

**REPORT OF THE
JOINT SUBCOMMITTEE ON**

**State Support for
Adult Jails and
Juvenile Detention Facilities**

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



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REPORT OF THE JOINT SUBCOMMITTEE ON STATE SUPPORT FOR ADULT JAILS AND JUVENILE DETENTION FACILITIES

AUTHORITY

§ 1-125 of Chapter 800 of the 1988 Acts of Assembly, the Appropriations Act (Item 560), established a joint subcommittee to examine issues relevant to state support for construction and operation of local or regional adult jails, as well as juvenile detention and related facilities. The subcommittee consisted of five members, three from the Appropriations Committee of the House of Delegates and two from the Finance Committee of the Virginia Senate.

SUBCOMMITTEE ACTIVITIES

The Subcommittee met four times between the 1988 and 1989 legislative sessions. The Subcommittee received testimony from officials of the Departments of Corrections and Criminal Justice Services, members of the Compensation Board and the Board of Corrections, the Secretaries of Administration and Transportation and Public Safety, and officials of the Joint Legislative Audit and Review Commission. During the study the Subcommittee visited two local jails and one juvenile detention facility. Testimony was received from numerous local government officials, and various interested and affected organizations.

LEGISLATIVE HISTORY

Adult Jail Construction (§ 53.1-80, et. seq.)

State support for the construction of local jails was first enacted in 1968, apparently modeled on the statutes providing for state support for juvenile facilities. The original enactment provided that the state would reimburse localities, or combinations of localities, up to one-half the cost of construction or enlargement of a jail, not to exceed \$25,000 for any one project. The state Board of Welfare and Institutions was charged with developing standards to implement the statute. In 1970 the statute was amended to allow for reimbursement of up to one-half the cost of the project, not to exceed \$25,000 for each participating locality.

In 1981 amendments to the jail construction statutes were adopted which did two things. First, authorization was established to provide state reimbursement for renovation as well as construction or enlargement projects in local jails. Second, a new schedule of reimbursement was enacted, providing maximum reimbursement thresholds for the amount each locality could receive based on the size of the facility in which work was being done. Part of the intent of these amendments appears to have been to promote multi-jurisdictional cooperation in the building of regional jail projects.

Table 1 reflects the maximum level of state reimbursement per locality as adopted in 1981, and as subsequently amended in both 1986 and 1987. As the table indicates, a substantial increase in the maximum reimbursement thresholds was adopted by the 1987 General Assembly session. The statutes now provide that the state will reimburse up to one-half the cost of a jail construction, enlargement or renovation project, not to exceed the maximum amounts listed.

TABLE 1

Jail Construction Reimbursement

| <u>Size</u> | <u>1981</u> | <u>1986</u> | <u>1987</u> |
|-------------------|-------------|-------------|-------------|
| Less than 35 beds | \$100,000 | \$100,000 | \$200,000 |
| 35 to 99 beds | \$200,000 | \$200,000 | \$400,000 |
| 100 beds & over | \$300,000 | -- | -- |
| 100 to 299 beds | | \$300,000 | \$600,000 |
| 300 beds & over | | \$400,000 | \$800,000 |

Juvenile Facility Construction (§ 16.1-313)

State support for the construction of local facilities for juvenile offenders was first enacted in 1956. The original statutes provided that the state would be responsible for reimbursing a locality or combination of localities up to one-third the cost of construction of a juvenile detention home, not to exceed a total of \$25,000 for any one facility. The state Board of Welfare and Institutions was responsible for establishing standards for the implementation of the statute.

In 1958 the statutes were amended to provide that the state would reimburse up to one-half the cost of construction of local juvenile facilities, not to exceed \$50,000 for any one home. In 1964 the statutes were further amended to allow reimbursement in the case where an existing facility was enlarged. In 1970 the statutes were once again amended, and the maximum state reimbursement cap was increased to \$100,000.

In 1974 the statutes were substantially expanded to provide for state support for construction of juvenile facilities in addition to detention homes. Such facilities as group homes, shelters and related facilities became eligible for state reimbursement at that time. In addition, state support was authorized for the purchase, rental or renovation of detention homes or the other newly authorized facilities.

In 1977 the juvenile court laws contained in Title 16.1 underwent a major reenactment and recodification as a result of a two year Virginia Advisory Legislative Council review. The facility construction reimbursement statutes remained substantially unchanged as a result of that review, except that the maximum dollar limitation on state reimbursement was eliminated. The statutes now provide that the state shall be responsible for reimbursing up to one-half the cost of construction, enlargement, renovation, purchase or rental of juvenile facilities. Table 2 summarizes the statutory provisions.

TABLE 2

Juvenile Facility Construction Reimbursement

| <u>1956</u> | <u>1958</u> | <u>1970</u> | <u>1977</u> |
|------------------------------|------------------------------|-------------------------------|-------------|
| ½ the cost up to \$25,000 | ½ the cost up to \$50,000 | ½ the cost up to \$100,000 | ½ the cost |

ELIGIBLE FACILITIES

Adult Jails

There are currently a total of 84 local adult jails, six regional adult jails, four jail farms, and three Department of Corrections operated local jails located within state prisons. The facilities are listed in Appendix A. In practice all units of local government have access to at least one of these facilities. These facilities are eligible for reimbursement for the cost of construction, repair and improvement projects ranging from bedspace additions to built in equipment replacement.

According to the Department of Corrections, jails in the state currently have a bed capacity of 6,497. The Joint Legislative Audit and Review Commission however in its 1987 report (House Document 16) identified a bed capacity over 1,000 bedspaces higher than that reflected by the Department of Corrections. Nevertheless the population in the state's jails on November 1, 1988 totaled 9,501 inmates.

Operating support for local jails is provided from several sources. The principal state agency with responsibilities for the local jails is the state Compensation Board. The Compensation Board provides funding to localities for the full cost of salaries and benefits of approved security positions and approximately two-thirds the cost of salaries and benefits for approved treatment and support positions. In addition, the Compensation Board provides for certain operating expenses associated with Sheriff's departments or regional jails, and the Board also provides per diem payments to the localities based on the number of inmates confined in each facility.

Other state agencies providing direct or indirect support for jail operations include the Board and Department of Corrections, the Department of Criminal Justice Services and the Office of the Executive Secretary of the Supreme Court of Virginia. Local government funding for the cost of jail operations varies widely throughout the state.

Juvenile Facilities

There are currently seventeen secure juvenile detention homes, three less secure detention homes, and thirty-three group homes or halfway houses which are eligible for state reimbursement for rental, improvement or construction costs. Combined these facilities may house up to 945 children on a daily basis.

Operating support for local juvenile facilities is principally provided by the Department of Corrections through what is termed a "block grant" program. The block grant program provides approximately two thirds the cost of salaries and facility operations for these programs. Each locality is assured by statute that it will receive no less than the amount of state funding it received in the preceding year for these services. A weighted formula is utilized to adjust annual allotments based on inflation or other statewide program operating adjustments. The remaining cost of facility operations are shared by local governments or regional commissions through locality budgets or per diem charges between localities.

RECENT STATE APPROPRIATIONS

Appropriations for the state share of local jail construction projects have shown steady increases over the past six years. In the 1986-88 biennium a total of \$5.2 million was appropriated for such projects. Actual expenditures during the period however totaled only \$3.1 million. For the 1988-90 biennium \$2 million is appropriated for such projects. Table 3 provides a summary of recent appropriations and expenditures.

TABLE 3

Adult Jail Construction

| | <u>1982-84</u> | <u>1984-86</u> | <u>1986-88</u> | <u>1988-90</u> |
|-----------------|------------------|------------------|--------------------|--------------------|
| Appropriation | \$581,500 | \$2,674,940 | \$5,200,682 | \$2,006,742 |
| Reappropriation | <u>\$231,100</u> | <u>\$122,815</u> | <u>\$2,579,167</u> | <u>\$4,701,012</u> |
| Total | \$812,600 | \$2,797,755 | \$7,779,849 | \$6,707,754 |
| Expenditures | (\$361,639) | (\$272,006) | (\$3,077,335) | |

In the case of juvenile facility construction projects appropriations and expenditures have varied, though growth has not been as great as has been the case with jail projects. Table 4 summarizes appropriation and expenditures for youth projects.

TABLE 4

Juvenile Facility Construction

| | <u>1982-84</u> | <u>1984-86</u> | <u>1986-88</u> | <u>1988-90</u> |
|-----------------|----------------|------------------|------------------|------------------|
| Appropriation | \$1,187,923 | \$533,400 | \$618,530 | \$1,722,160 |
| Reappropriation | <u>\$0</u> | <u>\$222,994</u> | <u>\$616,268</u> | <u>\$819,661</u> |
| Total | \$1,187,923 | \$756,394 | \$1,234,789 | \$2,541,821 |
| Expenditures | (\$524,974) | (\$470,764) | (\$414,797) | |

FINDINGS

State Share of Construction Funding

The Subcommittee received numerous comments from Sheriff's and local government officials that the current level of state funding support for jail construction was both inadequate to promote needed construction and insufficient in its relative sharing of the cost burden between state and local governments.

Statistics provided the Subcommittee indicate that, while the state seems to provide a substantial contribution toward most renovation projects, there is great inconsistency in relative cost sharing in most major construction projects. By way of example, the Subcommittee considered the case of a jail facility expansion project in Fairfax County, at a total cost of approximately \$13.8 million. The state share of reimbursement for the project was \$767,000, or about 5% of the total. On the other hand, the Subcommittee considered the Piedmont Regional Jail, which was recently completed to serve a six county area. That facility cost \$3.6 million to construct, with the state reimbursing \$1.8 million or 50% of the cost. There are various other recent examples where the state/local share of costs varied considerably. The only thing that seems clear to the Subcommittee is that the relative cost of jail cell construction continues to escalate. Jail construction currently averages approximately \$45,000 per cell, but there is considerable variation among localities in actual costs.

Facility Design

As construction costs have continued to increase, so too will the future cost of facility operations. This is an area of particular importance to both state and local governments, since the operating cost of new facilities will rapidly exceed their cost of construction. Previous studies have documented the relative sharing of the operating cost of these facilities by state and local governments. Information provided the Subcommittee demonstrated that considerable data is available to promote efficient operating design of facilities. Unfortunately, local governments may not be taking full advantage of potential design strategies for controlling future costs. While existing statutes appear to suggest that operating cost impacts should be considered in construction planning, state officials do not appear willing or able to influence this situation.

Sufficient experience appears to exist in Virginia and nationally in prison and jail design to enable the Department of Corrections or some other executive agency to assemble a set of prototype designs for local use. Such designs could vary according to jail size and local needs, but each design could be developed on the basis of meeting all applicable legal, program, and engineering standards at reasonable cost. Each design could further include recommended staffing plans and operating cost information.

The primary interest of the Commonwealth lies in the interior design of new facilities. Interior design factors, such as sight lines and guard posts configurations, can have a significant impact on staffing requirements, and therefore on long term operating costs. On the other hand, exterior design factors are primarily a matter of local architectural or aesthetic preference.

The use of prototype designs by localities would avoid the problem of "reinventing the wheel," each time a new local jail project is undertaken. This practice could reduce the time required for design, as well as contribute to more efficient and economical operations and greater security in local facilities.

Administrative Review and Budgeting Procedures

The process for a locality to receive reimbursement for a jail or juvenile facility construction project centers on coordination with the Department of Corrections staff. This is principally the result of requirements of state law that the Board of Corrections approve the specific projects. The intent of the statute appears to be that the Board base its approval on such factors as the relative need for the proposed project, the project's relationship to approved operating standards, the efficiency or effectiveness of the proposed design and so forth.

The Department of Corrections reviews each proposed jail project for consistency with statewide jail standards as adopted by the Board of Corrections. In recent years the Department has begun to utilize a rudimentary system of priorities in reporting those projects which have been approved by the Board. However, the Subcommittee found weaknesses in the current process. These include:

- ° Many localities do not follow the schedule established by the Corrections Board for project review, and the Board itself appears unwilling or unable to further encourage compliance. As a result, some projects are brought to the General Assembly and the Board of Corrections for "last minute" approval and funding.

- ° The current priority ratings used by the Department are helpful in describing or categorizing the type of project requested (e.g. adding new bedspace as opposed to meeting fire safety codes). However, these categories are not criterion upon which to prioritize projects at any given time. Therefore the rating system is not particularly useful in considering one project in relation to another.
- ° No systematic analysis is applied to each project to determine how much space of what specific type is required, based on defined projections of need. The prototype of such analysis is the priority ranking system developed by the State Council for Higher Education (The SCHEV guidelines apply a mathematical formula as a standard measure of the justification of each proposed building based on the space requested compared to projected needs).
- ° No consideration of operating costs is built into the current review process. As a result the state is unable to exert influence on localities to build the most efficient and economical facilities possible under current standards and design technology.

To assist localities in understanding the review and approval process in 1985 the Board of Corrections adopted a document titled Guide for Minimum Requirements to Obtain State Board of Corrections Approval for Jail Construction, Enlargement or Renovation and Procedures for Receiving State Reimbursement. The Subcommittee found that the Board's current written guidelines and review procedures, while providing some relatively detailed instructions for receipt of construction reimbursement, describe little in the way of criteria for project approval, relative need for a project, or methods of assessing a project's timing and priority. The current guidelines and procedures therefore have little bearing on the state's appropriation process.

The procedures implemented by the State Council of Higher Education for Virginia for review of college building requests appear to the Subcommittee to be a good model upon which the Board and Department of Corrections could base a new process for evaluating construction requests. The system is one which is well integrated with the state appropriations process and it is one which is already familiar to the legislature.

Forecasting of State and Local Inmate Populations

The foundation for any correctional facilities planning process should be an accurate forecast of inmate population and available bed space. This has been the case in recent years for planning adult prison facilities, and a great deal of

effort has been directed towards refining a methodology for forecasting the "state prisoner" population. While it may appear that the state prisoner projection model has under-forecast the need for bed space, it has at least served as a method of measurement on which there has been frequent administrative and legislative focus to improve the methodology.

In the case of local jails there has been no corresponding effort to project local inmate population on a statewide basis, with one exception. The exception occurred in 1985 when JLARC incorporated an estimate of local responsibility inmates in its overall forecast for 1990. At present neither the Department of Corrections nor any other state agency maintains an inmate forecasting system which integrates the numbers of prisoners to be confined in the state prison system with the number to be held at the local level. Without either a policy or forecast definition of the number of state prisoners to be held in local jails it is extremely difficult to determine the number of bedspaces actually needed.

Many localities incorporate a projection of local bed needs into their own feasibility studies, but the projection methodologies vary and do not necessarily meet the same standards of rigor which are expected of the statewide adult forecasting models. As a result of both a lack of defined responsibility for planning and the lack of a systematic forecasting system, there has been no accurate statewide assessment of where the Commonwealth should be directing its resources in the years to come. In October, based upon the Subcommittee's request, the Secretaries of Administration and Transportation and Public Safety presented information which addresses both state and local prisoner forecasts through the period 1992. The Secretaries indicate that they have developed a plan to continue a system of such forecasts annually, and the Subcommittee agrees that such action will do much to further refine the state planning process.

Jail Bedspace Capacity

An adequate planning process requires a baseline definition of current bedspaces or system capacity. According to a 1987 JLARC report on local jail capacity (House Document 16), the Department of Corrections has not systematically evaluated the capacity of local jails since 1976. The JLARC study also revealed substantial differences between JLARC and the Department of Corrections in the definition of local capacity.

The Department of Corrections began rating the capacity of each local jail in 1949. In 1978 the Department estimated the total local capacity using a newly revised standard requiring 105 square feet of living area per inmate. The new standard

was applied only to general population beds, including those of facilities where cells were constructed under an older standard. The 1978 estimate also excluded any available capacity in special purposes areas.

In its report, JLARC developed a revised method of rating capacity based on a differential system which applied a standard of 70 square feet of living area per inmate to all jails built before 1974, and the 105 square foot standard for facilities built since that time. JLARC also took into account the availability of special purpose beds in its calculations. Under the revised measure, JLARC estimated local capacity at 6,764 beds, compared to the Department of Corrections rated capacity of 5,696. This represented a difference of 1,068 inmate bedspaces. JLARC recommended:

Because of the decentralized nature of the jail system and the need for State corrections planners to know the capacity of each local jail and the State jail system, DOC in conjunction with the Department of Criminal Justice Services should regularly review and update jail capacity figures. Calculation of jail capacity should be made on a systematic, standardized basis, similar to the JLARC methodology and consistent with Board of Corrections standards and good correctional policy.

At the time the Subcommittee began its work the JLARC recommendations had not been implemented. The Departments had not systematically revisited all jails and updated their capacity ratings. At the request of the Subcommittee the Departments set about an effort to review their policy and methodological differences with the JLARC estimate of local jail capacity. To resolve those differences the Departments developed a standard approach to measuring local bed capacity. Their reevaluation of local jails, reported to the Subcommittee in November, reflects a statewide capacity of 7,100 local jail inmate bedspaces, exclusive of certain special purpose areas. While the Subcommittee is not in a position to approve the Department's revised capacity ratings, the revised figures would appear to be a more appropriate base for future planning than the dual system the Subcommittee observed at the beginning of this study.

Block Grants for Juvenile Facilities

The block grant system of apportioning funds among the various local juvenile programs throughout the state was adopted by the legislature in 1982, principally in an attempt to standardize funding for the services. The system has not been reviewed since that time. § 16.1-322.1 of the Code in summary provides that each juvenile services program, otherwise qualified and approved by the Department of Corrections as meeting appropriate standards, may receive not less than the amount of state funding it received in the preceding fiscal year. Since the vast majority of existing programs were operating and receiving state funds under a different funding scheme in 1982, their level of funding at that time served as a benchmark.

The Code further provides that any additional appropriation remaining after this minimum requirement for state funding is met may be apportioned to the localities on the basis of a weighted utilization formula. The local programs view the additional formula amount as that which is designed to meet annual inflationary type increases. Whether this was indeed what the legislature intended remains unclear. In any case, funding to meet the cost of inflation appears not to be the basis upon which appropriations for the program have been made during the past several biennia.

The complaint of the local programs is that the state has not borne its fair share of the cost of operating these services, creating as a result an added burden on the localities or a need to reduce services. The Subcommittee has examined the appropriations for this program in the current biennium, and is satisfied that the Department of Corrections has been provided sufficient resources to operate the program at a level which at least meets the minimum requirements of the statute.

Further evidence available to the Subcommittee, however suggests there may be merit to the complaints of local officials regarding this program. The need for a comprehensive reevaluation of the statutorily prescribed formula became evident to the Subcommittee early in our deliberations. Unfortunately, given the scope of the Subcommittee focus in other areas, we have been unable to complete such a review. This is an area in which the Subcommittee is particularly interested in seeing an analysis completed in time to coincide with the next state budgeting cycle.

RECOMMENDATIONS

The joint subcommittee recommendations follow:

- 1) The maximum reimbursement amounts for the state share of local jail construction, enlargement and renovation should be increased by fifty percent.
- 2) The state share of reimbursement for construction, enlargement and renovation of regional jails should be increased to fifty percent of the cost.
- 3) The state share of funding for the cost of jail and juvenile facility construction, enlargement and renovation should remain a reimbursement for work completed and funds expended.
- 4) The Governor should be provided additional authority to evaluate the interior design features of proposed projects as they affect long-term facility operating costs.
- 5) The appropriations policy on jail and juvenile facility construction should be based on criterion including prior approval of the Board of Corrections, initiation or completion of the construction activity, and a responsible expectation that the project will be completed within the budget period. Budgeting for such projects should normally be a part of the Executive Budget proposals, with legislative adjustments only in exceptional circumstances.
- 6) The Board and Department of Corrections should improve their guidelines and system of project review, need assessment and priority setting.
- 7) The Board and Department of Corrections should work with local officials to provide project funding through established Executive Branch Budgeting procedures.
- 8) The Departments of Corrections and Criminal Justice Services should continue to implement, maintain and improve a single standardized system of calculating jail bedspace capacity.
- 9) The Secretary of Transportation and Public Safety should maintain and improve a standardized system of forecasting both state prison and statewide jail inmate populations.
- 10) The Department of Planning and Budget should conduct a comprehensive review of the juvenile "block grant" funding formula, and provide both budgetary and statutory recommendations to the 1990 legislative session.


Respectfully submitted:


A. Victor Thomas


Robert B. Ball, Sr.


V. Earl Dickinson


Howard P. Anderson


Charles J. Colgan

APPENDIX A

Regional Jails

Albemarle/Charlottesville
Middle Peninsula
Prince William/Manassas
Rappahannock
Piedmont
Rockbridge

Jail Farms

Martinsville
Danville
Petersburg
Newport News

Department of Corrections Operated Jails

Powhatan Correctional Center (Powhatan)
James River Correctional Center (Goochland)
Virginia Correctional Center for Women (Goochland)

Local Jails

Accomack
Alleghany
Alexandria
Amherst
Appomattox
Arlington
Augusta
Bath
Bedford
Bland
Botetourt
Bristol
Buchanan
Campbell
Caroline
Carroll
Charlotte
Chesapeake
Chesterfield
Clarke
Clifton Forge
Culpeper
Danville
Dickenson
Dinwiddie
Fairfax
Fauquier
Floyd

Franklin
Frederick
Fredricksburg/
Rappahannock
Gloucester
Greensville
Giles
Grayson
Halifax
Hampton
Hanover
Henry
Henrico
Highland
Lancaster
Lee
Louisa
Loudoun
Lynchburg
Martinsville
Mecklenburg
Montgomery
Nelson
Newport News
Norfolk
Northampton
Northumberland
Orange

Page
Patrick
Petersburg
Pittsylvania
Portsmouth
Pulaski
Radford
Richmond City
Richmond County
Roanoke City
Roanoke County
Rockingham
Russell
Scott
Shenandoah
Smyth
Southampton
Stafford
Suffolk
Sussex
Tazewell
Virginia Beach
Warren
Washington
Westmoreland
Williamsburg
Wise
Wythe
York

