

**REPORT OF THE  
VIRGINIA STATE CRIME COMMISSION  
TO  
THE GOVERNOR  
AND  
THE GENERAL ASSEMBLY  
OF VIRGINIA  
ON  
DEFECTIVE DELINQUENT AND SEX OFFENDER STUDY  
(INTERIM REPORT)**



**SENATE DOCUMENT NO. 36**

**COMMONWEALTH OF VIRGINIA  
Department of Purchases and Supply  
Richmond  
1975**

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COMMONWEALTH OF VIRGINIA



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TO: THE HONORABLE MILLS E. GODWIN, JR.

GOVERNOR OF VIRGINIA

AND

THE GENERAL ASSEMBLY OF VIRGINIA

Pursuant to Senate Joint Resolution No. 31, 1974, Session,  
the sub-committee of the State Crime Commission as listed below,  
offers the following report on the Defective Delinquent and Sex  
Offender Study.

This report is also included with other information as a part  
of the Annual Report of the State Crime Commission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stanley C. Walker'.

Stanley C. Walker  
Chairman

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1 SENATE JOINT RESOLUTION NO. 31

2

3 *Directing the Virginia State Crime Commission to study the handling of defective*  
4 *delinquent offenders and sex crime offenders.*

5

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Agreed to by the Senate, February 15, 1974

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Agreed to by the House of Delegates, March 8, 1974

9

10 Whereas, the dual but often interrelated problems of dealing  
11 with sex offenders and those criminal offenders who are feeble-  
12 minded or have sociopathic personalities are continuing problems in  
13 the criminal justice system; and

14 Whereas, the Medical Society of Virginia has recommended the  
15 enactment of a defective delinquent statute similar to that in effect  
16 in Maryland to deal more effectively with the feebleminded and  
17 those with sociopathic personalities who violate the law; and

18 Whereas, the treatment of sex crime offenders in the criminal  
19 justice system suggests the consideration of alternative approaches  
20 to those presently being employed in Virginia; now, therefore, be it

21 Resolved by the Senate of Virginia, the House of Delegates con-  
22 curring, That the Virginia State Crime Commission is directed to  
23 conduct a study of the special handling of defective delinquent of-  
24 fenders and sex crime offenders with the view of recommending leg-  
25 islation, if deemed advisable, for the proper handling of such offend-  
26 ers.

27 The Commission shall conclude its study and submit its report  
28 and recommendations to the Governor and General Assembly not  
29 later than December one, nineteen hundred seventy-four. All agen-  
30 cies of the State shall assist the Commission in its study upon re-  
31 quest.

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#### DEFECTIVE DELINQUENT AND SEX OFFENDER STUDY

The Crime Commission was directed in Senate Joint Resolution No. 31, passed by the 1974 Assembly, to conduct a study of the special handling of defective delinquent offenders and sex offenders with the view of recommending legislation, if deemed advisable, for the proper handling of such offenders.

The Commission referred the study to a subcommittee of the Corrections Advisory Group chaired by Erwin S. Solomon. Robert Horan, Jr., commonwealth's attorney, Fairfax, serves as chairman of the Sex Offender Subcommittee whose members include Judge Arthur Sinclair, Fairfax; Dr. Reuben Horlick, Arlington; Ed Wells, Washington, D. C.; Mrs. Walter Skallerup, McLean; Dr. Emory T. Hodges, Alexandria; the late Virginia Keyser, Greenway; Edgar Allen Pritchard, Fairfax, and Charles Swift, Norfolk. Miss Keyser died in December.

The subcommittee reviewed the sex offender statutes from Maryland, New Jersey, Washington, and Wisconsin. The research indicated that 24 states have some type of defective delinquent and/or sex offender statute including Virginia. However, few states specify any special treatment for sex offenders and consequently, these inmates appear to be sent to any institution with sufficient space to house them. Such is the case in Virginia.

Sections 53-278.2 and 53-278.3 of the Code of Virginia provide for mental examinations of persons convicted of offenses indicating sexual abnormality and the deferring of sentences of such persons until such examinations are complete. The Code does not specify that any particular facility will receive persons convicted on sex offenses. Therefore, such persons are mixed with the general population of the correctional institution.

There are no treatment programs designed for sex offenders within the Department of Corrections for the 371 felons who were serving sentences for

rape, sodomy, incest or other sex offenses in Virginia in 1972-1973. That is, no program of psychiatric evaluation presently exists for these offenders, the majority of whom will return to society after serving sentences.

The Maryland Defective Delinquent and Sex Offender Statute:

The subcommittee heard from the Director of the Patuxent Institute for Defective Delinquents (including sex offenders) in Maryland, Dr. Harold M. Boslow, along with Donald Stutman, assistant attorney general, State of Maryland, who serves as counsel to the institution. They described Maryland's experience with the Maryland Defective Delinquent Statute and with the Patuxent Institution which was specifically mandated to treat those convicted of violent crimes.

Maryland's Defective Delinquent Statute was enacted in 1951. The primary purpose of the legislation is to protect society from that segment of the criminal population who probably will again commit crimes if released on the expiration of a fixed sentence; and thus they should be detained and specially treated unless and until cured.

According to the statute, a defective delinquent is "one who, by the demonstration of persistent aggravated anti-social or criminal behavior, evidences a propensity toward criminal activity and who is found to have such intellectual deficiency or emotional imbalance or both, so as to clearly demonstrate an actual danger to society so as to require such confinement and treatment, when appropriate as may make it reasonably safe for society to terminate the confinement and treatment."

The treatment may, and in many cases would, involve incarceration for life, not because of guilt, but to protect the defective himself and society. To implement the Defective Delinquent Statute, the legislature created a special institution called Patuxent Institution.



To implement the intent, the Statute provided for an indetermined sentence. The indeterminate sentence used in Maryland is defined as one "without maximum or minimum limits in order to confine defective delinquents until, as a result of the special treatment which they need, it is safe to return them to the community." If they cannot be cured, such indeterminate sentencing accomplishes their confinement for life, which the protection of society demands.

Under the statute, only the courts can refer an offender to Patuxent after he has been convicted and sentenced on a criminal offense. The professional examining staff cannot commit individuals as defective delinquents; only the Court can do so after formal hearings with all procedural rights preserved. The committed individual has to be reviewed by an institutional Board of Review (four representatives from the community, four from the institution) every calendar year and is additionally entitled to periodic re-determination hearings in Court. The Institutional Board of Review has the authority to grant forms of conditional release (leaves, work release and parole) but only the committing Court can grant complete release from the institution. In that sense, it is the Court which commits, maintains jurisdiction and releases individuals from defective delinquency. The professional staff examines, recommends and treats.

The Maryland Statute is broad by design and has been fairly controversial in the past. Dr. Boslow told the committee that a broad-based statute is more valuable because wider detection is allowed. Actually, very few of the residents at Patuxent have been convicted of sex offenses. The majority were referred to the institution on crimes of violence. (See Table Below)

PATUXENT INSTITUTION

Maximum Capacity	500
Percent of Residents Referred for Sex Offenses	10%
Percent of Residents Referred for Other Crimes of Violence	90%
Percent of Residents Not Released Because of Threat to Society	15% to 20%
I. Q. Range of Residents	50 to 140
Average Stay at Patuxent	4 1/2 years
Rate of Recidivism of Fully Treated	7%
Per Capita Cost	\$9,532*
Total Number of Psychiatrists	9
Total Number of Psychologists	10
Total Number of Social Workers	14
Total Number of Nurses	5
Total Number of Custodial Force	320
Ratio of Professional Staff to Patients	1 to 15
Ratio of Guards to Inmates	1 to 30

\*Largest expense is building costs; second largest is staff. This figure includes a minimal amount of Federal assistance.

The Wisconsin Sex Crimes Law:

The Wisconsin Sex Crimes Law was instituted in 1947. A constitutional defect was corrected in 1951 and the law has been in operation since that time.

Under this law, specified assaultive and aggressive offenders convicted of rape, indecent behavior, etc., are committed 60 days prior to conviction to the Department of Mental Health. If the department finds that he is sexually deviant, he is returned to the court where one of two alternatives may happen.

The court may recommit him for treatment for a period no longer than his sentence under the criminal code. If, after his sentence is completed, he is still perceived as sexually deviant, his stay is extended. Theoretically, he could be committed for life.

If the department does not find him to be deviant, he is sentenced (by criminal code) to an institution.

The Division of Corrections had the responsibility for administering the sex law for a number of years. However, the responsibility has since shifted to the Department of Mental Health. During the 10 years that the Division shouldered the responsibility for the law, a total of 2,300 offenders were received in the system. Of those, 1,224 or approximately 53% were determined to be sexually deviant. Sanger Powers, director of the Wisconsin Department of Corrections until his retirement in July, 1974, said that the success rate for treatment or rehabilitation of sex offenders was better than for prisoners committing other crimes.

The Washington State Sex Offender Treatment Center:

The purpose of the Center, established in 1968 as a specialized program serving the entire state for the Division of Institutions, is to provide an effective and economical evaluation and treatment service for habitual sex offenders, individuals who are of special concern to the public and who otherwise would simply be imprisoned with little likelihood of corrective treatment. Although standard psychiatric and psychological examination procedures are also routinely employed, the Center has developed a uniquely guided self-help approach which represents a major departure from traditional psychiatric and correctional methods. Through intensive cultivation of the offender's staff and the use of citizen volunteers directly in the treatment process, the Center provides a specialized service at a lower

per diem cost than the adult correctional system, a shorter length of institutional residence, and has achieved approximately a 5-times lower recidivism rate for offenders discharged from treatment compared to men placed on parole from the adult correctional system. During fiscal 1972 the Center provided evaluations on 120 offenders, in-patient treatment of 122 men, out-patient follow-up service to 27 men and weekly marital counseling to 26 offenders' wives. In terms of custody, the program has been conducted successfully within an open mental environment, without the use of traditional restraints of any sort and with no higher an escape rate than for the adult correctional system, approximately 3% during the past two years.

The extraordinarily low cost and relative effectiveness of the program has been made possible by centering its structure and procedures around small, largely self-administered treatment groups. Each of these groups of approximately 15 offenders is under the close daily guidance of a specially trained Therapy Supervisor and carefully selected patient leaders and is responsible for every aspect of the offender's daily living; his custody and supervision, psychotherapy, work assignment, recreation and daily relationships. The new offender, admitted for observation under the state's "sexual psychopath" statute is immediately assigned at random to one of these groups, oriented on basic hospital and program rules, and directed to begin writing his autobiography, the first tool of the psychotherapy process. If retained for treatment following three months of close observation, with the same group throughout his entire treatment career of at least three years duration; 15 months of full in-patient residence, three months of work release, 18 months of follow-up treatment. In order to earn a "safe to be at large" recommendation and commence his work release and out-patient phases of treatment, he must have accomplished four basic treatment objectives: to recognize his deviant

vioral patterns, to understand their origin and operation, to make a firm commitment code of behavior, and to demonstrate through daily behavior on the that he is ready for community living.

The philosophy of the program is that its first responsibility is the protect- society and that this is achieved by developing within the offender a sense of pride in being able to recognize and control his deviant impulses to govern his relationships with other human beings by concern for their elings and rights. The program is based on the premise that this growth can be achieved only in an environment providing opportunities and similar to community living, respect and concern for the offender as being, close daily observation, confrontation and psychotherapy and and punishments based solely upon behavioral performances.

The Sex Offender subcommittee will present its findings and recommendations the Crime Commission later. It is expected that the subcommittee may recommend e enactment of a Virginia Statute on Sex Offenders to replace Sections 53-278.2 of the Virginia Code concerning mental examinations for persons offenses indicating sexual abnormality. See proposed legislation in Appendix I

The enactment of such a statute would require the establishment of a for court referred sex offender cases. This hopefully uld be accomplished at an existing institution within the Department of Mental utilizing present staff and/or augmenting staff where necessary. completion of the psychiatric evaluation, the sentencing judge would and/or confinement to the center. is expected to propose that the center contain approximately

200 single cell living units.

Finally, the subcommittee is expected to recommend the consideration of obtaining funding on a discretionary basis for a pilot project for the treatment of sex offenders in the Commonwealth.

## APPENDIX I

*A BILL to repeal §§ 8-208.20, 8-208.30, 8-208.31, 14.1-184, 14.1-184.1, 15.1-141, 17-30.1:1, 17-30.2, 53-273 through 53-275, and 53-278.1 through 53-278.4, as severally amended, of the Code of Virginia, relating to certain matters in criminal procedure, so as to conform with the reenactment of the provisions of such sections in Title 19.2 of such Code; and to provide for codification of any amendments of such sections, and of any new sections which might be repealed by the provisions hereof.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 8-208.20, 8-208.30, 8-208.31, 14.1-184, 14.1-184.1, 15.1-141, 17-30.1:1, 17-30.2, 53-273 through 53-275, and 53-278.1 through 53-278.4, as severally amended, of the Code of Virginia are repealed.
2. That if any of the sections of the Code of Virginia which will be repealed hereby should be amended and reenacted by the Acts of Assembly of 1975, such amendments are hereby reenacted in the Title 19.2 sections of such Code equivalent to such repealed sections; and that if the provisions hereof should have the effect of repealing any sections added to the Code of Virginia by such 1975 Acts because of the numerical sequence of such added sections, any such sections are hereby reenacted in Title 19.2 of such Code, and the Virginia Code Commission is hereby empowered to assign appropriate Title 19.2 section numbers to such sections.
3. That this act is in force on and after October one, nineteen hundred seventy-five.

