

DATA CENTER AND  
CLEARINGHOUSE  
FOR DRUGS AND CRIME

SUPREME COURT  
STATE OF NEW JERSEY



TASK FORCE ON  
DRUGS AND THE COURTS

155851

---

---

FINAL REPORT

---

---

155851 L

SUPREME COURT OF NEW JERSEY



JUSTICE STEWART G. POLLOCK

COURT HOUSE  
MORRISTOWN, N. J. 07960

April, 1991

NCJRS

SEP 19 1995

To: The Chief Justice and Members of the Court

ACQUISITIONS

I am pleased to submit for your consideration the Final Report of the Supreme Court Task Force on Drugs and the Courts. Chief Justice Wilentz's charge to the Task Force was to "develop a comprehensive approach to drug case processing, supervision of pre-trial defendants, and the adjudication of drug offenses, including imprisonment or its alternatives" and "to establish mechanisms to better coordinate the judiciary's work with the executive and legislative branches of state government and with drug treatment and education programs." The Report responds to that charge and contains the findings and recommendations that have resulted from over a year of study.

In submitting this Report, I thank the chairmen of the three task force committees. I also express my appreciation to all the members of the Task Force for their contributions.

155851

U.S. Department of Justice  
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been

granted by  
Supreme Court  
State of New Jersey

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.



## SUPREME COURT OF NEW JERSEY TASK FORCE ON DRUGS AND THE COURTS

Hon. Stewart G. Pollock, *Chair*  
David P. Anderson, Jr.  
Holly Bakke, Esq.  
Hon. Edward W. Beglin  
Hon. John O. Bennett III  
Robert S. Bonney, Jr., Esq.  
Hon. Dennis J. Braithwaite  
Dr. Philip Brown  
Hon. Stephanie Bush  
Hon. Kevin G. Callahan  
Wilfredo Caraballo, Esq.  
Hon. Frank R. Catania  
Dr. James Cocores  
Anton Danco  
Hon. Elaine L. Davis  
Hon. Wilfred P. Diana  
Richard A. Du Haime  
Douglas S. Eakeley, Esq.  
Miles R. Feinstein, Esq.  
Hon. Carmen A. Ferrante  
Hon. Philip M. Freedman  
Hon. Julio M. Fuentes  
Robert J. Gilson, Esq.  
Joseph Gunn  
Hon. Elliot G. Heard  
Hon. Burrell Ives Humphreys  
Rudolph Johnson  
Hon. James A. Kennedy  
Hon. Bernard F. Kenny, Jr.  
Robert D. Lipscher, Esq.  
Peter Loos

Dr. Sheldon I. Miller  
Judith A. Nallin, Esq.  
Hon. George J. Nicola  
Lyman O'Neill  
Colonel Clinton Pagano  
Dr. Robert Pandina  
Louis Petitto  
James T. Plousis  
Hon. Paul R. Porreca  
Riley Regan  
Stanley P. Repko  
Richard P. Rodbart, Esq.  
Richard J. Russo  
Nicholas Scalera  
Thomas S. Smith, Jr., Esq.  
Hon. Reginald Stanton  
Hon. Edwin H. Stern  
Major Gregory Stith  
Hon. Gerald R. Stockman  
Hon. Cornelius P. Sullivan  
John A. Sweeney, Esq.  
Hon. Norman Telsey  
William Waldman  
Heather S. Wilcauskas  
Dr. Bohdan Yaworsky

*Staff:*

Carolyn M. Evans

*Consultant:*

Professor Mark H. Moore, Ph.D.

# TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	1
INTRODUCTION .....	3
I. THE PROBLEM: DRUG CASES OVERWHELM THE CRIMINAL JUSTICE SYSTEM .....	5
II. THE JUDICIARY'S RESPONSE TO THE SURGE OF DRUG CASES .....	7
III. PRINCIPAL FINDINGS .....	10
IV. TASK FORCE RECOMMENDATIONS .....	17
1. Assessment, Pretrial Release, and TASC .....	18
2. Centralized Intake .....	21
3. Prosecutorial Screening .....	22
4. Case Processing Tracks .....	24
5. Calendaring and Effective Scheduling of Court Events .....	26
6. Performance Standards .....	29
7. Case Processing Resource Standards .....	31
8. Standards on Interpreting and Translation .....	33
9. Treatment Services .....	35
10. Training Relating to Drug Abuse .....	37
11. Drug Testing and Alternatives to Incarceration .....	38
12. Probation Supervision .....	40
13. Community Participation .....	41
14. Statewide Automated Case Information System .....	43
15. Treatment Resource Directory .....	45
16. Juvenile Detention .....	46
17. Interagency Communication .....	48
18. Constitutional Amendment Regarding Third and Fourth Degree Offenses .....	50
19. Sentencing Flexibility .....	51
V. PROJECTED COSTS .....	53
VI. CONCLUSION .....	62

## Appendix:

Supreme Court Task Force on Drugs and the Courts  
Committee and Subcommittee Memberships

## EXECUTIVE SUMMARY

This Final Report of the Task Force on Drugs and the Courts describes the impact of New Jersey's "war on drugs" on the criminal and juvenile justice systems. The Report focuses on the effect of the escalating number of drug offenses on those systems. Behind the congested calendars and overcrowded prisons and jails is a society ravaged by drug abuse. Some of the victims are easy to identify: the citizen who is mugged, the automobile owner whose car is stolen, and the resident whose home is burglarized. Less obvious are other "victims": the family of a drug addict, the fetus within a pregnant addict, and the neighborhood in which drugs are sold. Even less obvious is the "victimization" of the civil litigant whose case cannot be heard and of the taxpayer who pays the bill for the investigation, prosecution, and incarceration of the drug offender.

Although compelling, these problems are beyond the scope of this Report. We have directed our attention to the administration of the criminal and juvenile justice systems. A justice system that cannot efficiently and effectively prosecute offenders is itself a threat to public safety. Without prompt and appropriate sanctions, such a system serves neither to deter nor to rehabilitate. It is merely a revolving door between a congested courthouse and an overcrowded jail.

To expedite the disposition of drug cases, the Task Force recommends a centralized intake process for the early screening of drug offenders. Early screening can lead to more efficient case management and to prompt treatment for qualified offenders. Assessing the drug use of defendants at an early stage is an essential part of deciding how the court system should treat each case. The Task Force also recommends that prosecutors screen cases vigorously, and that courts adopt reasonable standards of productivity. Greater emphasis should be placed on treatment of offenders. An integrated information-system should link the components of the criminal and juvenile justice systems. Further, the Task Force recognizes the benefits of broad

involvement by key community representatives and seeks to promote community participation in the justice system. Included among other significant recommendations is one for a constitutional amendment that would enable prosecutors to proceed without indictment for certain minor offenses. For the system to work effectively, more resources are needed, particularly by the public defender and the courts. Finally, the Task Force recommends that representatives of the three branches of government and the private sector continue to meet to discuss concerns about the need for greater flexibility in sentencing drug offenders.

## INTRODUCTION

This Report is the culmination of thousands of hours of hard work by hundreds of people who joined hands in the "war on drugs." The Report outlines a response for adoption by the judicial branch to that war and its fallout. Recognizing the pervasive nature of drug abuse, the Legislature enacted tough new laws. Law enforcement officials have responded by arresting and prosecuting an unprecedented number of offenders. These efforts have generated an overwhelming number of criminal cases that directly or indirectly involve drug abuse.

In February of 1990, in response to this deluge of drug cases on the courts, Chief Justice Robert N. Wilentz appointed the Task Force on Drugs and the Courts, chaired by Associate Justice Stewart G. Pollock. The Chief Justice stated that the "war on drugs" cannot succeed unless the courts, together with prosecutors and defense counsel, have the programs and resources to handle increasing numbers of arrests for drug offenses. In the spirit of cooperation, representatives of the Governor's Office, the Legislature, the Attorney General, and the Public Defender joined in serving on the Task Force. Task Force membership also included judges, county prosecutors, bar leaders, treatment professionals, county government representatives, public and private defense counsel, academicians, and concerned citizens.

The Task Force divided its work among three Committees - Pretrial Population, Adjudication, and Post-Adjudication and Community Involvement. The Pretrial Population Committee, chaired by Assignment Judge Reginald Stanton, reported on the identification and classification of drug cases and offenders and on ways in which the current pretrial processing of drug cases and offenders can be improved. The Adjudication Committee, chaired by Assignment Judge Wilfred P. Diana, examined ways to expedite cases without diminishing the quality of justice. The Post-Adjudication and Community Involvement Committee, chaired by Assignment Judge Edward W. Beglin, Jr., reviewed sentencing philosophies and policies, and considered how probation and community-based treatment programs might fit better into just and

effective sentencing practices.

The three committees worked through thirteen subcommittees during the spring and summer of 1990. The subcommittee structure allowed small groups of practitioners to discuss issues and concerns. (See Appendix for committee and subcommittee titles and membership.) Each committee convened a one-day Public Forum at which subcommittees discussed their work with attendees drawn from public and private agencies and from the community. Thereafter, each committee issued a report that was distributed with the 1990 Judicial Conference pre-conference materials.

On October 24, 1990 the Supreme Court convened the 1990 Judicial Conference to review the work of the Task Force. The basis for that review was the Conference Discussion Paper, the three Committee Reports, the "Report of the Special Committee to Assess Criminal Division Needs," and a report prepared by the Division of Criminal Justice entitled "A Law Enforcement Response to Certain Criticisms of the Comprehensive Drug Reform Act." Following the Judicial Conference, the Task Force reconvened to review the Conference discussions and the comments received after the Conference. This Report is the culmination of the work of the Task Force.

## I. The Problem: Drug Cases Overwhelm the Criminal Justice System

New Jersey, like many other states, is plagued by illicit drug use. Although the plague infects all of society, this Report focuses on the criminal and juvenile justice systems, particularly the courts. Illicit drug use weakens the family structure and often leads to child or spouse abuse and to juvenile delinquency. Illegal drug use burdens the health care system with increased demands and higher costs. It undermines the public welfare by causing deaths and spreading AIDS. Tragically, babies are born addicted to drugs. Most significantly for our purposes, it has led directly or indirectly to the commission of an overwhelming number of criminal offenses. Consequently, the judicial system is overburdened to the point of collapse.

State and federal governments have attacked both the demand for and supply of drugs. At the center of the war against drugs in New Jersey is the Comprehensive Drug Reform Act of 1986 (CDRA), N.J.S.A. 2C:35-1 et seq., which imposes severe mandatory sanctions on all drug offenders, whether manufacturers, sellers, or users. These penalties include fines, suspensions of drivers licenses, and imprisonment. One provision includes mandatory imprisonment for distribution of drugs within 1,000 feet of school property (N.J.S.A. 2C:35-7). Other provisions allow the courts to seize property and to impose heavy financial penalties on drug profiteers. It reflects the Legislature's "zero tolerance" for drug use and distribution and the State's commitment to use the coercive power of the criminal law to enforce this policy.

The high number of drug arrests shows the intensive use of the criminal justice system to wage the "war on drugs." Between 1987 and 1989 law enforcement officers made 184,926 arrests for drug offenses - an increase of 53% over the previous three years.

The inevitable result of such vigorous enforcement is that drug cases have overwhelmed the criminal and juvenile justice systems. Prosecutors, public defenders, and courts face greatly increased caseloads. Probation resources are stretched to the limit, and many probation officers

are unable properly to supervise their caseloads. County jails and state prisons are bursting with prisoners. Treatment of drug-dependent persons is too often unavailable. In sum, the system is swamped.

The following statistics support these conclusions:

- State prisons are at 140% of capacity and county jails are even more severely overcrowded, averaging 170% of capacity, with several over 200%;
- In the four-year period before July 1990, the number of indictments rose 49%, the number of judges increased by 15% and the number of public defenders increased by 6%. Thirty-four public defender positions have since been added through Federal and speedy trial grant funds and nine judges have been permanently assigned to criminal courts from civil courts, bringing the total Criminal Division bench to 116. Plans are currently in place to add eight additional judges by July 1, 1991 for a statewide total of 124;
- The number of criminal cases pending for more than one year has increased by 70%;
- The number of fugitives has risen to 27,334;
- The number of juvenile cases involving drug charges has increased by 70% from 1986 to 1989;
- The number of sentences handed down by the courts increased by almost 30% in 1989 alone and is still rising; and
- Nearly 70,000 persons are under probation supervision, with average caseloads of 166 probationers per officer.

Two challenges confront the criminal and juvenile justice systems. One is the efficient management of the burgeoning number of cases involving drug abuse. The other is breaking the cycle of drug abuse, arrest, and ineffective penalties, leading to ever more drug abuse and recurring arrest.

## II. The Judiciary's Response to the Surge of Drug Cases

The Judiciary has undertaken several initiatives in response to the surge of drug cases. In the spring of 1989, Chief Justice Robert N. Wilentz assigned 20 judges from the Civil Division to hear drug cases for a four-month period. The aim was to reduce the backlog and relieve the pressure pending more permanent changes.

In the fall of 1989, the Chief Justice established a blue-ribbon Special Committee to Assess Criminal Division Needs to make an objective estimate of what additional resources would be required to allow the judicial system to operate with integrity and credibility. That Special Committee set forth the following observations and conclusions in its January 1990 report (pp. 6-7, 9-10):

The flow of drug cases through our court system has met with serious delays...If justice delayed is justice denied, the criminal justice system faces a wholesale denial of justice...It now takes twice as long to bring cases to disposition - nearly a year, several years in some counties...With delay, the case is weakened, memories fade, witnesses disappear, evidence is lost, and the innocent languish in jail. The cornerstone of deterrence, the certainty and the swiftness of punishment become empty words mouthed by federal, state and local officials. About 25,000 defendants are now fugitives; another 45,000 are free on bail awaiting trial. The effect upon society, upon a frightened inner city citizenry, upon victims of crime and upon the families of drug abusers is clearly felt and will clearly worsen...

There is no question that resources are desperately needed. (emphasis added) Judges, prosecutors, public defenders, sheriffs' officers, as well as investigative and support staff, must be immediately added to the criminal courts. The most critical and immediate need is for public defenders. During the past several years, the allocation of resources among the various components of the criminal justice system has been profoundly disproportionate as to public defenders...

The problems faced by probation officers clearly illustrate the

dilemma currently faced by support staff. Probation appears to represent the only true alternative to incarceration presently existing...The importance of a successful probationary term cannot be overstated. Probation can serve to reduce recidivism and put the erring citizen back on the right track. Sadly, the effectiveness of probation is decreasing in direct proportion to the increased workload borne by our probation officers.

For his part, the Attorney General agreed to allocate \$6,650,000 from the federal government's 1990 block grant funds of \$15,384,000 to address these needs. That money is being used to hire criminal court management staff, local prosecutors and, particularly, to correct the lack of public defenders, decried in the Report of the Special Committee to Assess Criminal Division Needs. While these resources help to ease the pressure, there is no guarantee of continued funding. Moreover, none of these resources can be used to fund additional judges, one key element of the Special Committee's report.

On July 23, 1990, the Chief Justice announced that he would permanently transfer 17 judges from the Civil Division to cope with the "meteoric" increase in criminal cases caused by "a drug problem that seems to be with us for the foreseeable future." Despite the severe impact on the quality of justice for civil litigants, the Chief Justice said the decision was unavoidable. "The highest priority of the judiciary today must be the criminal justice system because that is society's highest priority," he explained. "Our citizens want to be safe. They won't be without an effective criminal justice system and that system will not be effective without these additional resources."

The responses of the Chief Justice and the Attorney General have helped the courts to manage the deluge of drug cases and maintain the quality of justice in New Jersey's criminal courts. Reevaluation of the entire system, however, is necessary. The Judiciary must consider how to streamline case processing and improve the productivity of the criminal courts. Although the focus is on the courts, the evaluation must include all components of the criminal and

juvenile justice systems. Only a coordinated approach can remedy the problem.

For this reason the New Jersey Supreme Court devoted its 1990 Judicial Conference to the subject of "Drugs and the Courts." The charge to the Task Force was to "develop a comprehensive approach to drug case processing, supervision of pretrial defendants, and the adjudication of drug offenses, including imprisonment or its alternatives" and "to establish mechanisms to better coordinate the Judiciary's work with the executive and legislative branches of state government and with drug treatment and education programs." The Task Force's findings, recommendations, implementation plans, and cost estimates follow in the next several chapters.

### III. Principal Findings

The Task Force recognizes the current fiscal constraints on all components of the criminal and juvenile justice systems. With that in mind, the Task Force focused on how the systems could work harder and smarter to minimize the need for additional funds, notwithstanding that judges and justice system staff already work efficiently and effectively. Consequently, the Task Force undertook to identify threats to the quality of justice and the resources needed to meet the obligations imposed by the CDRA. The Task Force further recognized that the Judiciary was part of a larger system that included the other components of the criminal and juvenile justice systems (e.g., police, prosecutors, defense counsel, detention centers, jails, and prisons) and the community at large (e.g., community-based treatment programs, schools, and parent groups). This recognition led the Task Force to conclude that some problems could be resolved through improved cooperation with other components.

It is in these areas -- working harder and smarter, identifying key bottlenecks where resources were needed, involving the community, and improving the coordination of the governmental units -- that the Task Force recommended responses to the problem of drugs and the courts. Chapter IV of this Report discusses these recommendations. The Task Force recognized that significant costs will be incurred in implementing several of these recommendations. We identify these costs in Chapter V. First, however, we examine the underlying findings on which the recommendations are based.

#### **Finding 1: Working Harder**

To meet the current crisis in processing drug cases in an efficient and equitable manner, the Judiciary must increase productivity through the development and implementation of reasonable standards and procedures. Such standards will ensure reasonable levels of consistency throughout the State and will encourage courts to adopt proven programs to

facilitate efficient case processing.

In determining how the Judiciary could work harder, the Task Force drew on the work of the Special Committee to Assess Criminal Division Needs. That Special Committee recommended that the courts renew their efforts to meet speedy trial goals. The Special Committee considered both bail cases (i.e., defendants who are released on bail or on their own recognizance) and jail cases (i.e., defendants who are incarcerated on pending charges). Pre-indictment goals call for bail cases to be presented to a grand jury within 60 days and jail cases within 30 days. Post-indictment goals call for bail cases to be disposed of within 120 days and jail cases within 60 days. The Special Committee recommended an average statewide standard of 500 dispositions per criminal court per year, provided sufficient public defenders are available and proven management techniques are adopted.

The Task Force believes that standard can be met without running afoul of the criticism of "assembly line justice." Although nothing magical appears in the number 500, the unavoidable fact is that without a reasonable standard, the system will sink. The current statewide average is 470 dispositions per court per year. For the system to survive, the courts must exceed that number. All vicinages should develop performance standards that consider pre- and post-indictment activity and case mix. Meeting such standards will involve the entire criminal justice process. That involvement implicates the rate of prosecutorial screening, the level of backlogs, and other considerations. Vicinages below the Special Committee's standard of 500-dispositions should focus on new procedures, better communication with prosecution and defense, better training for staff, more reliable scheduling, and other innovations.

**Finding 2: Working Smarter**

To produce more dispositions from current (or slightly increased) resources without sacrificing the quality of justice, it is crucial that the Judiciary develop and use a less costly, more efficient, but nonetheless fair method of handling the surge of drug cases. The Task Force believes this objective could be met with the following approaches:

- a. Working with prosecutors to enhance screening to ensure that the Court's time is not wasted (and the defendant's rights not abused) by proceeding with cases that have only a limited chance of resulting in a conviction;
- b. Eliminating processing steps that absorb judicial time but accomplish no real progress in the case;
- c. Developing three separate processing tracks so that less serious drug cases may be dealt with through procedures that continue to hold offenders firmly accountable for their misconduct while requiring less judicial involvement than normal court processing; and
- d. Making wider use of methods that have proven to be effective in expediting case processing in selected courts in the state, including early screening of criminal cases and establishing court-based teams.

Each of these approaches requires an early capacity for case assessment.

**Finding 3: Focusing New Resources on Key Bottlenecks**

To meet the goals of the CDRA, the judiciary must increase its capacity to try cases. Merely working harder and smarter will not solve the problems created by the "war on drugs."

More resources are needed to fund criminal courts, probation, and treatment.

- a. In brief, the criminal courts do not have adequate resources to do the job intended by the Legislature. That inadequacy will persist even with the productivity gains from more demanding standards and case processing innovations. Coming to the same conclusion, the Special Committee to Assess Criminal Division Needs recommended that the Chief Justice increase the number of judges on the criminal bench. The Special Committee also recommended development of a formula for a "judge unit" to ensure that a judge would have sufficient and balanced support, including prosecutorial, defense, and administrative support. The Task Force agrees with this approach, and seeks to use that increased capacity in the "war on drugs."
- b. To ensure that drug offenders are held accountable for their actions, effectively supervised, and helped to break their drug dependency, probation needs additional resources.

Probation is the principal sentence for drug offenders. When adequately staffed to monitor drug use, probation has proven effective to modify the behavior of offenders and to enforce the collection of fines and other court-ordered payments. In light of prison and jail overcrowding and the high cost of added prison and jail space, we must enhance programs that are alternatives to incarceration. Probation must be given enough resources to do its work.

- c. To ensure the justice and efficacy of sentences in drug cases (particularly those involving juveniles, first offenders and pregnant women), adequate treatment options must be available to sentencing judges.

Drug dependent offenders should be held accountable for their actions and supervised effectively to ensure that they do not use drugs or commit additional crimes. Both accountability and supervision are fundamental requirements. In appropriate cases, treatment should be available whether the offenders are in prison, on probation, or on parole. Treatment should become an essential part of the "war on drugs." The Task Force believes in a full range of intermediate sanctions for drug offenders that would preserve the Legislature's intent to get tough with illegal drug activity while minimizing the problems of prison and jail overcrowding.

To be effective, any disposition must be realistic. It does little good for a judge to sentence offenders to jails that are overcrowded or to treatment facilities that are unable to provide treatment. A wide range of options should be available to the court. Judges must become fully informed about treatment alternatives and their suitability for different kinds of offenders.

**Finding 4: Mobilizing Community Participation**

Substance abuse affects communities as much as it does our law enforcement, justice, and health care systems. The community can play a vital and significant role in combatting it, and the Judiciary can help to increase community involvement.

Drugs ravage neighborhoods, turning street corners, parks, and abandoned buildings into places of fear. Drug sellers and drug gangs struggle for control of the streets. Ordinary citizens want a means to fight back without resorting to vigilantism. The courts can offer constructive opportunities to do so.

There are many opportunities for valuable community participation with the courts.

Community members can share in the decision-making about non-threatening offenders, and they can help in the supervision and treatment of those whom the courts release back to the community. The Middlesex Expedited Drug Case Management Program and Project CARE (Community Assistance in Rehabilitation Efforts) provide models for this greater level of community participation.

#### **Finding 5: Coordinating Governmental Units**

All components of the governmental system must coordinate their efforts to eliminate duplication and waste. There must be better criminal justice planning and information sharing as well as improved coordination and communication among the three branches of government.

- a. Although criminal justice agencies have different roles inside the courtroom, outside it they share common goals. Courts, law enforcement officers, prosecutors, defense counsel, and corrections officials should cooperate to find solutions to the problems of the system. If prisons, jails, probation, and treatment programs are overcrowded, sentences do not work. If the courts are overwhelmed, then the prosecutors cannot prosecute cases quickly and effectively. Without sufficient public defenders, both judges and prosecutors are idled. For the system to work, each part must carry its share of the load and no part must be asked to carry an intolerable burden.

Problems that affect one part of the criminal justice system generally affect other parts. The policies or initiatives pursued in one part may undermine the capacity of other components to achieve their goals or objectives. In short, criminal justice plans must be coordinated. Problems should be solved jointly. Although the adversarial system is critical to the consideration of individual cases,

cooperation within the justice system is essential in planning and problem-solving, because without it the adversary system itself is in jeopardy.

- b. An integrated information system is essential to improve coordination among the elements of the criminal justice system. Such a system can reveal delays in case processing. Although each agency needs to keep some data confidential, the information systems must be integrated. The entry of duplicate data and unreliable information due to partial data is wasteful. Giving due consideration to security and confidentiality, the computer systems should be integrated and shared. The various agencies should make joint decisions about uniform procedures, consistency in reports, and overall training. A probation information system, a criminal information system for downgraded and disorderly persons offenses, and a juvenile case tracking system are the final and missing pieces of a total criminal and juvenile justice information system. That system should be brought on-line as soon as possible.
  
- c. Coordination and communication among the three branches of government should be improved to ensure that the criminal and juvenile justice systems can accomplish the goals of the legislative and the executive branches. Improved coordination is necessary also to mobilize the resources of the government and the community to deal effectively with the drug problem.

For the "war on drugs" to succeed, all branches of government must work in a partnership. In that partnership each branch has a vital role and an important perspective to contribute. In short, the leaders of the executive, legislative and judicial branches should keep each other informed of their proposals, concerns, and needs.

## **IV. Task Force Recommendations**

### **A. Case Processing**

The expanded law enforcement effort in the "war on drugs" has resulted in nearly 60,000 indictments in 1990, a 50% increase in just four years. Consequently, the average time from arrest to disposition has more than doubled, from five to nearly 12 months. The great gains achieved in delay reduction by the statewide Speedy Trial Program have largely been lost. Criminal backlogs have soared and the number of fugitive cases, now over 27,000, nearly equals the number of active cases.

Nevertheless, many of the innovative case processing advances continue to work effectively. Some counties have been able to respond to the current challenge and to avoid the collapse of their case flow systems. Procedures, such as early screening and case management, quickly dispose of less serious cases before they consume limited resources. Other procedures ensure that case schedules and court hearings are reasonably certain and efficient. With local adaptation, all counties should implement similar procedures.

The Supreme Court should mandate standard operating procedures for a uniform drug case processing system. The Task Force believes that drug and alcohol cases should be defined broadly rather than narrowly. Procedures for "drug and alcohol cases" should be used not only in cases in which the offenders are charged with offenses such as sale or possession of drugs, but also in cases in which the offenders are charged with other crimes such as robbery, burglary, car theft, or assault, and are suspected of being involved with drugs or alcohol. Task Force members are concerned also about juvenile offenders and cases of abuse and neglect in the Family Division where drugs or alcohol may be a contributing factor. Consequently, the Task Force recommends improved assessment of Family Division cases involving allegations of drug and alcohol abuse.

**RECOMMENDATION 1: Assessment, Pretrial Release, and TASC**

**The Judiciary must have available early assessments and evaluations of the drug and alcohol problems of adult and juvenile offenders whose problems may pose a danger to the public, their families or themselves.**

**Substance-abusing defendants on bail should be supervised and monitored in pretrial release and Treatment Alternatives to Street Crimes (TASC) programs in every county. TASC programs should act as liaison between the courts and the treatment community.**

Every day judges, prosecutors, and defense counsel make important decisions about substance-abusing defendants. The decisions are made soon after arrest in setting bail and in screening, diversion, and sentencing. The consequences of these decisions follow convicted offenders through probation, incarceration, and parole.

Decision makers need to know the extent of a defendant's substance abuse problem, the types of drugs the defendant has used, and the frequency of that use. Consistent with due process guarantees, they should know whether treatment is likely to work and whether the defendant is a danger to oneself or to others. In most counties, however, such information is simply not available. Only five counties currently provide formal drug assessments. Many programs have been lost due to lack of funding.

Three of the five counties providing formal drug assessments use the TASC model. These programs are effective. Beyond mere assessment, they arrange for a defendant's placement in a program and they promote needed treatment programs.

In addition, TASC programs can employ early control and monitoring over pretrial releasees. The Task Force recommends the implementation of TASC programs statewide to ensure early drug and alcohol assessment and to supervise pretrial releasees with drug problems.

Supervised pretrial release now operates in several counties, serving general offenders, and such programs will enhance the supervision of drug-dependent defendants in pretrial release.

## IMPLEMENTATION

- 1.1 The Chief Justice should direct the Assignment Judges to develop a plan in each vicinage to ensure early assessment of all offenders who are charged with drug or alcohol offenses or who are suspected of being involved with drugs or alcohol. The plan should ensure improved assessment in Family Division cases where drug or alcohol abuse is alleged.
- 1.2 The Chief Justice should request the Governor and the Legislature to fund TASC programs to perform drug evaluations. If this funding is not forthcoming, Assignment Judges should develop proposals within their vicinages to obtain funds from the Board of Freeholders or Municipal Alliances. As a last resort, Assignment Judges should reallocate judicial resources to fund TASC positions.
- 1.3 The Administrative Office of the Courts should develop guidelines for assessment programs and provide training to staff conducting assessments.
- 1.4 The Supreme Court should adopt a Court Rule granting limited confidentiality to assessments to protect the due process rights of defendants and to encourage the openness necessary for accurate assessments.
- 1.5 The Conferences of Criminal and Family Presiding Judges should develop guidelines making the initial assessment a condition of bail or release in appropriate criminal and juvenile delinquency cases.
- 1.6 The Chief Justice should direct Assignment Judges to establish supervised pretrial release

programs to supervise and monitor all offenders who are on bail or who are released on their own recognizance, including substance-abusing offenders.

- 1.7 The Conference of Criminal Division Presiding Judges should solicit recommendations from prosecutors, defense counsel, and Criminal Division managers and develop guidelines to unify and streamline the bail decision process. Once guidelines are formulated, the Criminal Practice Committee should develop a Court Rule requiring the use of uniform bail practices.

## **RECOMMENDATION 2: Centralized Intake**

**A centralized intake process, such as Central Judicial Processing (CJP) hearings, should be implemented in each county to accomplish early screening, case management, and expeditious disposition of criminal complaints. Adequate court staff to prepare needed information should be assigned to this process.**

Early screening of criminal cases is vital to efficient management of burgeoning criminal calendars. CJP has proven in several counties to be a critical event enabling the court and prosecutors to focus on cases early in the process.

While some counties have developed other case management procedures, no procedure is as open and effective as CJP. At a CJP hearing, prosecutors screen cases and exchange discovery with defense counsel, who begin their representation. The court reviews bail, starts tracking the case, and channels less serious cases to diversion or other early disposition programs. CJP is a unique forum that can address the majority of case management needs. It should be implemented statewide.

While some CJPs effectively use municipal court judges, they generally work better if Superior Court judges preside, handling such processes as bail, pretrial release, and disposition, including the disposition of downgraded felony cases. A regular team of prosecutors, defense, and court support personnel should be assigned to the CJP.

## **IMPLEMENTATION**

- 2.1 The Supreme Court should direct Assignment Judges to develop, through the speedy trial committees, centralized intake processes, such as CJP, in each vicinage.
- 2.2 The Assignment Judges should direct Criminal Division managers to assign adequate court case management staff to centralized intake functions.

### RECOMMENDATION 3: Prosecutorial Screening

Prosecutors must vigorously screen indictable cases if the criminal process is to deal effectively with more serious cases. To ensure the cost-effective, consistent, and principled implementation of the Comprehensive Drug Reform Act (CDRA), the Attorney General and the county prosecutors should continue to develop detailed guidelines concerning screening, downgrading, pretrial intervention, and plea bargaining criteria in drug cases.

Prosecutors are the gate-keepers of the criminal justice process. When exercising their responsibilities, they should consider the capacity of the courts to handle a given level of indictments. The Judicial Conferences of 1980, 1986, and 1990 have supported this gate-keeping role.

Prosecutors in some counties indict over 60% of criminal complaints while other prosecutors indict less than 40%. Different types of cases and other factors may contribute to these differences, but much variation arises from differences in the overall approach to screening. Some prosecutors intensively screen cases at the earliest stages, even before the complaint is signed, while others do much less screening. The differences in approach lead to disparate handling of similar cases. For example, similar cases may or may not reach the indictment stage, and the length of jail or prison terms may vary from county to county. Now, perhaps more urgently than ever before, prosecutors must act to preserve scarce judicial resources for the more serious cases.

Prosecutors, in conjunction with the Office of the Attorney General, have developed guidelines for the exercise of prosecutorial discretion in school zone drug cases and in capital cases. This approach should be expanded to all cases.

## IMPLEMENTATION

- 3.1 The Judiciary should support the Attorney General and the Prosecutors in their role as gate-keepers to the courts and in their efforts to develop and improve guidelines for the exercise of prosecutorial discretion.
- 3.2 In a cooperative effort, the Criminal Division managers and defense counsel should provide the prosecutors with such information as may facilitate the screening process.
- 3.3 Criminal Division managers should regularly advise prosecutors of case management statistical data so that prosecutors will know what effect their screening procedures are having on court backlog.
- 3.4 The Assignment Judges should develop remand courts to deal with the number of downgraded cases resulting from effective screening.

#### **RECOMMENDATION 4: Case Processing Tracks**

**From their inception, drug cases should be managed in three case processing tracks based primarily on the seriousness of the offense, the offender's prior record, and the nature and extent of drug use, if any.**

Drug cases vary according to the type and amount of drugs involved, the offender's status as an abuser or dealer, as well as his or her criminal history and place in the drug hierarchy. Given those variables, the appropriate disposition could range from out-patient treatment to an extended prison term. Therefore, the case management needs of each case also vary greatly.

At the outset, preferably at a CJP hearing (see Recommendation 2), the prosecutor should review incoming cases and together with the court and the public defender assign cases to one of three tracks (Standard, Pre-Adjudicatory Diversion, and Post-Adjudicatory Treatment). Each case should be placed on its proper track within 21 days of arrest. These three tracks form the foundation of a differentiated case management system (DCM). Figure 1 (page 25) outlines the types of offenders and pretrial strategies appropriate to each of the case processing tracks. The standard track uses processing measures designed to move cases quickly. It recognizes, however, that the gravity of the offense or the previous offense history of the offender may require the full panoply of court procedures. The pre-adjudicatory diversion and post-adjudicatory treatment tracks encourage defendants to seek treatment programs soon after drug assessment. Cases within both tracks should be considered for early disposition on receipt of the required assessment-information and identification of available options. The court will downgrade or dismiss some cases and order others into diversion or treatment programs.

#### **IMPLEMENTATION**

- 4.1 The Chief Justice should direct Assignment Judges to implement the recommended differentiated case management system in each vicinage.

**FIGURE I - TYPOLOGY**

<b>CASE PROCESSING TRACK</b>	<b>TYPOLGY CATEGORIES</b>	<b>PRETRIAL STRATEGIES</b>
<b>Standard Track</b>	<ol style="list-style-type: none"> <li>1. Network leader</li> <li>2. Non-user profiteer and transporter</li> <li>3. Violent offender</li> <li>4. Persistent offender</li> <li>5. Repeat distributor</li> </ol>	<p>Strict pretrial conditions as appropriate to the arrestee</p> <p>Strict adherence to speedy trial goals</p> <p>Adoption of processing measures to move case quickly</p>
<b>Pre-Adjudicatory Diversion Track</b>	<ol style="list-style-type: none"> <li>1. First offender substance user/drug dependent person</li> <li>2. Stabilizing drug abuser</li> <li>3. Non-violent recidivist substance user or drug/alcohol dependent person</li> </ol>	<p>Consideration of downgrades to Municipal Court or remand court by a centralized system (include conditional discharge)</p> <p>Expand use of non-cash bail conditions to encourage early treatment and monitor drug use</p> <p>Drug or alcohol treatment (inpatient and outpatient)</p> <p>Education and job placement</p> <p>Community Service</p>
<b>Post-Adjudicatory Treatment Track</b>	<ol style="list-style-type: none"> <li>1. Drug or alcohol dependent person/substantial recidivist (non-violent)</li> <li>2. User/seller for purposes of supporting own use</li> </ol>	<p>Increase use of bail conditions to encourage early treatment and monitor drug use</p> <p>Reduce processing delays</p> <ol style="list-style-type: none"> <li>a). Accusations in lieu of indictment</li> <li>b). Early judicial conference</li> <li>c). Conditional pleas to avoid CDS testing delays</li> <li>d). Simultaneous sentencing</li> </ol> <p>Sentence includes treatment.</p>

**RECOMMENDATION 5: Calendaring and Effective Scheduling of Court Events**

Cases should be handled through individual calendar systems. Prosecutor and public defender caseloads and Criminal Division staff teams should be assigned to specific courts.

A series of court events must occur to ensure meaningful case processing:

- A) Discovery should be available with the filing of indictment;
- B) Court schedules should be set, not by rote, but according to the needs of the case and availability of the parties;
- C) Defendants should receive notice in court of future court events;
- D) Court staff should handle all non-judicial matters before the arraignment and should directly assist the judge in calendar management;
- E) When cases have had sufficient status conferences and are prepared for trial, and when a plea offer has been fully discussed and understood by the defendant, the court should then impose a plea cut-off;
- F) Trial lists should be developed which call for about seven cases per week; and
- G) Training should be undertaken as needed.

Where large backlogs exist, an inventory should be taken, resources shifted, and special programs commenced.

The most productive calendars have been individual calendars with teams of prosecutors, public defenders, and Criminal Division staff. This team approach minimizes scheduling conflicts, promotes accountability for the case, and encourages active supervision of the process by the judge. In many counties, assistant prosecutors and public defenders already have caseloads coordinated with specific individual calendar courts. A coordinated approach should be the norm.

Recent studies show that the role of court support staff varies greatly among the counties. In many counties, case supervisors complete various investigative reports, such as bail, pretrial intervention, or presentence reports; in other counties they also manage the calendar by ensuring that cases are on schedule, reviewing calendars, and recommending, when necessary,

the rescheduling of cases where the hearing would not be meaningful. The most efficiently run courts are those where court staff routinely assist the judge in calendar management.

Many practitioners are justifiably concerned about the duplication of effort and waste of time that arises when court events must be postponed or do not produce meaningful results. Moreover, the above-described case processing techniques have repeatedly proven their value in attaining more efficient calendaring. Early discovery allows parties to prepare for court events. Scheduling according to the needs of the case and availability of the parties can avoid the "churning" of cases.

Pleas should be negotiated at the final pretrial conference, shortly before trial scheduling. This practice contemplates that motions heard in advance of trial will usually be disposed of before a plea cut-off date and after the defendant fully understands the options. The plea cut-off procedure must be standardized across the state. In counties where productivity is double the state average, the plea cut-off is the linch pin of the procedure. Both adversaries must make their best offer or face a trial date certain. Neither side may waste the other's time, nor that of the court or of witnesses. Recognized benefits of an effective plea cut-off include more certain trial dates, better attorney control over clients and witnesses, less judicial "down time," and more productive pretrial conferences.

Some counties routinely schedule 15-20 cases per week per judge. To eliminate wasteful trial calls and "churning" of cases, trials should be set on a manageable list -- about seven cases per week per judge. This can occur, however, only where the pretrial conference process successfully removes cases which do not require trial from the calendar.

The series of court events, from discovery at the filing of indictment to trial lists of seven cases per week, build on each other. For instance, without an effective plea cut-off, the trial list could be 25 cases per week, not seven as recommended. This series of court events should, therefore, be viewed as an integrated system in which the absence of one element can seriously hinder effective case processing.

## **IMPLEMENTATION**

- 5.1 The Chief Justice should request Assignment Judges to adopt individual case management systems.
- 5.2 Assignment Judges should request Criminal Presiding Judges and Criminal Division managers to:
  - Develop guidelines to ensure that defendants receive notice in court for future court events and to ensure productive in-court arraignments and management conferences;
  - Develop guidelines for the enforcement of plea cut-offs; and
  - Reduce the backlog by examining ways to return fugitives to the active list, such as routine examination of the files, active bail supervision, simplified process of surrender, and amnesty days.
- 5.3 The Administrative Office of the Courts should develop and conduct training programs on individual case management for Criminal Division judges and staff. Prosecutors, public defenders and others should be invited to attend the training programs.

**RECOMMENDATION 6: Performance Standards**

**To assess court performance, productivity must be measured by reasonable standards. This measurement becomes more critical given the large increase in indictable cases. Each vicinage should develop performance standards that consider pre- and post-indictment activity and case mix.**

Court productivity varies greatly from county to county. In some counties the "court teams" (judge, prosecutor, defense) dispose of only about 300 cases per year; in others each court disposes of triple that number. Differences in prosecutorial-screening-practices account for a part of the difference, but only a small part. A substantial number of counties, including several large counties, consistently produce 500 dispositions or more per court.

The current statewide average is about 470 dispositions per court per year. Thus, to dispose of the 58,000 indictments filed in 1990, about 124 judges ( $58,000 \div 470$ ) would be needed, not including those needed for the current backlog of over 15,000 indictments already over four months old. Currently, 116 judges are assigned to the Criminal Division. Given current fiscal conditions, the state court system must find ways to increase its ability to handle the volume of filings. Minimum productivity standards are essential.

The Special Committee called for such a standard, stating in its report (page 16), "With sufficient public defenders and an effort to adopt proven management techniques, a statewide rate of 500 cases disposed per judicial unit should be realized, and we recommend this figure as a standard ... We realize that the latter figure, 500 cases, has not been empirically arrived at and will, perhaps, require certain refinements based upon the type and complexity of the cases assigned to a particular unit."

Given certain differences in the practice, resources, case mix, and the need to consider both pre- and post-indictment performance, the actual standard for each vicinage should initially be set locally. The standard is not a goal for each individual judge, but the recommended

minimum average per court per vicinage. It serves two purposes: one, it will inform the Legislature of the aggregate needs of the system and two, it will indicate attainable performance on the whole.

**IMPLEMENTATION**

- 6.1 The Chief Justice should request the Speedy Trial Coordinating Committee to prepare a model design for an effective case management system incorporating the best procedures used by courts producing consistently high performance.
  
- 6.2 The Chief Justice should request local planning committees to develop a plan to increase productivity of their courts, setting forth goals and steps to achieve them.
  
- 6.3 The Administrative Office of the Courts, with Criminal Presiding Judges and Criminal Division managers, should design and conduct training programs for Criminal Division staff on case management subjects, including backlog reduction and control.

**RECOMMENDATION 7: Case Processing Resource Standards**

**Sufficient resources to support efficient court operations are lacking. Standards must be established to ensure that sufficient resources are available. The most pronounced need is with the public defender staff, but judges, prosecutors and support staff are also urgently needed.**

**The role of the private bar in the delivery of legal representation to indigent defendants should be expanded. Accordingly, the Legislature should adopt and fund an appropriate fee schedule and procedures. These measures would allow cases to be processed more expeditiously and at a much lower cost per case.**

With improved case processing procedures, the courts will be able to be more productive. Nevertheless, more resources are needed. The Special Committee to Assess Criminal Division Needs reported that the "administration of criminal justice faces a catastrophic failure," and that "resources are desperately needed." The Special Committee proposed that certain minimal resources, including two prosecutors, two public defenders, and sufficient support staff should be coordinated as a team with a particular judge. As described in the Special Committee's report, the most critical need is for additional public defenders: "If the system's resources are not in balance, then at best we will have inefficiency and at worst a complete failure to maximize resources. It makes little sense to add resources anywhere until the imbalance in the public defender's personnel is corrected." The Task Force endorses these conclusions and recommends that staffing needs be reviewed periodically.

The role of the private bar in representing indigent defendants should be expanded to supplement that of public defenders. Where public defenders average 400-500 cases each, calendars are congested and defendants remain in extended pretrial detention. The National Advisory Committee on Criminal Justice Standards and Goals (1973), the National Legal Aid and Defender Association Guidelines (1984) and the ABA (1987) call for a maximum of 150 assignments per attorney per year with the remaining assignments to the private bar. The Task Force recommends greater use of the private bar in defending criminal cases. Specifically, the

Task Force recommends the adoption of a reasonable fee schedule and procedures to handle cases more expeditiously and at a much lower cost per case. The public defender's compensation schedule for non-staff "pool" attorneys provides for payments on an hourly basis per case with higher compensation for time in court.

## **IMPLEMENTATION**

- 7.1 The Chief Justice should request the Speedy Trial Coordinating Committee to establish staffing needs and to conduct periodic audits to determine compliance in each vicinage.
  
- 7.2
  - a. The Chief Justice should form a committee composed of representatives from the private bar, public defenders, and others to study payment schedules used in other states to reimburse private bar for legal representation and to recommend a payment system and procedures to handle indigent cases.
  
  - b. The Chief Justice should request the Legislature to adopt the recommended payment system and the procedures for handling indigent cases.

### **RECOMMENDATION 8: Standards on Interpreting and Translation**

**Defendants' rights to understand the proceedings against them are critical in the criminal justice process. Improvements need to be made in the services provided defendants who do not speak English. Interpreter and translator services should be routinely available in the courts; forms used by the court, which defendants must read, sign, or both, must be understandable to the non-English speaking defendant; and interpreters who provide interpreting services to defendants must be screened, to ensure they pass basic levels of competency.**

The Supreme Court Task Force on Interpreter and Translation Services in its 1985 Final Report identified several problems regarding the provision of services to non-English speaking defendants. One problem is that interpreter services are not routinely available in many counties; another is the uncertainty regarding who is to pay for such services. Yet another problem is the competency of those interpreters providing service to defendants. The Administrative Office of the Courts reports that 92% of interpreters tested have failed basic screening tests. Furthermore, court forms are often either not translated or are poorly translated. Even when available, translated forms are often not used.

Although there have been some advances in interpreting and translating services since 1985, much remains to be done. The most compelling need is for Spanish translations. Translations into other languages are as critical, however, and must be made as staff resources permit.

### **IMPLEMENTATION**

- 8.1 The Chief Justice should request the Legislature to make a determination whether the state or the defense should pay for a defendant's interpreter.
- 8.2 The Administrative Director of the Courts should direct staff to translate all court forms used by the general public into Spanish. As staff resources permit, forms should be

translated into other languages as required.

- 8.3 The Administrative Director of the Courts should continue to update interpreter screening and hiring requirements and to conduct staff training programs.

## **B. Treating and Supervising the Substance-Abusing Offender**

Although the Judiciary can improve the internal processing of drug cases, these improvements by themselves are not enough. Without treatment, substance-abusing offenders will continue to pass through the revolving door between the courthouse and the prison. The Judiciary should call attention to the need for additional treatment services and cooperate in the development of new supervision programs.

### **RECOMMENDATION 9: Treatment Services**

The Chief Justice should request the Legislature, executive branch agencies and community-based organizations to expand treatment services for substance-abusing offenders. When needed, treatment should be imposed as a mandatory condition at disposition.

The New Jersey Department of Health estimates that approximately 550,000 alcohol abusers and 150,000 drug abusers need treatment. At current levels of state and federal funding, only 15 - 20% of these persons receive the services they require. Many substance abusers will reappear before the courts unless they receive adequate treatment. Because the funding of treatment facilities is a legislative responsibility, the Chief Justice should request the Legislature to review such funding. Since the provision of services is the responsibility of executive branch agencies and community-based organizations, the Chief Justice should encourage them to expand services addressing the needs of court-involved persons.

When treatment is available, the Judiciary can order offenders to participate in self-help groups (e.g., Alcoholics Anonymous and Narcotics Anonymous), out-patient care, or a residential drug program. Mounting evidence indicates that court-ordered participation is effective. Probation officers can hold probationers accountable and effectively enforce compliance with mandatory treatment.

**IMPLEMENTATION**

- 9.1 The Chief Justice should inform the Governor and the Legislature of the treatment needs of substance-abusing offenders.
- 9.2 The Administrative Director of the Courts should work with the Department of Health and community-based service providers to expand treatment services for adult and juvenile substance-abusing offenders. In the absence of state-level action, the Assignment Judges should direct each Vicinage Chief Probation Officer to work with community groups to develop voluntary self-help and out-patient centers for the substance-abusing offenders.
- 9.3 Judges in the Criminal and Family Divisions and the Municipal Courts are authorized to impose treatment as a mandatory condition of the disposition. The sentencing judge should order treatment as needed and appropriate based on the assessment and evaluation report provided by drug and alcohol evaluation specialists.
- 9.4 The Administrative Director of the Courts should develop materials for distribution to all sentencing judges on the importance of mandatory treatment as a condition of supervision for an offender with a substance abuse problem.

**RECOMMENDATION 10: Training Relating to Drug Abuse**

**The Administrative Office of the Courts, in cooperation with executive branch agencies and others, should develop a comprehensive training program on the nature of addiction, relapse and recovery.**

Judges and their staff must have a working knowledge of the complex nature of addiction, the various kinds of treatment available, and realistic expectations for success. Training topics should include the relationship between substance abuse and AIDS, as well as counseling and medical services for infected drug users. To foster a better understanding of each others' responsibilities, training should be provided for interdisciplinary teams composed of judges, probation officers, law enforcement staff, prosecutors, public defenders, treatment personnel, and others.

**IMPLEMENTATION**

- 10.1 a. The Administrative Director of the Courts should invite representatives from the Attorney General's Office, the Departments of Corrections and Health, academicians, and treatment providers to assist in developing a comprehensive training curriculum on drug and alcohol addiction.
- b. The Administrative Office of the Courts should coordinate training in each county for teams composed of judges, probation officers, and Criminal and Family Division management staff. Invitations to training programs should be extended to law enforcement personnel, prosecutors, public defenders, parole officers, and providers of services to juvenile offenders.

**RECOMMENDATION 11: Drug Testing and Alternatives to Incarceration**

**The Supreme Court should call for the mobilization of substantial new resources for probation to conduct drug testing on all appropriate offenders and to establish alternatives to incarceration.**

Each probation department conducts some drug testing. County-to-county, however, testing costs, frequency of testing, and funding vary. Approximately \$400,000 was appropriated in 1988 by all counties to pay for drug testing. In most counties, fewer than 20% of the probationers were tested. Rarely are probationers tested as often as once a month. Consequently, in most counties the level of drug testing does not ensure effective detection or deterrence. Current drug testing programs promote neither remedial intervention nor further sanctions. Yet testing can be made effective. Adequate funding is needed to support a comprehensive drug testing program tough enough to curtail use by probationers.

Additionally, the Judiciary should explore alternatives to incarceration such as state and county Intensive Supervision Programs (ISP), Project CARE (Community Assistance in Rehabilitation Efforts), residential treatment programs, and Operation SABRE (Substance Abuse Behavior Reform Effort). With these options, the court can set effective conditions for probation.

When imposing a split sentence (i.e., both jail time and probation), judges should consider reversing the normal sequence, provided that this can be done without violating the terms of a negotiated plea agreement. At present, offenders generally serve jail time first and then are released to probation. Offenders may be better motivated if the probation term is served first, with the understanding that successful completion could lead to a suspended jail sentence.

## IMPLEMENTATION

- 11.1 Since the 1991 Judicial Conference will study the issue of probation resources, the Chief Justice should share the work of the Task Force on Drugs and the Courts on this subject with the Task Force on Probation.
- 11.2 The Chief Justice should direct the Conference of Chief Probation Officers to research the use of drug testing and drug testing technologies, develop drug testing standards, and identify costs associated with a comprehensive drug testing program.
- 11.3 The Chief Justice should advise the Executive and the Legislature of the need for additional resources to expand drug testing in the counties.
- 11.4 The Conference of Chief Probation Officers should:
  - a. Identify effective alternatives to incarceration program models for supervising juvenile and adult substance-abusing offenders for duplication in all vicinages and identify associated costs; and
  - b. Work with Assignment Judges and Administrative Office of the Courts staff to seek funding to implement the models.
- 11.5 The Administrative Office of the Courts should serve as a clearinghouse for information and funding opportunities concerning drug testing and alternatives to incarceration programs, provide technical assistance in preparing grant applications, and undertake and cooperate in short term and longitudinal research concerning drug use, treatment and alternatives to incarceration programs.

## RECOMMENDATION 12: Probation Supervision

The Supreme Court should direct implementation of uniform statewide case management systems for probation supervision to increase the efficient use of existing resources.

Since the enactment of the Comprehensive Drug Reform Act, more than 20,000 convicted drug offenders have been placed on probation. The term of probation, however, is likely to be meaningless unless the probation officers have the time to work with the probationers. A case management system recently endorsed by the Assignment Judges provides a model for supervising probation caseloads. Under that system, cases will be assigned to one of three supervision levels, each differentiated by intensity of supervision and specific needs. The supervision-classification will determine the frequency of probation officer contact. The number of probation officers needed will therefore follow naturally by calculating the time required to make those contacts. Development of this system will enable probation officers to supervise more effectively the increased number of drug offenders.

## IMPLEMENTATION

- 12.1 The Conference of Chief Probation Officers should develop a statewide implementation plan for A Model for Enhancing Probation Supervision: Purpose, Priorities, Practices which would involve staff training, provisions for technical assistance, automated support and performance standards.
- 12.2 Once the Supreme Court approves the plan, the Assignment Judges should work with the Chief Probation Officers to implement the plan in each vicinage.
- 12.3 The Assignment Judges should submit annual progress reports on the case management system to the Supreme Court.

**RECOMMENDATION 13: Community Participation**

**The Judiciary should join with schools, families, the community and appropriate state agencies to develop substance abuse prevention and intervention programs. The use of community-volunteers in supervision and monitoring programs for juvenile and adult substance-abusing offenders should be expanded.**

The community feels isolated from the Judiciary. In fact, some community members have said that "justice has no face in the community." Perhaps this frustration arises from a lack of understanding. Judges should meet regularly with community members to explain the judicial process and to promote active participation in the work of the courts.

In their determination to eradicate drug abuse, community leaders are eager to cooperate with the courts. Understandably, judges must concentrate first on their core judicial functions. When appropriate, however, judges, probation officers and other judiciary employees should be visible in the community and cooperate in local anti-drug efforts.

Drug education and prevention programs, mandatory in grades kindergarten through 12, are vital to reducing juvenile drug use. These programs include Project DARE (Drug Abuse Resistance Education). This program enables law enforcement officials and teachers to work together to prevent drug use among school children. The Governor's Council on Alcoholism and Drug Abuse is working to establish municipal alliances to develop prevention and education programs. The Task Force supports an expansion of these programs within every school district. Drug prevention and education programs should involve the juvenile's family so that the school's commitment against drugs is reinforced.

Volunteers can be effective in monitoring adult and juvenile probationers. The Expedited Management of Drug Cases Program in the Middlesex Vicinage uses community volunteers to help in drug cases. Volunteers participate in the treatment, supervision and monitoring of offenders within the neighborhood, and they make the court's efforts more realistic in the

offender's life. The Judiciary should encourage the expansion of such involvement across the state.

**IMPLEMENTATION**

- 13.1 The Chief Justice should authorize judges to be members of Municipal Alliances where they can be more visible in the community and facilitate community awareness of the needs of court-involved individuals.
  
- 13.2 The Judiciary, through the Governor's Council on Alcoholism and Drug Abuse and the State Youth Services Commission, should join with schools, community leaders and the Departments of Health and Education to develop substance abuse prevention programs for juveniles and their families.
  
- 13.3 Assignment Judges should take steps, such as establishing Speakers Bureaus, to acquaint the community with the judicial system.
  
- 13.4 Assignment Judges should include a community component similar to the volunteer component of the Middlesex Vicinage Expedited Management of Drug Cases Program in all expedited drug case management projects. The Assignment Judges should establish a process whereby the community can: a) provide sentencing information to the court; b) identify and develop community resources for offenders; c) perform the roles of liaison with the court and advocacy for criminal justice improvement; and d) participate in the development and monitoring of the sentence plans, especially the supervision component.

### **C. Automation**

Case-related information is an essential prerequisite to an effective criminal justice system. If information on cases, defendants, and treatment is not available, the system cannot function effectively. As a general rule, information collected by one element of the system should be available to other elements. On the other hand, the presumption of sharing information can be overcome when required by concern for confidentiality and due process.

#### **RECOMMENDATION 14: Statewide Automated Case Information System**

Within the Judiciary, Office of the Attorney General, State Police, Department of Corrections, county prosecutors, county jails, and other agencies, information systems should be linked to more efficiently provide improved information to all agencies. An inter-agency committee should be established to oversee the integration of existing information systems into a comprehensive data network. The committee should focus on the following essential elements of that integration process:

- Access to relevant data (with uniform identifiers)
- Appropriate data security/confidentiality
- Data reliability and uniformity
- Ease of report preparation
- Elimination of duplicative data entry
- Advice to those establishing new systems
- Establishment of uniform procedures
- Development of statewide planning capability

Additionally, new system components will be required within Probation, Municipal Courts' criminal caseload, and the juvenile system to develop a comprehensive network.

Shared information systems are essential to the justice system's ability to deal with drug cases. Integrated information systems, with their greater efficiency and more current data, would enable the justice system more readily to handle those cases. Information concerning bail, sentencing, and plea agreement decisions directly affect an individual's freedom and the safety of others; the information must be timely and reliable.

Technology is already available to accomplish this network. The network, however, needs to be developed and coordinated. Several additional system components must be developed to establish a comprehensive offender history. A probation component (Court Adult Probation System -- CAPS) is necessary to link county probation departments with other court, criminal justice, and juvenile justice databases.

An inter-agency committee should develop the uniform procedures, security features, and system protocols to permit the integrated network to function. The committee should determine key elements such as offender identification and access, ensure the compatibility of hardware and software, and permit agencies to perform statewide planning estimates and impact analyses based on systemwide data.

## **IMPLEMENTATION**

- 14.1 The Chief Justice should request the Attorney General, Public Advocate and Commissioner of Corrections to join with the Administrative Director of the Courts in establishing a committee to integrate existing information systems and to oversee development of other necessary system components.
- 14.2 The Administrative Director of the Courts, with the Attorney General, the Public Advocate, and the Commissioner of Corrections, should identify resource needs to integrate existing information systems into a comprehensive information system and to prepare a budget request for these resources.
- 14.3 The Administrative Director of the Courts should continue the work in progress to develop other required judicial information system components, including those in probation, municipal courts, and county jails.

### **RECOMMENDATION 15: Treatment Resource Directory**

The Administrative Office of the Courts, in cooperation with the state Department of Health, should develop an automated on-line drug and alcohol treatment resource directory for judges, probation officers and case managers, as well as for Department of Health staff and treatment providers.

Information related to specific cases and offenders is vital. Judges, court staff, probation officers, and treatment personnel need timely and accurate information on resources and drug treatment programs. The necessary information includes:

- Program description (residential, outpatient, self-help, etc.)
- Intake and admissions criteria
- Services such as day care, acupuncture, and detoxification
- Treatment philosophy
- Costs

Directories, such as those prepared by the Department of Health and the Administrative Office of the Courts, are hard to keep current. Using automation is better, both to disseminate information and to keep the directory accurate. The directory could be updated whenever programs change, and it should be reviewed on a bimonthly or quarterly basis.

### **IMPLEMENTATION**

- 15.1 The Chief Justice should ask the Commissioners of Health and Corrections to join with the Administrative Office of the Courts in establishing an inter-agency committee to develop a statewide automated resource directory on drug and alcohol treatment programs. Representatives from the treatment community and the Local Advisory Councils on Alcohol and Drug Abuse (LACADAs) should be invited to participate.
- 15.2 The Administrative Director of the Courts and the Commissioners of Health and Corrections should develop a joint proposal for funding the automated resource directory.

**D. Special Juvenile Concerns**

The key recommendations in this Report apply to both drug-related juvenile delinquency cases and to adult criminal matters. Recommendations such as early assessment and evaluation of offenders, the need for treatment options, community participation, and automation are as important in delinquency matters as in criminal cases. Overcrowding of juvenile detention centers, however, requires special attention.

**RECOMMENDATION 16: Juvenile Detention**

The Family Division Judges should consider overcrowding when making detention decisions, and, when consistent with public safety, should seek to exhaust available alternatives before committing a child to a detention facility.

Between Court Years 1987 and 1989, the number of juveniles detained for drug cases increased by over 100% (from 1,345 to 3,016). The overcrowded facilities for juvenile drug offenders caused the Task Force to look at both expanded facilities and alternatives to detention.

While judges must always have the ability to detain a juvenile when appropriate, they should consider overcrowding when making the detention decision. Judges should receive a daily census of juveniles in detention. When the detention population exceeds capacity, judges should consider releasing less dangerous offenders, with appropriate conditions such as home detention or participation in an alternative program.

Alternative programs may be more successful and are less expensive than secure detention. For less serious cases, and when ties to family, school or community may be productive, judges should consider home detention or community-based services.

Home detention is a restriction on liberty and requires priority case management. To

avoid abuses, judges should not use home detention unless the criteria for detention are met. Home detention also requires periodic review by Family Division or probation staff.

## **IMPLEMENTATION**

- 16.1 The Conferences of Family Division Presiding Judges and Family Division managers should develop guidelines governing the information which should be available to the judge and to intake workers when making detention decisions.
- 16.2 Assignment Judges should request county juvenile detention centers to provide judges with a daily census of juveniles being held in detention so that judges are able to consider detention center overcrowding when making detention decisions.
- 16.3 The Chief Justice should request that the Department of Corrections establish and enforce standards for maximum detention center capacities and develop alternatives that would remove youths over the age of eighteen from county juvenile detention centers.
- 16.4 When allocating discretionary funding, County Youth Services Commissions should give priority to establishing a continuum of detention alternative services.

**E. Interbranch Communication and Cooperation**

The successful waging of the "war on drugs" is not the job of a single component of government, but a shared responsibility of all three branches of government. With such wide responsibility, the greatest possible cooperation and communication is important.

**RECOMMENDATION 17: Interagency Communication**

**The Supreme Court should promote better communication and cooperation among the judicial, the executive, and the legislative branches and the educational and treatment communities.**

Solutions to the problems of drug abuse require increased cooperation among judicial officials, legislators, probation personnel, and community treatment professionals. For example, periodic conferences between sentencing judges and probation officers permit discussion of problems associated with particular sentences and of sentencing options.

Further, treatment professionals should work more closely with judges and court staff. Periodic forums should be conducted with treatment providers. These educational forums would address specific substance abuse problems, provide for expert testimony, and develop plans to solve current problems. Probation department liaisons with the local treatment community would help to ensure adequate follow-up of sentencing conditions and to resolve any problems among treatment providers, the courts, and probation officers.

The CDRA poses substantial problems for probation. Thousands of drug offenders are being placed on probation, subject to mandatory drug penalties and required community service. Many of these probationers also require urine testing and drug treatment. The burden of these cases is stretching already strained resources to the breaking point. The Supreme Court's State Advisory Board for Probation should undertake the task of advising the Legislature about the

capabilities and limitations of probation.

## **IMPLEMENTATION**

- 17.1 The Assignment Judges should establish within each probation department a liaison position to follow-up on sentencing conditions with local treatment providers.
- 17.2 The Chief Justice should request the State Advisory Board for Probation to initiate and moderate periodic educational public forums to address specific substance abuse problems, provide for expert testimony, and stimulate the development of recommendations and plans to resolve difficulties.
- 17.3 The Chief Justice should request the State Advisory Board for Probation to advise the Legislature through the Administrative Director of the Courts about the capabilities and limitations of probation.

**F. Legislative Issues**

Throughout its work, the Task Force reviewed controversial issues that elicited diverse views. Two recommendations, one that would permit prosecution without indictment in some cases and another that addresses sentencing flexibility, require continued discussion among the three branches of government and representatives of interested groups.

**RECOMMENDATION 18: Constitutional Amendment Regarding Third and Fourth Degree Offenses**

**A constitutional amendment should be adopted to enable prosecutors to proceed without indictment on third and fourth degree offenses or equivalent crimes with a statutory maximum of five years or less, provided adequate safeguards are adopted.**

Drug arrests have placed a heavy burden on the grand jury system. Backlogs have soared; the time from arrest to indictment is between three and six months in most counties. Annual costs to operate the system statewide have been estimated at 15 to 20 million dollars, including police overtime. Over the years, various committees have questioned why New Jersey remains one of the small minority of states that retains this procedure for all felony-level cases. Proposals in the past have suggested replacing the indictment process with the simpler form of information. However, these proposals also recommend a probable cause procedure for all filings that could be more costly to the system. Screening, diversion and early treatment of the less serious third and fourth degree drug cases should render indictments unnecessary.

**IMPLEMENTATION**

18.1 The Chief Justice should recommend to the Governor that he appoint a special committee to conduct a formal study of costs associated with the use of the grand jury in third and fourth degree cases and to study and set forth in detail advantages and disadvantages of the abolition of the grand jury requirement in these cases.

**RECOMMENDATION 19: Sentencing Flexibility**

Substantial concerns have been expressed about the need for greater flexibility in sentencing drug offenders; law enforcement officials, among others, however, continue to support mandatory sentencing under the Comprehensive Drug Reform Act (CDRA). While recognizing that the ultimate responsibility rests with the executive and legislative branches of government, the Task Force recommends that representatives of all governmental branches, as well as appropriate non-governmental representatives, continue to meet to discuss these concerns.

Critics of CDRA, including many judges, believe that CDRA should be amended to permit more appropriate sentencing decisions in individual cases. The Governor, the Attorney General, and the County Prosecutors Association (among others), however, continue to support mandatory sentencing and urge that the general deterrence policies of CDRA be given additional time to work.

Proponents advocating the amendment of CDRA acknowledge the Legislature's intent to have tough-minded sentencing, but call for a more reasoned recognition of the role of substance abuse in sentencing decisions. These proponents believe that sentencing can be both tough and reasonable. They contend that if substance abuse or addiction contributes to crime, the potential effect of treatment should be included in sentencing decisions. Hence, they conclude that some offenders would benefit more from mandatory drug treatment than from mandatory incarceration. Finally, they point to overcrowded jails and prisons, and ask whether it continues to make sense to build prisons when it might be more economical to treat, rather than incarcerate, drug offenders who would benefit from treatment. Many judges, moreover, feel powerless and frustrated in situations in which they believe justice requires flexibility in sentencing.

On the other hand, proponents of mandatory sentencing point to the legislative policy of general deterrence through the automatic imposition of sanctions regardless of an offender's personal needs. In their view, punishment must fit the crime, not the criminal, in order to be

effective. The law enforcement community contends that CDRA is deterring criminal activity. That community believes that any significant move away from CDRA's mandatory sentencing provisions would send the wrong signal at this time. Furthermore, they believe that such modifications would necessarily undermine the ability of prosecutors to conduct plea negotiations, thereby greatly increasing the number of cases that would have to be tried -- with obvious adverse consequences to the attainment of speedy trial goals. Finally, the law enforcement community believes that the Judiciary's call for greater judicial discretion in sentencing overlooks the discretion vested by CDRA in the law enforcement community -- discretion which is already being exercised in the large majority of cases and which, in its exercise, already takes into consideration the individual needs and conditions of the accused.

Many of the Task Force recommendations seek to make more efficient use of limited resources. The criminal justice system is still learning about drug abuse, the utility of drug treatment, the effect of jail overcrowding, and the results of more efficient case management. In some cases, it may be that the criminal justice system can more effectively fulfill its obligations through means other than incarceration and mandatory penalties. We will continue to study the drug problem and discuss how to address it. Implementing our recommendations will provide further experience. As important as the issue is to the courts, the ultimate solution rests with the executive and legislative branches of government. It is in the public interest, though, to continue the discussion.

## **IMPLEMENTATION**

19.1 The Chief Justice should ask the Governor, the Attorney General, county prosecutors, representatives of the Legislature, and appropriate non-governmental persons to continue to meet with members of the Judiciary to discuss the latter's concerns with the sentencing provisions of CDRA.

## V. Projected Costs

The Task Force recognizes that the cost of implementing these recommendations is significant. For example, the Task Force includes in its cost projections an estimated \$51 million annually for the New Jersey Department of Health and related agencies to provide treatment to drug dependent probationers. Implementation of all the proposed recommendations, including the treatment costs, would cost the state and counties an additional \$113,356,000. There would be offsetting savings of \$34,352,000, not including savings from the use of community volunteers, if other recommendations are implemented. Consequently, the net costs of these proposals to the state and counties would be \$79,004,000, falling primarily to the state. The following discussion details the components of these costs and offsetting savings. The projections are based on arrests made in calendar year 1989. There were about 57,000 arrests in 1989 for illegal drug distribution and possession. Of those 57,000, about 29%, or 16,530, would fall into the standard track; 39%, or 22,230, would fall into the pre-adjudicatory diversion track; and 32%, or 18,240, would fall into the post-adjudicatory treatment track.

### A. Pretrial Costs and Offsetting Savings

1. **Assessments** Assessments need to be performed as soon as possible on most offenders other than standard track offenders (for whom the assessment would not add new information). At current caseloads, there need to be about 33,000 assessments per year. Based on the experience in the Burlington, Hudson and Middlesex TASC programs, the cost of each assessment is about \$43.31, but that estimate incorporates staff time for other work such as liaison with service providers, review of treatment programs, etc.

Cost of 33,000 assessments @ \$43.31 = \$1,430,000

2. **Central Judicial Processing** Each CJP court will cost about \$244,000 in

salaries and fringe benefits, exclusive of the costs of the judge (Judge costs are discussed with other staff resource needs on page 55). This figure assumes CJP hearings three days per week and includes the following elements:

- One assistant prosecutor
- One prosecutor investigator
- One public defender
- One public defender investigator
- Two case supervisors
- One court clerk
- Two sheriffs officers

Five counties currently have CJP courts. For the statewide implementation of CJP, together with a Pre-Indictment Conference staff on days CJP is not in session, six additional counties would need a full-time CJP and Pre-Indictment Conference team, and ten counties would need about half that effort.

Total cost at \$244,000 per CJP = \$2,684,000

3. **Supervised Pretrial Release** Approximately 2,110 cases per year at today's caseload levels would be eligible for supervised pretrial release. These offenders do not require pretrial incarceration, but they need careful monitoring and frequent contact with probation officers. The Middlesex program now operates at an approximate cost of \$1,050 per case, averaging 12 months of supervision. At this cost, the statewide cost would be \$2,215,000. This cost could be reduced significantly, perhaps by one-half, if speedy trial time goals are met through added resources.
4. **Grand Jury** Eliminating grand jury processing for third and fourth degree offenses will save a minimum of \$10,000,000. This cost includes prosecutors and

their staffs, police overtime costs, juror fees, and jury management support staff, as well as non-salary costs for mailing and other expenses.

5. **Computerization** The Task Force recommends establishment of a committee composed of representatives from all branches of government to oversee the development of a comprehensive, integrated information system.

The costs of development of this type of system depend in large part on the applicability of work done to date. However, the prototype of CAPS (Court Adult Probation System), which would link the 21 probation departments and the Administrative Office of the Courts in a mainframe configuration and contain assessment/classification data, case plan objectives, drug monitoring and contact-history (including treatment and community service referrals), is estimated to involve a commitment of \$2,500,000.

Once fully implemented, CAPS may lead to as much as a 20% increase in probation collections, since the system monitors payments and allows staff to follow up on non-payments. At current caseloads, probation is collecting about \$20,000,000 per year; a 20% increase would yield \$4,000,000 in increased collections.

## **B. Adjudication Costs and Offsetting Savings**

1. **Judge and Staff Resource Needs** The Task Force calls for sufficient judges and support staff to conference and try cases. The Special Committee to Assess Criminal Division Needs quantified that need in January, 1990. That Special Committee calculates all necessary resources to staff 124 judges to keep current and dispose of the backlog over the next two years at \$17,752,648. This cost

includes an additional 17 judges and 34 public defenders plus additional prosecutors and case management staff. That plan calculated the county share of \$17,752,648 under the current division between state and county funding responsibilities to be \$10,660,000.

While the Judiciary has provided many of these resources in the past year, they are not permanently funded; that is, much of the support is from federal grants. Also, the 17 judges are transferred from the Civil Division and should be replaced by a permanent increase in judgeships. Therefore, the Special Committee report figure of \$17,752,648 remains a valid systems cost.

2. **Interpreters** Legislation is pending on the proposal to build a unified state-funded system for qualified interpreters. For purposes of the drug caseload, however, the cost of merely upgrading existing interpreter services (as distinct from moving it to the State payroll) is \$145,000.
3. **Private Bar Expansion** Pool attorney fees averaged \$500 for each drug case defended during the Phase II Backlog Reduction Program. If 6,000 drug cases were to be transferred to the private bar at this rate, the cost would be \$3,000,000. However, a more practical payment schedule, encouraging expedient litigation while safeguarding defendants' rights, should cost less on the average.

On the other hand, for the public defender to handle expeditiously these 6,000 drug cases, an additional seven and one-half public defender "units" would be required at a cost of \$1,352,000. Transferring the 6,000 cases to the private bar saves this expense and avoids continuation costs of keeping the public defenders on staff once the drug crisis subsides.

**C. Probation Costs and Offsetting Savings**

1. **Alternatives to Incarceration** The Task Force recommends expansion and development of numerous alternatives to incarceration. The programs and costs are:

- a. State Intensive Supervision Program (ISP)  
500 additional persons (double current program)  
\$3,000,000
- b. County Intensive Supervision Program (ISP)  
60 persons would require \$175,000 in each of nine counties  
\$1,575,000
- c. Project CARE (Community Assistance in Rehabilitation Efforts)  
9 additional counties at \$50,000 average  
\$450,000
- d. Operation SABRE (Substance Abuse Behavior Reform Effort)  
6,000 persons could be monitored at a cost of  
\$2,750 per probationer or a total of \$16,500,000

The ISP programs produce a direct savings of prison and jail costs since offenders are released from incarceration. Doubling the State ISP with 500 additional participants (who would otherwise impose costs of more than \$20,000 per year per inmate) saves \$10 million; to establish county ISP programs would save another \$9 million (based on supervising for six months 1,080 people who would otherwise cost \$17,500 per year per inmate).

2. **Adequate Probation Staffing Under Classification of Supervision Cases** The Task Force recommends full staffing of probation to meet the staffing levels required under a full classification of probationers. Probation officers would normally oversee a mixed caseload; the statewide average would be 110 cases

per officer. With that average, the system requires an additional 322 probation officers, together with supervisors and support staff.

With fringe benefits and operating expenses, this increased staff would cost \$14,231,000. Persons with drug-related problems comprise about 70% of probation's caseload. On that basis, the cost of the increase in probation staff necessary to work on drug caseloads is \$9,962,000.

3. **Drug Monitoring for Probationers** Expansion of periodic urine testing to monitor continued drug use is essential. Probationers and persons on both pretrial intervention (PTI) and conditional discharge must be tested. Current estimates are a population of 35,000 persons and an average of four tests per year.

35,000 persons at four tests per year at \$8.00 per test = \$1,120,000

#### D. Treatment Costs and Offsetting Savings

1. **Treatment for Probationers** The annual estimated costs for providing mandatory treatment for offenders on probation is approximately \$51 million. This estimate assumes that 70% of the probationer population has a substance abuse problem requiring some form of treatment. Most of these offenders, however, may be referred to AA/NA or out-patient drug treatment. The funding for treatment will not go to the Judiciary, but to the treatment community through the Department of Health.
2. **Comprehensive Training on Drug and Alcohol Addiction and Recovery** The Administrative Office of the Courts' Training Unit should invite representatives

from the Attorney General's Office, the Department of Corrections and the Department of Health, as well as academicians and treatment providers, to collaborate on the development of a comprehensive training curriculum on drug and alcohol addiction and recovery. The estimated cost to provide the training program to one interdisciplinary team from each county is \$17,000.

3. **Automated Treatment Resource Directory** This directory would cost \$155,000 to develop and implement.

Even in the best of fiscal times, these are significant costs. The impact of the costs is intensified in a time of fiscal constraints. The consequences of not taking these actions, however, are even greater. Court backlogs and delays will grow, jail and prison overcrowding will worsen, and the quality of supervision for probationers will deteriorate. In short, the health of the criminal and juvenile justice systems, society's first defense against the scourge of illegal drugs, will worsen.

Others will be affected as well. Civil litigants, whose cases are being deferred so that judges can dispose of the flood of criminal cases, will continue to suffer court delays. Taxpayers will find that they must pay other costs due to the drug crisis. They will continue to be the victims of crime, such as burglary and robbery, committed by drug dependent persons to support their addiction. Also, the health care system will need to cope with higher and higher costs, which can be borne only by citizens through payment of taxes or medical insurance premiums.

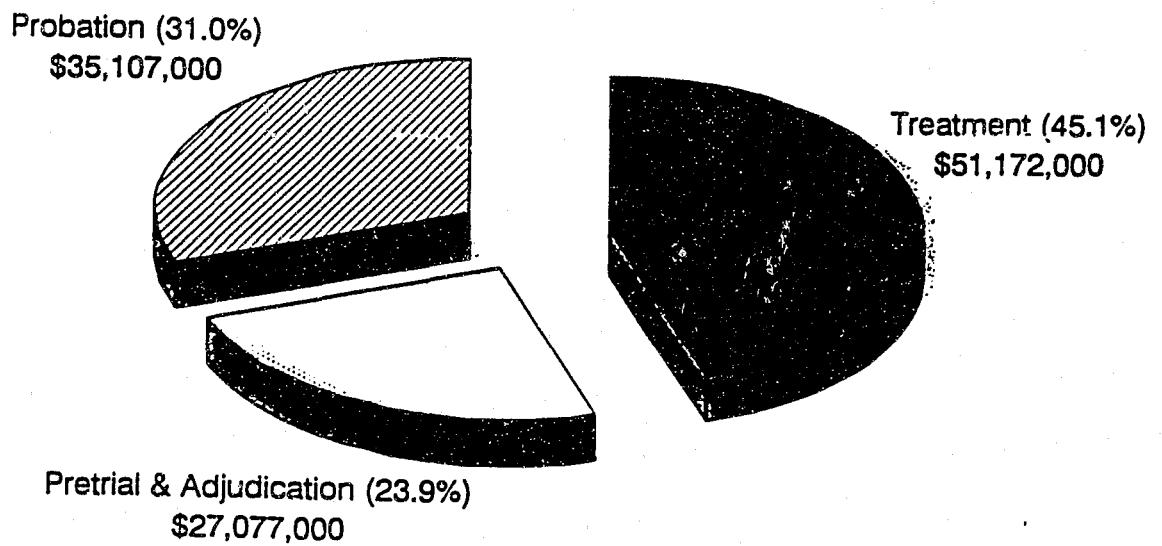
Eventually the public will have to pay the costs of lost productivity in the workplace and the social costs of broken families, domestic violence, and child abuse. These are large costs, in both financial and human terms. Thus, the question is not whether the drug problem will impose costs on society, but whether the costs will be part of the problem or part of the solution.

ESTIMATED COSTS AND OFFSETTING SAVINGS

<u>Costs</u>	Breakdown of costs/offsetting savings		
		<u>County</u>	<u>State</u>
<u>Pretrial Costs</u>			
Assessments	\$1,430,000	\$ 1,430,000	-0-
CJP	2,684,000	2,684,000	-0-
Supervised pretrial release	2,215,000	2,215,000	-0-
Subtotal	<u>\$6,329,000</u>	<u>\$ 6,329,000</u>	<u>-0-</u>
<u>Adjudication Costs</u>			
Judge and staff resource needs	\$17,753,000	\$10,660,000	\$ 7,093,000
Interpreters	145,000	-0-	145,000
Private bar expansion	2,850,000	-0-	2,850,000
Subtotal	<u>\$20,748,000</u>	<u>\$10,660,000</u>	<u>\$10,088,000</u>
<u>Probation Costs</u>			
CAPS	\$ 2,500,000	-0-	\$ 2,500,000
State ISP expansion	3,000,000	-0-	3,000,000
County ISP expansion	1,575,000	-0-	1,575,000*
SABRE	16,500,000	-0-	16,500,000
Project CARE	450,000	-0-	450,000
Probation staffing	9,962,000	9,962,000	-0-
Drug monitoring	1,120,000	1,120,000	-0-
Subtotal	<u>\$35,107,000</u>	<u>\$11,082,000</u>	<u>\$24,025,000</u>
<u>Treatment Costs</u>			
Treatment for probationers	\$51,000,000	-0-	\$51,000,000
Comprehensive drug and alcohol training	17,000	-0-	17,000
Treatment resource directory	155,000	-0-	155,000
Subtotal	<u>\$51,172,000</u>	<u>-0-</u>	<u>\$51,172,000</u>
Total Costs	<u>\$113,356,000</u>	<u>\$28,071,000</u>	<u>\$85,285,000</u>
<u>Offsetting Savings</u>			
Grand jury reduction	(\$10,000,000)	(\$10,000,000)	-0-
Reduced public defender costs due to expansion of private bar in delivery of legal representation	(1,352,000)	-0-	(1,352,000)
Increased collections due to CAPS	(4,000,000)	(600,000)	(3,400,000)
Prison and jail cost savings due to ISPs	(19,000,000)	(9,000,000)	(10,000,000)
Total Offsetting Savings	<u>(\$34,352,000)</u>	<u>(\$19,600,000)</u>	<u>(\$14,752,000)</u>
<u>Net Costs</u>	<u>\$79,004,000</u>	<u>\$8,471,000</u>	<u>\$70,533,000</u>

\*This is usually a county cost; however, the recommendation calls for the state to fund ISP expansion at the county level.

**Estimated Cost (before offsetting savings)  
of Implementing All Proposed Recommendations**



## VI. Conclusion

The onslaught of drug cases presents the most compelling challenge confronting courts today. How the courts meet the challenge will determine the future of the criminal and juvenile justice systems.

This Report is the Task Force's response to the challenge. The Report proposes to streamline court processes and encourages early dissemination of information; urges cooperation among the courts, prosecution and defense counsel; and proposes statutory and constitutional changes to improve caseflow procedures without affecting the quality of justice.

Finally, the Report identifies the resources needed to increase the courts' capacity for adjudicating cases, even as the courts work harder and smarter; to enhance alternatives to incarceration and thereby avoid a collapse of the corrections system; and to ensure the justice and efficacy of sentences through adequate treatment options.

In summary, the Task Force suggests a strategy for the Judiciary to fulfill its obligations under the CDRA. In fulfilling these obligations, the Judiciary will complement the drug policy contained in the CDRA, while preserving swift and fair justice.

We have come a long way, but the journey is not over. As Winston Churchill said of another war, "Now this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning."

# **APPENDIX**

**Supreme Court Task Force on Drugs and the Courts  
Committee and Subcommittee Memberships**

**PRETRIAL POPULATION COMMITTEE  
TASK FORCE ON DRUGS AND THE COURTS**

---

Hon. Reginald Stanton, *Chair*

Donald F. Phelan, *Staff to the Committee*

Steven Yoslov, Esq., *Staff to the Committee*

---

**TYPOLOGY OF DRUG  
OFFENDERS SUBCOMMITTEE**

Hon. James A. Kennedy, *Chair*  
Paul De Pascale, Esq.  
Gregory Edwards  
Professor Jeffrey Fagan  
Bradley C. Ferencz, Esq.  
John F. French  
Joseph Guadagnino  
Dr. Robert Pandina  
Adrienne Peck  
Teresa Segera  
Hon. Neil A. Shuster  
Ronald Susswein, Esq.  
Maureen Tablas  
Roy Van Houten

*Staff:* Marilyn C. Slivka

**EARLY DRUG USER  
IDENTIFICATION AND  
ASSESSMENT  
SUBCOMMITTEE**

Hon. Elaine Davis, *Chair*  
David P. Anderson  
Dean Barcalow  
Hon. Philip S. Carchman  
Harry Cassidy  
Hon. Frances Cocchia  
Jude Del Preore  
Eric Hall  
Frank Kirkleski, Jr.  
Dr. Sheldon Miller  
George Mlanderetz  
Dr. Robert Pandina  
Riley Regan  
Bruce Stout, Ph.D.  
Maureen Tablas

*Staff:* Thomas J. Fiskens, Esq.

**SUBCOMMITTEE ON  
ESTABLISHING EARLY  
JUDICIAL SUPERVISION AND  
CONTROL OVER THE  
ARRESTEE**

Hon. Norman Telsey, *Chair*  
Jeffrey S. Blitz, Esq.  
Peter N. Brill  
Hon. Daniel R. Coburn  
Anthony Crascenzi  
Raymond G. Crowell  
Andrea Ferraro  
Theodore V. Fishman, Esq.  
Raymond Flood, Esq.  
Sheriff Ralph G. Froehlich  
Hon. Harold W. Fullilove  
Maureen McCully  
James F. Mulvihill, Esq.  
John Parren

*Staff:* Donald F. Phelan  
Steven Kalman

**JUVENILE DRUG OFFENDER  
SUBCOMMITTEE**

Hon. Carmen A. Ferrante, *Chair*  
Michael Aloisi  
Pat Belmont  
Hon. Salvatore Bovino  
Philip Brown, Ph.D.  
Jack Cuttre  
Hon. Richard A. Du Haime  
Joseph Gunn  
Karen Kasick  
Cynthia Land  
William Lapczynski  
James Louis, Esq.  
Charles McCaffery  
Alonzo Moody  
Hon. Joseph M. Nardi

**JUVENILE DRUG OFFENDER  
SUBCOMMITTEE (cont.)**

Diana O'Hara  
Michael O'Shea, Esq.  
Debra Reed  
Hon. Ariel A. Rodriguez  
Hon. Graham T. Ross  
Christopher Stanecki  
Joni Whelan  
Heather Wilcauskas  
Ray Willard

*Staff:* Helen E. Szabo, Esq.

**STATEWIDE CRIMINAL  
JUSTICE INFORMATION  
SYSTEMS SUBCOMMITTEE**

Hon. Kevin G. Callahan, *Chair*  
Howard Berchtold  
Lee Bizzelle  
Hon. Linda R. Feinberg  
Dr. Wayne Fisher  
John A. Kaye, Esq.  
Sgt. Monroe Kokin  
Sgt. Frank McNulty  
Joseph P. Miele, Esq.  
Robert Papparozzi  
Anthony Parenti  
Hank Pierre  
James Rebo  
James Rutigliano  
Sheriff William Simon  
Bruce Stout, Ph.D.  
Mayer L. Winograd, Esq.

*Staff:* Michael F. Garrahan, Esq.

**ADJUDICATION COMMITTEE  
TASK FORCE ON DRUGS AND THE COURTS**

---

Hon. Wilfred P. Diana, *Chair*  
John P. McCarthy, Jr., Esq., *Staff to the Committee*

---

**SUBCOMMITTEE ON  
CASEFLOW PROCEDURES**

Hon. Philip M. Freedman, *Chair*  
Holly Bakke, Esq.  
Robert S. Bonney, Jr., Esq.  
Paul M. DePascale, Esq.  
Miles R. Feinstein, Esq.  
Andrea Ferraro  
Milton Heumann, Ph.D.  
Dale Jones, Esq.  
Judith A. Nallin, Esq.  
Hon. Amos C. Saunders

*Staff:* Michael O'Brien

**SUBCOMMITTEE ON  
CASELOAD MANAGEMENT**

Hon. Dennis Braithwaite, *Chair*  
Liz Devlin  
Paul Farnan  
Hon. Peter J. Giovine  
Timothy Gorney, Esq.  
Steve Imperiale  
Harold I. Kasselmann, Esq.  
William F. Lamb, Esq.  
Robert Leininger  
Robert J. Moran, Esq.  
Evelyn Morgan  
Lou Petitto  
Stephen G. Raymond, Esq.  
Denise Regensburg  
Mark Roddy, Esq.  
John Wieck  
Frank Zollner

*Staff:* Mary M. DeLeo

**SUBCOMMITTEE ON  
MANAGING THE TRIAL LIST  
AND THE TRIAL**

Hon. Paul R. Porreca, *Chair*  
Maryann K. Bielamowicz, Esq.  
James R. Castagnoli  
Bradley J. Ferencz, Esq.  
Hon. Mathias E. Rodriguez  
Murray Talasnik, Esq.  
Alan L. Zegas, Esq.

*Staff:* James Mannion

**SUBCOMMITTEE ON  
BACKLOG REDUCTION  
AND QUALITY**

Hon. Burrell Ives Humphreys, *Chair*  
Nicholas L. Bissell, Jr., Esq.  
John Chacko  
Hon. Joseph A. Falcone  
Theodore Fishman, Esq.  
William Rohr, Esq.  
Major Gregory Stith  
Robert T. Winter, Esq.

*Staff:* Joseph J. Barraco, Esq.

**POST-ADJUDICATION AND COMMUNITY INVOLVEMENT COMMITTEE  
TASK FORCE ON DRUGS AND THE COURTS**

Hon. Edward W. Beglin, Jr., *Chair*  
Harvey M. Goldstein, *Staff to the Committee*

**SENTENCING  
SUBCOMMITTEE**

Hon. Cornelius P. Sullivan, *Chair*  
Thomas V. Allena  
Hon. Charles R. DiGisi  
Gregory Edwards  
Ronald S. Fava  
Miles Feinstein, Esq.  
Michael J. Friedman, Esq.  
Robert R. Herb  
Hon. David Keyko  
Haldane King  
Maureen Malecki  
T. J. McGinnis  
Eric Muniz  
Brian J. Neary, Esq.  
Stanley P. Repko  
Hon. Isaiah Steinberg

*Staff:* William D. Burrell

**PROBATION AND  
ALTERNATIVES TO  
INCARCERATION  
SUBCOMMITTEE**

Bohdan Yaworsky, Ph.D., *Chair*  
Elaine Ballai  
Dennis Beyer  
Wilbur E. Brown  
Todd Clear, Ph.D.  
William Coleman  
Evelyn Cruz  
Raymond Cubino  
Hon. Paul R. Huot (ret.)  
Rudolph Johnson  
Hon. R. Kevin McGrory  
Lyman O'Neill  
Marion Norman  
Stanley P. Repko  
Mark Shedden  
Linda Spalinski

**PROBATION AND  
ALTERNATIVES TO  
INCARCERATION  
SUBCOMMITTEE (cont.)**

Richard B. Talty  
Roy Van Houten  
Howard Wilson

*Staff:* Matthew A. Kowalski  
Dennis R. Martin

**TREATMENT SUBCOMMITTEE**

Hon. Elliott G. Heard, Jr., *Chair*  
John Brick, Ph.D.  
Carol Ann Kane Cavaiola  
Jeffrey Clayton  
Jeannette Covington, Ph.D.  
Dr. Charles Dackis  
Abraham Espada  
Jack Farrell  
Ronald Gaetano  
Tracey Ginzburg  
Linda Gyimoty  
Joseph Hale  
Dolores Harris  
Ty Hodanish  
Barry Johnson  
Cathy Kauffman  
David Kerr  
Richard Lloyd  
Gail Gleason Milgram, Ph.D.  
Sheldon I. Miller, M.D.  
Jack Mulvihill  
Jean Neiblach  
Fr. Norman J. O'Connor  
Joseph Pariso  
Hon. Paulette Peterson  
Lahary Pittman  
Riley Regan  
Richard Russo  
Patrick J. Scanlon

**TREATMENT SUBCOMMITTEE  
(cont.)**

Jan Schwerin  
Hon. Isaiah Steinberg  
Col. Preston M. Taylor, Jr.  
John Thurber  
Anita Viera  
Jeff Weil  
Joni Whelan  
Debra Wilson  
Wayne Wirta  
Barbara Wood  
Mick Wyler

*Staff:* Edward E. Rhine, Ph.D.

**COMMUNITY INVOLVEMENT  
SUBCOMMITTEE**

Hon. Julio M. Fuentes, *Chair*  
Jane Adler  
David Armor  
Hon. Bruce Benedetti  
Dr. Philip Brown  
Chief Joseph Delaney  
Arlene Duffield-Myers  
Hon. Linda R. Feinberg  
Thomas Giblin  
Robert Gilson, Esq.  
Carolyn Hadge  
Pat Joyner  
Dorie Kozuck  
Carmen Messano, Esq.  
Edna Pratico  
Riley Regan  
Michael Salvatore  
Rev. Manuel Sykes  
Brendon Toner  
James Walker  
Dr. Stanley Yeldell

*Staff:* Elizabeth D. Disney