



**REPORT OF THE
COMMITTEE TO REVIEW THE CONRAD JEFFREY
MATTER**

VOLUME I

SUMMARY

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I. INTRODUCTION

A. Origin and Purpose of Investigation

On May 5, 1993 seven year old D.G. was kidnapped, sexually assaulted, and murdered. The man who was arrested and charged with the child's murder was Conrad Jeffrey, a parolee who had been released from prison only six weeks earlier. He had been paroled after serving only a portion of a sentence for attempting to abduct a fourteen year old girl at knifepoint in 1990.

As details of D.G.'s murder began to emerge, a number of questions surfaced regarding Conrad Jeffrey's background. It was learned that Jeffrey had been arrested on two occasions shortly after his 1993 parole began, but prior to D.G.'s murder. One of these arrests could have, but did not, result in the revocation of his parole prior to the homicide. Also disturbing were reports that Jeffrey had a history of committing crimes against children and had been convicted twice before for such offenses.

Most startling, however, was the discovery that Jeffrey had confessed to the brutal stabbing murder of a woman in 1974 for which he was never tried. Jeffrey had been found incompetent to stand trial for that murder and was subsequently sent to the Trenton Psychiatric Hospital (hereinafter "TPH") for treatment to restore his fitness to stand trial. He was released from the hospital almost nine years later when the 1974 indictment was dismissed based on the court's finding that Jeffrey would never

be mentally competent to stand trial. Individuals involved in Jeffrey's sentencing for crimes that he committed after the 1974 murder were surprised to learn that Jeffrey had been arrested, confessed to the murder and was subsequently institutionalized. Information concerning that arrest and his subsequent institutionalization was absent or incomplete on later criminal history detailed records ("rap sheets") and pre-sentence reports.

As a result of the substantial number of questions raised regarding Jeffrey's almost twenty-year history within New Jersey's criminal justice and mental health systems, Chief Justice Robert N. Wilentz of the New Jersey Supreme Court created a Committee in May 1993 to determine:

- Whether there were failures in the criminal justice system that led to Jeffrey being free from custody when he might have otherwise been confined.
- Whether there was a breakdown in communication between the Judiciary, State Police, Department of Corrections, State Hospitals, Parole Board, Bureau of Parole and other government agencies.
- The nature of Jeffrey's interaction with each of these agencies throughout his criminal history.
- What changes to the system may be recommended to prevent a similar occurrence in the future and the approximate costs of any such recommendation.¹

B. Committee Members

Chief Justice Wilentz asked the following individuals to form the Committee to Review the Conrad Jeffrey Matter:

- Edwin H. Stier, Chairman
Stier, Anderson & Malone, Bridgewater, NJ
(former Director of the Division of Criminal Justice, Office of the Attorney General)
- Dale E. Jones, Esq.
Assistant Public Defender
- John P. McCarthy, Jr., Esq.
Assistant Director for Criminal Practice
Administrative Office of the Courts
- Honorable Andrew K. Ruotolo, Jr.¹
Prosecutor - Union County
- Honorable Thomas F. Shebell, Jr., P.J.A.D.
- Debra L. Stone, Esq.
Deputy Director, Division of Criminal Justice
- Honorable William L'E. Wertheimer, J.S.C.
- John Wieck
Criminal Division Manager - Atlantic & Cape May Counties

¹The Committee was deeply saddened by the death of Prosecutor Ruotolo who contributed so significantly to this investigation and report. The Chairman of the Committee requested that Richard Rodbart, Trial Supervisor of the Union County Prosecutor's Office, replace Prosecutor Ruotolo as a member of the Committee for its final meeting.

II. THE STRUCTURE OF THE INVESTIGATION

The Committee's investigation did not identify one singular event or failure that, if handled differently, would have absolutely ensured that Jeffrey was incarcerated when the murder of D.G. occurred. However, the Committee's review has identified a number of systemic problems within New Jersey's criminal justice system. The Committee's report identifies these problems as well as their proposed remedies. It is the sincere hope of the Committee that the product of its investigation will enable the current system to undergo positive change and will reduce the likelihood of such deficiencies occurring in the future.

The Committee's objective was to reconstruct and evaluate Jeffrey's entire criminal and psychiatric history to determine whether decisions made regarding Jeffrey were legally and factually correct based on the information that was available at the time the decisions were originally made. The Committee also sought to ascertain whether these original decisions were reasonable based on information that has since become available, but may not have been presented or discovered originally.

A. Documents

In an effort to fully investigate Jeffrey's criminal history, the Committee obtained extensive documentation of Jeffrey's contacts with the New Jersey criminal

justice system. For example, the Committee obtained and thoroughly reviewed the prosecutor's files for each of Jeffrey's convictions. These files contained the criminal histories that were available at the time of each arrest and sentencing, any psychiatric evaluations that were prepared in anticipation of periodic competency hearings and police reports.

The Committee also reviewed the various court files for each of Jeffrey's hearings. These files contained pre-sentence reports, judgements of conviction, court orders and related documentation. In addition, the Committee obtained and analyzed the transcripts of all court proceedings including pleas, sentencings and competency hearings. Other records that the Committee reviewed included Parole Board and Bureau of Parole records, Department of Corrections files, Trenton Psychiatric Hospital files and police department files regarding the 1974 homicide. More than 3,451 pages of documents have been reviewed, organized by document number and retained. Each document received has been assigned a document number ("DN") and has been entered into a computerized database. When specific documents are referred to in this report the document number will be indicated. Where there is no database number, the document is referred to by name. An index to the documents included in the data base is attached as Exhibit 1.

In addition to a computerized data base of all documents received, the Committee constructed a detailed chronology of Jeffrey's criminal history. This

chronology provides a summary of Jeffrey's entire criminal and psychiatric history and also summarizes relevant portions of his prior hearings. The chronology is attached as Exhibit 2.

B. Witness Interviews

The scope of the Committee's investigation extended well beyond a review of documentation. The Committee's investigators conducted extensive interviews in an attempt to learn why decisions were made at the time of the witness' involvement and whether these individuals would have proceeded differently had they received information that was available at the time, but not provided to them. The Committee's investigators interviewed the following categories of witnesses:

- Judges who ruled on Jeffrey's competence and sentenced him for various convictions.
- Prosecutors responsible for handling Jeffrey's cases.
- Probation officers who prepared Jeffrey's pre-sentence reports.
- Detective who arrested Jeffrey for the 1974 homicide.
- Parole Board members and staff.
- Trenton Psychiatric Hospital doctors and staff.

- Psychiatrists in private practice who evaluated Jeffrey prior to his competence hearings.
- Independent psychiatric experts who reviewed Jeffrey's Psychiatric records for the Committee.
- Experts in issues relating to the interrelationship of law and psychiatry.
- New Jersey State Police records and identification personnel.

A record was made of each witness interview. Those interviews that produced probative evidence were transcribed (if a recording had been made), or interview memoranda were produced. Those statements and memoranda were then provided to the witnesses for their review and correction where necessary. The witnesses were then asked to certify to the accuracy and truthfulness of the information in their statements. Most of the witnesses reviewed their statements, made corrections, and certified to their truthfulness. Letters were mailed to the few witnesses who did not return certifications indicating that unless notified otherwise, the Committee would assume that they had no changes or corrections to make to their interview statements. Where a witness statement is cited as a source, reference will be made to the name of the witness and the date and page of the interview statement. All recordings, transcripts and memoranda of witness interviews have been retained. A list of the 55 witnesses interviewed is appended to this report as Exhibit 3.

C. Committee Experts

In addition to the efforts of the Committee members, a number of investigators generously volunteered their time to assist the Committee in its investigation. The Committee received complete cooperation and assistance from all of the government agencies that it contacted as well as from witnesses who spent hours reviewing documents, meeting with investigators, and carefully reviewing their interview statements.

The Committee must give special thanks to several experts who provided countless hours of assistance to aid the Committee in its understanding of the complex psychiatric issues involved in this investigation. Professor Alexander Brooks served the Committee from the time of its formation as a Special Consultant on issues dealing with the relationship of psychiatry to the law. Professor Brooks, the Justice Joseph Weintraub Professor of Law Emeritus at the Rutgers Law School in Newark, is an internationally recognized authority on law and psychiatry who, with forty years of experience, has published and lectured widely in that field. The following experts also assisted the Committee:

- Dr. Robert Eilers - Ancora Psychiatric Hospital
- Dr. Michail Rotov - Psychiatric Consultant New Jersey Division Of Mental Health & Hospitals
- Dr. Robert Sadoff - Forensic Psychiatrist & Attorney; Director, Forensic Psychiatry Clinic University Of Pennsylvania School Of Medicine

The Committee also wishes to thank its investigators who altered their already hectic schedules to review hundreds of pages of documentation and interviewed numerous witnesses. The following individuals gathered much of the Committee's evidence:

- Regina C. Caulfield - Assistant Prosecutor, Union County
- Stephen J. Cirillo - Deputy Attorney General, Division Of Criminal Justice
- Mary Jane Cooper - Partner, Stier, Anderson & Malone
- Neil Cooper - Assistant Attorney General, Division Of Criminal Justice
- Henry W. Jaeger - Assistant Prosecutor, Union County
- Richard P. Rodbart - Assistant Prosecutor, Union County

In addition, the following individuals also provided valuable assistance to the Committee:

- Honorable Richard Rebeck, J.S.C.
- Frederick P. DeVesa - Assistant Attorney General, State Grand Jury
- Susan Di Yanni - Legal Assistant, Administrative Office Of The Courts
- Lori Linskey - Attorney, Stier, Anderson & Malone
- Craig V. Zwillman - Deputy Attorney General

This volume of the report presents a summary of the primary systemic deficiencies identified by the Committee and its recommendations to correct those problems. These issues, as well as the remedial action recommended by the Committee, will be discussed broadly in Volume I as they relate to New Jersey's Criminal Justice System. Volume II of this report provides a detailed factual analysis that covers Jeffrey's complete criminal history, the specific deficiencies that occurred in his cases, as well as excerpts from interview statements of individuals involved in those matters. The last section of the Committee's report, Volume III, details more specifically the systemic deficiencies identified by this investigation as well as the Committee's recommendations to improve those problems.

III. OVERVIEW OF THE INVESTIGATION

A. Summary Chronology of Conrad Jeffrey's Criminal History

The Committee believes that a comprehensive understanding of Jeffrey's criminal background is necessary in order to fully conceptualize and appreciate this Committee's findings and recommendations. To that end, the Committee urges those reading this report to read Volume II in its entirety. Volume II provides a detailed analysis of Jeffrey's criminal history as well as the perspectives of those individuals who were charged with the responsibility of making decisions about Jeffrey's institutionalization, psychiatric treatment, prosecution, sentencing and parole. The

systemic deficiencies and proposed solutions identified by the Committee in Volume III will be far more meaningful to the reader of this report if they are considered with a complete understanding of Jeffrey's criminal history as detailed in Volume II. The following summary of Jeffrey's history provides a brief chronology of the significant events in his criminal background without a comprehensive analysis of the systemic flaws identified by the Committee's investigation. This summary of Jeffrey's criminal background will serve as an introduction to the history of this case.

1. Personal Background

It must first be noted that the Committee's investigation found that most of the information concerning Jeffrey's non-criminal personal history, as contained in his pre-sentence investigation reports, rap sheets, parole and court documents and medical records, is inconsistent and conflicting. Jeffrey's precise age is difficult to calculate because his Criminal History Detailed Report ("rap sheet") contains many possible birth dates. However, at the present time he is believed to be approximately 45-years of age.² Although it is known that Jeffrey spent a portion of his life living with relatives other than his parents, his precise family history is not known.³ Several reports state that Jeffrey has two sisters, while another notes that he had three brothers who were killed in a fire. One report also states that Jeffrey has one child of his own. Some reports note that his father died of a drug over-dose when Jeffrey was a child and that his mother also had an addiction problem at one time.⁴ There

are references in Jeffrey's records that he may also have had a drug and alcohol problem.⁵ In addition, varying reports concerning Jeffrey's educational background indicate that at most he attended some college courses and at the least may not have finished high school.⁶

2. Criminal History

What is known is that Jeffrey's adult criminal rap sheet began in 1971 when, at approximately 21-years of age, he was sentenced to a 7-year indeterminate term at Yardville.⁷ That sentence stemmed from a series of crimes that he committed including three separate robberies of Rutgers students with a straight razor (2 dismissed), a dismissed charge for possessing a stolen vehicle and a conviction for stealing a purse from the Rutgers library.⁸ After serving a portion of his sentence at Yardville, he was transferred to Annandale until he was paroled in May 1972.⁹

After Jeffrey was paroled from Annandale in May 1972 he was arrested three times for relatively minor offenses.¹⁰ Jeffrey then committed a subsequent robbery for which he served 60 days in the Essex County Correctional Center beginning in October 1973 and was later arrested in June 1974 for the unauthorized use of a motor vehicle for which he served 10 days in the Union County Jail.¹¹ In September 1974 Jeffrey was arrested for the most violent crime he had ever been charged with when the body of Alberta Dorsey, who had been stabbed 34 times, was found in the

backyard of Jeffrey's home. Shortly after the discovery of Dorsey's body, Jeffrey was picked up by Newark detectives for questioning.¹²

i. 1974 Homicide

Police found blood and other physical evidence of the homicide in Jeffrey's bedroom and found the victim's bloody clothing and other belongings in a crawl space located in the ceiling outside of Jeffrey's bedroom.¹³ After he was picked up for questioning by Newark detectives, Jeffrey confessed to killing Dorsey and told detectives that he had hidden the scissors which he used in the stabbing in the bathroom of a neighborhood tavern. Police later retrieved the murder weapon exactly where Jeffrey told them it was hidden.¹⁴ After Jeffrey completed his confession he was arrested for the crime.¹⁵

Shortly after Jeffrey's arrest, the public defender assigned to represent him notified the court that he was having difficulty communicating with Jeffrey and requested that Jeffrey be examined by a psychiatrist. He was subsequently examined by psychiatrists for both the defense and prosecution who concluded that Jeffrey was not competent to stand trial at that time.¹⁶ Jeffrey was ordered committed to the Trenton State Hospital¹⁷ until such time that he was deemed competent to stand trial.¹⁸ Jeffrey in fact remained in the hospital until 1983.¹⁹

During Jeffrey's institutionalization a number of competency hearings were held which are described in detail in the second volume of this report. As detailed in Volume II, Jeffrey's years of hospitalization and competency hearings were marked by a persistent pattern of the court not receiving all relevant information available concerning Jeffrey. Of particular importance were periods of time during his hospitalization when Jeffrey's medical records indicate that he was in remission and may have been competent to stand trial.²⁰ The cumulative effect of this process of "filtering" relevant information to the court resulted in the dismissal of the 1974 homicide indictment in 1981 and his release from the Trenton Psychiatric Hospital in 1983. At that time, the court found that there was no reasonable likelihood that Jeffrey would regain competency in the future and the homicide indictment was dismissed with prejudice.

After the dismissal of the indictment it was the court's intention that Jeffrey would be held at the hospital as an involuntary committee which requires that the patient be both mentally ill and a danger to himself or others.²² However, shortly after the dismissal of the indictment, Jeffrey's doctors found that he showed no symptoms of mental illness and concluded that they could not keep Jeffrey in the hospital as an involuntary patient.²³ Jeffrey was persuaded to continue his hospitalization as a voluntary patient for a brief period of time, but signed himself out of the hospital in January 1983.²⁴ Although Jeffrey's treatment team believed that

he was dangerous, they believed that they had no legal basis to prevent Jeffrey from leaving the institution due to the absence of any signs of psychosis.²⁵

ii. 1985 Assault Of 12-Year Old Boy

After Jeffrey left the hospital, he was arrested a number of times for shoplifting and simple assault for which he served minimal jail time.²⁶ Jeffrey's next major arrest came in April 1985 when he was incarcerated for assaulting a 12-year old boy.²⁷ Jeffrey was charged with second degree kidnapping for purposes of aggravated sexual assault, second degree aggravated sexual assault, third degree terroristic threats and fourth degree endangering the welfare of a child.²⁸ Jeffrey initially entered a not guilty plea, but later entered into a plea agreement where he pled guilty to one count of second degree kidnapping for purposes of first degree robbery. The prosecutor agreed to dismiss the other counts of the indictment and to make no recommendation concerning sentencing.²⁹ The maximum sentence that Jeffrey could have received was ten years in prison with a \$100,000 fine. Jeffrey was ultimately sentenced to five years, but received a credit of 406 days for time served.³⁰

As the Committee has detailed in Volume II, the pre-sentence investigation that was relied upon in connection with Jeffrey's assault on the 12-year old boy was deficient. The pre-sentence report did not contain a list of Jeffrey's prior arrests and

convictions and also excluded any mention of the 1974 homicide indictment or Jeffrey's subsequent institutionalization. The pre-sentence report noted that Jeffrey's rap sheet had been requested on two occasions prior to sentencing, but had not yet been received.³¹ Nonetheless, the court accepted the pre-sentence investigation report. Jeffrey was transferred to the Mid-State Correctional Facility to serve his sentence. He was paroled in September 1986.³²

iii. 1986 Theft Of Vehicle/Assault Of Police Officers

In November 1986, just two months after Jeffrey was paroled, he stole a vehicle as a police officer looked on. The officer immediately gave chase and Jeffrey attempted to evade arrest. Jeffrey was eventually arrested, during which two police officers were injured by Jeffrey. On January 8, 1987 Jeffrey was indicted for unlawful entry of a vehicle with intent to commit an offense, theft of movable property, three counts of assault on police officers and resisting arrest with force.³³ Jeffrey entered into a plea agreement which permitted him to plead guilty to the first count of the indictment charging him with theft of a motor vehicle and count three, aggravated assault of a police officer. The state dismissed the remaining counts of the indictment and recommended a five-year maximum sentence. The maximum term that could have been imposed was a total of ten years for both offenses with five years of parole ineligibility and a \$15,000 fine.³⁴ Jeffrey was sentenced to four

years, to run concurrently for each of the two offenses and received 204-days credit for jail time served.³⁵

Although the pre-sentence report connected with this offense did note that Jeffrey had been arrested for the 1974 homicide which was later dismissed, the report also noted that Jeffrey denied any history of hospitalizations or mental illness.³⁶

Although Jeffrey was denied parole when he first became eligible in 1988, Jeffrey was subsequently paroled to an alcohol treatment program from which he was released in March 1989. Within one month of his parole, Jeffrey was arrested for several crimes including simple assault and impersonating a police officer for which he was sentenced to 60-days. He received an additional 45-day sentence for charges stemming from assaulting his mother.³⁷ Despite these arrests, Jeffrey's parole was not revoked.³⁸ Jeffrey committed his next crime against a minor in March 1990.

iv. Assault Of 14-Year Old Girl

Police reports indicate that in March 1990, Jeffrey abducted a 14-year old girl with a knife. Jeffrey threatened the girl and forced the girl to walk with him. However, they encountered the girl's aunt who intervened and pulled the victim away from Jeffrey, who fled the scene. Jeffrey was later identified and arrested. Jeffrey

was indicted and was charged with second degree attempted assault with a deadly weapon, second degree attempted aggravated sexual assault, one count each of third and fourth degree unlawful possession of a knife, third degree terroristic threats, and third degree unlawful restraint.³⁹

On September 5, 1990 Jeffrey accepted a plea agreement and pursuant to its terms pled guilty to criminal restraint and third degree unlawful possession of a knife. Under the terms of the plea bargain, the prosecutor stated that the second degree aggravated sexual assault, assault with a deadly weapon and third degree terroristic threat charges would be dismissed. Moreover, the plea precluded the court at sentencing from imposing a mandatory minimum sentence before Jeffrey would be eligible for parole.⁴⁰

As detailed in Volume II of this report, the pre-sentence investigation report included a number of inaccuracies concerning Jeffrey's criminal history. The March 1985 assault against the 12-year old boy was mis-characterized as criminal restraint when in fact Jeffrey was convicted of second degree kidnapping for the purpose of first degree robbery. In addition, no information was provided concerning the almost 10-year gap in his record when Jeffrey was institutionalized as a result of the 1974 homicide. Moreover, much of the personal history provided by Jeffrey was in direct conflict with information contained in his previous pre-sentence investigation reports.⁴¹

The judge rejected the plea bargain because the prosecutor had bargained away the court's right to impose a mandatory minimum sentence. The plea was renegotiated with the same terms except that the court now had the right to impose a period of parole ineligibility for Jeffrey. The judge sentenced Jeffrey to five years with a two-and-a-half year minimum before parole eligibility. Jeffrey also received credit for the 214 days that he had been in jail prior to his sentencing.⁴²

v. Jeffrey Is Paroled In March 1993

Jeffrey was paroled on March 25, 1993. Although the New Jersey Division of Youth and Family Services ("DYFS") was supposed to have been notified of Jeffrey's parole and approve his pre-parole plan due to his conviction of a crime against a minor, DYFS received no such notification.⁴³ Jeffrey was arrested only nine days later on April 3, 1993 for making terroristic threats at Newark's Penn Station. Although this arrest could have resulted in Jeffrey's incarceration and the revocation of his parole, it did not. Jeffrey used an alias upon his arrest and was released on a summons before a positive identification of his fingerprints had been made.⁴⁴ Despite this arrest, Jeffrey reported regularly to his parole officer but did not disclose that he had been arrested. Jeffrey's parole officer had received no information that Jeffrey had been arrested.⁴⁵

Jeffrey was again arrested, unbeknownst to his parole officer, on April 15, 1993 on a charge of shoplifting.⁴⁶ On May 5, 1993 Jeffrey visited his parole officer as previously scheduled. At that time he reported that his address had not changed, that he was still looking for employment, and that he had not been arrested since his last contact with his parole officer. On the evening of May 5, 1993, the same day that he reported to the parole office, Jeffrey was arrested by the Passaic Police Department for the murder and sexual assault of 7-year old D.G.⁴⁷

IV. OVERVIEW OF PRIMARY ISSUES, CONCLUSIONS AND RECOMMENDATIONS

Volume III of the Committee's report details the problems found by this investigation as well as proposed solutions to the systemic deficiencies identified. The Committee has categorized its conclusions and recommendations into the following three areas that correspond with the problems that were discovered by this investigation:

- THE INTERACTION OF THE CRIMINAL JUSTICE AND MENTAL HEALTH SYSTEMS.
- PLEA NEGOTIATION, SENTENCING AND PAROLE.
- RECORDS AND IDENTIFICATION SYSTEMS.

A. Summary of Primary Issues

Although specific issues will be addressed throughout this report, three broad recurring problems repeatedly emerged during the Committee's investigation in each of the areas identified above:

- ALL RELEVANT INFORMATION AVAILABLE WAS NOT COLLECTED, PRESENTED TO THE COURT, OR COMMUNICATED TO STATE AGENCIES WHO CAME INTO CONTACT WITH JEFFREY.
- INFORMATION OBTAINED FROM THE DEFENDANT AND RELIED UPON BY ATTORNEYS, PSYCHIATRIC EXPERTS, COURTS, PROBATION AND PAROLE OFFICERS AND PAROLE BOARD MEMBERS WAS NEVER VERIFIED.
- EACH CRIME THAT JEFFREY COMMITTED WAS EVALUATED AS AN ISOLATED EVENT WITHOUT A COMPREHENSIVE UNDERSTANDING OF HIS ENTIRE CRIMINAL HISTORY AND ITS PROGRESSION OVER THE YEARS.

B. Summary Of Committee's Conclusions And Recommendations

The Committee, through its recommendations, has provided the framework for systemic change within New Jersey's criminal justice system. Although these conclusions and recommendations are a product of the Committee's detailed investigation into Jeffrey's criminal history, the majority of the problems identified are not unique to this case. As a result, the Committee has focused its efforts on providing an outline for a series of changes to the criminal justice system that reach

beyond the facts of this case. The Committee's recommendations have been designed to be flexible so as not to interfere with the prerogatives of agencies that will evaluate, refine and implement the Committee's suggestions. By broadly stating its recommendations, the agencies affected by these changes will have the widest opportunity possible to modify these suggested changes to the realities of life in the system and resources available. The Committee anticipates that further study and input from law enforcement agencies will be considered before the implementation of any administrative or legislative changes proposed as a result of this investigation.

Each of the Committee's specific recommendations is more specifically outlined in Volume III of this report, but are broadly summarized below. The Committee members understand that many of the recommendations that are detailed in Volume III of this report require financial resources that may not be readily available within New Jersey's criminal justice system given the heavy volume of cases that the system must handle. However, even if the State of New Jersey cannot afford to implement these recommendations in every case that it handles, the Committee believes that the State cannot afford the cost of not making these changes in cases involving repetitive violent offenders.

i. Repetitive Violent Offenders

Repetitive violent offenders represent a special class of criminals whose threat to society will likely continue despite incarceration and previous efforts at rehabilitation. In such cases, differentiated case management and vertical prosecution are essential in order to protect the public.² The Committee's investigation into Jeffrey's criminal history presented a troubling picture of an individual who displayed a pattern of violence, but was dealt with by the criminal justice system as though each crime that he committed was an isolated event. Although the specific crimes that Jeffrey committed could not be predicted, his criminal history clearly indicated that his violence would continue. From his confession to a brutal stabbing murder in 1974 until his arrest for the sexual assault and murder of seven year old D.G., Jeffrey's repetitive violent behavior was clearly visible. For repetitive violent offenders, such as Jeffrey, special standards must be created to ensure that public protection from their violent tendencies is maximized.

The Committee urges the Attorney General and the County Prosecutors to consider establishing internal procedures aimed at identifying certain offenders as highly dangerous based on their overall criminal and psychiatric history. Certainly, the breadth of this category may be influenced by an evaluation of the resources

²Differentiated case management would ensure that cases involving repetitive violent offenders are handled differently -- with a heightened level of scrutiny at all levels taking into account the lethality of this type of defendant.

necessary to give these cases the heightened scrutiny that they demand. Although the Committee leaves the task of establishing the criteria to the Attorney General and Prosecutors, the Committee urges that predatory sexual offenders be included. Special training of personnel who can evaluate and categorize such chronically violent offenders is necessary to aid in ensuring that cases involving these defendants will be recognized and receive heightened scrutiny. Violent offenders must be dealt with to the fullest extent of the law and afford the public the greatest protection possible from individuals who have demonstrated a strong likelihood of future violent criminal activity.

a. Special Scrutiny For Repetitive Violent Offenders

Once an individual has been classified as a repetitive violent offender, the Committee suggests, when possible, that the prosecution of such a defendant be handled by one seasoned and specially trained prosecutor from beginning to end -- including the bail hearing, investigation, grand jury proceedings, plea negotiations, trial, sentencing and post-sentencing proceedings such as parole hearings. Such a system of vertical prosecution in cases involving repetitive violent offenders would help to ensure that cases involving repetitive violent defendants are prosecuted to the fullest extent of the law by prosecutors who recognize the danger posed by such defendants.

The following are some suggestions to illustrate how intensely involved the specially designated prosecutors may be in these cases. The prosecutor handling such a case would have the responsibility of compiling a detailed criminal history of the repetitively violent offender that reaches far beyond a defendant's rap sheet and may include criminal justice records from all agencies with whom the defendant had contact, hospital records and the complete files from prior prosecutions. This prosecutor should also be involved in all facets of the criminal investigation in order to determine if the case represents a pattern of criminal activity, how it relates to any outstanding charges the defendant may have and whether a psychiatric examination of the defendant is necessary.⁴⁸

ii. Interaction Of The Legal And Mental Health Systems

This investigation found that from the time that Jeffrey was found incompetent to stand trial in 1975 until his release from Trenton Psychiatric Hospital in 1983, the criminal justice system deferred to the mental health experts involved in his treatment. In this case, the adversary system did not work as it was intended -- all relevant information available was not collected or presented to the court for its consideration and psychiatric expert opinion was accepted with little, if any, critical evaluation. In Jeffrey's case, the legal issue of his ability to stand trial was overshadowed by psychiatric issues which were often irrelevant to his competence. Due to the length of Jeffrey's hospitalization and the number of different prosecutors handling his case,

there was no consistent focus on the purpose of his institutionalization -- the restoration of his competence to stand trial for the murder of Alberta Dorsey.

The Committee's investigation found that the systemic deficiencies in the interaction of the criminal justice and mental health systems arise in part from the extremely divergent objectives that each of these systems have for criminal defendants. Although the criminal justice system holds defendants accountable for anti-social behavior by imposing penalties when society's law are broken, the mental health system is designed to treat the causes of anti-social behavior. When a defendant's mental health becomes an issue in a criminal prosecution, this clash of cultures between the legal and mental health systems is readily apparent. The Committee believes that where criminal defendants are involved, these two systems must focus in a unified manner on the specific legal purpose of a defendant's institutionalization and treatment.

Because cases in which law and psychiatry overlap are so complex, the Committee recommends specialized training for all participants in the system -- judges, prosecutors and mental health professionals. A suggested training outline is included in Volume III.

The Committee also suggests that vertical prosecution be utilized in the cases involving complex psychiatric issues whenever possible. Having several specially

trained, experienced prosecutors handling all aspects of such cases from beginning to end with a heightened level of scrutiny is vital. In smaller offices with limited resources, such specialization may be difficult. Nevertheless, the Committee recommends the implementation of heightened scrutiny consistent with existing resources whenever possible. This increased scrutiny should include an intensely detailed investigation into the defendant's criminal and psychiatric background extending far beyond the four corners of the defendant's rap sheet.

iii. Plea Negotiations, Sentencing And Parole

a. Pre-Sentence Investigation Reports

The Committee's investigation into Jeffrey's history found that the criminal justice system often deals with defendants in a fragmented manner, viewing each new crime committed as an isolated event rather than evaluating the offense in light of the defendant's overall criminal history. In Jeffrey's case, this diffused view of Jeffrey's criminal history was first visible when he was sentenced for assaulting the 12-year old boy in 1985. During plea negotiations and sentencing in this case, authorities had no knowledge of the 1974 homicide or Jeffrey's subsequent institutionalization. At the sentencing hearing, the judge discounted the victim's reported version of the facts which included an attempted sexual assault and accepted Jeffrey's statement of the incident -- that he was searching the boy's pant's pockets for property that he

thought the boy had taken.⁴⁹ It is impossible to know with certainty what influence a complete knowledge of Jeffrey's criminal history would have had on the outcome of this case, but it is clear that all of Jeffrey's criminal background information should have been provided to the court for its consideration.

This piece-meal approach to evaluating Jeffrey continued with the majority of his arrests. The Committee's investigation into Jeffrey's background found that individuals responsible for plea negotiations, sentencing and parole decisions did not always have all relevant information about the defendant available to them before making these decisions. There was also a heavy reliance on the defendant's unverified statements about his criminal history and background. Little effort was made to understand Jeffrey's complete criminal history and its progression over the years.

Because pre-sentence investigation reports are heavily relied upon by sentencing judges, parole and probation officers, psychologists, prosecutors and others, the Committee believes that steps must be taken to ensure that the information contained in the reports is accurate. Therefore, the Committee suggests that statewide guidelines and forms be adopted to make pre-sentence investigation reports uniform throughout the state.

b. Plea Negotiations

Although two of Jeffrey's arrests resulted in his being charged with sexual offenses against minors, during plea negotiations in both cases those charges were dropped. Despite the fact that his rap sheet did not contain any convictions for sexual offenses, a look at the underlying charges for his crimes against minors as well as the sexual nature of the 1974 homicide present a pattern of dangerous sexual conduct. Although the Committee is not questioning the appropriateness of the plea negotiations in Jeffrey's case, its investigation demonstrates that valuable information about Jeffrey's violent history was lost as a result of the plea negotiation process.

The Committee believes that the plea negotiation system in New Jersey would be enhanced if the criminal justice system adopts a method of categorizing certain defendants as repetitive violent offenders. Plea negotiations for this category of defendants should only be handled by a specially designated senior staff attorney and/or the Prosecutor in each county whenever practicable. It may also be beneficial to adopt a system of top-charge plea negotiations for repetitive violent offenders, also handled by a specially designated prosecutor, whereby the most serious charge against a defendant cannot be bargained away unless special approval is obtained from the Prosecutor. All plea negotiations for defendants who have been categorized as repetitively violent should be handled with an increased level of scrutiny -- even if

the present charge when evaluated as an isolated event might not constitute a serious violent offense.

c. Parole

The Committee's investigation found that the tools currently available to parole officers to monitor their parolees and ensure that they are complying with the conditions of their parole are lacking. Despite that fact that Jeffrey was reporting regularly to his parole office, he was arrested several times but his parole officer had no knowledge of these arrests.⁵⁰ As the Jeffrey case demonstrated, it is vital that supervising parole officers gain immediate access to information indicating that their parolees have violated the terms of their parole through subsequent arrests. The Committee discusses technological advances later in this report that would provide parole officers with enhanced information about their parolees after they are released from prison.

Legislative change in the parole statutes is also suggested by the Committee. The current laws provide the parole board with little discretion to deny parole in cases where an inmate has been denied parole status when first considered. In addition, factors such as victim impact statements should be given credence during parole hearings.

iv. Records And Identification

One of the primary deficiencies that continually recurred throughout the Committee's investigation was the frequency with which relevant information concerning Jeffrey's criminal history, although in existence, failed to become known to those individuals who were charged with the responsibility of making arrest, sentencing, plea negotiation and parole decisions. The most glaring instance of this breakdown in communication occurred just prior to the murder of D.G. Although on parole, Jeffrey was arrested twice. One of the offenses occurred one month prior to the D.G. homicide and could have resulted in the revocation of his parole. However, Jeffrey used an alias upon his arrest. Although fingerprinted, his true identity was not learned by law enforcement officials or the Bureau of Parole until well after the D.G. homicide.

The Committee found that each agency within the criminal justice system maintained its own database of information and the process of obtaining this data from other agencies was quite cumbersome. Due to the continual breakdown in the communication of relevant criminal history data, many decisions were made concerning Jeffrey without the benefit of all relevant information.

The Committee's review of the state's records and identification systems found that although improvements have been made since Jeffrey began his adult criminal

rap sheet, further advances are necessary. In particular, the Committee suggests that the state implement a Fully Integrated Fingerprint Identification System ("FIFIS"). FIFIS would provide law enforcement with positive identifications within minutes of the booking process and will have a dramatic effect on crime fighting in New Jersey. Currently, fingerprint identifications are less effective than they could be due to the excessive length of time that it often takes contributing law enforcement agencies to send fingerprint cards to the New Jersey State Police for identification. As demonstrated by the Jeffrey investigation, rapid identifications are necessary so that arresting agencies can obtain immediate access to information about those arrested. Criminals who uses aliases, are on parole, or have warrants outstanding are often released from custody before their identity is ascertained. The benefits of FIFIS are more fully outlined in Volume III.

The Committee supports the improvements that have been made to the format of rap sheets over the years -- in particular the addition of "reason codes" which explain why certain charges were dismissed. However, the Committee also suggests that in cases where criminal defendants have been institutionalized as a result of a court order, that the institutionalization be noted. In the Jeffrey case, no one questioned the almost 10-year gap on Jeffrey's rap sheet during the period of time that he was institutionalized. Such information is vital and should be included on rap sheets.

Last, the Committee found an over-reliance on the information contained in rap sheets. Although rap sheet information is vital, it should be emphasized that they only include arrests which are fingerprint supported. Therefore, the Committee advises that rap sheets only be considered starting points for constructing criminal histories.

ENDNOTES

1. Chief Justice Wilentz's May 1993 Press Release.
1. DN 152; DN 974; DN 1247; DN 2547.
3. DN 1110; DN 2516.
4. DN 1110; DN 2516.
5. DN 251-253.
6. DN 466; DN 1825ih; DN 2511-2518; DN 2521; DN 2683.
7. DN 391-399.
8. DN 455-460; DN 466; DN 471; DN 582; DN 2513-2514; DN 2678; DN 2681; DN 2683.
9. DN 2552; DN 2467; DN 2493; DN 2497.
10. Jeffrey was arrested for taking a passenger bus without permission and was arrested twice for entering an educational facility with the intent to steal. DN 461-462; DN 582; DN 2474; DN 2684; DN 2489.
11. DN 472; DN 583; DN 2474; DN 2691.
12. DN 440-441; DN 2472; DN 2615-2617.
13. DN 435; DN 2617.
14. DN 451-453; DN 2614.
15. DN 467; DN 583; DN 2620; DN 2687.
16. DN 350-352; DN 558; DN 2114-2116.
17. Trenton State Hospital was later renamed the Trenton Psychiatric Hospital.
18. DN 72.
19. DN 1091.

20. DN 415-430; DN 1831; DN 3226-3227; DN 3231-3233; DN 3378.
21. DN 402-411; DN 565; DN 583.
22. DN 71.
23. DN 167.
24. DN 1091.
25. DN 1091.
26. DN 202; DN 473; DN 583-584; DN 2675; DN 2688; DN 2698.
27. DN 173.
28. DN 182, DN 195.
29. DN 189-191; DN 464; DN 3288; DN 3304.
30. DN 3348.
31. DN 200.
32. DN 824; DN 848; DN 879-880.
33. DN 295-298.
34. DN 3334-3340.
35. DN 3348.
36. DN 289-294.
37. DN 995.
38. DN 994-999.
39. DN 256-259.
40. DN 255.
41. DN 203; DN 245-253; DN 293; DN 2515-2518.
42. DN 2750.
43. DN 722-725.

44. DN 476; DN 585.
45. DN 726.
46. DN 476; DN 585.
47. DN 476; DN 728.
48. There may be some repetitive violent offenders who have psychiatric problems which involves a psychiatric defense. In such cases, it may be necessary for a specially trained repetitive violent offender prosecutor to work with a specially designated prosecutor with expertise in issues of law and psychiatry.
49. DN 3309-3310.
50. DN 476; DN 585; DN 3351-3358; Sworn Interview Statement of William Miller, August 18, 1993, pp.82-83, 94-95.



