

**REPORT OF THE
COMMITTEE ON DISTRICT COURTS**

**Assessing the Need for
Services for Virginia's
General District Courts**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 15

**COMMONWEALTH OF VIRGINIA
RICHMOND
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GENERAL ASSEMBLY OF VIRGINIA - 1984 SESSION

HOUSE JOINT RESOLUTION 26

Directing the Committee on District Courts to assess the need for court services for general district courts.

Agreed to by the House of Delegates, March 8, 1984

Agreed to by the Senate, March 6, 1984

WHEREAS, the Virginia State Crime Commission in 1975, and the Ad Hoc Committee on Corrections Crowding in 1981, advocated the increased use of probation services to help relieve jail crowding; and

WHEREAS, during fiscal year 1982, there were thirty-nine local jails in the Commonwealth of Virginia that were over capacity for more than eighty-five percent of the year; and

WHEREAS, in fiscal year 1982, more than seventy-six percent of all people confined in local jails were awaiting trial, and pre-trial misdemeanants and ordinance violators accounted for sixty-two percent of the total confinements and eighty percent of the pre-trial confinements; and

WHEREAS, in fiscal year 1982, thirty-nine percent of all people confined in local jails were there for the offenses of "drunkenness/drunken and disorderly" and "driving under the influence of alcohol"; and

WHEREAS, new traffic cases (fifty-two percent) and new criminal cases (seventeen percent) combined accounted for sixty-nine percent of the workload of general district courts in the Commonwealth, excluding new cases in the juvenile and domestic relations district courts; and

WHEREAS, at the end of fiscal year 1982, 11,695 of the cases remaining under probation supervision were from circuit courts, while 1,318 were from general district courts; and

WHEREAS, there is no system of court services uniformly available to the Commonwealth's general district courts; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Committee on District Courts is directed to assess the needs and costs for establishing court services for general district courts, and to develop a plan for establishing the services and a strategy for funding them. The Committee shall complete its work in time to submit a report and recommendations to the 1985 Session of the General Assembly.

Introduction

"Taxpayers want the courts to ensure that offenders either go to jail or pay off or work off their fines. The public also wants to see restitution made to crime victims. We need services and a more appropriate place than jail for public drunks. Yet these programs do not operate on their own; they need administrative supervision and follow-up. In most localities neither the judge nor the clerk's staff has the time to direct sentencing alternatives programs in addition to operating the court."

The Honorable David G. Simpson
Judge, 26th Judicial District

"The situation is ludicrous. We can fine misdemeanants forever but until we have a way to enforce payment and follow-up on cases, the general district courts will be a revolving door."

The Honorable J. Peyton Farmer
Judge, 15th Judicial District

"In practice, we have no middle ground between jail and 'letting an offender go' and both the misdemeanants and citizens who are the victims know it. I want to fashion something to hold the individual accountable, yet not wreck his life with jail or a criminal record, particularly for first offenders."

The Honorable John A. Paul
Judge, 26th Judicial District

The views expressed by these three Virginia general district judges reflect precisely the problems which gave impetus to the passage of House Joint Resolution #26 by the 1984 General Assembly. The resolution directed the Committee on District Courts to assess the need and the costs for providing court services to the general district courts in order to administer sentencing alternative programs for misdemeanants.

During calendar year 1983, a total of 2,099,806 cases were initiated in Virginia's general district courts. This caseload was composed of 1,152,699 traffic, 605,988 civil, and 341,119 criminal cases. Approximately 89 percent of the criminal cases involved misdemeanor charges. A misdemeanor is any charge which carries a penalty of no more than one year in jail, a fine of up to \$1,000 or both.

Unlike the circuit and juvenile and domestic relations district courts, there is at present no comprehensive statewide system for providing probation offices or court services units for Virginia's 134 general district courts. Efforts to establish these services and other types of sentencing alternatives programs for misdemeanants have been increasing in Virginia since the mid-1970's. At that time, the only services available to general district courts for handling cases involving criminal misdemeanants were those provided on an ad-hoc basis through the adult probation and parole offices of the Department of Corrections. The law has long permitted use of probation personnel for this purpose. However, as has been documented through numerous reports, these services were and are obtainable primarily when the circuit courts' felon caseloads are at a manageable size.

In the late 1970's, "judicial frustration" with the traditional sentencing options of fining, jailing or suspending sentences for misdemeanants prompted several general district court judges to seek federal and/or local funding to establish sentencing alternatives programs. Their frustration stemmed from the fact that they believed the traditional options and accompanying lack of services were not effective in:

1. preventing the general district courts from becoming revolving doors for some offenders, such as drunks in public;
2. insuring that offenders who are able to pay restitution or costs and fines do so; and
3. requiring offenders who cannot pay restitution or costs and fines work off those debts through community service.

Thus, local programs were developed in order provide specialized services to certain misdemeanants (e.g. first offenders, public inebriates) and as a mechanism to increase payment of court costs and fines and restitution to crime victims. At the same time, such programs were being viewed by the legislature and criminal justice officials as a potential means to reduce crowding within the state's local jails.

Since 1980, the General Assembly has enacted additional statutes authorizing the use of sentencing alternatives for misdemeanants. Public funds have been appropriated to support programs in a few localities including two court services units and three public inebriate centers. In addition, the participation of misdemeanants in Community Diversion Incentive Act programs was authorized in 1982. Contractual agreements for services with non-profit agencies in a few areas also are being supported with state appropriations.

Thus, a limited system of court services for misdemeanants has evolved within the past ten years. Support for further expansion of these programs has been expressed by judges and other criminal justice officials as well as through various legislative studies and evaluations. However, concerns remain regarding a direction for the future development and funding of court services programs. These concerns are discussed in the Committee's report and are reflected in the conclusions and recommendations sections which follow.

In submitting its report, the Committee wishes to express appreciation for the assistance rendered by the following individuals: The Honorable David G. Simpson, Judge, 26th Judicial District; Mr. C. Ray Mastracco, Assistant Director for Adult Community Corrections and Ms. Dee Malcan, Coordinator, Community Diversion Incentive Act Programs at the Department of Corrections; Mr. James E. Kouten, Division Director, State and Local Services, Mr. James T. Roberts, Chief of Corrections Services Section, and Mr. Daniel E. Catley, Criminal Justice Analyst of the Department of Criminal Justice Services; and Mr. Vincent M. Burgess, Transportation and Safety Administrator of the Division of Motor Vehicles.

Conclusions

1. Through the enactment of several statutes authorizing: 1) supervision for misdemeanants by adult probation and parole offices, 2) participation of misdemeanants in Community Diversion Incentive Act programs, 3) diversion of public inebriates from the criminal justice system into court approved detoxification centers, and 4) funding to support a variety of programs including two general district court service units, three public inebriate centers and contractual agreements for services with private non-profit agencies, the General Assembly has provided a limited "system" of court services for misdemeanants encompassing all but four judicial districts in the state.

The four judicial districts currently not covered to some degree either by probation services to general district courts or a CDI program serving misdemeanants are: District 1 - Chesapeake, District 4 - Norfolk, District 11 - Petersburg and the Counties of Amelia, Dinwiddie, Nottoway and Powhatan and District 25 - Buena Vista, Clifton Forge, Covington, Lexington, Staunton, Waynesboro, and the Counties of Alleghany, Augusta, Bath, Botetourt, Craig, Highland and Rockbridge. A chart of district court coverage by type of service appears on page 22.

2. During fiscal year 1983-84, Virginia spent approximately \$1,526,006 for general district court services provided through the Departments of Corrections and Criminal Justice Services. This includes:

\$ 402,000	Misdemeanant placements in CDI programs at \$211 per client/2,000 clients (DOC)
598,000	Supervision of misdemeanants by P&P offices 1,400 cases statewide ÷ 60 cases per month = 23 officers @ \$26,000 each (salaries, benefits, travel, office space) (DOC)
157,506	Funding for Portsmouth and Harrisonburg Court Services Units (DOC)
133,500	Contractual Services with Non-Profit Agencies (DOC and DCJS)
235,000	Operation of Virginia Beach, Winchester, and Charlottesville public inebriate centers (DCJS)
<u>\$1,526,006</u>	TOTAL

This does not include costs for Virginia Alcohol and Safety Action Programs or programs supported by local public or private funding.

3. The collection of management information data on the operation of existing sentencing alternatives programs is lacking. This is due to the relative newness of the programs and lack of uniformity in reporting procedures and practices. In addition, there is no mechanism for the collection of comparative data on courts presently served by these programs and those not served. Accurate and complete information is needed in order to determine the full impact and cost-effectiveness of these programs on a statewide basis.

4. Expansion of court services to misdemeanants has been supported by numerous legislative and executive branch studies/reports issued since the mid-1970's. They have been viewed in these reports as a means to:
 - reduce jail crowding;
 - reduce the "revolving door syndrome" among misdemeanor offenders and prevent their escalation to commission of more serious offenses;
 - provide a cheaper, more appropriate disposition for first time offenders and other non-violent misdemeanants, including drunks in public;
 - coordinate the referral and follow-up of misdemeanants to existing local agencies for job training, drug and alcohol abuse counseling, and other specialized services, where appropriate;
 - increase the payment of restitution to victims of crime as well as increasing collection of court costs and fines assessed against misdemeanants;
 - insure that indigents receive some consequence of their conviction (i.e. perform community service) in lieu of payment of fines and costs.
5. Judges responding to a survey conducted by the Committee pursuant to the study overwhelmingly supported further development/expansion of sentencing alternatives programs for misdemeanants. According to survey results, there is no single prototype for court services that most judges would prefer to have developed. Judges were evenly divided between additional availability of probation officers' time and establishment of court services units as the desired mechanism for offering expanded services. In addition, there was no clear consensus as to the specific types of services most needed in their jurisdictions.
6. Existing court services and sentencing alternatives programs for misdemeanants have evolved as needs were identified by judges and other local criminal justice officials and as local, state or federal funding became available. The benefits for the courts, victims of crimes and offenders in these localities appear substantial. However, the piecemeal approach to creation of court services or sentencing alternatives programs has raised some concerns:
 - 1) At the present time, there are a number of district courts and defendants who have access to numerous dispositional alternatives programs and others to none.
 - 2) There are differences in philosophy among the existing programs as to which types of offenders to serve and to what extent services should be offered.
 - 3) No one governmental entity is responsible for providing administrative supervision of these programs at the present time.
 - 4) There are no statewide goals or explicit legislative approval for court services programs for misdemeanants and no direction or means for coordinating development of additional programs.

7. House Joint Resolution #26 requested the Committee to establish the statewide costs for court services as well as a strategy for future funding of such programs for general district courts. Based on information collected during the study, this does not appear possible at the present time both because sound management information is unavailable and because the priority needs for these services vary from locality to locality. Defining the specific service need for a district defines the costs involved. Neither the survey of judges nor the evaluations conducted at the state level suggest a single prototype for the design of sentencing alternative programs. Instead, they support the need for a choice of approaches based upon the problems and existing resources within each judicial district.

RECOMMENDATIONS

1. The Committee on District Courts supports the continuation of existing services for general district courts provided locally through programs funded by the Departments of Corrections and Criminal Justice Services. Judges of the general district courts are encouraged to fully utilize available services for the referral of misdemeanants, as appropriate to the program.
2. The Committee on District Courts recommends the passage of a resolution by the 1985 General Assembly which would establish a direction and means for coordination and further development of sentencing alternative programs for misdemeanants. Specifically, the resolution should direct that the Department of Corrections:
 - 1) assume oversight responsibility for coordinating the provision of such programs;
 - 2) develop a plan for services to be provided in each judicial district based upon needs identified by the general district court judges and other local criminal justice officials; and
 - 3) establish an advisory committee of general district court judges and state and local criminal justice officials to develop statewide goals for district court services as well as administrative guidelines for the operation of programs developed pursuant to those goals.

The resolution also should specify that implementation of the individual district plans shall be through submission for funding through the budget of the Department on a program-by-program basis.

Finally, the legislature should direct that, where appropriate, court services programs for misdemeanants funded through the Department should be encouraged to assist in the monitoring and collection of court fines, costs, and restitution. A copy of the proposed resolution appears in the Appendix on page 21.

3. It is the consensus of the Committee that in expanding court services to misdemeanants, preference should be given to judicial districts not presently served by existing programs administered by the Department of Corrections.

Report

The study conducted by the Committee on District Courts pursuant to House Joint Resolution #26 included a review of current statutes permitting use of alternative sanctions for misdemeanants charged with or convicted of criminal offenses. In addition, information was compiled on the various types of existing court services and programs which have been established pursuant to these statutes. A survey of general district court judges was conducted in the fall of 1984 to obtain their views on the need for and present usage of these programs. Finally, discussions were held with judges, officials of the Departments of Corrections and Criminal Justice Services and local program staff to try to determine the impact and cost-effectiveness of these efforts as well as the administrative issues relating to expansion of court services.

A. Existing Statutes, Services and Programs

1. Probation Supervision for Misdemeanants

Section 53.1-145 of the Code of Virginia directs probation and parole officers to investigate and report on any case pending in their jurisdiction which is before any court or any judge. According to the Department of Corrections, there were 12,984 probationers remaining under supervision from circuit courts and 1,420 from district courts at the end of fiscal year 1983. Thus, eleven percent of the officers' caseloads were comprised of misdemeanor clients. This amounted to a 7.7 percent increase from the previous year in the number of district court clients. See charts in the Appendix on pages 23-24. Although the percentage of referrals from district courts has increased steadily in the past few years, the felony caseloads in most offices still prohibit widescale availability of the officers' time for supervising district court cases. Perhaps as a result, a number of district court judges say they have been reluctant to request such services.

Data compiled by the Department indicates that some degree of probation "coverage" is available in all but two judicial districts (district #1 - Chesapeake and #4 - Norfolk). The Department says that in 23 of the 32 districts there is at least

minimum coverage - a probation officer who supervises cases for the courts, provides limited pre-sentence investigations or record checks, and who monitors payment of fines, costs, restitution, and/or performance of community service orders. This is not to imply that there are services regularly provided to every court within their jurisdictions. In seven other districts, a few cases are accepted for supervision but not on a regular basis (less than 10 cases within a year).

Since 1981, state funds have been appropriated to support the establishment of two general district court services units located in Portsmouth and Rockingham County (including the city of Harrisonburg). Both programs were initially operated under local public or private funding and/or federal grants. The Portsmouth and Rockingham County units now receive state funding from the Department of Corrections for probation personnel to work directly with the general district courts. In fiscal year 1982-83, the Rockingham County unit received \$58,514 to support one full-time and one part-time staff member. Staff reported that 705 clients were served during this period. Five full-time positions and a budget of \$100,000 was allocated for the Portsmouth unit in fiscal year 1983-84. Approximately 174 clients were served per month in that program.

A variety of pre-trial and post-dispositional court services have been developed within each unit. Both programs provide pre-sentence reports and recommendations for the judges and conduct interviews with defendants for referral to community service agencies for counseling, alcohol treatment, and educational assistance. In addition, staff supervise the performance of community service work by offenders as well as collection of restitution for bad checks, property damage, or personal injury to victims.

2. Division of Court Services Serving the 26th Judicial District

The 26th Judicial District Court Services Unit serves the city of Winchester and the counties of Clarke, Frederick, Page, Shenandoah and Warren. It also provides some services in the city of Harrisonburg and Rockingham County. It has evolved under a different model and operates under a variety of funding sources including the Community

Diversion Incentive Act, the Alcohol Safety Action Program (ASAP), the Federal Bureau of Prisons and the Division of Criminal Justice Services. Four separate programs are offered including the Old Dominion ASAP, the Blue Ridge Diversionary programs (community service, sentencing alternative and fine options programs), a detoxification center, and educational programs. In addition, a civil mediation program operates to help resolve minor disputes in lieu of trial. Total funding for the unit in fiscal year 1983-84 was reported at \$619,000. This supported 28 staff positions. Approximately 4,358 misdemeanants and 3,507 civil mediation clients were served during fiscal year 1984.

3. Misdemeanant Participation in Community Diversion Incentive Act Programs

The Community Diversion Incentive Act (CDI) was created by the General Assembly in July, 1980. The purpose of the Act was to provide the judicial system with additional sentencing alternatives for certain non-violent offenders who require less than institutional custody but more than probation supervision. Initially, only felon offenders were eligible to participate in the program. This was because one of the original intents of the CDI Act was the diversion of appropriate offenders sentenced to incarceration in a state correctional facility. In 1982, the legislature amended the Act to provide that funds may be used to develop programs to divert offenders from state or local correctional facilities, thus expanding participation to misdemeanants. Since inclusion of these clients, CDI programs have served approximately 3,000 misdemeanants. The Act is administered by the Department of Corrections.

According to the Department, there are 23 CDI programs operating in 21 judicial districts at present. All but four programs provide services to misdemeanants as well as to felons. Under the administrative regulations for CDI programs, all clients must have been sentenced to a period of incarceration in order to be eligible for placement into the program. Thus, CDI services are not available for misdemeanants who receive either a suspended sentence, fine, or order for restitution as the sole disposition in the case.

With that exception, casework services provided to CDI misdemeanants are similar to those provided under probation supervision. All offenders are ordered to perform community service work and must pay costs, fines and any restitution ordered or complete community service hours in lieu of such payment.

A number of judges interviewed during the course of the study prefer misdemeanor placement in CDI programs over probation supervision. The structure of the latter, they say, is more flexible and more directed to short term monitoring and follow-up as opposed to counseling. (When counseling is required, CDI treatment staff act more as a "broker" rather than a provider of services.) For these judges, the major programmatic shortcoming in CDI is the prohibition on serving those with dispositions other than jail sentences. Among members of the General Assembly, however, there has been continuing concern that expanding service to misdemeanants has reduced the effectiveness of the program in fulfilling its original objective of diverting non-violent felons from prison. The Department responded to such concerns in July, 1984 by decreasing services provided to misdemeanor clients. The average length of stay has been reduced to 60 days and cost per divertee has been reduced from approximately \$355 to \$144. Services now include community service order placement and development of an initial payment plan for costs and fines. Officials at the Department report that with reduction in funds, options for some misdemeanants such as specific treatment services (psychotherapy, residential drug abuse), and caseworker availability to the courts, among other services, have had to be curtailed.

Advocates of the use of CDI programs stress that these services are less expensive than either probation supervision or incarceration. It is estimated that local jail incarceration costs approximately \$780 per month. Personnel costs related to probation supervision for misdemeanants is estimated at \$430 per client. Generally, misdemeanants remain under supervision for less than one year. As previously stated, the average cost per CDI client is \$144 and average length per stay is 60 days.

4. Virginia Alcohol Safety Action Program

The Virginia Alcohol Safety Action Program (VASAP) is a highway safety program administered by the Division of Motor Vehicles. It is also a criminal justice program providing a probationary function to the courts and to persons convicted of driving under the influence of alcohol.

In fiscal year 1983-84, a total of \$7,370,653 was expended for the operation of the VASAP and its 25 local programs. Eight of the local ASAP's are administered as components of coordinated community corrections programs. According to VASAP administrators, several district court judges have identified the local ASAP as the acceptable umbrella organization for the development and expansion of other services to criminal misdemeanants.¹ This concept was not incorporated as a part of the Committee's study for two reasons. First, the survey of judges completed in fall, 1984 indicated that development of individual programs such as public inebriate centers, were preferred over a single prototype or an umbrella agency to coordinate services. Secondly, a report entitled "Critical Review of VASAP" was completed recently by the Division of Motor Vehicles. It concluded that the extension of ASAP programs beyond their highway safety roles has resulted in the identification of several concerns. These include overlapping of personnel duties and functions, commingling of funds between ASAP and CDI participant fees, duplications of charges between programs and lack of appropriate expenditure control.² The report concluded that "ASAP, by its nature and legislation, is a highway safety program and should remain as such, exclusive of other court probationary activities."³ The report was submitted to the Governor in late fall, 1984.

5. Other State Funded Services - Contractual Agreements

A few general district courts are served through programs operated by private non-profit agencies and funded either by the Department of Corrections or the Department of Criminal Justice Services on a contractual basis. For example, the New River Community Action, Inc. receives an appropriation of \$63,000 through the

Department of Corrections to operate a Community Sentencing program serving misdemeanants sentenced in Pulaski and Montgomery Counties as well as in the city of Radford. Approximately 500 offenders are served per year. Similar to CDI, this program develops work assignments, monitors the performance of community service orders and assists offenders in obtaining paid employment and social services, if needed.

In Richmond, an Offender Aid and Restoration (OAR) program received approximately \$70,500 in fiscal year 1984 from the Department of Criminal Justice Services. The program provides a variety of services to misdemeanants in jail including development of community service placements, monitoring of restitution payments, monitoring of offenders, payment of fines, costs and restitution payments, and job development assistance.

6. Public Inebriate Centers

In 1982, the General Assembly enacted § 9.173.1 (V.C.A.) establishing detoxification centers programs to provide an alternative to arresting and jailing public inebriates. Placement of public inebriates in such court approved facilities in lieu of arrest is permitted under § 18.2-388 of the Virginia Code. An appropriation of \$500,000 for the 1982-1984 biennium was made in order to support the operation of three such centers. These centers are administered by the Department of Criminal Justice Services and are located in the cities of Winchester, Virginia Beach and Charlottesville. Staff of the Department report that all three centers operate under a "public safety" model, that is, direct diversion from the criminal justice system and short-term care.

A report entitled Public Inebriate Centers: First Funding Year Assessment prepared by the Department indicates that 6,768 public inebriates were admitted to the three centers during their initial year of operation.⁴ A significant number of clients were repeat admissions, according to the assessment. The report concluded that the centers (particularly in Winchester and Charlottesville) had had the expected impact on costs savings as well as savings in time for law enforcement officers and the courts.⁵ The Winchester Public Inebriate Center provides an example of these savings. Figures

compiled by the Department indicate that prior to introduction of the program, approximately 2,407 drunk in public arrests were made (1977 data). During fiscal year 1983, the first year of operation for the center, this number was reduced to 196 arrests. Given that each arrest is calculated to take approximately 45-60 minutes and that each referral to the center takes only 15-20 minutes, an overall savings of 1,105 hours or \$9,662 in the time police officers spent on drunk in public cases was realized. Similarly, the Division estimated that \$2,764 was saved in transportation costs, \$39,798 was saved in court time for judges, magistrates and clerks, and that reductions in jailing drunks in public saved an estimated \$54,170. Total savings were estimated at \$106,394 as opposed to program costs of \$72,794 (state and local funding). Thus, establishment of the center was said to have saved taxpayers \$33,600. See chart in Appendix on page 25 for an analysis of these costs.

7. Local Programs

In addition to the state funded programs described above, general district courts in Arlington, Fairfax, and Charlottesville are served by Offender Aid and Restoration programs. Funded by the localities as well as through private donations or foundations, these programs utilize both staff and volunteers to supervise misdemeanants referred into the community service and restitution components of these efforts.

B. The Need for Services as Perceived by General District Court Judges

In order to obtain the views of general district judges regarding the need for court services, a survey was conducted at the fall, 1984 Judicial Conference. Approximately 100 judges attended the conference and 43 completed the questionnaire (40 percent). Only five of the 32 districts were unrepresented. Responses were evenly divided; 50 percent of the judges represented rural districts and 50 percent were from urban areas. A copy of the survey and its results is contained in the Appendix on pages 26-31.

Judges first were asked whether they believed current efforts in their jurisdictions should be expanded or improved in five areas including 1) enforcing collection of unpaid court fines and costs; 2) ensuring that offenders make restitution payments to victims; 3) offering specialized services to certain offenders to reduce recidivism; 4) diverting from jail convicted misdemeanants who require some consequence for their actions but do not require incarceration; and 5) offering mediation in lieu of trial for minor civil cases. The majority of judges responded affirmatively in all five categories. Results indicated unanimous support for improving efforts to collect unpaid costs and fines. Other than in jurisdictions which have program staff to monitor these payments, judges say the issuance of show cause orders and review of ledger sheets maintained by clerks are the primarily methods they have to determine the amount of unpaid fines, costs and restitution payments in their courts.

The issuance of show cause summonses/capiases also is the most frequently used enforcement action taken against persons who fail to pay fines and costs. Placing offenders on work release and requiring performance of community service is ordered by more than 50 percent of those answering the questionnaire.

Judges also were asked about the dispositional options currently available to them in the handling of offenders. Community service orders again were cited as the most regularly available and utilized sentencing alternative. Thirteen judges reported that they have regular access to CDI programs.

Most judges reported that probation supervision for misdemeanants was either never or only occasionally available to their courts. Other services rarely accessible were job training for offenders and use of private non-profit agency programs.

When asked which specific services judges would most like to have established for their courts, no one type of service predominated. In order of frequency, judges rated equally preferences for development of probation supervision, CDI programs and staff to administer community service programs.

An overwhelming majority of judges said they favor development of additional sentencing or dispositional alternatives for the handling of misdemeanants. Judges were evenly divided regarding the preferred administrative structure for the delivery of court services. Twenty-one judges desired additional availability of probation officers time while an identical number wanted to establish a court services unit or have a program coordinator within their courts to carry out the program. Still other judges preferred hiring additional staff within the clerk's office for this purpose or having services provided through an existing state or local agency.

C. Impact, Cost Effectiveness and Administrative Issues

In addition to judges, the development of sentencing alternatives for misdemeanants has been supported by numerous legislative and executive branch studies and reports issued since the mid-1970's.⁶ Such services have been viewed in these reports as a means to:

- reduce jail crowding;
- reduce the "revolving door syndrome" among misdemeanor offenders and prevent their escalation to commission of more serious offenses;
- provide a cheaper, more appropriate disposition for first time offenders and other non-violent misdemeanants, including drunks in public;
- coordinate the referral and follow-up of misdemeanants to existing local agencies for job training, drug and alcohol abuse counseling, and other specialized services, where appropriate;
- increase the payment of restitution to victims of crime as well as increasing collection of court costs and fines assessed against misdemeanants;
- insure that indigents perform community service in lieu of payment of fines and costs.

Because most programs have been in operation less than five years, few evaluations have been conducted to determine the impact that court services have had in meeting the objectives listed above. Statistics compiled from individual programs clearly indicate that a substantial number of persons charged with or convicted of misdemeanors are performing community service work in lieu of prosecution or

confinement in jail. These data also confirm that fine options programs are ensuring that there is a consequence both for indigents and non-indigents who fail to pay court costs and fines. Thousands of hours of community service work to public and private agencies has been provided as a result of these efforts. In at least one judicial district (the 26th), the development of the CDI program (serving both felons and misdemeanors) is credited for reducing the jail population by 40 percent and eliminating the need for construction of a new jail. While only one year's data is available, it appears that public inebriate centers also are proving cost-effective.

According to individual program evaluations and the testimony of judges and other criminal justice officials, the benefits that these programs have had for the courts, victims of crimes offenders appear significant. Nevertheless, limitations on the available evaluative data must be recognized. For example, there are no data comparing the amounts of uncollected fines and costs for the courts prior to and following implementation of the programs. The statistics provided by courts also do not detail the amounts fines and costs assessed to those collected. In addition, those statistics are aggregated in such a manner that determining the specific affects these programs have had was not possible. Finally, there was no data and no available mechanism for collecting data during the study time frame which permitted a determination of the impact for courts served by such programs as opposed to those not presently served by a court service unit, CDI, or other type of local program.

The only formal evaluation made to date on district court services was prepared by the Department of Criminal Justice Services in 1983.⁷ Entitled "General District Court Services to Misdemeanants: An Assessment," the report compares the operations of the Portsmouth General District Court Services Unit and the Blue Ridge Diversionary

Program's misdemeanor components in Winchester (the 26th Judicial Districts Division of Court Services). The assessment of the two program models consisted of three components:

1. an overview of the program including program descriptions;
2. program process data documenting the number and types of clients served; and
3. program impact data including interviews with agencies involved with clients and a determination of program successes and failures.⁸

The report concluded that:

Overall, both the Portsmouth and the Winchester Programs were found to provide viable services to the court and to the offender. Portsmouth with a traditional probation approach, appears to be offering services to the less serious offender. Depending upon the philosophy one holds, the Portsmouth Program is either aiming at early intervention which will take a number of years to document the effect or is "widening the net" to provide services to those who may have been released without supervision if the program had not existed. Further study comparing the Portsmouth General District Court's sentencing practices and a similar court in a district that does not have a court services program would be beneficial. The Winchester Program, although the data is extremely limited, appears to be successfully providing a sentencing alternative for the more serious offenders. This is a tentative conclusion that should be followed by some comparative data using a Winchester suspended sentence group and jail group. For the present report, the lack of easily available Winchester data prevented this comparison.⁹

The report also suggests other issues to be addressed in the further development and expansion of court services:

Perhaps most important, the basic philosophy of court services should be determined. Will the programs be rehabilitative in nature through such programs as education and other services? Or will the priority be placed on court management and sentencing alternatives? In addition, who will be the targeted clients? Will services be provided to offenders who may have received only a suspended sentence if the program were not in place in order to prevent the escalation to a more serious offense? Or will the services be directed toward the more serious offender who may have received a jail sentence if the program were not in place?¹⁰

In addition to the philosophical issues surrounding the development of court services, there is some controversy over the different models and administrative mechanisms through which these services may be delivered. In reports issued both by Virginia State Crime Commission and the Department of Criminal Justice Services, various models have been examined.¹¹ The first is a full probation service model with basic functions including but not limited to casework, referral to community resources, surveillance and follow-up.¹² A second model stresses a less traditional form of probation service. Casework is performed through a case officer who is primarily responsible for interviewing and monitoring offenders while supervision may be performed by the officer or through a collaborative effort between the officer and other local social service agency personnel.¹³ The third model places court services for general district courts under the aegis of the Community Diversion Incentive Act program. A fourth model would have jail or law enforcement personnel provide services to the court through work release programs and monitoring of offenders ordered to perform community service work. Finally, the state can contract with private agencies for service delivery.

There are advantages and disadvantages reported regarding each of these models. Based upon its review of these studies, the Committee concluded that no single prototype for court services was appropriate or desired in all of the judicial districts. Further, the Committee believes that any programs developed should continue to be based on priority needs as identified by judges in cooperation with other criminal justice officials. Costs for the provision of court services throughout the state will be dependent upon the type of service requested.

The Committee did conclude that prior to further expansion of court services for misdemeanants, a direction and means for coordination of these programs should be established. By statute, the Department of Corrections is the agency within the executive branch responsible for providing rehabilitative services to criminal offenders.

Thus, the Committee believes the Department should assume oversight responsibility for coordinating the provision of such programs.

Once this occurs, statewide goals for district court services should be established by a committee composed of Department officials along with general district court judges and state and local criminal justice officials. This committee also should be charged with developing administrative guidelines for the operation of any programs developed or expanded pursuant to these goals.

The present system of court services has been developed in a piecemeal fashion. As a result, there are a number of district courts that have access to numerous dispositional alternatives supported by state funds while other courts have no such programs. According to the Department there are four judicial districts (districts 1,4,11 and 25) having neither probation coverage or CDI programs. In other districts, probation services can be provided only on an infrequent and sporadic basis to the courts. In order to remedy this situation, the Committee further recommends that the Department develop a plan for services to be delivered in each judicial district based upon priority needs in each jurisdiction. Once this is accomplished, implementation of the plans should be funded by the Department on a program-by-program basis. Finally, the Committee suggests that, as funding becomes available, strong consideration should be given to developing programs in areas not presently receiving court services.

APPENDIX

WHEREAS, the General Assembly of Virginia, on separate occasion and by separate statute, has authorized use of alternative sanctions for persons charged with or convicted of criminal misdemeanor offenses; and

WHEREAS, public funds have been appropriated by the legislature for the establishment of court services and sentencing alternatives programs for such offenders in various localities of the state; and

WHEREAS, the programs operating pursuant to these actions are viewed by judges and other state and local criminal justice officials as having successfully reduced jail crowding in some areas, provided less expensive, more appropriate disposition for first time offenders and other non-violent offenders, including public drunks; increased the payment of court fines and costs and restitution to crime victims and provided a viable mechanism for performance of community service work for indigents in lieu of payment of fines, costs and restitution; and helped to reduce the "revolving door syndrome" in general district courts thus saving both time and expense for judicial system and law enforcement personnel; and

WHEREAS, the implementation of such programs has occurred thus far on a piecemeal basis resulting in some general district courts and defendants having access to numerous dispositional alternatives and others to almost none; and

WHEREAS, evaluations conducted by the legislative, executive, and judicial branches suggest no single prototype for the design of sentencing alternative programs and instead support the need for a choice of approaches based upon the problems and existing resources within each judicial district; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That it is the sense of the General Assembly that the establishment of a direction and means for coordination and further development of sentencing alternatives programs for misdemeanants would be in the interest of justice and sound fiscal policy; and, be it

RESOLVED FURTHER, That the Virginia Department of Corrections shall:

1. Assume oversight responsibility for coordinating the provision of such programs;
2. Develop a plan for services to be provided in each judicial district based upon needs identified by the general district court judges and other local criminal justice officials;
3. Establish an advisory committee of general district court judges and state and local criminal justice officials to develop guidelines for the operation of court services programs for misdemeanants;
4. Implement the individual district plans through submission for funding on a program-by-program basis; and, be it

RESOLVED FINALLY, Where appropriate, court services programs for misdemeanants funded through the Department of Corrections should assist in the monitoring and collection of court fines and costs and restitution to crime victims.

DISTRICT COURT CASE SUPERVISION BY JUDICIAL DISTRICTS

Districts Covered by:

Community Diversion Incentive Act Programs	Probation and Parole	Private Agencies/ Contractual Agreements	Districts Needing Coverage
			1
2	2 2A 3		
	5		4
6	6		
	7		
8	8		
9	9*		
10 (except Mecklenburg)	10		
11 (except Dinwiddie, Petersburg)	11*		11
12	12		
13	13	13 (OAR)	
14	14*		
15	15		
16	16*		
	17		
	18		
	19		
20	20		
	21		
22 (except Franklin)	22		
23	23*		
24	24*		
	25*		25
26	26		
27	27	New River	
28	28		
29	29		
30	30		
31	31		

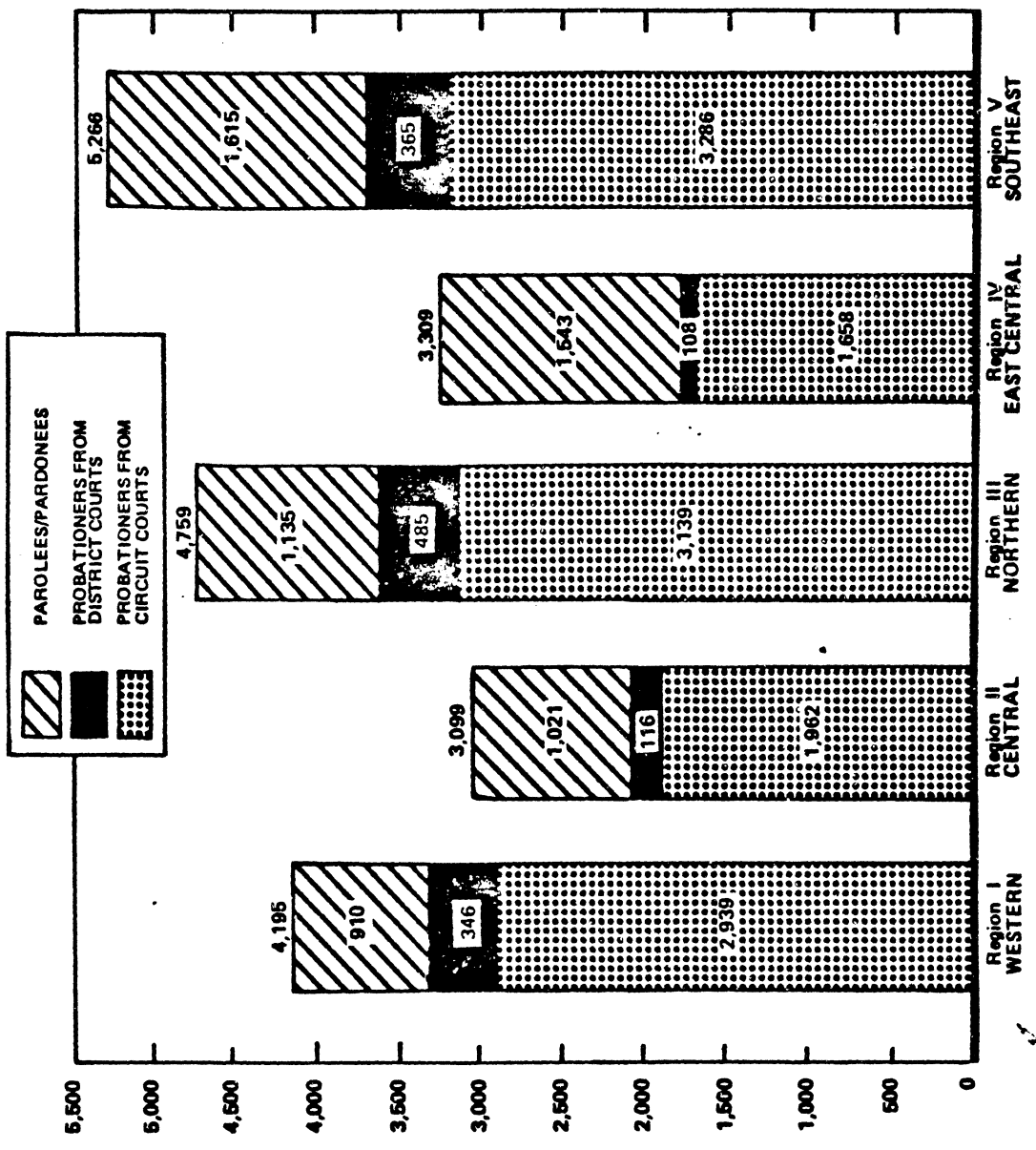
* Only a few cases covered by Probation and Parole (less than 10 in a Probation and Parole District).

This report does not include services such as pre-sentences or record checks done by Probation and Parole on an as needed basis for District Court Judges. There is no data currently available on the extent of these services.

TABLE I: REGIONAL SUMMARY OF ADULTS UNDER SUPERVISION FISCAL YEAR 1983

REGION/ DISTRICT	PROBATIONERS FROM CIRCUIT COURTS			PROBATIONERS FROM DISTRICT COURTS			PAROLEES/PARDONEES			TOTAL		
	Total Received For Supervision Fiscal Yr. 83	Total Removed From Supervision Fiscal Yr. 83	Total Remaining Under Supervision June 1983	Total Received For Supervision Fiscal Yr. 83	Total Removed From Supervision Fiscal Yr. 83	Total Remaining Under Supervision June 1983	Total Received For Supervision Fiscal Yr. 83	Total Removed From Supervision Fiscal Yr. 83	Total Remaining Under Supervision June 1983	Total Received For Supervision Fiscal Yr. 83	Total Removed From Supervision Fiscal Yr. 83	Total Remaining Under Supervision June 1983
REGION I												
Western	1,351	1,159	2,939	308	302	348	873	667	910	2,532	2,128	4,196
District 12	184	158	502	17	17	15	139	98	134	320	271	651
District 15	471	421	994	4	5	7	337	232	382	812	658	1,383
District 16	272	274	588	115	121	134	170	128	169	567	523	891
District 17	167	131	305	115	85	125	99	80	101	381	296	531
District 18	153	91	277	51	47	59	83	78	85	287	216	421
District 28	124	86	273	6	27	6	45	51	39	175	164	318
REGION II												
Central	975	794	1,982	98	101	116	946	731	1,021	2,019	1,826	3,099
District 9	153	116	292	10	11	10	145	116	144	308	243	446
District 13	191	181	387	7	15	8	223	182	227	421	378	802
District 14	193	195	289	26	31	33	155	99	189	374	325	511
District 20	45	33	100	1	4	0	30	21	27	76	58	127
District 22	148	99	375	27	16	34	183	138	212	358	253	621
District 24	106	87	219	23	21	31	122	97	135	251	205	385
District 26	82	50	173	4	3	0	64	61	55	150	114	228
District 37	57	33	147	0	0	0	24	17	32	81	50	179
REGION III												
Northern	1,696	1,252	3,139	433	340	485	1,212	1,010	1,135	3,341	2,802	4,789
District 10	203	161	350	87	68	109	113	88	110	403	315	589
District 11	183	145	331	4	7	5	125	107	113	312	259	449
District 21	139	81	289	44	23	50	151	113	144	334	217	483
District 25	102	78	213	26	26	26	65	48	61	193	152	300
District 29	500	400	830	178	141	197	364	310	348	1,042	851	1,375
District 33	26	16	37	5	0	5	38	37	41	69	53	83
District 35	280	161	482	31	22	28	139	127	115	430	310	623
District 36	202	141	440	18	11	14	140	124	128	360	276	582
District 39	81	69	167	40	44	53	77	56	75	188	169	295
REGION IV												
East Central	958	797	1,858	109	58	108	1,284	940	1,543	2,231	1,795	3,309
District 1	423	387	890	65	16	61	769	571	1,008	1,267	954	1,759
District 5	22	10	48	0	0	0	22	16	16	44	26	64
District 7	110	85	204	3	4	4	144	108	142	257	197	350
District 27	128	103	202	27	24	24	124	90	127	279	217	353
District 32	192	148	389	11	7	14	134	102	164	337	255	567
District 34	83	66	125	3	7	5	71	53	86	157	146	216
REGION V												
Southeast	1,873	1,347	3,286	536	512	365	1,442	1,142	1,615	3,851	3,001	5,288
District 2	522	384	933	6	3	0	413	298	467	941	685	1,400
District 3	208	164	406	337	387	183	228	187	253	771	738	852
District 4	88	52	115	73	47	52	29	31	51	170	130	218
District 6	195	116	398	76	41	78	119	87	144	390	244	618
District 19	298	185	432	22	16	26	174	151	190	482	352	648
District 23	218	157	378	8	5	7	144	104	136	370	266	521
District 30	126	98	199	5	1	6	128	93	130	269	192	335
District 31	131	91	244	1	3	2	118	105	155	250	199	401
District 38	121	100	183	8	9	1	89	86	89	218	195	273
Grand Total	6,853	5,349	12,984	1,484	1,313	1,420	5,737	4,490	6,224	14,074	11,152	20,628

FIGURE 5
REGIONAL SUMMARY OF ADULTS REMAINING UNDER SUPERVISION
DIVISION OF ADULT SERVICES
JUNE, 1983



WINCHESTER PUBLIC INEBRIATE CENTER

ESTIMATED COSTS AND SAVINGS

BEFORE PROGRAM BEGAN

(Conservative estimate
based on current arrests
and police referrals)

Police Time

2407 Arrests @ 6.56 = \$15,790
(45 mins. @ 7.00/hr + fringes)

Transportation

2407 Arrests X \$2.50 = \$6,018

Court (Magistrate, Clerk, Judge)

2407 Arrests X \$18.00 = \$43,326

Jail (State/Local Estimate)

2407 Arrests X \$24.50 = \$58,972

AFTER PROGRAM BEGAN

(July 1, 1982 - June 30, 1983)

Police Time

196 Arrests @ 6.56 = \$1,286
(45 mins. @ \$7.00/hr + fringes)

2,211 Referrals @ 2.19 = \$4,842
(45 mins. @ \$7.00/hr + fringes)

Transportation

196 Arrests X \$2.50 = \$490

2211 Referrals X \$1.25 = \$2,764

Court (Magistrate, Clerk, Judge)

196 Arrests X \$18.00 = \$3,528

Jail (State/Local Estimate)

196 Arrests X \$24.50 = \$4,802

PIC COSTS \$24,000 (State)
 48,794 (Local)
 \$72,794 (Total)

SAVINGS

Police Time

\$15,790
- 1,286
\$14,504
- 4,842
\$ 9,662

Transportation

\$ 6,018
- 490
\$ 5,528
- 2,764
\$ 2,764

Court

\$43,326
- 3,528
\$39,798

Jail

\$58,972
- 4,802
\$54,170

\$ 106,394 Savings
72,794 Program Costs
\$ 33,600 Total Local/
State Savings

HJR #26: Survey of Judges

Program Staff for General District Courts

House Joint Resolution #26, passed by the 1984 General Assembly, requires that the Committee on District Courts study the need and the costs for providing staff to general district courts to administer and supervise sentencing alternative programs for misdemeanants. In order to respond to the resolution, the Committee is seeking the opinions of general district judges on the following questions. Your cooperation and assistance is appreciated.

1. Do you believe that the efforts currently being made in the jurisdiction(s) in which you preside can and should be expanded or improved in the areas of:

	<u>Yes</u>	<u>No</u>
a. enforcing the collection of unpaid court costs and fines.	40	3
b. ensuring that offenders make restitution payments to victims of crime.	35	7
c. offering counseling/specialized services to certain misdemeanants in an effort to reduce recidivism in the district courts and to provide a more appropriate outcome in the case.	29	14
d. diverting from jail those offenders whose crime requires some punishment but for whom incarceration is not necessary.	29	10
e. offering mediation in lieu of a trial in minor civil cases.	24	16

2. What method, if any; do you have to determine the amount of fines and costs (ordered in criminal cases) and/or restitution payments which are unpaid in any given time period?

1) Clerk keeping ledger sheets on unpaid fines/costs	12
2) Issuing show cause orders/holding hearings periodically to review progress of payments	6
<hr/>	
3) Commonwealth's attorney handles	2
<hr/>	
4) Other methods (thru OAR, CDI, Court Service Unit)	10
<hr/>	
5) No answer	4
<hr/>	
6) No method	6
<hr/>	

3. Which, if any, of the following enforcement actions are taken currently in your jurisdiction(s) against persons who are not indigent but who fail to pay court fines and costs? Please answer yes or no in the appropriate column.

<u>Actions</u>	<u>Yes</u>	<u>No</u>
a. Judge regularly orders issuance of show cause summonses/capiases.	40	3
b. Commonwealth's attorney coordinates collection/enforcement of payment for fines.	2	39
c. Offender referred to court service unit/CDI program whose staff monitors payments.	13	28
d. Offender is placed under probation supervision; officers monitor and/or collect payments.	9	31
e. Offender is ordered to perform community service work in lieu of payment of fines and costs.	22	19
f. Work release.	27	12
g. Clerk forwards records to circuit courts for docketing of unpaid fines and costs.	30	10

4. What actions are taken in the cases of indigents who fail to pay court costs and fines?

1) Issue Show Cause - 8	5) Time extension - 4
2) Clerk keeps ledger - 7	6) Forwarded to circuit courts - 3
3) Community service - 12	7) None - 5
4) CDI staff handled - 4	8) Other - 6

5. Can you estimate the percentage rate of collected costs and fines (in any given year) in the jurisdiction(s) in which you preside? (Circle answer.)

less than 10 percent	25-50%	more than 50%	don't know
2 respondents	12	14	13

6. Which, if any, of the following enforcement actions are taken currently in your jurisdiction(s) against persons who are not indigent but who fail to make restitution directly to victim (e.g. replacing damaged property) or to make restitution payments?

<u>Actions</u>	<u>Yes</u>	<u>No</u>
a. Offender referred to court service unit/ CDI program whose staff monitors payments.	12	27
b. Offender is placed under probation supervision; officers monitor and/or collect payments.	12	25
c. Offender is ordered to perform community service work in lieu of payment restitution.	11	28

7. What actions are taken in the cases of indigents who fail to make restitution payments?

1) Show Cause - 7	5) Other (CDI) - 15
2) Clerk - 2	6) None - 6
3) Commonwealth's attorney - 2	7) No answer - 5
4) Community service orders - 4	

8. What options are available for you to utilize in the handling of misdemeanants charged with criminal offenses? Please check below whether they are available regularly, occasionally or never. Also, of the services available, which do you actually utilize and how frequently?

	<u>Services Available</u>			<u>Services Actually Utilized</u>		
	<u>Regularly</u>	<u>Occasionally</u>	<u>Never</u>	<u>Regularly</u>	<u>Occasionally</u>	<u>Never</u>
a. Supervision of offenders through the probation and parole offices.						
b. Referral to services offered through Community Diversion programs (CDI).						
c. Performance of community service work in lieu of a jail sentence/payment of fines and costs/payment of restitution.						

QUESTION 8

	Probation	CDI	CSO's	Driver Improvement Program	Job Training	Private Non-Profit	Detoxification Centers
Services which are:							
1. Regularly available and regularly used	7	13	22	16	1	9	16
2. Regularly available only occasionally used	7	5	5	4	2	2	7
3. Regularly available/never used	1	0	0	5	0	3	0
4. Occasionally available and occasionally used	13	5	6	9	5	0	5
5. Occasionally available but never used	1	1	1	0	0	1	1
6. Never available thus never used	14	19	8	8	33	24	10

	<u>Services Available</u>			<u>Services Actually Utilized</u>		
	<u>Regularly</u>	<u>Occasionally</u>	<u>Never</u>	<u>Regularly</u>	<u>Occasionally</u>	<u>Never</u>
d. Referral to driver improvement programs.						
e. Referral to detoxification center or other treatment facilities/program for alcohol/drug abuse.						
f. Referral to job/training programs.						
g. Referral to private non-profit or volunteers agencies such as Offender Aid & Restoration.						
h. Other types of services (please specify).						

9. Which, if any, of these options/services would you most like to have developed or expanded in your jurisdiction?

	<u>URBAN</u>	<u>RURAL</u>	<u>TOTAL</u>
1) Probation	5	4	9
2) CDI	4	5	9
3) Community service orders	2	7	9
4) VASAP	1	0	1
5) Job training/referral	5	3	8
6) Private non-profit agencies	1	1	2
7) Detoxification	6	1	7
8) No answer	5	3	8
9) Other	1	3	4

10. Who, if anyone, assists the court in coordinating the referral of individual offenders to any of these programs?

29 clerk

25 agency personnel (such as CDI staff, OAR volunteers)

4 law enforcement personnel

8 Commonwealth's attorneys office

14 Adult probation and parole offices

13 CDI coordinator

14 jail personnel

5 volunteers

11. If your court presently 1) operates a court service unit, 2) participates in a CDI program, or 3) has other staff (OAR volunteers, etc.) available to assist in handling misdemeanor cases, how has the availability of those services improved the ability of your court to dealing with offenders and to serve the public?

Now have an alternative to placing persons in jail and at the same time providing a source of manpower for work in public services areas.

Good because having someone to coordinate CSO means everybody has to pay something or work off fine. Court service unit better than CDI because latter cannot help it if you have not sentenced offender to jail. VASAP & CDI have assisted in cutting recidivist rates and getting people to work and off social services.

12. Do you favor the development of additional sentencing or dispositional alternatives for the handling of misdemeanants in your court?

40 yes 2 no

13. If yes, through what administrative structure would you prefer that they be offered?

9 additional staff in the clerk's office.

21 additional availability of probation officers' time.

21 a program coordinator available in the court/court services unit.

9 provision of services through an existing state or local agency.

5 additional staff in the Commonwealth's attorney office.

0 provision of services through a non-profit agency.

Judicial District No: _____

(Optional) Name: _____

Footnotes

1. Critical Review of VASAP, Division of Motor Vehicles, (October 1984) p. vi
2. Ibid.
3. Ibid.
4. Public Inebriate Centers: First Year Funding Assessment, Division of Criminal Justice Services, (October 1983) p. 11
5. Ibid.
6. Commentary/Recommendations to this effect are contained in the following reports:
 - Report of the Advisory Task Force to Study Local Jails in Virginia (Virginia State Crime Commission, 1975)
 - Report of the Ad-Hoc Committee on Corrections (Secretary of Public Safety, 1981)
 - Report on Services to General District Courts (Virginia State Crime Commission, 1983)
 - General District Court Services to Misdemeanants: An Assessment (Department of Criminal Justice Services, 1983)
 - The Potential for Increasing the Use of Probation Services in Virginia (Department of Planning & Budget, 1983)
7. General District Court Services to Misdemeanants: An Assessment, Division of Criminal Justice Services, (October 1983)
8. Ibid, p. ii
9. Ibid, p. iii
10. Ibid, p. 47
11. Ibid, pp. 41-43. (Division of Criminal Justice Services), Incarceration in Virginia: There are Alternatives, Virginia State Crime Commission, (May 1982) pp. 15-19
12. (Division of Criminal Justice Services) General District Court Services to Misdemeanant: An Assessment, p. 41
13. Ibid, pp. 41-42.

