

# **FULTON COUNTY CASE MANAGEMENT AND BACKLOG REDUCTION PROJECT**

## **FINAL REPORT**

**WITH RECOMMENDATIONS FOR REDUCING FELONY CASE  
BACKLOGS, ESTABLISHING NEW CRIMINAL AND CIVIL CASE  
MANAGEMENT SYSTEMS, AND REDUCING THE POPULATION OF  
THE FULTON COUNTY JAIL**

**Prepared for Review by Fulton County Justice System Practitioners  
and County Officials**

*By*

**Barry Mahoney and Elaine Nugent-Borakove**

**July 2008**



**The Justice Management Institute  
1888 Sherman Street, Suite 410  
Denver, Colorado 80203  
Tel: 303-831-7564  
[www.jmijustice.org](http://www.jmijustice.org)**

# FULTON COUNTY CASE MANAGEMENT AND BACKLOG REDUCTION PROJECT

## FINAL REPORT

### PART ONE: INTRODUCTION AND OVERVIEW

This report has been prepared as the principal work product of a project conducted by The Justice Management Institute (JMI) that is aimed at improving the overall functioning of the justice system in Fulton County. The project, funded by Fulton County, was initially designed to achieve two main goals: (1) formulate a detailed plan for reducing the backlog of old pending felony charge cases, with particular emphasis on cases involving defendants in jail; and (2) develop a new case management system for civil and criminal cases in the Superior Court, in order to enable fair and timely case resolution. During the start-up phase of the project and in light of discussions with the Deputy County Manager, a third goal was added: to develop a package of recommendations for changes in system operation that will assist in enabling the reduction of the total jail population to a level that would enable Fulton County to avoid having to “outsource” jail inmates to other counties.<sup>1</sup>

Our approach to the project has involved a combination of interviews and meetings with practitioners working in the criminal justice system, bar leaders, and county officials; collection and analysis of data on caseloads, case processing times, and jail populations; and review of written materials on promising practices and approaches taken in other jurisdictions that have experienced problems similar to those currently faced by Fulton County. Of particular note, we have also reviewed and given careful consideration to two other documents: (1) the 2006 Report of Blue Ribbon Commission established to examine and make recommendations concerning the Fulton County Criminal Justice System;<sup>2</sup> and (2) a document prepared early in 2008 by Fulton County District Attorney Paul Howard in cooperation with Public Defender Vernon Pitts and Superior Court Clerk Tina Robinson, entitled “Making Lasting Change: Fulton County’s System Under Renovation.”

While the recommendations outlined below draw upon all of these sources, we have conducted our own independent analysis of the current situation with respect to jail crowding and court case processing in Fulton County. We note at the outset that there have been significant improvements in felony case processing during the period since

---

<sup>1</sup> The project is funded under Purchase Order Number PO 118 07SC11223B-TR, awarded pursuant to a competitive bidding process. At the outset of the project, consideration was given to including case processing in the State Court within the scope of work. With the agreement of the Deputy County Manager for Justice Systems and a representative of the State Court, it was determined in December 2007 that the project should focus on felony case processing (and thus on the work of the Superior Court), but should be undertaken with awareness that case processing practices in the State Court may be relevant to some aspects of the jail crowding problem.

<sup>2</sup> *Recommendations of the Fulton County Criminal Justice Blue Ribbon Commission – Approved by the Fulton County Commission September 20, 2006.*

JMI first examined the system in the late 1990s. These include:

- The establishment of the District Attorney’s Complaint Room, which provides a mechanism for early screening of cases involving newly arrested defendants;
- Establishment of a system for direct filing of felony complaints in the Superior Court, coupled with construction of court facilities at the jail and arrangements for in-custody first appearance proceedings and all-purpose hearings to be held in a courtroom at the jail.
- Provision for continuous representation by a lawyer for defendants beginning at the time of their first court appearance;
- Establishment and gradual expansion of the Fulton County Drug Court, which provides a non-incarcerative rehabilitation-oriented disposition for some defendants whose principal issue is substance abuse or addiction;
- Start-up and continued operation of a pretrial services program, which interviews newly arrested felony charge defendants, provides verified information to judicial officers regarding possible release on non-financial conditions, and annually supervises over 4,000 persons released from jail by the Court at the jail;
- Creation and successful operation of the Superior Court’s Non-Complex caseload, which provides a mechanism for very rapid review and resolution of cases involving defendants charged with offenses not likely to result in a state prison sentence;
- Adoption, by some of the judges, of modern caseload management practices that have enabled these judges to resolve a very high proportion of their caseloads in a timely fashion and to maintain manageable pending caseloads; and
- A reduction of the total pending felony caseload (as shown by the information system used by the Superior Court) from a high of over 15,000 cases in 2000 to less than 6,500 cases at the end of 2007—a decrease of almost 60 percent.

Many problems remain, however. They are reflected in pending caseloads that are still higher than is desirable, slow case processing of some cases, lengthy stays of some defendants in secure detention in the Fulton County Jail, and the accompanying necessity for outsourcing some inmates to jail facilities in other counties. With respect to case processing, one especially severe problem (emphasized also by the Blue Ribbon Commission) is the lack of an effective criminal justice information system that would enable all of the justice system institutions and agencies to share relevant information needed for resolution of individual cases, management of overall caseloads, and management of the jail population.<sup>3</sup> Related to this problem, there is a lack of a shared understanding of (or agreement on) the size and composition of the caseload, lack of capacity to readily identify the “problem cases” and lack of any system for setting priorities with respect to addressing the caseloads of the Court.

---

<sup>3</sup> See *Report of the Blue Ribbon Commission*, supra note 2, at pages 8-11.

Further, there has been wide variation in the case management practices followed by judges of the Superior Court, some of whom have been able to manage their caseloads much more effectively than others. Finally, the existence of a large backlog of old pending felony cases—defined for purposes of this project as cases pending for more than a year since indictment—complicates any effort to introduce new practices and procedures. The backlog constitutes an obstacle that must be overcome in order for any new system for processing cases to function effectively.

Despite the problems, the improvements made in the past decade provide a good foundation for further improvements. Some of the new work on system improvement has already started, spurred in part by the 2006 report of the Blue Ribbon Commission that made a valuable set of recommendations for system improvements. Work already in progress includes initiation of a vendor selection process for development and installation of a new integrated criminal justice information; the generation of ideas about system reform incorporated in the document by District Attorney Paul Howard et al. entitled “Making Lasting Change: Fulton County’s System Under Renovation”; the start-up of a new backlog reduction program by the Superior Court, focused on pending cases over one year old as of January 2008; and the Superior Court’s development of plans for a “team” system for organizing court case processing.

The recommendations in this report are designed to build upon this foundation and are intended to achieve all three of the goals outlined in the opening paragraph—i.e., reduce the population of the jail to a level that avoids the necessity of housing inmates in facilities in other counties, substantially eliminate the backlog of old pending felony cases, and establish effective modern case management practices for both civil and criminal cases handled by the Superior Court. The recommendations fall into six main categories, as follows:

1. Recommendations for setting basic justice system goals relevant to achieving timely case resolution and avoiding or minimizing new jail construction. Having a vision for the justice system and clear goals regarding what is to be accomplished are the foundation for any serious plan to improve justice system operations.
2. A recommendation for (a) rapidly reducing the “outsourcing” of inmates to jail facilities in other counties; and (b) establishing policies and procedures that will be effective eliminating the outsourcing and preventing recurrence of the overcrowding. Reducing the size of the jail’s population and maintaining the jail population at a size that is below the capacity of the jail will free funds that would otherwise be used to pay for the outsourcing. These funds can then be used for implementation of other recommendations in this report and for related justice system improvements.
3. Recommendations for eliminating the backlog of old felony cases (defined for this purpose as cases pending for more than a year since indictment). Backlog reduction is an integral and essential component of an overall plan to reduce the jail population and to bring the felony caseload of the Superior Court to a manageable level. However, focusing on the backlog cases alone—without an

accompanying focus on reducing the total number of defendants in detention and resolving new cases in a timely fashion—will not accomplish the key goal of eliminating the need for outsourcing inmates.

4. Recommendations for ways to improve the processing of newly filed felony charge cases, in order to enable timely resolution of all cases and avoid unnecessarily long periods of pretrial detention in the jail, including:
  - Changes in the Superior Court’s organization (including establishment of a modified divisional plan) and case assignment system;
  - Adoption of civil and criminal case management plans that will provide for judges to work within a common framework of procedures, practices, and case processing time standards; and
  - Establishment and monitoring of system performance standards, including case processing time standards, standards for pending caseloads in relation to annual filings, case clearance standards, and standards with respect to jail population size and composition.
5. Recommendations for other ways (in addition to backlog elimination and accelerated resolution of cases involving defendants in detention) to reduce the jail population, including:
  - Implementing alternatives to secure detention in jail for low-risk defendants who are unable to afford bail and could be released under appropriate supervision pending the disposition of their cases, including use of electronically monitored home confinement and intensive supervised release; and
  - Adopting and using an expanded range of sentencing alternatives that would be appropriate for persons now sentenced to serve time in the Fulton County Jail, including more extensive use of electronic monitoring and expansion of the Fulton County Drug Court.
6. Recommendations for related system improvements that are designed to prevent recurrence of unnecessary jail crowding and enhance overall justice system performance.

A preliminary report containing virtually all of the recommendations in this report, together with a set of appendices that provided detailed information about specific recommendations in the preliminary report, was circulated to criminal justice system leaders in April 2008. The preliminary report and its recommendations were the subjects of discussion and review by these leaders at a meeting with the JMI team on April 14. At that meeting, there was substantial agreement on the recommendations, with suggestions for a few revisions and additions. At a meeting on July 10 to review a full draft of this Final Report and related documents, there were a few additional suggestions for revisions. The JMI team has taken account of all of the suggestions in preparing this report and the recommendations it contains.

This report is organized in four parts following this Introduction and Overview. Part Two provides a brief discussion of the roots and nature of the current set of

problems facing the justice system in Fulton County, beginning with data on crime in the county and trends in the jail population. Part Three discusses the recommendations outlined above. Part Four discusses staffing levels needed for implementation of the Felony Case Backlog Reduction Program and the recommended new civil and criminal case management systems. Part Five contains additional observations focused on issues related to criminal justice system organization and operation that are beyond the scope of this project but which we believe are relevant to future system improvement efforts.

## **PART TWO: THE CURRENT SITUATION**

### **A. Crime Statistics and Current Trends**

The population of the Fulton County Jail has been growing in size even though violent crime in the County has been decreasing. In reviewing the recent history of jail population growth in the County, we have drawn upon statistical data compiled for a 2006 study of the jail situation that was prepared by The Facilities Group and Turner Associates<sup>4</sup>, updating that data where possible. Among the key findings concerning reported crime, jail bookings, and the jail population are the following:

- Data from the Uniform Crime reports produced by the FBI based on data from local law enforcement agencies show a significant **decrease** in violent crime (murder, rape, robbery, and aggravated assault) from 15,747 in 1996 to 9,722 in 2005—a 38 percent decrease. Over the same period, major property crimes (burglary, larceny, and vehicle theft) decreased from 81,931 to 56,988—a 30 percent decrease. Data from 2006 show an increase to 10,330 in reported violent crime over the 2005 figure (up 6 percent), while reported property crime declined slightly to 56,198 (down 1.3 percent). Even taking account of the 2006 data, reported violent crime is down by 34 percent from 1996 to 2006 and major property crime is down by 31 percent.<sup>5</sup>
- The 10-year trend lines for bookings into the jail of both male and female defendants have remained generally flat, except for a spike in bookings during 1996-97. The trend line for the five years between 2001 and 2006 were slightly upward. Bookings during 2007 totaled 41,529, compared to 40,446 in 1996 and 44,927 in 2001.<sup>6</sup> Thus, even as violent crime has dropped, the number of arrests and bookings into the jail has stayed relatively constant. It appears that proportionately more defendants are being arrested and booked in to jail for non-violent offenses (but, importantly, including a high percentage of persons booked for drug offenses).
- The average daily population (ADP) of the jail—a key indicator for utilization of jail beds—fluctuated considerably between 1996 and 2002, reaching a peak of 4,255 in October 1997 and a low of 2,359 in July 2002.<sup>7</sup> In 2007, the ADP was 2,859, an increase of 10 percent over the 2002 ADP.

---

<sup>4</sup> See generally The Facility Group in association with Turner Associates, *Fulton County Jail Long-Term Feasibility Study* (2007) (hereafter cited as “2007 Jail Feasibility Study Report”).

<sup>5</sup> Source: Georgia Bureau of Investigation (GBI), Uniform Crime Reporting Statistics; Jail Feasibility Study Report, pages 2-3 and 2-4. The reported crime data is on what is called “Index Part I” crimes. Other reported crime data (called “Index Part II” crimes) is not broken down in as much detail and not available from the GBI web site. These cover other types of non-violent crime including drug offenses, theft, and various minor offenses. It is likely that while arrests for violent crime have decreased or stayed relatively stable, arrests for drug offenses and other crimes not involving direct injury to persons have increased since 1996.

<sup>6</sup> 2007 Jail Feasibility Study Report, pages 2-6 – 2-11.

<sup>7</sup> 2007 Jail Feasibility Study Report, page 1-4.

- Trend data showing the average length of stay (ALOS)—another key determinant of total jail bed utilization—is not shown in the Jail Feasibility Study Report. However, a one-day “snapshot” of ALOS conducted as part of the 2007 Jail Feasibility Study showed that approximately one-third of the inmate population had been in jail for over three months. About 7 percent had been in jail for over a year.<sup>8</sup>
- The Jail Feasibility Study made three different projections of future jail population trends, based on historical data for the years 2001-2006. The five year projections indicated that—unless changes are made in existing practices—the jail’s average daily population would be between 3,258 and 3,712 by the year 2011. The twenty year projections pointed to a jail population between 3,957 and 5,301 by the year 2026. Averaging the results of the three projections, the Study Report showed an estimated population of 3,445 in five years and 4,448 in twenty years.<sup>9</sup>
- Because there will be times when the actual number of inmates exceeds the average and because it is necessary to provide for separate facilities for female and male inmates, the actual number of jail beds needed will be greater than the projected number of inmates. The Jail Feasibility Study Report estimated that Fulton County would need a total of 3,900 jail beds in five years (i.e., by 2011) to support a projected inmate population of 3,445 inmates and would need a total 5,035 jail beds by 2026 in order to support a projected inmate population of 4,448 inmates.

The crime statistics and jail population projections are an important backdrop for this project. While cost estimates can vary widely, the Jail Feasibility Study Report estimated that the cost of constructing a new “Two Tower” facility that (with other changes that would add a total of 2,880 beds) would be at least \$153 million. Once the new facility was opened, the Report estimated that 502 additional staff would be needed to manage it, increasing the Sheriff’s annual budget for the jail from \$79 million in FY 2007 to over \$114 million if the construction could be completed by 2010.

Operational costs of running a jail (for staffing, equipment, maintenance, etc.) can be roughly calculated as amounting to at least ten times the construction costs over the life of the facility. To the extent that the costs of new jail construction and operation can be avoided or minimized, the County will be able to use resources for other purposes—for example, investing in old case backlog reduction, improved case

---

<sup>8</sup> 2007 Jail Feasibility Study Report, page 2-24.

<sup>9</sup> 2007 Jail Feasibility Study Report, pages 1-5 – 1-6, 2-25 – 2-37. The projections are based on examination of trend lines in for three variables: average length of stay; rate of incarceration (inmates per 1,000 population, taking account of anticipated future population growth); and average daily population of the jail. In discussing the projections, the authors of the Report noted appropriately that there are a number of additional variables that can significantly affect the growth of jail population in the future, including new legislation, changes in public attitudes toward crime, changes in law enforcement practices, changes in crime patterns and arrest rates, changes in the volume of case filings, utilization of new technology, changes in the number of judicial positions, changes in the number and capabilities of staff in agencies involved in court case processing, and adoption of effective operational innovations that will improve case processing. Id. at pages 2-31 – 2-35 and pages 8-3 – 8-5.

processing, other justice system improvements, related needs such as substance abuse treatment, mental health treatment, and a variety of other health care and community needs.

With violent crime decreasing since 1996 but arrests for non-violent offenses increasing over the past 10-12 years and contributing to an upward trend in jail utilization, policy issues with respect to court case processing have changed somewhat. In particular, there are critical questions concerning the impact of court and prosecutorial practices upon the utilization of scarce and expensive jail space. Depending on how these questions are answered it may be possible to avoid or defer major new jail construction. For example:

- Does it make sense to re-organize court case processing practices to provide for more expeditious resolution of the less serious types of felony charge cases, thus (a) reducing the time defendants not on bond spend in pretrial detention awaiting the resolution of their cases; (b) reducing the total caseloads of judicial officers, prosecutors, and defense attorneys; and (c) making it possible to devote more time to complex and serious criminal cases?
- Is it feasible to develop a set of changes in policy and practice that would reduce both the time that defendants spend in pretrial detention (thus reducing average length of stay and jail bed utilization by pretrial detainees) and the time that persons accused of crime spend at liberty (on bond or pretrial release) awaiting the resolution of their cases?
- Can viable and less expensive alternatives to secure confinement in jail be developed that would reduce the total number of jail inmates—both pretrial defendants and sentenced offenders—without posing unacceptable risks to community safety?
- Are there more effective ways than use of jail to address the underlying substance abuse and mental health problems of a significant number of defendants who have not been involved in violent crimes or drug trafficking?

## **B. The Current Composition of the Jail Population**

Understanding the current composition of the jail population provides a basis for helping the County to identify different strategies for reducing the overall daily population and eliminating the need to outsource inmates to other facilities. Of particular relevance to development of viable strategies are three sets of issues concerning the current makeup of the jail population:

- To what extent are there a significant number of inmates who have cases pending for unduly long periods of time? In particular, how many inmates charged with felony offenses have been in jail for a period of more than a year?
- To what extent are there a significant number of inmates who are charged with violations of probation or who are pretrial detainees charged with relatively low level felonies?

- To what extent does the jail hold sentenced prisoners who could safely and appropriately be sentenced to non-incarcerative alternatives such as an electronic monitoring program or to participation in a drug court program?

These categories of jail inmates subject to the jurisdiction of the Superior Court are ones with respect to which we believe there are opportunities for introducing new approaches that can significantly reduce the inmate population.<sup>10</sup>

A review of data provided by the Sheriff's Department shows that on April 7, 2008, there were 2,901 inmates in the jail population, of whom 543 were "outsourced" to other facilities in the state. A total of 473 inmates (16%) were serving sentences—366 for felony convictions and 107 for misdemeanors, and another 284 (10%) were serving revoked probation sentences. A total of 190 (7%) were either awaiting extradition to another jurisdiction or awaiting pickup by the Georgia Bureau of Corrections for transfer to a state prison. 160 (6%) were awaiting probation revocation proceedings in the Superior Court, and of that number 41 had already been in jail for over a month. The remaining 2,078 inmates (72%) were in pre-trial status. Of the 2,901 inmates, the Sheriff's data indicates that 2,629 (91%) were booked into the jail on felony charges.

Much of the jail population consists of persons charged with serious and violent felonies, but some are charged with less serious offenses. As shown in the Table 1 (below), persons charged with homicide, aggravated assault, robbery, and serious sexual offenses including child molestation account for almost half of the total population (47%). The data also indicate that about 13 percent of the inmates were charged with drug offenses, 8 percent were charged with theft, 6 percent were charged with burglary, and about 22 percent were charged with a variety of offenses including entering an automobile, DUI, making terroristic threats, obstructing law enforcement, and criminal damage to property.

Secure detention is appropriate for many of the jail's inmates. However, it appears that about half of the inmates are charged with non-violent offenses, and there may well be appropriate alternatives for a significant fraction of this population.

Additionally, attention must be paid to the large number of inmates who have been in jail for lengthy periods. As Table 1 shows, 331 inmates (12%) have been in the jail for over a year as of April 7, 2008—an increase over the 7 percent that the Jail Feasibility Study found had been in for over a year in its "snapshot" taken back in 2005-06. Most of these "old" cases are serious ones, with 242 of the 331 defendants who had been in jail for over a year having been charged with homicide, aggravated assault, a sexual offense, or robbery. Another 779 inmates (27 percent) had been in jail for between four months and a year.

---

<sup>10</sup> Additionally, there are likely to be some inmates charged with or convicted of misdemeanor offense handled by the State Court who would be appropriate candidates for participation in various types of programs (e.g., drug court, mental health court, anger management program) if such alternatives were available and had sufficient capacity. However, at any one time, approximately 90 percent of the Jail population consists of inmates charged with felony offenses. It is that population that has been a primary focus of attention in this project.

**TABLE 1—Snapshot Of Persons in Custody By Primary Charge and Length of Stay  
(April 7, 2008)**

<b>Charge</b>	<b>&lt; 30 Days</b>	<b>&lt; 60 Days</b>	<b>&lt; 90 Days</b>	<b>&lt; 120 Days</b>	<b>&lt; 365 Days</b>	<b>&lt; 545 Days</b>	<b>&gt;= 545 Days</b>	<b>Total</b>	<b>Pct.</b>
Murder (inc. veh homicide & vol./invol manslaughter)	23	12	10	10	86	30	47	218	7.6%
Aggravated assault (inc. w/weapon, agg battery, family battery, attempts, & conspiracies)	150	87	53	33	165	33	45	566	19.7%
Robbery (includes armed robbery, agg armed robbery, hijacking vehicle, & attempts)	49	36	27	28	141	31	21	333	11.6%
Sexual offenses (rape, aggrav sexual battery, aggravated sodomy, attempts)	20	14	9	7	46	18	17	131	4.5%
Child molestation (includes agg child molestation, incest, cruelty to children)	25	13	11	3	23	12	13	100	3.5%
Drugs	191	71	30	14	49	8	10	373	13.0%
Theft (inc. theft of services, auto theft, rec stolen auto, account fraud, id theft)	137	34	21	13	22	3	1	231	8.0%
Burglary	87	23	18	10	33	8	4	183	6.4%
Possession of firearm/poss by convicted felon/other gun charges	45	13	6	3	11	1	0	79	2.7%
Aggravated stalking & stalking	9	7	6	1	6	2	4	35	1.2%
Other felony/misdemeanor (e.g., entering auto, terroristic threats, obstruct LE, crim damage to property 2nd degree, DUI, probation violation, traffic, etc.)	378	106	49	13	62	12	11	631	21.9%
<b>Totals</b>	<b>1114</b>	<b>416</b>	<b>240</b>	<b>135</b>	<b>644</b>	<b>158</b>	<b>173</b>	<b>2880</b>	<b>100.0%</b>

The large number of long-stay jail inmates relates directly to issues of caseloads and case processing in the Superior Court, and we turn next to those topics.

### **C. Pending Caseloads in the Superior Court**

Statistics relating to the population of the jail focus on the number of defendants in various categories. By contrast, data on the operation of the courts and the District Attorney's office tend to focus on the number of cases in various categories. Typically,

there are more defendants than cases. Often, a case may involve multiple defendants. Additionally, it is not uncommon for a single defendant to have more than one case pending at any one time. However, because the automated information systems used by the Jail, the Superior Court, and the District Attorney's office do not interface with each other, it is difficult to get an accurate picture of both the number of defendants and the number of cases.

Pending caseloads of any court are a result of activities over many years—the cumulative total of years of case filings and dispositions of various types. In the Superior Court, total felony case filings have fluctuated over the past seven years between a high of 15,182 in 2000 and a low of 11,130 in 2002. Data provided by the Superior Court shows 11,492 filings in 2007, down from 14,297 in 2005.<sup>11</sup>

Dispositions have also fluctuated, but over the past eight years felony case dispositions have substantially exceeded filings in every year except in 2005 and 2006. The result is that at the end of 2007 the pending felony caseload had dropped from 15,542 in 2000 to 6,479—a decrease of over 58 percent.<sup>12</sup>

The decrease in the total pending caseload means that the system is not far from having a total pending criminal caseload that is at an acceptable—and manageable—level.<sup>13</sup> However, the figures on pending criminal caseloads for the entire Superior Court mask the fact that pending caseloads vary widely by judge. Some judges have relatively low pending felony caseloads (in the range of 120-240), with few cases pending more than six months. Others, however, have far more pending cases, and their caseloads often include a number of cases pending for very long periods of time.

As of May 1, 2008, the ACS Banner information system used by the Superior Court and the Clerk's Office showed a total of 4,309 pending felony cases. Of that number, 1,301 had been pending for no more than 180 days since the filing of an indictment. Of the 3,008 cases pending for more than 180 days, 390 were assigned to the Non-Complex Division, 202 to Drug Court, and 35 to the Felony Diversion program. The remaining 2,385 cases are all in the "Complex caseload. Table 2 shows the number of "Complex" cases pending for more than 180 days as of May 1, 2008, by their age since indictment, for cases in which the indictment was filed at least six months earlier. Most of these cases (61%) involve charges of serious felonies such as murder,

---

<sup>11</sup> Annual filings are counted by totaling the number of indictments filed by the Grand Jury and the number of accusations filed by the District Attorney. The data is derived from the ACS Banner system. During the course of this project, in response to questions raised by JMI staff, additional "Cleaning" of data in the Banner system was undertaken, resulting in the closing of a large number of cases previously carried as "pending." The actual number of pending cases at the end of 2007 (and in earlier years) may have been less than was reported because of delays in data entry.

<sup>12</sup> Data provided by the Superior Court shows that the pending felony caseload had dropped to as low as 5,132 at the end of 2004. However, dispositions fell well short of new filings in 2005 and 2006, before exceeding filings again in 2007.

<sup>13</sup> As a rough rule of thumb, a well-functioning general jurisdiction trial court handling felony cases should be expected to turn over its cases in an average of about four months, and thus carry a pending caseload that is roughly equal to about one-third of its annual filings. With 11,492 filings in 2007, a sound caseload for the Superior Court would be approximately 3,800 cases.

aggravated assault, sexual offenses, and robbery. Just over one-third (39%) of the cases involve less serious felonies including property offenses. More than 60 percent of the cases in Table 2 have been pending for a year or longer. 373 of the 1,448 cases over a year old (25%) involve relatively less serious offenses such as drug possession, theft, burglary, criminal damage to property, obstructing law enforcement, and criminal trespassing.

**TABLE 2 –Complex Cases Pending for More than Six Months since Indictment, by Age Since Indictment Filed**

Primary Charge	Over 730 days	366-730 Days	271-365 Days	181-270 Days	TOTAL Pending
Murder	44	77	32	33	186
Aggravated assault	97	209	107	129	542
Armed Robbery/Robbery	44	157	93	110	404
Sexual offenses	54	75	19	36	184
Child molestation	37	58	13	17	125
Trafficking/P-WID	92	90	54	48	284
Possession	42	32	13	15	102
Theft	54	59	28	32	173
Burglary	16	28	12	15	71
Firearm/Weapons	17	11	5	5	38
Sex Offender Registry Violations	5	8	9	2	24
Other felony/misdemeanor	53	89	48	62	252
<b>Total Cases by Most Serious Charge</b>	<b>555</b>	<b>893</b>	<b>433</b>	<b>504</b>	<b>2385</b>

Source: ACS Banner System

Table 3 shows the number of defendants who have been in detention for over one year, by principal charge. Most of these defendants are charged with serious offenses. However, these defendants constitute only about 12 percent of the overall number of cases pending for more than one year. The great majority of defendants whose cases have been pending for more than one year are thus *not* in custody. Some of the defendants not in custody are charged with very serious felonies.

**TABLE 3—Defendants in Custody for Over One Year by Charge**

<b>Defendants in Custody by Charge</b>			
<b>Primary Charge</b>	<b>&gt;731 days</b>	<b>366-730</b>	<b>TOTAL Pending</b>
Murder (inc. veh homicide & vol./invol manslaughter)	18	39	57
Aggravated assault (inc. w/weapon, agg battery, family battery, attempts, & conspiracies)	2	38	40
Drug Trafficking/P-WID	2	5	7
Drug Possession	2	1	3
Theft (inc. theft of services, auto theft, rec stolen auto, account fraud, id theft)		4	4
Sexual offenses (rape, aggrav sexual battery, aggravated sodomy, attempts)	4	13	17
Robbery (includes armed robbery, agg armed robbery, hijacking vehicle, &attempts)		27	27
Child molestation (includes agg child molestation, incest, cruelty to children)	4	12	16
Burglary	2	1	3
Possession of firearm/poss by convicted felon/other gun charges			0
Aggravated stalking		1	1
Sex Offender Registry Violations			0
Other felony/misdemeanor (e.g., entering auto, terroristic threats, obstruct LE, crim damage to property 2nd degree)	1	8	9
<b>Total Defendants in Custody over 1 year</b>	<b>31</b>	<b>143</b>	<b>174</b>
<b>Total Defendants With Cases Pending over 1 Year</b>	<b>555</b>	<b>893</b>	<b>1448</b>
<b>Percentage of Total Defendants with Cases Pending Over 1 Year that are in Custody</b>	<b>5.59%</b>	<b>16.01%</b>	<b>12.02%</b>

In addition to handling felony cases, the Superior Court also has jurisdiction over a variety of significant family law matters and civil cases. Pending caseloads in the Family Division have remained stable over the past four years, after a concerted effort to eliminate a significant backlog during 2003-04. The Court's civil caseload pending civil caseload rose sharply from 2000 to 2002, but has remained relatively constant since then. As with respect to criminal cases, judges vary considerably in their

practices with respect to managing their civil caseloads, with the data indicating that some are much more effective than others.

#### **D. Superior Court Organization and Case Processing Practices**

With the anticipated addition of a new judge later in 2008, the Superior Court will have a total of twenty judges. Additionally, the Court can from time to time call upon the services of **senior judges** (generally former judges of the Superior Court for Fulton County, now retired but willing to serve on a per diem basis, but it is also possible to obtain the services of senior judges from other counties in Georgia.). The Superior Court has also had the services of two other types of judicial officers—**Magistrates** and **Superior Court Judicial Officers** who handle some aspects of the court's work on a contract or per diem basis. Magistrates, who are appointed by and serve at the pleasure of the Chief Judge of the State Court for Fulton County, are mainly involved in criminal cases. They cannot preside over jury trials or impose sentences to state prison, but (as discussed below) they have been extremely important in strengthening the Superior Court's ability to handle some aspects of its felony caseload. Superior Court Judicial officers, who are appointed by the Superior Court, assist the Court's Family Division judges in handling specific aspects of family law matters. For purposes of future planning, the ways in which the judicial officers are allocated is extremely important.

For over ten years, the Superior Court has had a separate Family Division, handling a variety of domestic relations matters and working within a framework established by a case management plan designed to ensure that all incoming cases are handled in a timely fashion. Throughout this period, the Family Division has had three judges (with periodic rotation of judges into and out of the division) plus the services of a cadre of Superior Court Judicial Officers appointed by the Court (currently eight in all). The volume of new filings in this division has been relatively stable at approximately 12,000 per year, and since 2004 the pending caseload has also remained relatively stable at between 4,500 and 5,400. The general sense is that the division has functioned very effectively.

Until mid-2006, the judges of the Superior Court who were not assigned to the Family Division all handled a "mixed" calendar, consisting of civil and criminal cases assigned to them on a random basis at the time new cases are filed in the Clerk's office. Additionally, one judge presided over the Fulton County Drug Court, sometimes with assistance from one of the magistrates. More recently, a Mental Health Court has been started. It convenes one half-day a week and is presided over by the Chief Judge. Although there have been periodic discussions within the Court about moving to a "division" system (with separate Civil and Criminal Divisions established, and judges assigned to a division handling only that type of case during the time they would be in the division), no major changes in the mixed calendar system were made until 2006.

In mid-2006, the Superior Court established a Non-Complex Division to handle relatively low-level felony charge cases that would be unlikely to result in a prison term. Creation of this Division marked a major step toward utilization of differentiated case management ("DCM")—an approach to effective management of court caseloads that

has been adopted in a number of progressive court systems and is strongly endorsed by the American Bar Association and by experts in the field as a key feature of effective overall caseload management.<sup>14</sup>

As of Spring 2008, the allocation of judges and other judicial officers to civil and criminal case business of the Superior Court was as follows:

Chief Judge: Administrative Duties, Drug Court, Mental Health Court, Asbestos cases (civil docket)

Mixed Dockets (Civil Cases and Complex Criminal Cases; cases randomly at filing): 14 Superior Court Judges

Family Division: 3 Superior Court Judges

Non-Complex Division: One Superior Court Judge plus Magistrates (3 magistrates assigned essentially full-time to handle first appearance proceedings, all purpose calendars, preliminary hearings, plea and arraignment calendars, and other pre-indictment proceedings involving defendants whose cases are assigned to the Non-Complex Division at first appearance; also 3 other magistrates are assigned to handle some calendars on a part-time rotating basis, making the equivalent of approximately one additional FTE magistrate assisting with the Non-Complex Calendar)

Business Court (Complex Commercial Cases): 2 Senior Judges, part-time.

The criminal cases that fall into the category of “Non-Complex” comprise a significant percentage of Fulton County’s felony charge caseload. According to statistics provided by the Superior Court, Non-Complex cases made up approximately 79 percent of the 11,273 cases in which first appearance proceedings in felony charge cases were held following an arrest during a 27-week period that began on June 4, 2007. Procedures have been established that are designed to provide for swift resolution of these cases—optimally within a nine-week period following the defendant’s initial court appearance.

The Non-Complex Division’s case processing system has been designed to ensure that defendants are effectively represented by counsel from the time of initial court appearance, and to put cases on an accelerated timetable for resolution. Both the District Attorney’s office and the Public Defender’s office have assigned teams of

---

<sup>14</sup> See American Bar Association *Standards for Speedy Trial and Timely Resolution of Criminal Cases*, Standards 12-1.3, 12-3.4, and 12-4.3(j); also Holly Bakke and Maureen Solomon, “Case Differentiation: An Approach to Individualized Case Management,” *Judicature*, Vol. 73, No. 1 (1989) pp. 17 ff; Suzanne Alliegro, “Beyond Delay Reduction: Using Differentiated Case Management,” *The Court Manager*, Vol. 8, Nos. 1, 2, and 3 (Winter, Spring, and Summer 1993); David C. Steelman et al., *Caseload Management: The Heart of Court Management in the New Millennium* (Williamsburg: National Center for State Courts, 2000), pp. 5-8, 49, 51-52.

attorneys to this division, and detailed procedures and time standards have been adopted for the main stages in the process.<sup>15</sup>

The Superior Court Judges who handle mixed dockets of civil cases and complex criminal cases vary considerably in their practices with respect to management of both types of cases. In discussions with leaders and senior staff in the three organizations that are most closely involved in felony case processing, it is clear that the caseload management practices of the judges—and their relative effectiveness in managing their caseloads—are well known throughout the courthouse. It is also clear that attorneys (both prosecutors and defense lawyers), as well as staff of the Clerk’s office, far prefer to be assigned to work with judges whose practices in managing their cases and caseloads are consistent with widely accepted principles of effective caseload management. The District Attorney, in particular, has been a strong proponent of a change in the organization of the Court that would create separate criminal and civil divisions, feeling that a divisional organization would enable better allocation of the resources of his office and greater efficiency in overall case processing.

Leaders of the civil bar in Fulton County with whom the JMI team met during the course of the project have indicated that they feel it simply takes too long to get some civil case matters resolved. Like the criminal law practitioners, they recognize that some of the judges do an excellent job of managing their caseloads, but that others are not nearly as effective. They, too, would like to see all of the judges adopt case management practices that incorporate modern principles and techniques of effective caseload management, and they are interested in seeing some movement toward establishment of a divisional system that would leave judges less torn between their criminal and civil caseload responsibilities. They have been very complimentary about the establishment and operation of the Business Court, where two senior judges (both former Chief Judges of the Superior Court) utilize proven caseload management practices and techniques.

During the past several months, the Superior Court judges have given consideration to the possibility of moving toward a division system. The approach they have adopted as of July 10, 2008 is not a “full” division system, but rather is a modified “team” system that—together with the adoption of a case management plan described below in Part Three of this report (see Recommendations # 6-8)—holds promise of enabling timely resolution of newly filed cases.

Even a well-designed new system for handling newly filed cases will not succeed, however, if attention is not paid to resolving the large number of pending cases already in the system—many of which have been pending for much longer than what most observers would regard as a reasonable period of time. Recommendations # 4 and 5 in Part Three of this report focus on the old case backlog.

---

<sup>15</sup> See Superior Court of Fulton County Administrative Order No.\_\_\_\_\_, *In Re: Non-Complex Case Management* (December 2007). The Blue Ribbon Commission supported the establishment of the Non-Complex Division (*Report*, supra note 2, p. 6).

## **E. Bail and Pretrial Release Practices**

From data on persons released from jail that has been provided by the Sheriff's department, it appears that during 2007 slightly more than 13,000 persons were released from the jail prior to the disposition of the charges against them. The modes of release recorded by jail personnel and the number in each category are as follows:

Posted bond	4,524
Cash Bond	483
Property Bond	213
Sign Own Bond	3,174
ROR	945
Pretrial Release	3,669
TOTAL	13,008

The data on releases is not broken down by the offenses with which released defendants are charged. However, it is clear from data on the custody status of defendants in pending cases that many of the defendants who post bond are charged with relatively serious offenses. Conversely, it is also clear that a number of defendants charged with non-violent offenses remain in jail because of inability to post bond or to meet criteria used by judicial officers for release on non-financial conditions. In considering ways to reduce the jail population, one key question is whether (and if so, to what extent) it would be possible to release a larger percentage of non-violent felony defendants if appropriate monitoring and supervision resources were in place to guard against flight or criminal activity endangering the community. Recommendation # 9, below, discusses possible development of an "intensive supervised release program."

## **F. Sentencing Policies and Practices**

Data provided by the Sheriff's Department indicates that as of April 7, 2008 a total of 473 jail inmates were serving sentences—366 for felony offenses and 107 for misdemeanor offenses. In considering ways to reduce the jail population, a key question is whether (and if so, to what extent) these defendants could be handled through programs that would provide viable and appropriate alternatives to jail. Two obvious possibilities are (1) Drug Court; and (2) electronic monitoring, with use of Global Positioning System (GPS) monitoring if needed. Recommendation # 10 addresses this issue.

**PART THREE:**  
**RECOMMENDATIONS FOR REDUCING FELONY CASE BACKLOGS,**  
**ESTABLISHING NEW CRIMINAL AND CIVIL CASE MANAGEMENT**  
**SYSTEMS, AND REDUCING THE POPULATION OF THE FULTON**  
**COUNTY JAIL**

***A. Recommendations for Establishing a Vision for the Fulton County Justice System and Setting Basic Justice System Goals Relevant to Timely Case Resolution and Jail Capacity***

It is difficult to assess the performance of any organization or system without having a good sense of what it should be accomplishing. Six years ago, the Fulton County justice system leaders adopted a strategic plan that set forth a statement of their vision for the system that is clearly applicable in 2008. That vision statement called for a justice system for the County that:

- Meets the public safety needs of the County.
- Provides fair and effective adjudicatory processes.
- Is responsive to community needs and concerns
- Has competent and well-trained personnel.
- Uses technology effectively.
- Has adequate facilities and equipment.
- Makes efficient and effective use of available resources.

A vision statement such as this provides the broad framework for setting goals and objectives, and for implementing policies that are consistent with the vision. The recommendations in this part of the report focus on the vision for the system and on the adoption of clear and attainable goals for the actual operation of the system that are consistent with the vision statement.

**Recommendation # 1: Collectively review the 2002 vision statement, revise as needed, and establish a fresh vision for the fair and effective functioning of Fulton County's justice system.**

***Comment:*** The vision statement set out above was adopted by the leaders in County-funded justice system agencies in 2002. It would be appropriate for justice system leaders (perhaps including representatives of the Bar, the County Commission, and law enforcement agencies in the County) to re-visit that statement and make any revisions that they believe appropriate. For purposes of this report, however, we take the 2002 vision statement as a starting point. The recommendations that follow are designed to be consistent with that vision, with particular emphasis on the functioning of court case processing and the utilization of the jail and related supervisory resources.

**Recommendation # 2: Set goals and standards for the system that are consistent with the vision and that enable monitoring of system effectiveness. Goals should be set in at least the following areas:**

1. Jail population size and composition.
2. Case processing times, differentiated by case seriousness and complexity.
3. Pending caseload size.
4. Case clearance rates (i.e., annual dispositions in relation to annual filings).
5. Firmness and reliability of case scheduling.
6. Timeliness, accuracy, and completeness of information entered into automated information systems and used for case scheduling and caseflow management.
7. Elimination of old case backlogs.

**Comment:** The list of areas in which we recommend that goals and performance standards should be established does not by any means cover all of the areas relevant to achieving the vision set out at the beginning of this Part of the report. However, setting goals and standards in these areas would provide a basic framework for operational performance with regard to adjudication of felony charge cases and for jail population management. It would also provide a basis for establishing accountability for the justice system entities with respect to performance of key functions. The **Appendices** to this report contain detailed recommendations regarding possible goals and performance standards. The following paragraphs summarize key points with respect to the areas in which we recommend that goals and/or standards be established.

**1. Goals for jail population size and composition.** At present, the Fulton County jail has a population that exceeds its rated capacity of 2,608 inmates, resulting in a need to “outsource” inmates to jails in other counties at an estimated cost of approximately \$10 million per year. The Jail Feasibility Study completed in 2007 estimated that, unless there are significant changes in current practices, the County would need to have approximately 3,900 jail beds by the year 2011, to house a jail population of between 3,258 and 3,712. Particularly in view of the very large capital and operational costs involved in constructing a new jail facility of the sort suggested in the Jail Feasibility Study Report, it makes sense to set a target figure for the jail population and seek to organize system policies and practices to enable rapid reduction of the jail population to that figure, and maintain the population at or below that figure. **Appendix A** suggests target population sizes that are progressively lower over the next 12 months. The target figures for jail population size and composition suggested in Appendix A (notably the targets of an average daily population of 2,250 and maximum of 2,600 by December 31, 2008, and the even lower target figures for June 30, 2009) are intended move the system toward having a jail population size and composition that will enable avoidance of new construction of secure jail facilities in the near future. The target figures, if attained, will keep the population below capacity, thus allowing for appropriate classification and housing of both male and female inmates. Because the outsourcing of Fulton County Jail inmates to other counties is a significant financial drain, Appendix A also recommends targets and time frames for elimination of the outsourcing.

**2. Standards for case processing times, differentiated by case seriousness and complexity.** Because cases filed in any court will vary widely in seriousness and complexity, the times within which cases should reasonably be expected to be resolved—taking into account the time needed for gathering information, exchanging discovery, consultation with clients and witnesses, production of forensic evidence, and other preparation, as well as the time required for consideration of motions and for completion of medical and psychiatric tests—will vary considerably. The suggested standards set forth in **Appendix B** reflect the experience of the practitioners who established the American Bar Association standards relating to case processing and the experience of jurisdictions that have been successful in moving toward achievement of those standards. Having such standards gives everyone involved—judges, attorneys, litigants, witnesses, and other interested parties—a rough sense of the time within which a particular type of case should ordinarily be resolved. For example, the suggested standards call for Non-Complex criminal cases to be resolved within 70 days following arrest and for Complex criminal cases (other than cases involving mandatory sentences of fifteen years or more) to be resolved within six months after arrest. For civil cases, the standards call for resolution of all but very complex high stakes civil cases within 18 months, with simpler cases (involving little or no discovery) to be concluded within 9 months. The suggested standards assume that the Superior Court—working with the Bar—will utilize techniques of differentiated case management (DCM) in promptly reviewing and categorizing the relative complexity of newly filed cases, to enable scheduling that will lead to resolution of the cases within the suggested time periods.

**3. Goals for pending caseload size.** The size of a court’s pending caseload has a direct relationship to the efficiency with which the system functions and to the ability of front-line practitioners—judges and attorneys—to manage their caseloads. There is no one “ideal” size for a pending caseload, but experience suggests that there are rough indicators of what constitutes a manageable caseload. In a well-functioning general jurisdiction trial court that comes close to meeting national standards for felony case processing time, the total pending caseload should be about one quarter to one-third of annual filings—i.e., a ratio of pending cases to annual filings of between .25 and .33. For example, if 12,000 new indictments are filed in a year, a “healthy” ratio of .33 would mean that at any point in time the court would have approximately 4,000 post-arraignment cases—roughly a four-month supply—in active pending status. In 2007, the Superior Court reported 11,492 filings. Its active pending caseload as of December 31, 2007 was reported to be 6,479. Based on 2007 filings, an optimum caseload during 2008 would be approximately 3,800. The difference between the optimum size and the actual size is a gap that needs to be closed over time.

In the Superior Court, because many cases are resolved before an indictment is filed (and because the ACS Banner information system does not at this time produce reports on the number of pending pre-indictment cases), it makes sense to consider standards for both the Non-Complex caseload and the Complex caseload. The ratio between the number of cases pending in the Non-Complex Division (which consists mainly of cases in which no indictment has been filed) and the number of complaints filed should be relatively low, because these cases should be resolved relatively quickly. Conversely, the ratio between the number of pending Complex cases and annual filings

will be higher, because of the longer amount of time needed for resolution of Complex cases.

Suggested standards for pending caseload size in relation to annual filings are set forth in **Appendix C**.

**4. Goals for case clearance rates.** The term “clearance rate” refers to the ratio of cases disposed to the number filed during a calendar quarter or a full year. Because of seasonal fluctuations, the rate may vary from month to month or from quarter to quarter. However, over the course of a full year the ratio should be at least equal to (and preferably greater than) 1.00. For a court that has an existing backlog of cases, the ratio should always be greater than 1.00, and preferably greater than 1.1.

Example: If 12,000 cases are filed in a year and the Court disposes of 14,000 in the same year, the clearance rate would be 117% (14,000 divided by 12,000). If 12,000 cases were filed during the year, but the Court disposed of only 11,000, the clearance rate would be 92%.

Because the Superior Court clearly has a significant backlog, the case clearance standard should be a clearance rate of at least 110% until the pending caseload size is brought down to approximately 3,800. Suggested standards for criminal case clearance in the Superior Court are set forth in **Appendix D**.

**5. Standards for firmness and reliability of case scheduling.** Reliable case scheduling is an important feature of well-functioning court systems. If a court can minimize the number of continuances, it means less work for everyone—attorneys, court clerks, and judges. The same file does not have to be reviewed repeatedly, preparation does not have to be re-done, and witnesses are less inconvenienced. The standards suggested in **Appendix E** are intended to provide an initial start toward developing sound measurement of the firmness and reliability of case scheduling in civil and criminal cases.

**6. Standards for timeliness, accuracy, and completeness of data entered into automated information systems and used for case scheduling, caseload management, and jail population management.** The capacity of a jurisdiction’s justice system to resolve cases in a timely fashion and to manage its jail population to avoid overcrowding is dependant to a large extent on the capacity of the courts and other justice system entities to maintain and enable ready access to reliable and complete information about individual cases, overall caseloads, and the defendants in custody. At present, there are significant problems in this area in Fulton County, because of the fragmentation of the existing information systems, lack of capacity for electronic sharing of information between systems, inconsistencies in the entry of data into automated systems, and sometimes slowness in the entry of data. As a new integrated criminal justice management information system is installed in Fulton County, some of these problems should be overcome. In the interim—and in advance of the installation of a new integrated system—it is desirable to establish standards for the timeliness and accuracy of data entered into court records and automated management information systems. Suggested initial standards regarding the timeliness, accuracy, and completeness of data entry are contained in **Appendix F**. It should be noted that the suggested standards also provide for the establishment of quality control

procedures in every department or office that has record-keeping and data entry responsibilities and for periodic independent quality control audits.

**7. Goals for elimination of the backlog of “old” felony cases.** A court’s “backlog” is not simply the number of pending cases. Rather it is the number of cases that have been pending for more than an acceptable period of time—or, in jurisdictions that have adopted case processing time standards, cases that have been pending for more than the maximum period of time called for by the case processing time standard applicable to the relevant case category. While case processing time standards have not yet been formally adopted by the Fulton County Superior Court or by the justice system as a whole, it is nonetheless possible to set goals for gradual elimination of felony cases that virtually all practitioners and policymakers will agree have been pending for more than an acceptable period of time. **Appendix G** sets forth suggested goals for elimination of the large backlog of felony cases that have been pending for more than a year since indictment.

## ***B. Recommendation for Rapidly Eliminating the “Outsourcing” of Inmates to Jail Facilities in Other Counties***

**Recommendation # 3:** Develop and implement a “first-stage” jail population reduction program focused on (a) rapid reduction of the number of inmates “outsourced” to jail facilities in other counties; and (b) development, of policies and procedures that will prevent future recurrence of jail crowding..

**Comment:** This recommendation is closely linked to the recommendation regarding establishment of goals for the size and composition of the jail population (Recommendation #2 above) and to the recommendations regarding elimination of the backlog of old felony cases (Recommendation # 4 and 5 below). It is also linked to the recommendations for handling newly filed cases (Recommendation # 7), for implementing new alternatives to secure detention for low-to-moderate risk defendants (see Recommendation # 9), for expanding the range of sentencing alternatives (Recommendation # 10), and for the role of a recommended new Criminal Justice Council in establishing policies and procedures designed to prevent recurrence of jail crowding (Recommendation # 16).

As of April 7 2008, a total of 543 jail inmates were being housed in facilities in other counties, though some of this outsourcing is due to renovations being made at the main jail. By any count, however, the jail population during the first six months of 2008 (including outsourced inmates) has consistently exceeded the rated capacity of 2,608. The thrust of this recommendation is that a special “first-stage” initiative be undertaken to bring the jail population down to a level below 2,608 before the end of calendar year 2008 by prioritizing the resolution of certain categories of cases involving pretrial defendants. While the priorities should be set by the principal entities involved in the adjudication process (i.e., the Superior Court, the District Attorney’s Office, and the Public Defender’s Office), it seems likely that this program would focus on at least the following categories of inmates:

- All pretrial defendants currently outsourced to jail facilities in other counties.

- Indicted defendants housed in the main Fulton County Jail who are charged with relatively low-level felony offenses, whose cases can be probably be relatively quickly resolved if attention is focused on them.

The primary goal of the program would be to rapidly resolve these cases, in most instances though a negotiated plea. Alternatively (or as a supplement to rapid case resolution), some reduction in the jail population could also be made by developing alternatives to secure detention for persons who are unable to post bond who are currently ineligible for the Superior Court's Pretrial Release Program (see Recommendation # 9 below). Some combination of these approaches seems desirable. In order to eliminate the outsourcing by resolving cases of detained defendants, it will be necessary to bring to disposition approximately 500 more cases involving defendants in detention than would otherwise be resolved during a given time period (optimally, the July-December 2008 period). Implementing such a program will require additional resources, but—because many of the cases are not as serious and complex as many of the cases in the old case backlog—it should be possible to get started on this program relatively quickly. In order to resolve an increased number of cases and to address the custody status of defendants in detention, increased resources in the District Attorney's Office, the Public Defender's office, and the Superior Court's Pretrial Services Program will be necessary. These resource needs are discussed below in Part Four of this report. This "first-stage" component of the jail population reduction initiative is a desirable precursor to the old felony case backlog reduction program outlined in Recommendations # 4 and 5. Suggested targets and time frames for eliminating the outsourcing of inmates are set forth in **Appendix A**.

It is important to emphasize that short-term reduction of the jail population and the need for outsourcing will be of little value unless it is accomplished as part of a comprehensive plan for eliminating the old case backlog, implementing improved procedures for the processing of newly filed cases, and establishing procedures that will prevent recurrence of the overcrowding problem in the future. In particular, criteria and priorities should be established regarding (a) admission to the jail of newly arrested persons charged with relatively low-level offenses; and (b) release (under appropriate supervision) or very prompt trial of persons charged with relatively low-level offenses who are in pretrial detention and unable to post bail. Setting such criteria and priorities would be an appropriate function of the Justice System Policy Council suggested in Recommendation # 16, *infra*.

### ***C. Recommendations for Eliminating the Backlog of Felony Cases Pending for More than One Year***

One of the main goals of this project is the development of plans for elimination of the backlog of old pending felony charge cases. Recommendations # 4 and 5 focus on this threshold problem. Any jurisdiction that hopes to significantly reduce case delays and accompanying lengthy jail stays for pretrial defendants must address the problems posed by an existing backlog of long-pending unresolved cases. It is important to emphasize that the term backlog does **not** simply mean the pending caseload. Rather, as used in this report (and in much of the literature on caseload

management), the term “backlog” means the number of active pending cases that exceed an acceptable period of time. In jurisdictions that have adopted case processing time standards, the backlog means the number of active pending cases in any category that exceed the time standard applicable to that category of cases.

Addressing the existing backlog is widely recognized as a critical component of any program designed to reduce delays and establish a stable system in which cases are regularly brought to resolution in a timely fashion, and developing a plan to do this is one of the main goals of this project. As recognized by at least two sets of standards adopted by the American Bar Association, reduction of existing backlogs is essential to achieving timely case resolution.<sup>16</sup> For example, the Commentary to an ABA Standard dealing with essential elements of a jurisdictional plan for effective criminal caseflow management observed that:

A case backlog must be addressed at the outset of any jurisdictional initiative to improve overall caseflow management. Unless and until the backlog is eliminated it will act like a cancer in the system, making it impossible to achieve goals for timely resolution of cases.<sup>17</sup>

Neither the Superior Court judges nor the County’s justice system leaders have so far formally adopted case processing time standards for different categories of felony cases. The JMI team has suggested a set of case processing standards (see Recommendation # 2 above and the discussion below in connection with new case management plans (Recommendation # 7 and Appendices J and K) and we believe that adoption of standards similar to those recommended is an essential component of overall case processing improvement.

However, even in advance of the formal adoption of standards, it is important to begin working on reduction of existing backlogs. Some of this work has already begun, with the conduct of an inventory by staff of the Court Administrator, working in conjunction with staff of the Clerk’s office and the judges. Simply conducting the inventory—which, not surprisingly, turned up discrepancies between the records of the Court and those of the Clerk’s office concerning the number of pending cases—has led to formally closing some case files. The inventory results establish a reasonably sound baseline regarding the size and composition of the backlog and provide a starting point for developing plans for substantially eliminating it.

**Recommendation # 4: Continue and significantly expand the old felony case backlog reduction program started in January 2008, to enable disposition of all non-death penalty cases pending for more than one year by the end of 2009.**

**Comment:** There is little dispute that, except in cases that are extraordinarily serious or complex and that require extensive forensic testing and case preparation, any period in excess of a year since an indictment is filed is undoubtedly too long for a case to be pending. For practical purposes, it makes sense to begin a focus on backlog

---

<sup>16</sup> See, e.g., American Bar Association *Standards Relating to Trial Courts*, Standard 2.54 (C) (1992) and accompanying commentary; also ABA *Standards on Speedy Trial and Timely Resolution of Criminal Cases*, Standard 12-4.3 (p).

<sup>17</sup> ABA *Standards on Speedy Trial and Timely Resolution of Criminal Cases*, supra note 13, Commentary to Standard 12-4.3 (p).

reduction by examining cases that have been pending for more than a year. As of May 1, 2008, there was a total of 4,309 post-indictment felony cases pending in Superior Court. Of these, 1,448 had been pending for more than one year since indictment. For practical purposes, these cases can be viewed as representing the felony case “backlog” of the court. However, on May 1 there were another 937 cases that had been pending between 181 and 365 days. In planning for backlog reduction, these cases, too, must be taken into consideration; it will be important to avoid having these cases age to over one year.

The Felony Backlog Reduction Program recommended here focuses on cases pending for over one year. It would remain the responsibility of the Superior Court judges who handle criminal cases to manage their calendars to assure that currently pending cases that are less than one year old would not age into the “over one year” backlog category.

During 2008, the Superior Court has begun to address the backlog of cases pending for over one year, albeit on a somewhat limited scale during the January-June 2008 period. Two initiatives have been undertaken that set the stage for a more intensive focus on backlog reduction: First, an inventory of pending cases has been undertaken, producing (after considerable effort “cleaning” data obtained through the ACS Banner system) a reasonably accurate inventory of pending cases—by charge, age since indictment, and judge to who the case is assigned—as of May 1, 2008. (See, e.g., the data in Table 2 above, which has been derived from this inventory.) Second, in January 2008, the Court began a small-scale old case backlog reduction program utilizing the services of a single senior judge (Judge Manis), which has already produced some very positive results. Working on less than full-time basis with a specially assigned caseload consisting of 234 felony cases (37 of which involved defendants in jail) that had been pending for over one year as of January 1, 2008, Judge Manis was able to close 184 of the cases (79%), including conducting three jury trials within a four-month period. The others are now in a “trial ready” status.<sup>18</sup>

Judge Manis’ success in this program provides an example of what can be accomplished when focused attention is paid to long-pending cases by a judge and the attorneys representing the prosecution and the defendant. However, in order to make a significant dent in the backlog and bring the Court (and the District Attorney’s office and the Public Defender’s office) to a point where cases are consistently being resolved in a timely fashion, this program needs to be significantly expanded, with a significant infusion of new resources into the Fulton County justice system.

The Backlog Reduction Program will need the cooperation of personnel in all of the organizations involved in criminal case processing in Fulton County. Key components of such a program include the following:

---

<sup>18</sup> Judge Manis’ experience with this old case backlog calendar indicates that approximately 21% of the cases in the backlog will after careful review, be in a “trial ready” status. What is not known, at this point, is how many of the trial ready cases will actually be tried. Experience in other jurisdictions suggests that the proportion of the case now in trial-ready status that will actually be tried is somewhere between 40% and 80%. The number and percentage of backlog cases that will actually have to be tried is the major unknown variable involved in projecting resource needs of the Backlog Reduction Program.

- 1) Agree on the goals and timelines for the Backlog Reduction Program. (**Appendix G** contains JMI's suggested goals and time frames for the Program.)
- 2) Designate a single judge as "Judge-in-Charge" of the Backlog Reduction Program. This should be a judge (active or senior judge) who is recognized as being effective at managing cases and overall caseloads.
- 3) Provide for the Judge-in-Charge to have the assistance of a good staff person (e.g., an experienced and able case manager) to assist with managing the program.
- 4) Identify all cases to be placed in the Backlog Reduction Program. (**NOTE:** This could be done via an update of the case inventory produced through the ACS Banner system that shows all cases pending as of May 1, 2008. One approach would be to place into the program all 1,448 cases pending for more than one year as of May 1 [or all of the cases over one year old that are pending as of July 1 or other official start date of the program].)
- 5) Arrange for the use of at least three additional courtrooms (optimally four courtrooms, if the program is expected to last for approximately eighteen months) with holding facilities and necessary security, for trials and motion hearings in the cases in the Backlog Reduction Program.
- 6) Arrange for the services of enough senior judges and visiting judges to utilize the courtrooms four or five days per week, for trials and motion hearings in cases in the Program.
- 7) Arrange for the necessary staff from the Court and all of the agencies that participate in the processing of criminal cases.
- 8) Provide for the Judge-in-Charge to act as a "master calendar" judge, with at least the following functions:
  - Overseeing a "desk audit" of the case files in cases transferred to the Program, to gain a sense of the history and current status of the cases;
  - Working with staff of the District Attorney's Office and the Public Defender's Office who are assigned to the Backlog Reduction Program, to develop a strategy for categorizing and prioritizing cases transferred to the program;
  - Holding initial calendar calls and /pretrial conferences to ascertain the status of each case, set schedules for future discovery, motion hearings, pretrial conferences, and trial;
  - Conducting subsequent pretrial conferences to ensure that discovery has been completed and to ascertain the status of plea negotiations; also impose sanctions if necessary, if deadlines have been ignored;
  - Holding motion hearings as appropriate (and assigning the motion hearings to an available judge in some instances);

- Accepting pleas and imposing sentence;
  - Conducting bench (non-jury) trials, if both sides consent;
  - Assigning the case for jury trial to one of the available trial judges (or in some instances, if time permits, holding the trial); and
  - Regularly reviewing management information reports and other information on the cases transferred to the Backlog Reduction Program, to ensure that all possible steps are taken to expeditiously resolve these cases.
- 9) Establish a simple information system (or component of the Court's Banner system) that will enable close tracking of all cases assigned to the program. Ensure that statistical reports are produced regularly (not less frequently than once a month) that summarize progress toward the backlog reduction goals. The reports should show the number of cases assigned to the program, their current age and status, and their dispositions as they are completed. The reports should include notes on problems encountered and approaches taken to resolve them and should be circulated to all justice system leaders (including the Deputy County Manager for Justice Systems or other designee of the County Manager) and to the practitioners participating in the Backlog Reduction Program.

Recommendation #5, below, addresses the planning and budgeting that must be done to make realistic forecasts of the resource needs and anticipated results. Preliminary estimates of the resources needed to implement such a plan are in **Appendix H**. Staffing requirements for implementation of the Program will vary depending on the length of time agreed upon for elimination of the old case backlog and on the extent to which resources will be available.

In considering the scope of the program and the resources needed, it is important to consider the totality of the caseload, and not focus exclusively on defendants in jail. It is clearly important, of course, to resolve the cases of defendants in jail because of the jail population issues and the clear need to avoid unnecessary incarceration. However, from public safety and overall caseload management perspectives it is also important to take account of defendants who are not in custody. Under existing bail practices, there is a large number of cases involving defendants on bond who are charged with very serious offenses.

***Recommendation # 5:* Determine the nature and number of additional resources (including additional judges, other judicial officers, prosecutors, defense attorneys, court clerks, court reporters, sheriff's deputies, courtrooms, and other essential personnel and equipment) needed to implement an effective backlog reduction program as rapidly as possible.**

***Comment:*** The biggest "unknown" in estimating needs for additional resources for the Backlog Reduction Program is the number of cases likely to go to trial. Within the mix of 1,448 cases that were pending for over a year on May 1, there were many very serious cases (some involving lengthy mandatory sentences if the defendant is convicted) as well as some less serious cases. Most of the defendants are on bond or

other form of pretrial release, including some defendants facing extremely serious charges. Since some of these defendants can fairly be described as posing risks to public safety, it is important to focus on resolution of the out-of-custody cases as well as on the cases involving jailed defendants. The cases most likely to go to trial are those involving potentially very severe mandatory sentences, but many of the other cases—including some that involve less severe penalties but in which the defendant is free on bond and has little incentive to plead to a charge that is likely to result in a prison sentence—may also go to trial.<sup>19</sup>

In meetings with judges and senior-level representatives of the District Attorney's Office and the Public Defender's office, the JMI team has sought to develop estimates of the level of resources likely to be needed to substantially eliminate the old case backlog and bring the overall caseload to a manageable level within varying periods of time (12 months, 18 months, and 2 years). **Appendix H** outlines the basic plan and contains these estimates.

#### ***D. Recommendations for Ways to Improve the Processing of Newly Filed Civil and Criminal Cases***

Undertaking a major backlog reduction program as recommended by this report is only worthwhile if there is also a parallel effort to re-organize case processing practices for newly filed cases, so that future backlogs do not develop. Recommendations # 6, 7, 8, 9, and 10 focus specifically on ways to improve the processes for managing and adjudicating civil and criminal cases in Fulton County.

***Recommendation # 6: Develop and implement a plan for organizing the Superior Court into divisions and/or teams, to enable more efficient and effective case processing. Ensure that the plan provides for focused judicial responsibility for discrete portions of the Court's criminal and civil caseloads, including meeting the goals and standards applicable to every portion of the overall caseload.***

***Comment:*** Under long-existing policies and practices of the Superior Court, each judge has been responsible for his or her own caseloads. Until 2008, all of the judges except for the Chief Judge, the judge assigned to the Non-Complex Criminal Division, and the three judges assigned to the Family Division carried "mixed dockets" consisting of both criminal and civil caseloads. As noted in Part Two, some judges have proven to be very adept at managing their caseloads. They consistently maintain caseloads at manageable levels and their cases are resolved in a timely fashion. Other judges, however, have been less effective at managing their caseloads, with the result that some cases take unduly long to reach disposition, backlogs develop, and inmates remain in jail for unnecessarily long periods of time.

In many relatively large urban courts, it is common for the judges to be organized into divisions, with each division responsible for a discrete part of the caseload. Key

---

<sup>19</sup> Based on Judge Manis' experience during the January – April period in 2008, it appears that as many as 80% of the cases in the Backlog Reduction Program can be resolved, after careful review and in some instances motion hearings and ruling, before ever being placed on a trial calendar. The key unknown is what percentage of the cases on the trial calendar will actually have to be tried.

rationales for the division system are that (1) it breaks up the total caseload into more manageable “chunks” and thus enables more focused attention to specific case types; and (2) it enables judges assigned to a division to develop specialized expertise in the case types and issues handled by that division, leading to greater efficiency in case processing; and (3) it enables better utilization of the lawyers in the offices of the prosecutor and the public defender, who do not have to cover as many courtrooms as they do under a mixed docket system.

During 2008, after extensive consideration of the possibility of moving to a full “division” system (with judges assigned to handle one type of case [civil, criminal, or family] for a period of time), the judges have decided to move toward adoption of a “team” system that—together with the adoption of civil and criminal case management plans along the lines recommended below (Recommendation # 7)—holds promise of enabling more timely resolution of newly filed cases.

While the team approach is still in the process of development, it seems useful to consider several potential features of such a system that could enable it to function well. These include, in particular:

- Provision for each team to have one judge who serves as the “team leader” with general oversight responsibility for the effective functioning of the team.
- Establishment of systems for effective monitoring (centrally in the office of the Trial Court Administrator and/or by the case manager for each judge who serves as a team leader) of the caseloads of every judge on each team, to flag potential problems, ensure that cases of all team members are being resolved in a timely manner, and avoid the development of new backlogs.
- Cooperation on the part of all of the justice system entities involved in case processing to ensure that the resources needed for effective operation of the reorganized system—including magistrates, staff attorneys, case managers, prosecutors, public defenders, court clerks, court reporters, sheriff’s deputies, etc.—are available and assigned to work with the new court teams.
- Authority for the Chief Judge to re-assign a judge from a team to other responsibilities in the event that the judge is unable to meet the standards established in the case management plans adopted by the Court.

**Recommendation # 7: Adopt civil and criminal case management plans that include the following features:**

- **Equitable assignment of cases to each court team and to individual judges**
- **Adoption of case processing time standards that reflect the varying seriousness and complexity of different cases**
- **Prompt judicial attention to all newly filed cases and motions**
- **Judicial responsibility for the timely resolution of every case, including continuing judicial responsibility for the progress of cases.**

- **Use of techniques of differentiated case management (DCM) to rapidly ascertain the complexity of the case and the appropriate “track” it should follow.**
- **Early case conferences conducted by the assigned judge in order to ascertain (or confirm):**
  - ♦ **the complexity of each case;**
  - ♦ **discovery needs and potential obstacles to prompt completion of discovery; and**
  - ♦ **the time likely to be required for completion of discovery and case preparation.**
- **Early setting of schedules that will enable resolution of the case within the appropriate case processing time standards, with dates set for:**
  - ♦ **completion of discovery and other case preparation activities;**
  - ♦ **filing and resolution of motions;**
  - ♦ **future conferences (if needed); and**
  - ♦ **a [tentative] trial date if the early conference or a subsequent status conference does not result in resolution of the case.**
- **Reasonable accommodation of lawyers - case schedules and dates for specific events set in consultation with attorneys.**
- **Timely and accurate entry into court records and management information systems of data on court actions (including the setting of schedules for future events).**
- **Capacity to rapidly retrieve management information on individual cases and overall caseloads.**
- **Regular production and use of management information reports that provide an accurate picture of every judicial officer’s pending caseload, including the age and status of all cases.**
- **Active monitoring of caseload size, composition, and age**
  - ♦ **Judges/team leaders + case managers + clerks**
- **Use of procedures aimed at assuring that dates set for court events are truly firm with late requests for continuances becoming a rare exception to usual practice.**

**Comment:** This recommendation sets forth the main features of the civil and criminal case management plans recommended by the JMI team. Basically, this approach calls for rapidly screening all newly filed cases, assigning them to different case scheduling “tracks,” ensuring early judicial attention to each case, monitoring the progress of individual cases and the status of the overall caseload, and emphasizing the firmness of dates set for trials and other scheduled court events. The plan components outlined here (and set forth in considerably greater detail in **Appendices J and K**) are intended to be a “package” that incorporates the best practices in caseload

management and timely case resolution distilled from work by JMI and other organizations over a period of nearly 30 years.<sup>20</sup> While not all of the components of the package can be implemented immediately (for example, until there are substantial improvements in automated management information systems, rapid retrieval of relevant caseload information will be difficult), many of the components can be adopted and put into practice in a relatively short period of time. Indeed, the Superior Court judges who are effective in managing their caseloads have already made most of the components a routine part of their day-to-day work.

**Recommendation # 8: Provide for active monitoring of the size and age of each caseload in the Court (for judges and for divisions and court teams) and for the preparation and circulation of monthly reports to ensure that judges and other practitioners are aware of the age of cases for which they are responsible, and aware of the custody status of defendants in pending felony cases. Utilize an inter-agency task force approach to collection and analysis of data, to ensure that relevant information from each essential data source is collected and that discrepancies and inconsistencies are identified and resolved. As part of the monitoring process, provide for the weekly circulation of reports listing all pretrial defendants and defendants awaiting a probation revocation hearing who are in custody, by charge type, judge responsible for the case, and age of the case since (a) arrest; and (b) indictment, if an indictment has been filed.**

**Comment:** At present, basic data on the size and age of the pending caseloads of the individual Superior Court judges is collected by staff in the office of the Trial Court Administrator, and a monthly report is circulated among the judges on a monthly basis. However, there are several main problems with the current approach: (1) the data is based on records kept by the judges' case managers, is usually at variance with the data in the ACS Banner automated system, and is widely regarded as being of questionable accuracy (though it is generally felt by judges and court staff to be more accurate than the data in the ACS Banner system); (2) because of the time lag in collecting the data, it is late in the month before the report is available; (3) the report lacks some important information (e.g., custody status of defendants in pending cases) that is needed for effective management of criminal caseloads; and (4) the reports are not circulated to other justice system actors, so that there is not a shared base of information about pending caseloads. Although the ACS Banner automated information system can produce monthly reports on judges' caseloads that has a considerable amount of useful information, it is not integrated with the jail's information system. The ACS Banner system also lacks information on the custody status of defendants, and it is subject to extensive criticism by practitioners as unreliable—mainly, apparently, because of time lags in the entry of data and because of inconsistent data entry practices.

---

<sup>20</sup> See, e.g., American Bar Association *Standards for Trial Courts and Standards on Speedy Trial and Timely Resolution of Criminal Cases*, supra note 13; Steelman et al. *Caseload Management: The Heart of Court Management in the New Millennium*, supra note 13; William Hewitt et al., *Courts That Succeed: Six Profiles of Successful Courts* (Williamsburg: National Center for State Courts, 1990); John Goerd, "Slaying the Dragons of Delay: Findings from a National Survey of Recent Court Programs," *The Court Manager*, Vol. 12, No. 3 (Summer 1997).

Theoretically, it should be possible to overcome some or all of these problems through greatly heightened data entry quality control mechanisms (see Recommendation # 2 and Appendix F) and through development of software programs that would enable rapid information exchange between the different systems used by the Clerk's Office, the Jail, and the District Attorney's Office. However, such software is not presently in use in Fulton County. Programming by County IT to produce new reports requested by practitioners or researchers (even from a single system such as the ACS Banner system) is very time-consuming and is prone to errors because of programmers' unfamiliarity with the nuances of criminal justice system operations.

Because the implementation of a true integrated criminal justice information system is at least several years away from being operational in Fulton County, and because timely and reliable information is so essential for effective management of court caseloads and jail populations, an interim approach to obtaining and using information for effective system management must be developed. The JMI team recommends that a special **inter-agency task force** be formed to collect and analyze data relevant to caseload management and jail population management that is obtainable from the existing automated systems used by the Court, the Clerk's Office, the District Attorney's Office, the Public Defender's Office and the Sheriff's Department. The inter-agency task force should examine relevant reports produced by these systems with a view to identifying discrepancies and ascertaining the true status of all of the pending cases. The task force should convene regularly (at least every two weeks) and should and regularly produce a report that highlights key items of information and summarizes problems (e.g., major increases in jail population; lengthy jail stays in individual cases). The task force should involve persons knowledgeable about day-to-day court and jail operations and about how to extract needed information from the information different systems. It should have a lead staff person responsible for assembling the data and producing key statistical reports and analyses, and should include representatives of at least the following:

- Superior Court
- District Attorney's Office
- Public Defender's Office
- Clerk's Office
- Sheriff's Department
- County Information Technology Department
- Deputy County Manger for Justice Systems

Because the jail population is such an important issue in Fulton County, this recommendation calls for the weekly preparation and circulation of lists of pretrial defendants and probationers awaiting a revocation hearing who are in custody.<sup>21</sup> One of the functions of the task force (more specifically, of a designated Court and/or DA

---

<sup>21</sup> Rule 28 of the Uniform Superior Court Rules of the Georgia Judicial Branch already calls for the sheriff or court administrator of each county to "furnish to the chief judge, or designee, and the district attorney at least once a week, a list of all prisoners in the county jail or held elsewhere at the sheriff's direction." The list is to include the prisoner's name, date of arrest, offense charged, amount of bond, and name of the person's counsel. This "Jail Census" should be a primary working tool for the inter-agency task force, and can be used in conjunction with pending case lists produced through the ACS Banner system to flag cases involving detained defendants that need prompt attention.

staff person assigned to the task force) should be to list cases involving in-custody persons that have been pending longer than (or close to) the suggested time standards, by judge, and to circulate the list to leaders in the Court, the DA's office, and the Public Defender's office. These are cases in which prompt action should be taken to bring the case to resolution.

**Recommendation # 9: Implement effective alternatives to secure detention in jail for defendants awaiting trial who do not pose significant public safety risks, including use of electronic monitoring and intensive supervised release.**

**Comment:** The Fulton County Superior Court already has a pretrial release program, as authorized by Rule 27 of the Uniform Superior Court Rules of the Georgia Judicial Branch. This recommendation calls for expansion of the scope of the existing program to enable the release, pending trial or other disposition of the charges against them, of pretrial defendants who are unable to post bail and would be deemed to be ineligible for release under currently existing criteria employed by the Pretrial Release Program. The release of these defendants would be under conditions designed to minimize the likelihood that the released defendants would pose a risk of flight or a danger to public safety, including requirements for the defendant to make in-person check-ins at the Pretrial Services office twice a week, weekly visits by the Pretrial Services staff to the defendant's home or place of employment, participation in a drug treatment program if drug tests indicate that drug abuse is a problem, a strict curfew, and—if necessary—use of electronic monitoring.

The Director of the Pretrial Services program estimates that, staffed with four pretrial officers and a program manager, such an "Intensive Supervision Program" could handle a caseload of approximately 150 pretrial defendants per month—persons who would otherwise remain in jail awaiting the disposition of their case. In initial planning, four target groups of defendants have been identified as prospectively eligible for the program:

- Youthful defendants charged with non-violent offenses.
- Defendants with little or no criminal history who are charged with a property crime (e.g., theft by taking, shoplifting) or drug offense (possession/possession with intent to distribute small amount of a controlled substance) who do not meet current Pretrial Services eligibility criteria.
- Defendants charged with other offenses who are referred to the program by a judge.
- Defendants who have been arrested for failure-to-appear when on a previously set bond that was not accompanied by any direct supervision.

It is possible that these target groups could be revised in light of experience. In implementing such a program, it will be important to be able to identify the defendants who are selected for participation in it, and to know how they differ from defendants who would have been accepted into the currently existing Pretrial Services program. It will be important to ensure that persons accepted into such a program are persons who would otherwise be occupying jail space. In this connection, the JMI team recommends that the Pretrial Services program consider development of a structured risk

assessment instrument that can be used to assess the nature and level of risk of defendants who are interviewed. Use of such an instrument would help differentiate the participants in the Intensive Supervision program from those in the “usual” pretrial release program in terms of level and nature of the risks potentially posed by the defendant’s release.<sup>22</sup>

**Recommendation # 10: Develop an expanded range of sentencing alternatives, to provide meaningful and effective sentencing options for persons now sentenced to serve time in the Fulton County Jail, including (a) use of electronic home confinement; and (b) expansion of the Fulton County Drug Court.**

**Comment:** From a review of information in the “Jail Snapshot” that is produced on a daily basis by the Fulton County Jail, it appears that as of April 7, 2008 there were 473 inmates (17 percent of the total jail population) serving jail sentences. Another 284 (10 percent) were serving revoked probation sentences. It seems likely that, if appropriate alternatives were available, the underlying objectives of the sentence could be met through use of the other options—at considerably less expense than use of secure jail. The two most obvious potential options are electronic home confinement and Drug Court.

Electronic home confinement is used in a number of jurisdictions, and is widely regarded as a suitable alternative to jail. The movement of the confined person is sharply restricted, and can be monitored by telephone and—if desired—through use of a Global Positioning System device. Some staff time is required to conduct the monitoring, but the staff costs for implementing the program is far less than the costs of staffing the jail or outsourcing defendants to jails in other counties. We understand that the basic equipment can be leased for less than \$10 per day. In other jurisdictions, post-conviction electronic home confinement is administered by the Sheriff or Jail Administrator as a function ancillary to the management of the jail.

Drug Court is another option for some persons now sentenced to serve jail time, either as an initial sentence or as an alternative to outright revocation of probation. Because of the costs of drug testing and treatment, Drug Court is a somewhat more expensive option than electronic home confinement, but is nonetheless considerably less expensive than jail. The Drug Court is currently operating at capacity, and is widely regarded as a distinct success in providing a rehabilitation-oriented alternative to jail for drug abusing offenders. In order to accept a larger number of participants, it would have to have an increase in staff and treatment resources.

Having electronic home confinement and Drug Court available as alternatives should ease the pressure on the jail. The availability of these options can also be helpful in facilitating negotiations between the District Attorney’s Office and the defense regarding possible plea and sentence recommendations, thus contributing to more expeditious case resolution and reduction in the length of some jail stays.

---

<sup>22</sup> The American Bar Association’s Third Edition (2007) *Standards on Pretrial Release* call for a jurisdiction’s pretrial services program to focus on “assembling reliable and objective information relevant to determining pretrial release” and on organizing the information “according to an explicit, objective, and consistent policy for evaluating risk and identifying appropriate release options.” See Standard 10-4.2 (g).

## ***E. Recommendations for County Government Initiatives to Curb the Growth of the Jail Population and Enhance Criminal Justice System Performance***

The preceding ten recommendations focused on actions that we recommend be taken by the Superior Court and by other County offices or departments involved in the day-to-day operations of the justice system in Fulton County. This section deals with actions that we recommend be taken by the County general government—the Fulton County Commission and the County Manager’s Office—to improve the County’s justice system. The recommendations call for both an investment of County resources and a more pro-active involvement by County government personnel in overseeing the operations of the justice system. They are grounded in a conviction that significant improvements in criminal justice are likely to be achieved only when the larger society—and the government officials who represent the broad base of citizens—recognize that they have significant stakes in the effective operation of the justice system.

***Recommendation # 11: Continue to fund development and implementation of an integrated criminal justice information system that will:***

- **Enable sharing of essential information by justice system entities.**
- **Protect confidential agency-specific data.**
- **Provide for prompt and accurate production of information about specific cases and defendants.**
- **Enable analysis and management of the caseloads of court teams, judges, and attorneys.**
- **Facilitate analysis of system and agency performance in relation to standards and goals.**

***Comment:*** The availability of relevant information about individual cases and overall caseloads—information that is accurate and is available on a timely basis—is essential for the effective management of any organization or set of inter-related organizations seeking to function as a system. Without accurate and timely information, sound decision-making is difficult if not impossible. However, as the report of the Blue Ribbon Commission observed, the current state of the information systems used by the courts and other criminal justice agencies is “universally acknowledged to be a major impediment to the efficient and effective operation of the system.”<sup>23</sup> As the Commission emphasized,

“For a criminal justice system to function effectively, all of the entities involved must have timely and accurate information, the information should be consistent across agencies, users must have confidence that the data is reliable, and the

---

<sup>23</sup> *Report of the Blue Ribbon Commission, supra note 2, p. 10*

different information systems used by the different agencies should be able to transfer data to each other instantaneously.”<sup>24</sup>

The Fulton County Commission has already responded to the Blue Ribbon Commission’s recommendation that an integrated and operational criminal justice information system be established as soon as possible, by funding work on initial system planning. The courts and agencies involved in criminal justice operations in the County have agreed on the desirability of an integrated system, with capacity for rapid data transfer. A governance process for proceeding with the work has been established, proposals have been solicited and received from vendors, and selection of a vendor to develop and install such a system is now underway. This recommendation is intended to emphasize the importance and urgency of implementing such an integrated system, and for ensuring that the new system has essential features that are lacking in the set of agency-specific information systems currently in use in Fulton County. The time required for developing the new system and getting it to a point where it is truly operational for all of the participating entities will be substantial—hence the desirability of having an inter-agency task force charged with extracting and analyzing data relevant to caseload and jail population management from all of the information systems now in use by the Court and the different agencies (see Recommendation # 8). The sooner an effective integrated computer-based criminal justice information system is in place, the better the entire criminal justice system in the County can function.

**Recommendation # 12: Establish a system of performance measurement to assess performance of the system in relation to the goals and standards adopted in accordance with Recommendation #2.**

**Comment:** Having goals and standards is of little value unless there are ways of measuring the extent to which there is compliance with (or progress toward meeting) the goals and standards. This recommendation calls for development of a system of justice system performance measurement, using relatively simple ways to assess performance in relation to the goals and standards recommended in this report.

**Appendix L** contains a preliminary draft of a set of such performance indicators, focused on jail population size, case processing times, caseload size, and other indicators of performance relevant to effective jail population management, backlog reduction, and overall caseflow management. The next recommendation focuses on actual utilization of the measurement system.

**Recommendation # 13: Establish staff capabilities that will enable monitoring and oversight of system and agency operations and performance in relation to standards and goals established in accordance with Recommendation # 2. County government, as well as the courts and the agencies involved in case processing, should have the capacity to obtain and analyze information on agency and system operations and performance.**

**Comment:** This recommendation calls for development of a set of functions—both in the courts and agencies that comprise the justice system and in County central government—that does not currently exist. Once a set of goals is in place (see

---

<sup>24</sup> *Ibid.*

Recommendation # 2) and a performance measurement system is established (Recommendation # 12), it will be important to actually use the measurement system. To do this, both the operational entities (e.g., Superior Court, the DA's Office, the Sheriff's department) need to have staff with research and analytic capabilities who are specifically assigned—as a primary duty—to analyze data on the performance of their own organization and the performance of the system as a whole. The analysts should be able to track progress toward achievement of the goals that are set, identify operational problems and issues, and suggest ways of addressing them. As staff members of their own respective organizations, they should work closely with the elected and appointed leaders in their own organizations. These leaders, in turn, can take action steps within their organizations to recognize progress and address problems. They can also bring systemic issues to the attention of the Justice System Policy Council suggested in Recommendation # 16.

The performance of the justice system as a whole is a legitimate and appropriate focus of concern for central County government. The JMI team strongly recommends that the County government take a pro-active stance in monitoring system performance and identifying areas in which improvement is needed. To do so, the County needs its own analytic capability. The obvious locus for such a function is the office of the Deputy County Manager for Justice Systems. Either the Deputy County Manager or a staff member reporting directly to the Deputy County Manager should have the duty and ability to obtain and analyze information about agency and system operations, ask relevant questions, and develop recommendations concerning policies and use of resources. This person regularly receive reports from all of the relevant agencies and from the special task force called for in Recommendation # 8, should be actively involved in assessing system operations, and should report regularly to the County Manager and the Commission on progress toward goals, utilization of resources, and problems that need attention.

The relationship between central government and the courts and agencies need not—and should not—be an adversarial one. On the contrary, the Deputy County Manager and/or other officials in central County government should be active and engaged members of inter-agency task forces and of the Justice System Policy Council called for in Recommendation # 16. This will be especially important as the justice system entities embark upon a significant effort to reduce old felony case backlogs, implement new civil and criminal case management plans, and maintain the jail population at an acceptable level. All of these efforts have significant resource implications for the County and all will involve acquisition and use of information that at present is not readily available. The involvement of knowledgeable County government personnel in oversight and problem-solving with respect to these efforts should help in addressing problems and in improving overall system performance.

**Recommendation # 14: Develop enhanced capabilities for addressing problems posed by chronic minor offenders and mentally ill persons who become defendants in criminal cases.**

**Comment:** One of the factors contributing to overcrowding in the Fulton County Jail is the use of the Jail as a primary location for housing persons who are repeatedly arrested for offenses such as theft, disturbing the peace, and possession of small amounts of illegal substances. It is common for the defendants in these cases to be

drug abusers and often to have a co-occurring mental illness, and many are homeless. Many of these cases are dealt with in State Court, but some result in charges filed in Superior Court. Both courts have a mental health court, and Superior Court has a Drug Court. None of these courts are well-equipped to deal with persons who have co-occurring disorders, and in Superior Court both the Mental Health and the Drug Court are already at their current capacity.

There does not appear to be an accurate count of the number of persons who can be characterized as “chronic minor offenders” who have drug abuse and/or mental health problems. However, from conversations with criminal justice system officials there seems to be general agreement that many “routine” cases in the system (for example, cases that in the Superior Court would typically be handled by the Non-Complex Division) involve individuals who are mentally ill, substance abusers, or both. When they are held in jail, they rarely get the kind of treatment and medication that they need. If they are released prior to adjudication of the charges against them, they are likely to continue to commit a variety of nuisance offenses (and sometimes more serious crimes), returning again to the jail and the courts. The Blue Ribbon Commission flagged this problem as a significant one, and urged development of a comprehensive plan of action that includes development and training of police crisis intervention teams to enable a better range of police responses to behaviors of these individuals; establishment of some type of “emergency receiving site” with trained inter-disciplinary staff including medical and mental health professionals; and case management and transitional housing services.<sup>25</sup>

We understand that some planning work for development of such an approach is currently underway in Fulton County. Conceivably, space adjacent to the jail could be used as a site for the “crisis stabilization center”, and could be a locus for a meaningful jail diversion that would avoid bringing many of these cases into the jail and the courts. The JMI team strongly supports the development of this approach. We caution, however, that it will be important to have clarity about the size and characteristics of the “target group” intended to be served through such a program, along with a clear sense of the number of persons currently held in jail (and the length of times they are held) who fit the description of the persons who would be included in such a pre-arrest/pre-jail diversion program. If such a program is undertaken, it will be desirable to learn the extent to which it actually results in avoiding use of jail space for program participants.

**Recommendation # 15: Provide for education and training programs to familiarize practitioners in the courts and justice system agencies with the goals and policies of the new plans, and enable them to function effectively in implementing the plans.**

**Comment:** Fulton County justice system leaders have agreed in principle to the basic components of the backlog reduction and case management plans outlined in this report and in the appendices. However, many details remain to be ironed out and the timing and details of implementation (especially for the proposed felony case backlog reduction program) will depend to a significant on the level and duration of funding that will be available. Once the details of implementation are agreed upon at the leadership

---

<sup>25</sup> Report of the Blue Ribbon Commission, supra note 2, pages 12-13.

level, it will be important to arrange for education and training for the practitioners who will be working in the courts on a day-to-day basis.

The civil and criminal case management plans recommended in this report and the appendices provide for major changes in expectations regarding case processing and the time for resolution of cases of various types. There will necessarily have to be some changes in long-established practices, especially in some courtrooms where modern case and caseload management practices have not been used in the past. The establishment of clear goals and a performance monitoring system will introduce elements of accountability for performance that have not previously been present in the system. Implementation of a major felony case backlog reduction program will involve bringing new professional personnel into the system. In order for these changes to be absorbed and for the system to function reasonably well in achieving the goals that are set, it will be essential to make a real investment in education and training for practitioners at every level in all of the agencies and institutions involved in the adjudication process.

As discussed in **Appendix M**, the initial focus for education and training should be on the needs of practitioners doing the front-line work of case adjudication—judges, case managers, court clerks, prosecutors, public defenders, court clerks, and Sheriff's Department personnel who have court security and prisoner transport functions. There are a variety of ways that such education and training can be accomplished. It seems desirable to conduct training both within individual organizations (e.g., the District Attorney's Office, Public Defender's Office, Superior Court, Clerk's Office) and on an inter-disciplinary basis. Appendix M includes a summary of key components that should be included in a core training curriculum.

In addition to education and training programs, it will be desirable to develop operational manuals with detailed written descriptions of policies and procedures applicable to different types of cases and case events. Having such manuals will increase the likelihood of consistent application of policies and procedures across courtrooms and departmental sub-groups.

**Recommendation # 16: Establish a Fulton County Justice System Policy Council to include justice system leaders in the County, one or more members of the County Commission, and a designee of the County Manager. The Council should be charged with developing policies for the effective functioning of the Fulton County criminal justice system, including policies to enable effective management of the jail population and prevent recurrence of overcrowding and outsourcing of inmates. The Council should meet on a regular basis, and should have strong staff support.**

**Comment:** The idea of a Council with policymaking responsibilities emerged from the same April 14 meeting of the JMI team with criminal justice leaders at which JMI's preliminary report and recommendations were reviewed and approved in principle. It is consistent with Recommendation # 13 regarding the development of central staff analytic capabilities to enable system performance monitoring and analysis of data on system and agency performance. The court and agency leaders who were present at the April meeting agreed that such a council could be a valuable resource for collaborative planning and problem-solving. Logically, the Deputy County Manager for

Criminal Justice or the staff analyst in the Deputy Manager's office (see Recommendation # 13) could also serve as staff for the Council, though it may be desirable for the Council to have its own independent staff.

The existing Committee responsible for planning and development of the new integrated criminal justice information system could provide a foundation for formation of the new Council. Members of the Council should include at least the following:

- Chief Judge of the Superior Court
- District Attorney
- Public Defender
- Clerk of the Superior Court
- Sheriff or Chief Jailer
- Deputy County Manager for Justice Systems
- County Commissioner or designee of the Commission
- County IT Department Representative (should be the person responsible for provision of information to County courts and criminal justice agencies and for development of the new integrated information system)
- Leaders of the principal bar associations in Fulton County

Additionally, it may be desirable to include representatives of State Court, the Solicitor's Office, and the City of Atlanta on the Council. Because such a high percentage of criminal cases in the Fulton County courts come from Atlanta, it makes sense to have effective on-going liaison with the city through the Council. It will be important to ensure that the size of the Council is manageable. To the extent that specialized expertise is necessary for some functions, it can operate through committees.

Establishment of such a Council could provide a vehicle for overseeing (and taking collective responsibility for) management of the population size of the Jail, as well as for general oversight of the implementation of the recommendations in this report. One of the main early functions of such a Council should be to collaboratively develop policies and procedures that can be used to prevent future overcrowding of the Jail and consequent need for outsourcing inmates to facilities in other counties. The policies and procedures would be put into effect once the jail population has been reduced to close to the target figures outlined in Recommendation # 1 and Appendix A. They should include criteria and priorities regarding (a) what categories of newly arrested persons will be admitted into the jail once the population has exceeded an agreed-upon ceiling; and (b) what categories of inmates already in pretrial detention should be either tried very promptly or released under appropriate supervision.

**Recommendation # 17: Support the establishment of a Court Rule (or, if necessary other legal instrument) providing for substantially increased authority for the Chief Judge of the Superior Court to manage the administrative affairs of the Court, including review and oversight of judges' assignments, workloads, and caseload management practices; utilization of case managers and other staff involved in implementing the civil and criminal case management plans; and responsibility for appointment, assignment, and supervision of magistrates**

**hearing cases involving persons charged with felony offenses. Ensure that the Chief Judge has reduced caseload responsibility and adequate staff support, to enable performance of the administrative and management duties of the position.**

**Comment:** Like Recommendation # 16, this recommendation emerged from the meeting of Fulton County criminal justice system leaders on April 14. The agency leaders felt that it is extremely important for the Chief Judge to have clear authority for exercising active leadership of the Court, including making decisions about assigning cases to judges of the Court, supervising non-judicial personnel, and representing the Court at meetings with other justice system leaders and with County officials. The agency leaders also felt that the Chief Judge should have access to excellent staff support (including capacity for collection and analysis of data relevant to case processing) and should have sufficient time off the bench to enable participation in essential meetings on justice system issues and to engage in Court and system planning.<sup>26</sup> While the issue of appointment and supervision of magistrates who handle Superior Court cases was not addressed at this meeting, it seems clear that magistrates—like other judicial officers who work on Superior Court business—should be individuals who are officers of the Superior Court and are under the overall supervision of the Chief Judge of Superior Court.

The JMI team agrees with the agency leaders that establishing clear authority for the Chief Judge in the areas outlined above is desirable. It is not clear, however, how the authority should be established—whether by local rule of the Superior Court, amendment to the Uniform Rules of the Superior Courts of Georgia, by legislation, or by other methods. There are a number of examples of rules or statutes that establish the scope of authority of trial court chief judges, and they can serve as a basis for development of a rule that would meet the needs of the Fulton County Superior Court.<sup>27</sup>

**Recommendation # 18: Provide resources to implement the recommendations in this report, provided that justice system leaders in the County commit to implementing the recommended changes.**

**Comment:** Implementation of the recommendations in this report will cost money. Finding the funds to support the improvements recommended will be especially difficult this year and in the near future because of the difficult national economic situation and falling tax revenues. However, there are also significant costs attached to doing nothing, especially in view of the jail population problems and the potentially much larger costs of constructing new jail facilities. The County has already earmarked \$30 million over a three-year period for the cost of outsourcing inmates to jail facilities in other counties. If the outsourcing can be avoided, it seems logical that the funds earmarked for that purpose could be invested in making the system called for by the preceding recommendations.

---

<sup>26</sup> The current Chief Judge of the Superior Court, Judge Doris Downs, was present at the April 14 meeting at which this issue was discussed, but did not participate in discussion of it and took no position on whether the chief judge's authority should be established by rule or other formal legal instrument.

<sup>27</sup> The document prepared by District Attorney Paul Howard et al. entitled "Making Lasting Changes: Fulton County's Justice System Under Renovation" (January 2008) strongly recommended strengthening the oversight responsibilities of the Chief Judge of the Superior Court. Appendix H of that document includes examples of rules of court in other states that provide substantial administrative authority (and related duties) for the chief judge.

In recommending that the County Commission support the changes recommended, we also suggest that the appropriation of funds for the justice system entities be contingent on the commitment of those entities to making good faith efforts to implementing the recommendations in this report. Such a commitment would be consistent with the consensus expressed at the April 17 meeting of justice system leaders with the JMI team. While we expect that there will be some changes in the details of what is recommended in this report, the 17 preceding recommendations are intended to be viewed as a comprehensive package. Among the recommendations, there are several inter-related initiatives that should be given short-term priority. They are:

- Adoption of goals and standards for system performance (Rec # 2).
- Program for “first stage” jail population reduction to eliminate the need for outsourcing inmates to jail facilities in other counties (Rec # 3).
- Program for eliminating the backlog of old felony cases (Rec # 4).
- Implementation of new civil and criminal case management plans utilizing modern techniques of effective case and caseflow management (Rec #7).
- Adoption and implementation of alternatives to secure detention of low-to-moderate risk defendants unable to post bail, using intensive supervision and electronic monitoring (Rec # 9).
- Expanded range of sentencing options for convicted offenders (Rec # 10).
- Development of a performance measurement system and enhanced monitoring and performance analysis capabilities (Rec # 12, 13, and 14).

## **PART FOUR: STAFFING LEVELS AND IMPLEMENTATION APPROACH**

This part of the report provides a summary overview of estimated staffing levels for the Felony Case Backlog Reduction Program and for implementation of the suggested Civil and Criminal Case Management Plans. It also discusses a possible approach to implementation of the recommendations.

### **A. Recommended Staffing Levels for the Felony Backlog Reduction Program**

**Appendix H** discusses the methodological approaches used by the JMI team in developing two alternative options regarding staffing levels. Both approaches lead to an estimate that the Felony Backlog Reduction Program will require the services of the equivalent of **6** full-time judges (or senior or visiting judges) for a year (or 3 FTE judges for two years). From that estimate of judge-time needed for the Program, it is possible to develop estimates of the staff resources needed by all of the organizations involved in case processing. The estimates in the following table ("**Option A**") are based on estimates of desirable staffing ratios made by agency representatives.

#### **OPTION A**

#### **PERSONNEL NEEDS FOR FELONY CASE BACKLOG REDUCTION PROGRAM (BASED ON COURT AND AGENCY ESTIMATES)**

<b><i>Full-Time Equivalent Positions Needed</i></b>	<b><i>12-Month Program</i></b>	<b><i>18-Month Program</i></b>	<b><i>24-Month Program</i></b>
<b>Superior Court:</b>			
Judges/Senior Judges	6	4	3
Backlog Court Coordinator	1	1	1
Case Managers	2	2	2
<b>District Attorney's Office</b>			
Chief Senior Asst District Attorneys	3	2	2
Senior District Attorneys	13	8	6
Assistant District Attorneys	13	8	6
DA Investigators	9	6	5
DA Legal Assistants	9	6	5
<b>Public Defender's Office</b>			
Supervising Public Defender	3	3	2
Senior Assistant Public Defenders	13	8	6
PD Staff Attorneys	9	6	5
PD Investigators	6	4	3
PD Social Services Coordinators	6	4	3
<b>Clerk's Office</b>			
Docket Coordinators	6	4	3
Court Calendar Clerks	6	4	3
Support Supervisors	3	2	2
Docket Managers	3	2	2
Records and Documents Specialists	19	13	9
<b>Sheriff's Department</b>			
Deputy Sheriffs	21	14	11

The JMI team has not sought to make an independent assessment of the appropriateness of the staffing ratios suggested by the representatives of the various justice system entities. Inquiry into the appropriateness of the suggested ratios would be a logical part of the process of finalizing a budget and appropriation for the conduct of the Felony Backlog Reduction Program.

It is possible, however, to make alternative—and somewhat more conservative—projections of staffing needs, based on somewhat less robust staffing of the courtrooms in the backlog reduction project. **Option B**, below and in **Appendix H** makes more conservative projections regarding staffing needs, with fewer staff from each agency assigned to work with the judges participating in the Program.

**OPTION B**

**ALTERNATIVE (LESS STAFF-INTENSIVE) ESTIMATE OF PERSONNEL NEEDS  
FOR FELONY CASE BACKLOG REDUCTION PROGRAM**

<i>Full-Time Equivalent Positions Needed</i>	<i>12-Month Program</i>	<i>18-Month Program</i>	<i>24-Month Program</i>
<b>Superior Court:</b>			
Judges/Senior Judges	6	4	3
Backlog Court Coordinator	1	1	1
Case Managers	2	2	2
<b>District Attorney's Office</b>			
Chief Senior Asst District Attys	1	1	1
Senior District Attorneys	7	5	4
Assistant District Attorneys	7	5	4
DA Investigators	7	4	3
DA Legal Assistants	7	4	3
<b>Public Defender's Office</b>			
Supervising Public Defender	1	1	1
Senior Assistant Public Defenders	7	5	4
PD Staff Attorneys	7	5	4
PD Investigators	6	4	3
PD Social Services Coordinators	4	3	2
<b>Clerk's Office</b>			
Docket Coordinators	6	4	3
Court Calendar Clerks	6	4	3
Support Supervisors	3	2	2
Docket Managers	3	2	2
Records and Documents Specialists	12	8	6
<b>Sheriff's Department</b>			
Deputy Sheriffs	15	10	7

## **B. Recommended Staffing for Implementation of the Civil and Criminal case Management Plans**

Some additional staff resources will also be needed for implementation of the civil and criminal case management plans (Recommendations 6-8). For implementation of these plans, the main needs are likely to be in the Superior Court. They include the following:

- 2 Senior Case Managers (to coordinate the work of the case managers assigned to individual judges and to develop consistent practices and protocols for monitoring of caseloads, case calendaring, and related policies).
- 2 Staff Attorneys (to conduct case related research for the judges assigned to the civil team).

## **C. Implementation Approach**

The recommendations in this report—especially those related to implementation of the suggested new civil and criminal case management plans—call for significant changes in long-established practices. The JMI team would be surprised if there is no resistance to the changes recommended in the report. Our suggested approach to implementation of the recommended changes (and, more broadly, to achievement of the basic goals set for the project) involves seven main steps, as follows:

**1. Develop basic agreement on a vision for the justice system and on key goals to be achieved.** The Comment accompanying Recommendation # 1 revives a vision statement developed by justice system leaders in the County in 2002, and Recommendation # 2 sets out suggested goals that the JMI team believes are appropriate for shaping improved adjudication processes. For goals to be meaningful to practitioners, however, they should be ones that are adopted by practitioners—especially the leaders of organizations that have key functions within the system, including County central government officials. The vision and goals suggested in the report should be reviewed by these leaders, collectively, and modified as appropriate for Fulton County.

**2. Review the recommendations in the report, modify them as appropriate, and make commitments to implement them.** Recommendations # 3-18 are substantive. They are components of an overall package designed to enable achievement of the vision and goals outlined in Recommendations # 1 and 2. All of these recommendations should be reviewed by the judges of the Superior Court, by leaders of the other justice system agencies that will be affected by the recommended changes, and by officials in County central government. We anticipate that there will be changes in specific parts of many of the recommendations. Some may be accepted in full, some with modifications, and some may be deferred or rejected as the result of negotiations. The key point is to make sure that all of the recommendations are considered, with an understanding that they comprise a package in which there is considerable interrelationship among the components, and that there is a process making decisions about implementation. Ideally, there should be a formal commitment—by the justice system leaders and by the County Commission—to implement the recommendations as modified after review.

**3. Develop agreement on the level of resources to be allocated for implementation of the recommendations, over an agreed-upon period of time.**

Because of the severity of the jail crowding problem and the desirability of eliminating the outsourcing of inmates as quickly as possible, it will be important to get started on implementation of the recommendations as rapidly as possible. The JMI report recommends planning for the Felony Backlog Reduction Program to extend over a period of eighteen months, with two years as a feasible alternative. However, we recognize that it will take some time to recruit and bring on the additional personnel that will be needed for implementation. The key point is to reach basic agreement on a level of resources and for the County Commission to make a commitment (to the extent feasible) for a continued funding over whatever period of time Fulton County leaders believe is appropriate to enable full implementation of the recommendations that are ultimately agreed upon.

**4. Recruit needed personnel.** It should be possible for the all of the organizations involved in implementing the proposed changes to begin recruiting personnel to fill positions needed for implementation as soon as funds have been appropriated for implementation of the recommendations. In some instances, it will be desirable to recruit staff for entry-level or mid-level positions, to enable experienced senior-level personnel to play active roles in implementation of the agreed-upon changes.

**5. Initiate a concerted effort to reduce the jail population and eliminate the need for outsourcing inmates to facilities in other counties.** Eliminating the outsourcing of inmates will free up funds that can be used for implementation of the recommendations. This effort should begin as soon as possible, with a view to achieving the targeted jail population size of a maximum of 2,608 (optimally closer to 2,250) by the end of calendar year 2008. The initiative and can be regarded as having three interrelated components;

- In all of the courtrooms where Superior Court judges handle criminal cases, the judge, prosecutor(s), and defense attorney(s) should review a current list of cases involving defendants who have been in detention for over 30 days that are assigned to that judge. Where possible, decisions should be made to (a) resolve the case through negotiation of an early plea or possible dismissal; (b) provide for release to the Superior Court's Pretrial Release Program (including the Intensive Supervised Release program recommended in the JMI report (Recommendation # 9); (c) reduce the bond amount to a level that can be posted by the defendant, while attaching conditions designed to guard against future non-appearance or criminal behavior; or (d) provide for prompt trial.
- In the Felony Backlog Reduction Program handling cases pending for over one year, give priority in conducting initial reviews and pretrial conferences to cases involving defendants in detention. (However, especially in view of the significant number of defendants in long-pending cases who face very serious charges, jail

cases should not be the sole focus of attention in the Backlog Reduction Program.)

- For cases involving defendants in detention, the Superior Court's Pretrial Services Program should review the status and risk factors of defendants who have been in detention for more than 30 days—especially those charged with non-violent offenses. Where appropriate, pretrial services officers should make recommendations concerning alternatives to continued detention to the judge to whom the case is assigned.

**6. Provide training on implementation of the criminal and civil case management plans for judges, court staff, attorneys, and others who will be involved in or affected by the new policies and procedures.** The anticipated reorganization of the Superior Court into teams of judges and implementation of the criminal and civil case management plans recommended in the JMI report (Recommendations # 6, 7, and 8) will involve major changes in long-standing practices of judges, attorneys, case managers, and court clerks. As discussed in Recommendation # 15 and in Appendix M, education and training for practitioners involved in the adjudication process will be important to enable them to function effectively and achieve the goals and case processing time standards contemplated by the plans. Because of the key role that judges will play in managing caseloads under these plans, the top priority should be to ensure that all of the judges receive basic training in the techniques of effective case and caseload management as promptly as possible.

**7. Set up a system for obtaining essential information and enabling effective monitoring of court, agency, and overall system performance.** The need for acquisition and effective use of information is a theme that runs through many of the recommendations in the JMI report. It is especially important to move promptly in setting up systems for monitoring performance in relation to the goals that are set for backlog reduction and jail population management. In this connection, organization of the inter-agency task force (Recommendation # 8) and designation of a task force leader are especially important. The task force leader should take responsibility for obtaining essential information from the ACS Banner system and the information systems used by the Jail and the District Attorney's office, and producing useful monthly (or more frequent) reports that track progress toward goals and identify potential problem areas.

## **PART FIVE: ADDITIONAL OBSERVATIONS**

The preceding parts of this report have focused on key recommendations directly related to the basic scope of the contract between JMI and Fulton County. The contract included a provision inviting additional observations and recommendations based on what the JMI team learned in the course of conducting the project. This part of the report briefly discusses three areas relevant to improving criminal justice system operations in the County that members of the JMI team believe warrant attention in the near future.

### **A. System Fragmentation: Issues Related to Possible Court and Agency Consolidation**

As the report of the 2006 Blue Ribbon Commission observed, the criminal justice system in Fulton County is unusually fragmented.<sup>28</sup> There are two county-funded courts (Superior Court and State Court), two sets of county-funded clerks' and court administrators' offices, two prosecutors' offices, two sets of offices (Sheriff and State Court Marshals) that provide security and prisoner transport for incarcerated defendants, and multiple police agencies in the County. At the County level, the fragmentation is exacerbated by the existence of a host of different management information systems that have little ability to exchange information with each other.

As the County Commission considers ways to fund needed improvements in the justice system, consideration should be given to possible ways of reducing the fragmentation and duplication of services and streamlining system operations through some type of consolidation. At the outset of this project, it was agreed that consideration of the issues involved in possible consolidation of Superior Court and State Court (and perhaps also of different agencies that are involved in the work of the two courts, performing basically similar services) were well beyond the scope of this Project. Accordingly, and in recognition of the fact that inmates charged with or convicted of felony offenses make up approximately 90 percent of the population of the jail, the JMI team has focused primarily on felony case processing and on ways to reduce the number of felony defendants in pretrial detention.<sup>29</sup> However, it seems clear that there are opportunities for significant savings and for better allocation of limited resources through consolidation.

Because the issues involved in consolidation are extremely complicated, it seems desirable to organize a study devoted explicitly to examination of the possibility of consolidating the courts. Such a study would inevitably involve attention to funding

---

<sup>28</sup> See *Report of the Blue Ribbon Commission*, supra note 2, at pages 14-15.

<sup>29</sup> See note 1 at page 1, supra. The document prepared by District Attorney Paul Howard et al entitled "Making Lasting Changes: Fulton County System Under Reorganization" strongly recommended that consideration be given to consolidating—or "unifying"—the Superior Court and State Court. Because of the complexity of the issues and the time that would be required to structure a backlog reduction and case management improvement program that would involve consolidation of the two courts, the JMI team has not sought to explore the consolidation issues as part of this project.

streams (especially funding provided by the State and the County); legislation (and probably also constitutional provisions) regarding jurisdiction of the courts and duties and responsibilities of variety elected officials; the scope of responsibilities of the chief judges of the Superior and State Courts and of the other officials in leadership positions; differing court cultures and practices in the two courts; and a host of other potentially contentious issues. It should be undertaken in a fashion that minimizes the impact of partisan politics; draws on the knowledge and experience of judges, lawyers, and other policymakers in Fulton County and in the state of Georgia; and that seeks to learn from the experience of court and agency consolidation efforts in other states.

It is sometimes possible to move toward consolidation of courts and other agencies through informal means, which can be aided by the effective use of incentives. For example, during the 1990s, the courts in California—including a large number of municipal courts as well as the general jurisdiction Superior Courts—began moving toward through a process of coordination that was aided by incentive funding from the state. Conceivably, a process such as this could provide a foundation for ultimate unification of the Superior Court and the State Court, with consequent increases in the effectiveness with which judges and other judicial officers are utilized. A similar approach could be undertaken with respect to the other offices and agencies involved. Developing such an approach would, however, require careful study and consideration of potential of the legal and practical issues involved.

## **B. Establishment of a Structure and Process for Criminal Justice System Oversight, Policy Development, and Accountability**

The recommendations in the report regarding formation of a Justice System Policy Council, development and use of performance measures, and use of an inter-agency task force to obtain information and produce analytic reports on system operations all point in the same direction: toward development of a significantly enhanced capacity for the criminal justice system in Fulton County to function more like a **system**—and less like a set of disconnected silos. The underlying theme is that central County government should take a much more pro-active role in justice system policy development, including participating in the acquisition and analysis of the operations of the different organizational entities and the operation of the system as a whole. We believe that this can be done appropriately without in any way infringing on the essential independence of the judiciary in making decisions in individual cases and in the handling of caseloads.

The structure and process for system policymaking that emerges from the interrelated recommendations in the report has six major components:

1. A Justice System Policy Council that consists of the leaders of the courts and the principal agencies involved in case processing from arrest onwards, plus representatives of the leading bar associations in Fulton County and of the County Commission itself (Recommendation # 16);
2. The adoption of system performance measures, designed to assess the performance of the system in relation to goals adopted by the Council (Recommendations # 1, 2, and 12);

3. An inter-agency task force, responsible for collection and analysis of data on caseload management and jail population management (Recommendation # 8);
4. The regular (at least monthly) circulation of reports on system operations; highlighting trends with respect to key indicators and identifying problems and potential areas of concern, with County officials included in the distribution of the reports (Recommendations # 8, 13, and 16);
5. Development and implementation of a new integrated criminal justice information system, coupled with greatly enhanced capability for obtaining, analyzing and using relevant information from the different information systems currently in existence (Recommendations # 8 and 11); and
6. Active involvement by knowledgeable central County government officials and staff in the work of the Justice System Policy Council, the inter-agency task force, and analysis of information obtained from the various automated and manual system used by the courts and other agencies (recommendations # 8, 13, and 16).

It is important to emphasize the critical importance of knowledgeable staff—especially central County government staff not tied to the organizational mission of any single justice system entity—in making this proposed structure and process work effectively. Without knowledgeable staff, able to work effectively with all of the entities and also to ask difficult questions and undertake independent analysis of relevant information—a new structure and process will not be effective. With such staff, there is great potential for significant improvement in system performance and effective utilization of resources.

### **C. Court, Agency, and Central County Government Staffing Levels**

In this project, it has not been possible for the JMI team to make any kind of study of the level and nature of staffing of the Superior Court or of the agencies directly involved in case processing from arrest forward to disposition and (in some cases) post-conviction supervision of offenders. However, during discussions with agency leaders and senior staff during the course of the project, we heard numerous expressions of concern that the speaker's organization was seriously under-staffed. It seems desirable for the County to consider closer examination of the staffing needs of all of the organizations. Such a study would appropriately give attention to the functions performed by staff and—importantly—the functions that are **not** now performed but that are needed for effective system operation.

A study of the staffing needs of the agencies would be valuable in assessing the personnel needs of the organizations in future years, and especially in light of the system changes recommended in this report, assuming that they are implemented. It could also serve as a logical foundation for assessing the staffing issues (and potential savings) that would be involved in possible consolidation of courts and other agencies.

Attention should also be paid to the level and qualifications of the staff of Central County government responsible for justice system policy development and system (and

agency) oversight. As of July 2008, the County has a new Deputy County Manager for Justice Systems. There is both need and opportunity to consider what staff capabilities are needed in this office, and to consider possible expansion of the size of the Deputy's office. Consideration should be given to adding a professional position to the office of the Deputy County Manager, thus developing a criminal justice management team at the County level. Having such a team would strengthen County government's ability to perform the oversight, analysis, and policy development functions that are needed to make and sustain justice system improvements.