from capital punishment for burglary in the night to probation for first offenders. Throughout the history of Georgia, many different types of sentencing patterns have been used, including mandatory and indeterminate sentencing.

In 1919, Georgia law provided that sentencing for all felonies not punishable by life in prison should prescribe a minimum and maximum term as provided by law. In other words, sentences would not be fixed, but would be indeterminate. This law was strengthened and expanded in 1933. However, in 1964 Georgia repealed its indeterminate sentencing laws providing for fixed sentences to be handed down within the minimum-maximum ranges.

Since 1964, Georgia has not had any indeterminate sentencing with the single exception of the Youthful Offender Act passed in 1972 for specific offenders. An offender between the ages of 17 and 25 who is not guilty of a capital offense may, at the judge's discretion, be sentenced as a youthful offender. Youthful Offenders are given an indeterminate 0-6 year sentence. The length of time served is largely up to the offender based on a "contract for release" stipulating programs and rehabilitative experiences for each inmate. Upon completion of the conditions of the contract, the offender is released.

There have been a few mandatory minimum laws passed regarding specific crimes. In 1976 legislation was passed providing for a minimum sentence of ten years for an offender's second armed robbery conviction and stating that the sentence can not be suspended, probated, deferred or withheld. A 1978 law requires that a person convicted the second time for burglary be imprisoned not less than two years and on the third conviction not less than five years.

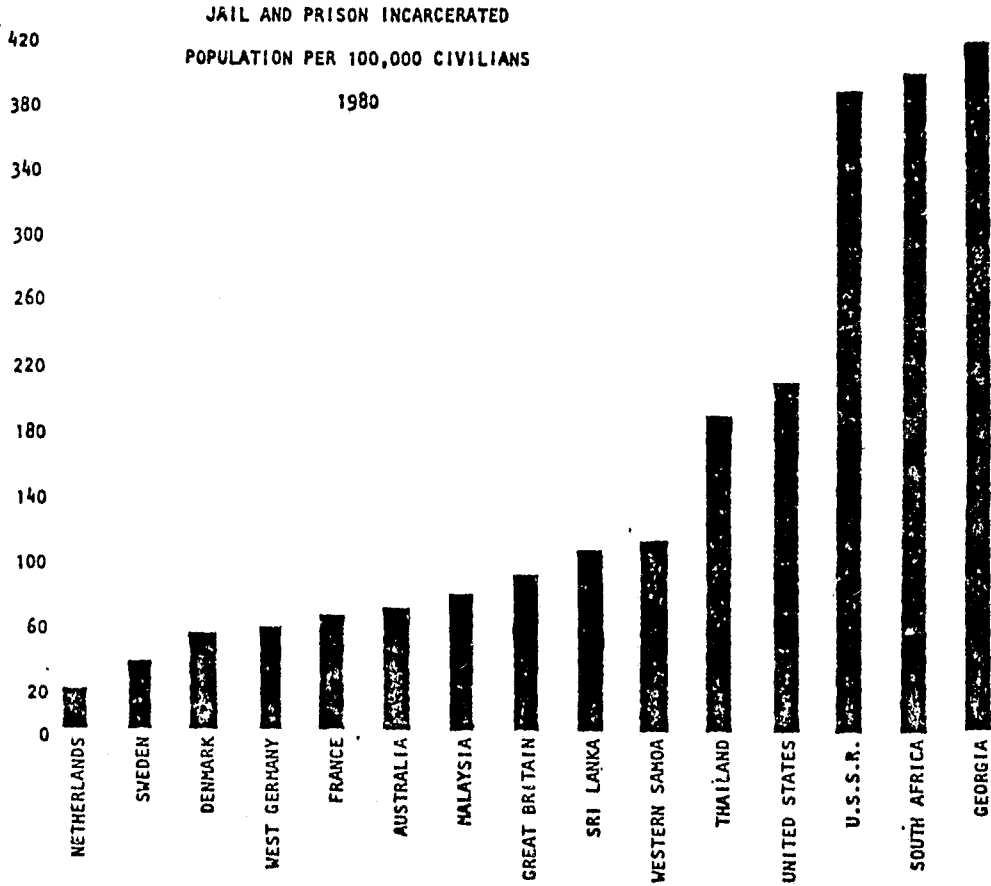
##### 4.2 SENTENCING PATTERNS IN GEORGIA

Georgia incarcerates more offenders per 100,000 persons than any other state. In fact, the state's incarceration rate is higher than the national incarceration rate of any country in the world. For every 100,000 persons in the state, 242 were in prison in October, 1981. Including both jails and prisons, Georgia's incarceration rate in mid-1981 was 430 per 100,000 civilians.

The following graph shows the 1980 incarceration rates of various countries compared with that of Georgia.

FIGURE 1

INTERNATIONAL INCARCERATION RATES IN 1980



SOURCE: National Council on Crime and Delinquency

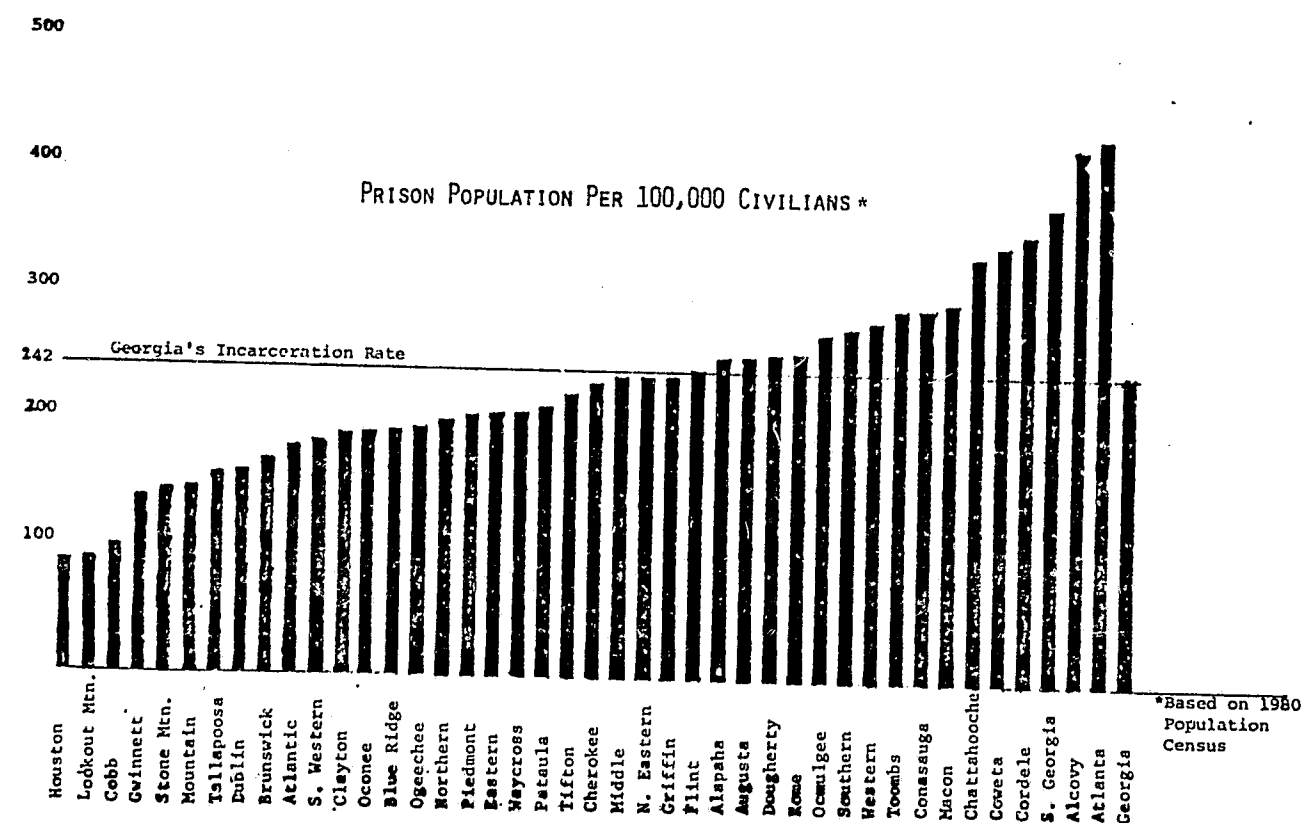


Within the state, there are 42 Superior Court judicial circuits which have jurisdiction over all felonies, divorces, equities and titles to land. The superior court is an appellant body as well as a trial court. Each circuit is comprised of from one to eleven judges, one district attorney and administrative staff. In looking at Georgia's recent sentencing patterns, comparisons were made by Superior Court circuits because of their administrative functions.

With an overall prison incarceration for the state of 242 per 100,000 civilians in October, 1981, the rates for the individual circuits ranged from a low of 89 per 100,000 civilians in Houston circuit to a high of 431 per 100,000 in Atlanta circuit. Sixteen of the 42 circuits had a higher incarceration rate than the state's average.

FIGURE 2

INCARCERATION RATES IN GEORGIA PRISON BY CIRCUITS, 1981



Two major assumptions are often made about low or high incarceration rates. Both were examined within Georgia for validity. The first assumption is that circuits (or states or countries) with high incarceration rates also have high crime rates and that areas with low incarceration rates have low crime rates.

Statistics about the number of Index crimes (the more serious and most recurring crimes) reported are collected and aggregated by the Uniform Crime Reporting Section of the Georgia Crime Information Center according to the standardized procedures and definitions used in the Federal Bureau of Investigation's national Uniform Crime Reporting (UCR) program. The crime rate of an area is determined by dividing the reported Index Crimes for a specific time period (usually annually) by the civilian population of the area.

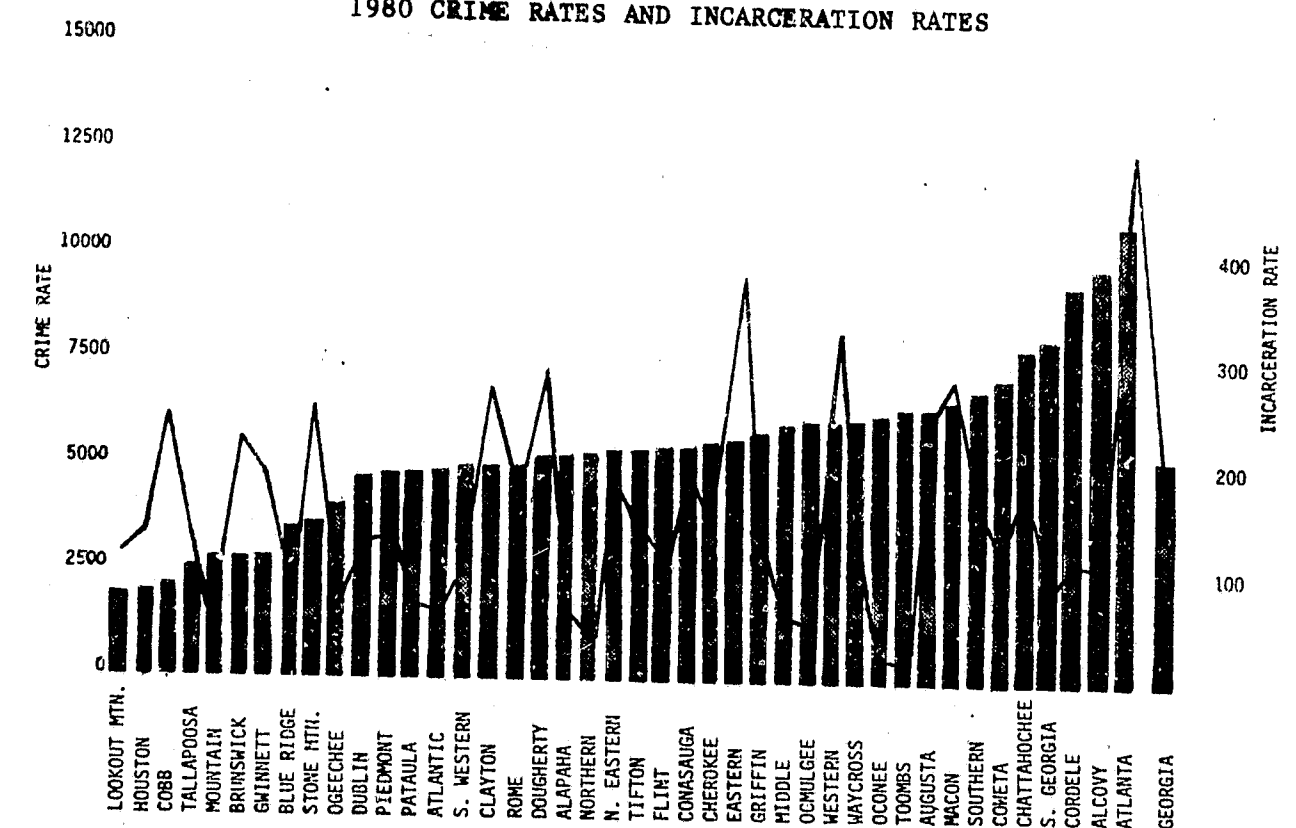
Comparisons of 1980 crime rates of Georgia's 42 circuits to their 1980 incarceration rates showed very little relationship between the two. The Atlanta circuit, with the highest crime rate of 13,024 and the highest incarceration rate of 454 per 100,000 persons, was actually the only circuit that fit the assumption about the relationship between crime rate and incarceration rate.

The Eastern circuit had the second highest crime rate of 9,165 but its incarceration rate was right at the state's average of 239 per 100,000 persons in 1980. The circuit with the lowest crime rate (Toombs at 613) had an average incarceration rate of 266, the tenth highest rate in the state. The Northern circuit had the third lowest crime rate of 1,187 and an incarceration rate of 212, just below the state's average.

In Figure 3, the 1980 incarceration rates by circuit are depicted by the bar graph and the crime rates depicted by the single line for comparison purposes.

FIGURE 3

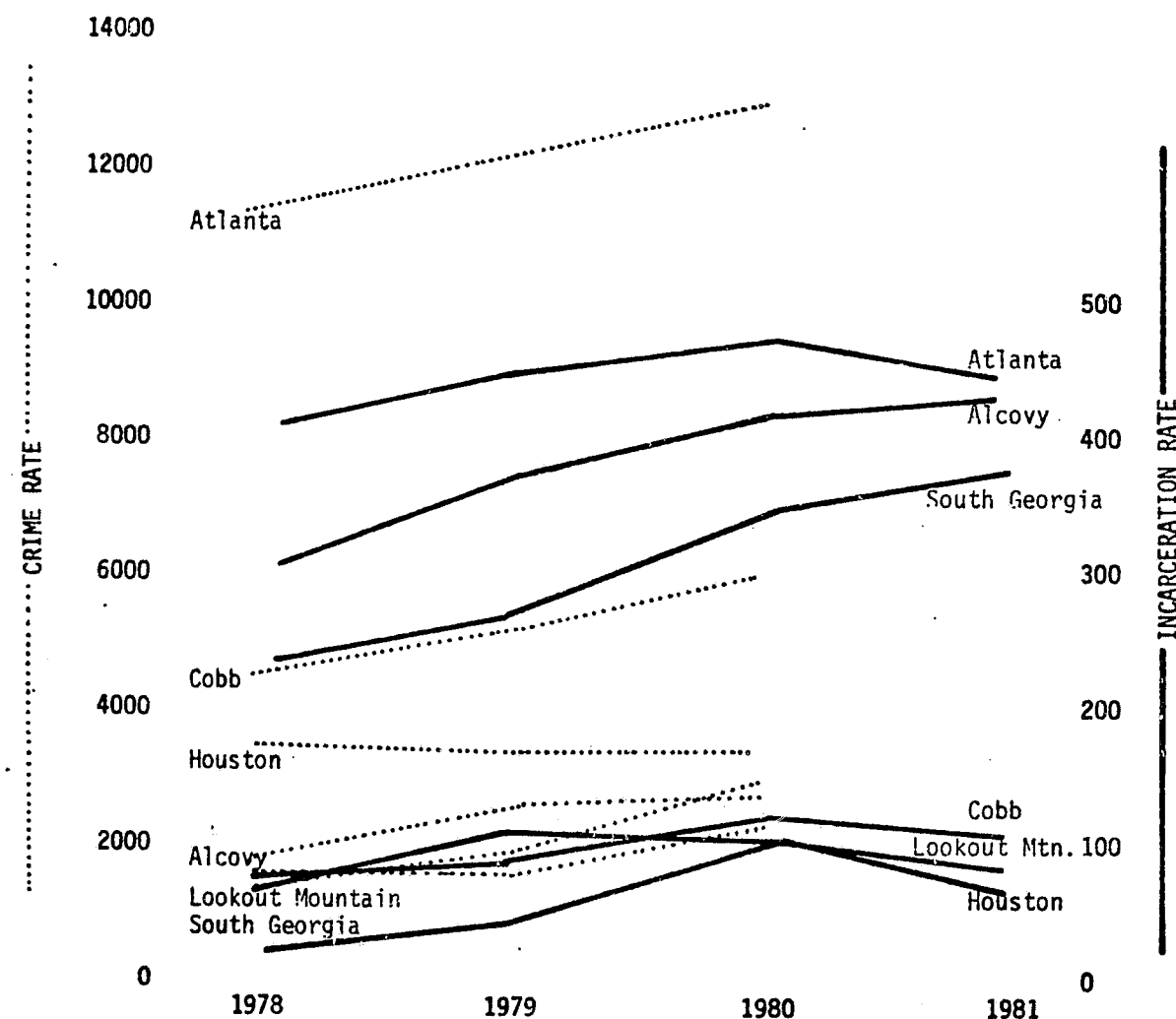
1980 CRIME RATES AND INCARCERATION RATES



It is also frequently assumed that high incarceration rates, reflecting toughness on crime, result in lower or at least decreasing crime rates. In Georgia, the incarceration rate does not appear to have any effect on the crime rate. In fact the only circuit with a steadily decreasing crime rate, Houston, also has a decreasing incarceration rate. The literature generally supports this finding that imprisonment does not have much, if any, effect on crime rates or return to prison rates.

To explore this assumption in Georgia, incarceration rates for the three highest circuits and the three lowest circuits were tracked over a four-year period. Crime rates for these same six circuits were also tracked for three of those four years (1981 statistics are not yet available on crime rates.) The findings, as shown in Figure 4, do not reveal any significant impact of incarceration rates on crime rates.

FIGURE 4  
COMPARISON OF CRIME RATES  
AND  
INCARCERATION RATES IN SIX GEORGIA CIRCUITS



In addition to a very broad range of incarceration rates among Georgia's circuits, there are also significant differences in the use of various sentencing options among the circuits. Split sentencing is an option that provides for a term of incarceration followed by a term of probation for a convicted offender. Differing significantly from non-split or straight sentences, split sentences usually result in an average incarceration period about one-third shorter than straight sentences.

In 1978 Lookout Mountain circuit split-sentenced 3% of its felons while Dougherty circuit split-sentenced 79%. Thirteen of the circuits used split-sentences for over 50% of the convicted felons.

Although recommendations have been made by the State Crime Commission and Criminal Justice Coordinating Council to increase the use of split-sentencing, all but fourteen circuits substantially reduced the practice between 1978 and 1981. All of the circuits sentenced less than 50% of the convicted felons to a split sentence in 1981. Although the Dougherty circuit remained the highest user of split sentences over the 4-year period, it dropped from split sentencing 80% of its felons in 1980 to 44% in 1981. (Appendix II lists all circuits and the percentage of felons receiving split sentences from 1978 to 1981.)

Probation as an alternative to imprisonment was legally authorized in Georgia in 1913. There is a broad range among circuits in the use of this alternative. In 1981 the Chattahoochee circuit probated 42% of its convicted felons; Oconee probated 82% of its felons. More than half of the circuits either decreased their use of probation or remained the same from 1978 to 1981. Between 1980 and 1981 all but twelve circuits decreased the percentage of convicted felons receiving probation. (See Appendix III.)

The percentage of felons who are sentenced to prison for non-violent personal and property crimes has increased, dramatically in many circuits. Only two circuits decreased the percentage of non-violent felons sent to prison from 1978 to 1981; one remained the same. (See Appendix IV.) Ninety percent of the felons admitted to prison in 1981 from the Ogeechee circuit were for non-violent offenses. In 1978 only 75% of Ogeechee's admissions were non-violent felons.

In 1981, 49% of all admissions to prison were first offenders guilty of non-violent crimes. Thirteen percent of all admissions were misdemeanants. The circuits ranged from a high in Alcovy with 81% of its admissions for first offender non-violent admissions to a low in Atlanta circuit of 30% first offender non-violent admissions. In Alcovy circuit, 41% of its admissions were misdemeanants while Piedmont and Tifton circuits sent no misdemeanants to prison. (See Appendix V.)

The average prison sentence length given felons admitted to prison directly from court in the state has slightly decreased from 5.87 years for felons admitted in 1978 to 5.63 in 1981. (See Appendix VI.) Of the 23 circuits with lower sentence length averages than the state in 1978, 14 have increased their average over the 4-year period. Of the 19 circuits above 1978's sentence length average, 17 have reduced their average sentence length. Some of the reasons for long average prison sentence length could be:

- (a) a circuit has more punitive judges, (b) it has proportionally more violent offenders than other circuits, or (c) it places more non-violent offenders on probation, leaving only long sentence offenders to go to

prison. In 1981, 19 circuits had longer average prison sentence lengths for felons admitted directly from court than the state as a whole. The following table compares some of these important factors in those 19 circuits. None of these circuits have a disproportionate percentage of violent offenders and most do not probate an unusually high percentage of felons.

FIGURE 5

COMPARISON OF NINETEEN CIRCUITS WITH HIGHER  
THAN GEORGIA'S AVERAGE SENTENCE LENGTHS

CIRCUIT	AVERAGE SENTENCE	% PROBATION	% VIOLENT OFFENSES	% MISDEMEANANTS	% FIRST OFFENDER
Pautaula	7.56	79	23	21	85
Ogeechee	7.48	70	10	2	57
Cherokee	7.33	68	22	1	58
Southern	7.31	56	21	7	63
Rome	7.29	76	17	19	59
Augusta	7.25	58	14	4	55
Brunswick	7.16	62	18	5	42
Oconee	6.86	82	17	34	64
Dublin	6.76	75	30	15	36
Piedmont	6.66	79	25	0	50
Tallapoosa	6.57	78	31	8	72
Lookout Mountain	6.37	69	29	5	52
Tifton	6.24	57	23	0	55
Middle	6.14	70	23	23	59
South Georgia	6.11	57	17	2	63
Alapaha	6.02	74	21	7	53
Ocmulgee	5.85	69	24	5	55
Mountain	5.75	68	17	23	52
Macon	5.68	68	18	37	59

The sentence length severity index shows the percentage of felons sent to prison multiplied by average felony prison sentence length. This measure is one of the best overall indicators of judicial severity. A high score could mean (a) the circuit has tough judge(s) or (b) the circuit has a higher rate of violent crime. Of the 14 circuits with a higher score than the state, only Augusta, Clayton and Western have a higher than average crime rate. Some of the circuits such as Middle, Ogeechee, South Georgia and Lookout Mountain have relative low crime rates.

FIGURE 6

COMPARISON OF FOURTEEN CIRCUITS WITH HIGHER  
THAN AVERAGE SENTENCE LENGTH SEVERITY

CIRCUIT	SENTENCE LENGTH SEVERITY	CRIME RATE
Southern	3.22	3940
Augusta	3.02	5955
Brunswick	2.74	5149
Tifton	2.68	3445
South Georgia	2.59	2314
Coweta	2.56	3043
Chattahoochee	2.52	4375
Griffin	2.49	3474
Cherokee	2.36	3515
Ogeechee	2.25	2083
Lookout Mountain	2.00	2879
Clayton	1.90	6617
Western	1.89	7919
Middle	1.84	1919
STATE	1.83	5327

Although the state's sentence length severity index has dropped slightly from 2.05 in 1978 to 1.83 in 1981, it increased from 1.74 in 1980. (See Appendix VII.)

5.0 SENTENCING OPTIONS: IMPACT ON GEORGIA PRISON POPULATION

In analyzing various sentencing options that could affect the prison population, it is important to remember that the inmate population at any given time is a function of the number of offenders admitted to the system and of the length of time served by those offenders. Some of the options available can significantly reduce the number of admissions to the prisons. Others can significantly decrease the length of time served by prison inmates. In either case the impact on population results from changes in either number of admissions or time served.

The 1981 incarceration rate for Georgia was 242 persons in prison for every 100,000 civilians in the state. Sixteen of the judicial circuits had incarceration rates higher than Georgia as a whole. If those sixteen circuits had incarcerated offenders at the same rate as the state, there would have been 2,122 fewer prisoners in state institutions in October or 11,154 rather than 13,276.

Assuming those 2,122 inmates would have actually served 40% of their sentence (the average sentence length served), the collective number of years in prison for those 2,122 offenders would be 8,776.59. Based on actual Fiscal Year 1981 cost per prisoner per year of \$7,288, had these 2,122 offenders not been sent to prison, the state would have saved \$63,963,787.92.

There are a number of options that could be implemented by circuits to reduce the incarceration rates. Just a few minor shifts in sentencing policies could have significant impact on both the prison space problem and monetary resources of the state. Following are examples of statewide impact of some selected sentencing options.

5.1 DIVERT ALL MISDEMEANANTS FROM STATE INSTITUTIONS TO PROBATION OR DIVERSION COMMUNITY CENTERS

ADMITTED IN FY 81	AVERAGE SENTENCE	ESTIMATED TIME SERVED	COLLECTIVE YEARS	COST/YEAR
883	1.26	1/3 or .42 Yrs.	370.86	\$7,288

Savings to State if Misdemeanants Given One Year Probation

\$2,702,827.68	Cost of incarceration
- 222,383.55	Estimated cost of 1-year street probation
\$2,480,444.13	Savings if misdemeanants diverted

5.2 INCREASE USE OF PROBATION FOR NON-VIOLENT FIRST OFFENDERS

The sentence of probation in lieu of prison is served under court-ordered supervision in the community. Persons on probation remaining at their jobs continue to contribute to the tax base of the community rather than becoming a liability to the tax paying public. Probationers often pay restitution to the crime victim. The cost per day of a person on street probation is less than \$.69 compared to approximately \$21 a day for incarceration in FY 81.

A. SENTENCE ADDITIONAL 10 % OF NON-VIOLENT FIRST OFFENDERS TO PROBATION

ADMITTED IN FY 81	AVERAGE SENTENCE	ESTIMATED TIME SERVED	COLLECTIVE YEARS	PER PERSON COST/YR
3406 X 10%=341	5.63 Yrs.	40% or 2.25 Yrs	767.25	\$7,288

Savings To State If Additional 10% Given 5 Years Probation Instead of Prison

\$5,591,718.00	Cost of incarceration
- 429,404.25	Cost of 5 years street probation
\$5,162,313.75*	Savings if 10% diverted

\* Even if only 80% successfully completed the conditions of probation, the state would still realize a savings of \$4,129,851.

B. SENTENCE ALL NON-VIOLENT FIRST OFFENDERS TO INTENSIVE PROBATION

ADMITTED IN FY 81	AVERAGE SENTENCE	ESTIMATED TIME SERVED	COLLECTIVE YEARS	PER PERSON COST/YR
3406	5.63 Yrs.	40% or 2.25 Yrs.	7,663.50	\$7,288

Savings To State If All Non-violent First Offenders Given 5 Years Intensive Probation Instead of Prison

\$55,851,588.00	Cost of incarceration
-27,971,775.00	Cost of 5 years intensive probation at \$4.50/per day
\$27,879,813.00*	Savings if all diverted

\* If 20% had probation revoked, the savings would be \$22,303,850.40.

5.3 INCREASE USE OF SPLIT SENTENCES

A true split sentence actually reduces the amount of time served in prison in favor of extended time under probation supervision and is not simply a "tack-on" of probation to a prison sentence. Life sentences, death sentences and youthful offender sentences are not splittable sentences. On the average split sentences reduce the time of incarceration by 1/3 of straight sentences.

Following are three impact assessments for all curcuits increasing the use of split sentences to 50%, 60% and 75% of all convicted felons. The assessment reduces the 1981 average sentence length by 1/3 and estimates time served at 40%.

IF INCREASED TO 50%	IF INCREASED TO 60%	IF INCREASED TO 75%
1361 additional offenders	2046 additional offenders	3083 additional offenders
976.52 less time served	1464.53 less time served	2196.61 less time served
\$7,116,877.76 saved	\$10,673,494.64 saved	\$16,008,893.68 saved
- 615,758.14*	- 929,986.55*	- 1,401,343.36*
\$6,501,119.62 Saved	\$ 9,754,181.73 Saved	\$14,607,550.32 Saved

\* Cost of Probation

5.4 INCREASE THE DOLLAR AMOUNT OF THEFT REQUIRED  
FOR THE CRIME TO BE TRIED AS A FELONY

At present, a person convicted of theft of anything less than \$100 in value is punished as a misdemeanor. House Bill 73 raises that figure to \$500. From February 1, 1981 to February 8, 1982, there were 83 felons sent to prison for theft of items less than \$500; there were 397 for theft of items less than \$999.

A. IF AMOUNT INCREASED TO \$500 AND 83 FELONS PUNISHED AS MISDEMEANANTS  
WITH SENTENCE OF 1 YEAR PROBATION RATHER THAN 1 YEAR IN PRISON

\$604,904.00	Cost for 1 year incarceration
20,903.55	Cost for 1 year probation
<u>\$584,000.45</u>	Savings

B. IF AMOUNT RAISED TO \$1,000 AND 397 FELONS PUNISHED AS MISDEMEANANTS  
WITH SENTENCE OF 1 YEAR PROBATION RATHER THAN 1 YEAR IN PRISON

\$2,893,336.00	Cost for 1 year incarceration
-99,984.45	Cost for 1 year probation
<u>\$2,793,351.55</u>	Savings

6.0 SUMMARY, CONCLUSIONS, RECOMMENDATIONS

6.1 SUMMARY

Every society has been forced to establish a system for dealing with individuals who commit crimes. These systems are as diverse as the societies they reflect and were designed to protect. However, the methods for achieving justice are similar from state to state, even nation to nation. The degree to which differing methods are utilized vary greatly at both the international and national levels. All countries have prisons which are used to incarcerate offenders, usually as a last resort.

The incarceration rates of most countries are substantially lower than that of the United States. Only the Soviet Union and South Africa incarcerate more persons per 100,000 civilians than the U.S. Georgia's incarceration rate is higher than any other state and even higher than that of the Soviet Union and South Africa.

For the past two centuries, the sentence of imprisonment has been the dominant form of criminal sentence in this country. In the last decade the general mood of corrections has been shifting from attempts to rehabilitate and treat individual offenders for criminal activity to punishing and exacting retribution for their criminal acts. Along with the shifting mood, many states are adopting some form of determinate sentencing procedures, which set certain limits of punishment for certain crimes, and is no longer based on past history or personality of individual offenders.

Establishing a workable determinate penalty system has proven to be a very complicated task, which has also produced surprising and undesired results. Some of the first states to adopt determinate sentencing are now facing uncontrollable prison populations far surpassing available prison facilities. The more recent determinate sentencing procedures have taken different forms and have considered the overall situation before adoption. In Minnesota, for example, the Legislature created a Sentencing Guidelines Commission to develop sentencing guidelines which would reduce disparity in sentencing but would also halt the prison population increase and keep prison population from exceeding existing capacity.

In general, the literature concludes that sending people to prison for longer periods of time has done very little to reduce or halt the crime rate. It also generally concludes that building more prisons does not alleviate overcrowding situations.

Many states are facing critical problems of overcrowded prisons and jails. Both Connecticut and Michigan have recently passed laws allowing emergency release procedures to be implemented when their prison populations reach a certain number.

This study analyzed sentencing practices as a potential point for controlling the overcrowding problem in Georgia. Since the judiciary has basic discretion over who is sent to prison and for how long, this study provides an analysis of existing sentencing practices in the state and the impact that selected sentencing options could have on the prison population.

## 6.2 CONCLUSIONS

Georgia's overcrowding problem has reached crisis proportions during recent years. Despite the lack of adequate space to house prisoners, the number of admissions continues to rise at an alarming rate.

In addition to a rising crime rate, overcrowding conditions are caused by many other factors. More property offenders are being sent to prison, more people are being admitted for probation revocations, and sentences for certain crimes are longer than in past years.

Many of the available alternatives for decreasing the prison population are being used less by most of the 42 judicial circuits rather than more as the crisis heightens. There has been a substantial decrease by the majority of circuits in the use of probation and split sentencing. More circuits are sentencing larger percentages of non-violent property offenders to imprisonment. In every circuit except one, over 70% of the felons sent to prison in 1981 were for non-violent offenses. In 1978 only 23 of the circuits had more than 70% of their admissions for non-violent offenses.

While the overall average sentence length has slightly decreased over the past four years, this decrease followed a significant increase of 25% over the last decade. If certain legislative changes currently being considered become law, the average sentence length can once again be expected to increase.

The crime rates apparently have very little effect on incarceration rates. Likewise they do not seem to be affected by shifts in incarceration rates. It seems that both rates are subject to similar influences from social pressures, but no causal relationship has been established in either direction.

The impact analysis of various options revealed that even minor reductions in sentence lengths of convicted offenders could make a substantial difference in the inmate population. Also even slight changes in the use of probation or split sentencing could have dramatic effects on the population. Diverting various sectors of offenders such as misdemeanants or first offenders from imprisonment could eliminate the population problems.

Although the option does exist for continuing to build prisons, in the midst of a recession and rising inflation, that does not appear to be the most feasible option.

## 6.3 RECOMMENDATIONS

### 6.3.1 For Immediate Action

1. Eliminate misdemeanants from the state prisons. Alternate punishments for misdemeanors could be enforced such as probation, fines, and community service. Although legislation would be required to make this official, a shift in practice by sentencing judges would have the same results.
2. Increase the dollar amount for felony prosecution in theft cases to \$1,000. Legislation is required to implement this recommendation.

Divert a substantially larger percentage of first offenders found guilty of non-violent property crimes to intensive probation programs and/or diversion centers. This would take a joint effort by DOR in setting up the program and judges in utilizing the option.

Increase the use of split sentences, especially for the first offenders. Implementation of this recommendation would require a change in sentencing practices by judges.

Substantially decrease the length of sentences for those offenders who are sentenced to prison. Judges could partially accomplish this by sentencing more offenders the minimum length as set by law. Legislation may be required to shorten sentence lengths for certain offenses.

Require that all legislation dealing with prisons, criminal activity or prison population be accompanied by a cost and impact assessment. Although this requirement is already practiced in some cases, it should be more rigidly enforced.

### 6.3.2. For Further Study

The Legislature should study and consider establishing a sentencing commission, perhaps modeled after the Minnesota Commission.

Study Habitual Offender Law and other statutes with mandatory sentencing provisions to determine impact if repealed or amended.

Sponsor a working consultation of judges from around the state to look at overall problem and develop viable solutions.

Work closely with other community groups or agencies that are concerned with criminal justice to develop strategies for alleviating the overcrowding problems. An example would be the Public Relations Committee recommended by the Fulton County Grand Jury in February to be charged with the primary duty of compiling and disseminating information to the public about the prison system.



A P P E N D I C E S



## APPENDIX I

## MINNESOTA MATRIX

Criminal History Score

SEVERITY LEVELS OF CONVICTION OFFENSE	0	1	2	3	4	5	6 Or More
Unauthorized use of Motor Vehicle Possession of Marijuana I	12	12	12	15	18	21	24
Theft Related Crimes (\$150 - \$2500) Sale of Marijuana II	12	12	14	17	20	23	27 25-29
Theft Crimes \$150-\$2500 III	12	13	16	19	22 21-23	27 25-29	32 30-34
Burglary - Felony Intent Receiving Stolen Goods (\$150-\$2500) IV	12	15	18	21	25 24-26	32 30-34	41 37-45
Simple Robbery V	18	23	27	30 29-31	38 36-40	46 43-49	54 50-58
Assault, 2nd Degree VI	21	26	30	34 33-35	44 42-45	54 50-58	65 60-70
Aggravated Robbery VII	24 23-25	32 30-34	41 38-44	49 45-53	65 60-70	81 75-87	97 90-104
Assault, 1st Degree Criminal Sexual Conduct, 1st VIII	43 41-45	54 50-58	65 60-70	76 71-81	95 89-101	113 106-120	132 124-140
Murder, 3rd Degree IX	97 94- 100	119 116- 122	127 124- 130	149 143- 155	176 168- 184	205 195- 215	230 218- 242
Murder, 2nd Degree X	116 111- 121	140 133- 147	162 153- 171	203 192- 214	243 231- 255	284 270- 298	324 309- 335

The heavy black line represents the "dispositional line". Based on a modified just deserts approach, this line indicates that imprisonment is presumptive for offenders falling in the cells to the right and below the line.

## APPENDIX II

PERCENTAGE OF FELONS RECEIVING A SPLIT SENTENCE  
FROM 1978 to 1981

CIRCUIT	1978	1979	1980	1981	DECREASE	INCREASE
Lookout Mountain	3	5	11	12		+
Griffin	17	15	19	13	-	
Southern	35	24	28	13	-	
Coweta	5	9	8	16		+
Ogeechee	11	20	15	16		+
Oconee	34	30	24	19	-	
Cordele	31	46	26	23	-	
Piedmont	55	32	55	23	-	
Middle	22	32	47	24		+
Clayton	37	22	32	25	-	
Mountain	70	52	41	25	-	
Conasauga	34	21	46	26	-	
Atlanta	30	42	31	28	-	
Stone Mountain	32	31	34	29	-	
Blue Ridge	50	38	42	30	-	
Brunswick	47	39	53	30	-	
Pataula	11	40	47	30		+
Augusta	17	19	37	32		+
Atlantic	46	50	51	32	-	
Dublin	18	31	47	32		+
Macon	45	53	48	32	-	
Eastern	50	42	47	33	-	
Flint	38	25	50	33	-	
Tifton	27	35	18	33		+
Western	50	42	54	34	-	
Cherokee	27	35	41	35		+
Rome	69	50	45	36	-	
Chattahoochee	24	46	56	37		+
Waycross	63	55	64	37	-	
Ocmulgee	29	43	44	38		+
Toombs	18	28	28	38		+
Cobb	44	52	47	39	-	
Alapaha	51	42	62	40	-	
Gwinnett	56	60	45	40	-	
South Western	41	56	70	40	-	
Houston	39	45	72	41		+
Tallapoosa	71	63	53	41	-	
North Eastern	45	59	63	42	-	
Northern	56	41	54	42	-	
Alcovy	60	70	76	43	-	
Dougherty	77	78	80	44	-	
South Georgia	28	56	49	44		+

SOURCE: Department of Offender Rehabilitation Inmate Data Base

NOTE: The percentages may show slightly higher than actual numbers because the figures reflect only those felons receiving new sentences during that fiscal year and exclude those admitted for probation or parole revocation.

## APPENDIX III

PERCENTAGE OF FELONS RECEIVING PROBATION  
FROM 1978 to 1981

CIRCUIT *	1978	1979	1980	1981	DECREASE	SAME	INCREASE
Chattahoochee	16	23	44	42			+
Griffin	28	22	25	43			+
Coweta	44	52	45	54			+
Southern	67	66	58	56	-		
South Georgia	59	57	69	57	-		
Tifton	52	64	63	57			+
Augusta	52	46	64	58			+
Toombs	25	40	60	59			+
Clayton	78	71	69	61	-		
Cordele	70	59	54	61	-		
Brunswick	62	69	72	62		0	
Western	65	59	68	65		0	
Eastern	56	62	70	66			+
Conasauga	68	59	66	66	-		
Blue Ridge	77	73	77	67	-		
Northern	59	65	61	67			+
Cherokee	74	68	76	68	-		
Flint	61	61	66	68			+
Macon	75	69	76	68	-		
Mountain	70	60	76	68	-		
North Eastern	71	70	67	68	-		
Lookout Mountain	72	78	74	69	-		
Ocmulgee	69	65	72	69		0	
Middle	82	66	70	70	-		
Ogeechee	52	77	74	70			+
Atlantic	62	74	74	71			+
Houston	74	76	79	71	-		
Alcovy	76	79	73	73	-		
Dougherty	83	84	85	73	-		
Gwinnett	76	74	76	73	-		
Waycross	67	67	66	73			+
Alapaha	65	83	82	74			+
Dublin	68	71	81	75			+
South Western	83	88	78	75	-		
Rome	63	77	78	76			+
Tallapoosa	79	74	85	78	-		
Piedmont	57	66	71	79			+
Pataula	69	61	83	79			+
Cobb	85	84	81	80	-		
Oconee	63	67	75	82			+

\*Atlanta and Stone Mountain circuits are not listed since they have separate local probation systems and the data are not available.

SOURCE: Department of Offender Rehabilitation Inmate Data Base.

NOTE: The percentages may show slightly higher than actual numbers because the figures reflect only those felons receiving new sentences during that fiscal year and exclude those admitted for probation or parole revocation.

## APPENDIX IV

PERCENTAGE OF FELONS ADMITTED TO PRISON FOR NON-VIOLENT OFFENSES  
FROM 1978 to 1981

CIRCUIT	1978	1979	1980	1981	DECREASE	SAME	INCREASE
Tallapoosa	76	75	66	69	-		
Dublin	62	90	89	70			+
Atlanta	60	61	61	71			+
Brunswick	64	69	57	72			+
Macon	56	56	61	72			+
Northern	67	63	67	73			+
Eastern	75	67	70	75		0	
Piedmont	64	58	88	75			+
Alcovy	72	66	78	76			+
Augusta	67	58	60	76			+
Ocmulgee	59	55	70	76			+
Stone Mountain	56	62	69	76			+
Western	62	68	62	76			+
Chattahoochee	76	69	70	77			+
Cobb	71	70	62	77			+
Middle	54	65	74	77			+
Pataula	73	75	53	77			+
Tifton	69	60	72	77			+
Cherokee	60	67	70	78			+
Dougherty	65	67	58	78			+
Flint	71	69	86	78			+
North Eastern	74	74	72	78			+
Alapaha	66	54	84	79			+
Houston	70	55	47	79			+
Southern	71	80	81	79			+
Waycross	71	72	72	79			+
Clayton	70	71	83	80			+
Gwinnett	65	61	74	80			+
Blue Ridge	93	84	82	81			+
Cordele	58	68	85	81			+
Lookout Mountain	74	79	74	81			+
South Western	62	68	58	81			+
Toombs	71	68	77	81			+
Conasauga	71	70	69	82			+
Atlantic	76	69	73	83			+
Mountain	74	67	76	83			+
Oconee	73	60	76	83			+
Rome	63	60	36	83			+
South Georgia	78	75	63	83			+
Coweta	78	78	80	84			+
Griffin	81	79	85	85			+
Ogeechee	75	67	70	90			+

SOURCE: Department of Offender Rehabilitation Inmate Data Base.

NOTE: The percentages may show slightly higher than actual numbers because the figures reflect only those felons receiving new sentences during that fiscal year and exclude those admitted for probation or parole revocation.

## APPENDIX V

## PRISON ADMISSIONS IN FISCAL YEAR 1981

CIRCUIT	TOTAL NUMBER	% FIRST OFFENDER NON-VIOLENT *	% MISDEMEANANT
Alapaha	57	53	7
Alcovy	133	81	41
Atlanta	1514	30	18
Atlantic	108	59	6
Augusta	233	55	4
Blue Ridge	101	54	2
Brunswick	118	42	5
Chattahoochee	397	51	3
Cherokee	71	58	1
Clayton	157	50	2
Cobb	141	59	5
Conasauga	122	60	4
Cordele	95	65	14
Coweta	378	53	11
Dougherty	145	43	15
Dublin	33	36	15
Eastern	202	38	4
Flint	88	51	8
Griffin	172	63	6
Gwinnett	132	55	14
Houston	49	65	16
Lookout Mountain	87	52	5
Macon	255	59	37
Middle	97	59	23
Mountain	75	52	23
North Eastern	140	49	29
Northern	92	60	34
Ocmulgee	108	55	5
Oconee	44	64	34
Ogeechee	53	57	2
Pataula	47	85	21
Piedmont	30	50	0
Rome	78	59	19
South Georgia	147	63	2
Southern	197	63	7
South Western	87	77	16
Stone Mountain	439	40	3
Tallapoosa	85	72	8
Tifton	75	55	10
Toombs	83	58	14
Waycross	121	60	27
Western	106	42	15

SOURCE: Department of Offender Rehabilitation Inmate Date Base.

NOTE: The percentages may show slightly higher than actual numbers because the figures reflect only those felons receiving new sentences during that fiscal year and exclude those admitted for probation or parole revocation.

\* The first offender status is based on available rap sheets. Because all offenders do not have rap sheets, this figure is estimated, based on the known percentage of active inmates who have no prior convictions. (60%)

## APPENDIX VI

## AVERAGE PRISON SENTENCE LENGTH GIVEN FELONS

CIRCUIT	1978	1979	1980	1981	CHANGE 78-81 LONGER	CHANGE 78-81 SHORTER
Waycross	3.96	5.29	5.24	4.75	Longer	
Chattahoochee	4.05	4.41	4.47	4.32	Longer	
Griffin	4.41	4.81	4.89	4.37		Shorter
Cobb	4.60	4.94	6.22	5.25	Longer	
Oconee	4.74	4.95	3.96	6.86	Longer	
Coweta	4.80	5.49	6.06	5.52	Longer	
Dougherty	4.94	4.32	5.33	4.49		Shorter
Atlanta	5.00	4.57	4.94	4.81		Shorter
Southern	5.01	5.64	5.39	7.31	Longer	
Alcovy	5.05	4.72	5.36	5.45	Longer	
Eastern	5.12	5.47	5.18	4.89		Shorter
Pataula	5.13	3.88	6.68	7.56	Longer	
Houston	5.18	5.93	3.75	3.91		Shorter
Tifton	5.18	6.36	4.82	6.24	Longer	
South Western	5.20	3.55	4.50	3.40		Shorter
Conasauga	5.24	6.23	4.25	5.18		Shorter
Stone Mountain	5.25	5.37	4.69	4.69		Shorter
Tallapoosa	5.31	5.27	5.33	6.57	Longer	
South Georgia	5.37	4.93	6.62	6.11	Longer	
Brunswick	5.41	5.45	6.74	7.16	Longer	
Atlantic	5.41	5.66	7.35	4.74		Shorter
Mountain	5.62	6.75	5.41	5.75	Longer	
Lookout Mountain	5.69	5.38	6.80	6.37	Longer	
Blue Ridge	6.01	5.76	7.06	5.41		Shorter
Northern	6.06	6.51	7.29	4.51		Shorter
Gwinnett	6.06	6.25	5.98	5.25		Shorter
Macon	6.14	5.97	5.44	5.68		Shorter
Alapaha	6.18	8.50	6.31	6.02		Shorter
Toombs	6.31	8.87	6.43	4.43		Shorter
Clayton	6.35	4.81	5.52	4.94		Shorter
Cherokee	6.48	6.36	7.26	7.33	Longer	
North Eastern	6.58	4.81	6.38	4.77		Shorter
Ogeechee	6.75	9.23	6.67	7.48	Longer	
Cordele	6.82	6.17	4.58	4.61		Shorter
Western	7.31	5.91	6.23	5.33		Shorter
Middle	7.43	6.32	5.08	6.14		Shorter
Augusta	7.52	8.63	7.56	7.25		Shorter
Piedmont	7.54	9.61	5.95	6.66		Shorter
Rome	7.57	7.56	6.52	7.29		Shorter
Flint	7.68	5.61	5.13	5.12		Shorter
Dublin	8.03	4.62	4.77	6.76		Shorter
Ocmulgee	8.19	5.87	6.07	5.85		Shorter
STATE AVERAGE	5.87	5.87	5.72	5.63		Shorter

SOURCE: Department of Offender Rehabilitation Inmate Data Base.  
Includes only inmates with new sentences.

## APPENDIX VII

## SENTENCE LENGTH SEVERITY INDEX \*

CIRCUIT **		1979	1980	1981	CHANGE 78-81 MORE SEVERE	CHANGE 78 - 81 LESS SEVERE
Oconee	.64	1.64	.99	1.20	More severe	
Cobb	.68	.78	1.18	1.03	More severe	
Dougherty	.84	.68	.79	1.23	More severe	
South Western	.85	.42	.99	.86	More severe	
Tallapoosa	1.12	1.37	.79	1.42	More severe	
Middle	1.18	2.15	1.53	1.84	More severe	
Alcovy	1.20	.99	1.45	1.45	More severe	
Waycross	1.31	1.75	1.78	1.28		Less Severe
Houston	1.34	1.43	.79	1.14		Less Severe
Blue Ridge	1.37	1.56	1.62	1.78	More severe	
Clayton	1.40	1.40	1.70	1.90	More severe	
Gwinnett	1.45	1.62	1.43	1.40		Less Severe
Macon	1.54	1.84	1.31	1.81	More severe	
Lookout Mountain	1.59	1.18	1.71	2.00	More severe	
Pataula	1.59	1.51	1.27	1.57		Less Severe
Southern	1.65	1.92	2.27	3.22	More severe	
Conasauga	1.68	2.55	1.45	1.73	More severe	
Mountain	1.68	2.69	1.29	1.81	More severe	
Cherokee	1.88	2.03	1.73	2.36	More severe	
North Eastern	1.90	1.43	2.11	1.53		Less severe
Flint	2.00	2.18	1.75	1.65		Less severe
Cordele	2.05	2.53	2.11	1.81		Less severe
Atlanta	2.06	1.46	1.90	1.39		Less severe
Brunswick	2.06	1.68	1.89	2.74	More severe	
Alapaha	2.16	1.51	1.14	1.62		Less Severe
South Georgia	2.21	2.12	2.05	2.59	More severe	
Eastern	2.25	2.08	1.56	1.68		Less Severe
Northern	2.47	2.28	2.84	1.48		Less Severe
Tifton	2.49	2.28	1.79	2.68	More severe	
Ocmulgee	2.53	2.06	1.70	1.82		Less severe
Western	2.56	2.47	1.98	1.89		Less severe
Dublin	2.56	1.34	.90	1.70		Less severe
Coweta	2.68	2.63	3.34	2.56		Less severe
Rome	2.80	1.73	1.43	1.73		Less severe
Griffin	3.18	3.75	3.68	2.49		Less severe
Chattahoochee	3.40	2.94	2.58	2.52		Less severe
Ogeechee	3.24	2.12	1.73	2.25		Less severe
Piedmont	3.24	3.27	1.73	1.40		Less severe
Augusta	4.61	4.67	2.71	3.02		Less severe
Toombs	4.74	5.32	2.56	1.79		Less severe
State Totals	2.05	2.03	1.74	1.83		Less severe

\* The percentage of felons receiving prison instead of probation multiplied by the average felony prison sentence length.

\*\* Atlanta and Stone Mountain circuits not listed because probation statistics are unavailable.

SOURCE: Department of Offender Rehabilitation Inmate Data Base.

**END**