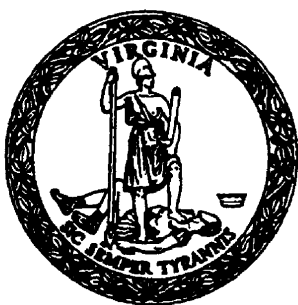


**FINAL REPORT OF THE
1989 COMMISSION ON**

Prison and Jail Overcrowding

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



HOUSE DOCUMENT NO. 46

**COMMONWEALTH OF VIRGINIA
RICHMOND
1990**

December 11, 1989

The Honorable Gerald L. Baliles
Governor of Virginia
Commonwealth of Virginia
Richmond, Virginia 23219

Dear Governor Baliles:

It is with pleasure that I transmit to you the final report of the Commission on Prison and Jail Overcrowding.

At your request, and with the agreement of the 1989 General Assembly, House Joint Resolution 402 directed that a Commission on Prison and Jail Overcrowding be created. The Commission was charged with examining the short- and long-range demand for prison and jail space in Virginia.

For the past eight months, this 55-member Commission has been considering ways to deal with the recent explosion in the numbers of prisoners incarcerated in Virginia, and working on a comprehensive plan that addresses correctional needs through the year 2000. The goal of this plan was to identify a combination of criminal sanctions which ensure public safety while being mindful of the costs to the Commonwealth's citizens. This report also goes beyond determining bedspace needs by identifying ways of preventing inmates' return to the system as repeat offenders.

These results would not have been possible without the dedication of the Commission members and staff. The members appointed to this Commission brought a range of expertise to these issues and their willingness to work hard was invaluable to our success. The Commission was also fortunate to have excellent staff support, whose efforts are reflected in the quality of this report.

The Commonwealth's challenge must be long-term planning and careful consideration of policies and practices. This Commission believes the recommendations contained within this report deal with these issues in effective and pragmatic ways. We commend this final report to you and to the General Assembly of Virginia.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. H. Ferguson", with a long horizontal flourish extending to the right.

Jack H. Ferguson
Chairman

Executive Summary

Overview

The present state of overcrowding in Virginia's local jails and state institutions is, in large part, a result of policy choices made over the past fifteen years, which reflect public sentiment toward the punishment of criminals. Nationally, and in Virginia, that sentiment has been expressed as a belief that the crime rate has been increasing, that the court system is too lenient on criminals, and that harsher punishment — longer sentences — for criminals is the most appropriate response to crime. Judges, prosecutors, legislators and other officials in Virginia and across the nation have responded to the public's perception and demand by "getting tough on crime." For instance, 17 recent legislative changes have contributed to the increase in the prison population in Virginia.

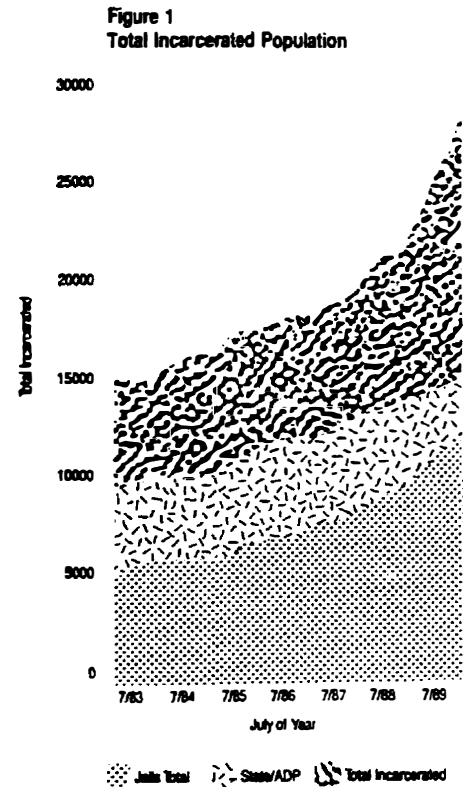
The problem of overcrowding is certainly not unique to Virginia. Most states are involved in costly building programs. Thirty-eight states are currently under federal or state court order to alleviate overcrowded prisons and jails. Fortunately, Virginia is not one of these states — yet.

While the crime rate in Virginia has remained relatively stable over this decade, Virginia's inmate population has grown steadily. As Figure 1 illustrates, in July 1983, there were 14,833 inmates in Virginia's prisons and jails; in July 1989, there were 24,851. Since 1983, Virginia's incarcerated population has grown, on the average, at more than 8.9 percent annually. State facilities are operating over capacity statewide. Still, in October 1989, there were over 3,000 state felons with greater than six months to serve in local jails, awaiting transfer to state prisons and further straining local jail capacities. Certain jails are operating at three times their capacity.

In response, the Governor and the General Assembly authorized, over a three-year period, a 45 percent increase in the capacity of the state system, at a capital cost of \$232 million. If all recent jail expansion projects proceed as planned, there will be a 30 percent increase in jail capacity statewide by 1992. Even with the additional planned resources directed towards the offender population, it became clear in 1988 that current construction programs would not keep pace with the number of offenders to be housed in local jails and state prisons. It also became clear that temporary solutions could not alleviate the population pressures over long periods of time. Despite planned increases in capacity, if current trends continue — and there is little reason to expect otherwise — the system will be far short of the number of beds needed to house inmates in prisons and jails in the 1990s.

Creation of the Commission

Recognizing the need to address both the short- and long-term pressures on the criminal justice system, Governor Gerald L. Baliles proposed to the 1989 session of the General Assembly the establishment of the Commission on Prison and Jail



Source: Virginia Department of Corrections

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Recognizing the need to address both the short- and long-term pressures on the criminal justice system, Governor Gerald L. Baliles proposed to the 1989 session of the General Assembly the establishment of the Commission on Prison and Jail Overcrowding.

The impact of drug sales and use in the Commonwealth and the nation is — and experts told the Commission, will continue to be — a driving force behind increases in prison and jail populations.

...the current problem of overcrowding is affecting all major phases of the criminal justice system, and ... current approaches taken by Virginia's criminal justice system will not adequately equip us to meet the future challenges of continued growth in incarceration.

Overcrowding. House Joint Resolution 402, approved by the General Assembly, established the Commission's charge:

"...the Commission shall examine the relationship, interdependence, financing and functions of the state and local penal systems. It shall review the procedures and methodology for projecting demand. The Commission shall assess Virginia's and other states' approaches to pretrial detention, alternative sentencing, housing of various categories of nonviolent offenders, inmate work and educational activity, substance abuse and other rehabilitation programs, pre-release counseling and post release supervision."

The Commission's scope was limited to examining the Commonwealth's responses to overcrowding. The Commission's work did not include law enforcement, nor did it include the causes of crime, which are societal, ethical and moral issues. Therefore, the Commission's work and resulting recommendations cannot be viewed as a panacea — there is no panacea. The Commission could not solve the problem of overcrowding but sought to make recommendations as to how the Commonwealth should deal with overcrowding over the next ten years.

While the Commission did not investigate the causes of crime specifically, one cause pervaded the Commission's debate and demands mention here. The impact of drug sales and use in the Commonwealth and the nation is — and experts told the Commission, will continue to be — a driving force behind increases in prison and jail populations. A study of arrests in 14 cities across the nation during three months in 1988 revealed that the vast majority of those arrested for all felonies tested positive for at least one of 10 illegal drugs. According to United States Attorney General Richard Thornburg, two things are clear from these study results:

"There should no longer be any question as to how much of a catalyst for crime the lust for illegal drugs has become in America today....It is equally clear that law enforcement alone will never win the war on drugs."

Recent Trends and the Current Problem

Figure 2 summarizes the trends in Virginia's criminal justice system which have contributed to growth in populations housed in our prisons and jails. The findings illustrate two key points: that the current problem of overcrowding is affecting all major phases of the criminal justice system, and that the current approaches taken by Virginia's criminal justice system will not adequately equip us to meet the future challenges of continued growth in incarceration.

Compared to the nation, Virginia is a relatively low crime state. However, our courts incarcerate higher proportions of our criminals, give longer sentences to them, and we are inclined to use alternatives like probation and parole less often than the nation as a whole. In addition, although the number of offenders serviced

through the Community Diversion Incentive Program has increased over time, this incarceration alternative has not stemmed the growth in the incarcerated population and has sometimes been used for offenders who would have otherwise received a less costly and less stringent sanction. As a result, local jails are holding more people than they were designed to house. State institutions are overcrowded as well, despite an unprecedented construction program which was instituted four years ago. If these trends continue, overcrowding will only become worse.

Figure 2 Underlying Trends In The Growth Of Virginia's Incarcerated Population

- While Virginia's violent crime rate has remained relatively constant over the past 16 years, the number of total arrests made annually has increased almost every year since 1975.
 - The total number of sworn officers in Virginia increased from 10,085 in 1981 to 12,061 in 1988. Improvements in law enforcement approaches and technology have contributed to more arrests. Virginia's "clearance rate" (a measure which gauges the relative efficiency of the criminal justice system in apprehending offenders) for violent crimes is higher than that of bordering states and the nation as a whole. The clearance rate for Virginia violent crimes is 63.5 percent, compared to 52.7 percent in surrounding states and 47.0 percent nationwide.
 - Felony arrests for the sale and/or manufacture of opium, cocaine, and cocaine derivatives in 1988 was over 300 percent greater than the number of similar arrests in 1985. The number of felony drug convictions has been growing at a 21.6 percent average annual rate since 1985.
 - The number of persons held awaiting trial in local jails has doubled in the past six years, and currently half of the statewide jail population is awaiting trial or awaiting sentencing. The number of defendants held pretrial without any release has increased by 14 percent over the past three years. For those prisoners held pretrial who were subsequently convicted and sentenced, the average time served awaiting trial has increased by six days per case over the past three years, from an average of 151.0 days in 1986 to 157.1 days in 1988.
- Virginia ranks 34th among all states in the rate of violent crime and 42nd in the nation in Index Crimes (Index crimes are murder/nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft). While the rate of violent crime in Virginia is lower than that of most states, sentence lengths for violent crimes in Virginia tend to be longer than the national average. The proportion of inmates in Virginia serving sentences of 20 years or longer now stands at 42.7 percent and is among the highest in the nation.
- From 1980 to 1988, the average sentence length for confined felons in Virginia increased more than 24 percent.
 - While probation is the state's most frequently used alternative to incarceration, in 1987 only five states had fewer adults on probation per 100,000 adult population than Virginia. The proportion of felons who received probation has fluctuated over the past decade, from a high of 59.9 percent in 1985 to a low of 50.3 percent in 1989.
 - Virginia's Community Diversion Incentive Program (CDI), although originally intended to divert felons from prison, is being used primarily for the diversion of misdemeanants. Felon diversions accounted for only 11 percent of the 9,462 CDI diversions in fiscal year 1988-89.
 - In 1987, Virginia had 141.5 adults per 100,000 adult population on parole, which is lower than the national average adult parole rate of 196.4. Approximately 37 percent of the total inmates interviewed in fiscal year 1988-89 were granted discretionary parole; 63 percent were denied. The grant rate has ranged from a low of 20 percent in 1980 to a high of 43 percent in 1983.
 - Approximately 40 percent of Virginia's convicted felons can be considered recidivists (repeat offenders) since they had a felony record prior to their current conviction. Two-thirds of these offenders were free from confinement for less than two years before committing a new felony offense.

Source: Commission staff analysis

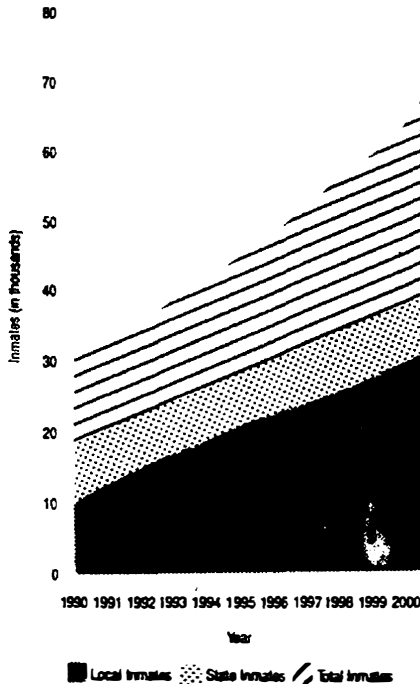
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Figure 3
Inmate Forecasts
FY 1990 through FY 2000



Source: Prison and Jail Forecasting Policy Committee

If present trends continue, and if current policies and practices are not changed, over \$4.4 billion will have to be spent by the year 2000 to meet the additional capital and operating costs associated with increases in our prison and jail populations.

Facing the Future: The Year 2000

Figure 3 depicts the expected growth in the total incarcerated population over the next decade. Based on the best available estimates, there will be nearly 64,000 prisoners in the Commonwealth's local jails and state institutions by the year 2000. If present trends continue, and if current policies and practices are not changed, over \$4.4 billion will have to be spent by the year 2000 to meet the additional capital and operating costs associated with increases in our prison and jail populations. That amount is four times greater than the amount spent on all capital projects for institutions of higher education during the decade of the 1980s.

The cost to construct enough facilities to accommodate the expected number of inmates represents a "one-time" cost. More importantly, of the total \$4.4 billion that will be required by the year 2000, the cumulative operating costs within state and local correctional facilities will be the largest part — \$2.8 billion more than is being paid today — if the Commonwealth chooses to continue current practices. This amount would more than pay for what it now costs to educate every child in Virginia for two years. Further, no future costs have been assumed for increases in the numbers of sworn law enforcement officers, magistrates, judges, Commonwealth's Attorneys, public defenders/court-appointed counsel, or probation and parole officers. Given the expected growth in the incarcerated population, it is safe to assume that significant increases in the numbers of these criminal justice personnel will be needed as well.

This future system, as costly as it will be, will not guarantee society a reformed or rehabilitated parolee. In fact, one expert testifying before this Commission likened society's expectation that prisons produce rehabilitated members of society to "expecting to cure 'AIDS' by building hospitals." If the causes of crime are not addressed and the current forecasts hold true, significant numbers of today's elementary and middle school children will be spending a portion of their adult lives behind bars.

Recommendations

In developing its recommendations, the Commission sought a balanced perspective. Testimony which often represented opposing viewpoints was carefully considered. The recommendations reflect an attempt to balance the punitive and rehabilitative functions of the criminal justice system in an effort to end the expensive cycle of crime and incarceration. The safety of our communities and fairness to the taxpayer, who ultimately pays for crime and criminal sanctions, are underlying themes within the recommendations.

The Commission examined, to some extent, almost every aspect of the criminal justice system. Many recommendations other than those offered here were considered but were rejected for various reasons — lack of information, insufficient time or resources to adequately evaluate the issue, or because of a lack of consensus among the members. It would be appropriate to revisit many of these issues at a later date.

A primary issue often raised before the Commission was whether the Commonwealth can build itself out of prison and jail overcrowding. In considering this concern, two facts continually surfaced. First, although the Commonwealth has been engaged in an unprecedented prison building program over the last four years, prisons and jails remain overcrowded. Second, prisons and jails are costly to build, operate, and maintain.

A primary issue often raised before the Commission was whether the Commonwealth can build itself out of prison and jail overcrowding.

A rational approach is to continue to incarcerate hard-core, dangerous criminals while allowing some other offenders to remain in a community environment under controlled supervision and in corrective programs. This approach represents a cost-effective option for reducing the bedspace shortfall while preserving public safety. It must be noted though that no system, however well designed, is failure proof.

System Improvements: In the course of its work, the Commission became acutely aware of the fragmented nature of the criminal justice system. Spread across three branches of government and all levels — state, federal, and local — of government, the system lacks a consistent policy and comprehensive data for management purposes. The following recommendations cover a wide range of opportunities for system improvements:

In the course of its work, the Commission became acutely aware of the fragmented nature of the criminal justice system.

- Develop a 10-year Master Plan for state and local correctional needs;
- Establish a Criminal Justice Research Center;
- Implement sentencing guidelines on a statewide basis;
- Provide the necessary resources to recruit and retain qualified personnel in the state's Division of Consolidated Laboratory Services, and consider amending the *Code of Virginia* to allow field drug testing in certain instances;
- Improve system forecasts and extend the forecasting horizon to ten years;
 - Examine guidelines that direct inmate classification decisions, to assure that inmates are being held in the most appropriate security environment;
- Expand the inmate classification system to five levels;
- Develop uniform classification standards for local jails;
- Complete "Good Conduct Allowance" (GCA) reviews every six months for inmates in GCA Levels II, III, and IV;
- Revise the "Good Conduct Allowance" rate for local jail misdemeanants;
- Complete the development and implementation of a system of parole guidelines and parole risk assessment;
- Request the Joint Legislative Audit and Review Commission to conduct a comprehensive study of parole review in Virginia;
- Make the public more aware of critical issues within the criminal justice system, and solutions which will make best use of public funds;
- Encourage the initiation of local Criminal Justice Advisory Committees;
- Promote adherence to existing state policy on correctional approaches, to guide all decisions concerning the future direction of state and local corrections in Virginia;
- Amend the *Code of Virginia* to provide that prisoners with sentences totalling more than two years shall be designated as "state responsible" inmates, and must be accepted by the Department of Corrections within 60 days of receipt of the court order committing the prisoner; all other prisoners shall serve their sentence in a jail facility;
- Consider amending the *Code of Virginia* to expand 50 percent state reimbursement for construction of large single-jurisdiction jails; and

Develop a 10-year Master Plan for state and local correctional needs.

Complete the development and implementation of a system of parole guidelines and parole risk assessment.

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Legal challenges, resulting from overcrowding, are not determined on square footage alone but are considered in terms of “totality of conditions.” It is possible to increase current rated capacities if additional program space and common areas, programs, and administrative support are added.

- Continue the Commission on Prison and Jail Overcrowding for an additional two years, to oversee implementation of these recommendations.

Alternative Sanctions: While there has been significant use of community-based alternatives to imprisonment in Virginia in the past, highly publicized recent actions by a few individuals have resulted in concern among decision-makers and the public about the use of some of these alternatives. However, an expansion of services and a refocusing of existing programs, with sufficient safeguards of public safety, must take place if any effective reduction of projected populations at the state and local levels is to occur. The following recommendations focus on alternatives to incarceration, at both pretrial and posttrial phases of the system, at the state and local levels:

- Amend the *Code of Virginia* to require sheriffs to provide weekly information to the courts on the population awaiting trial in local jails;
- Develop guidelines for docketing practices which give scheduling priority for defendants awaiting trial in a local jail;
- Identify ways of improving the bail/bond decision-making process;
- Expand funding for the establishment of programs providing pretrial services, and target the funding towards localities experiencing severe jail overcrowding;
- Identify localities and regions in greatest need of alternatives to jail for public inebriates, and assist those localities in meeting that need;
- Study the benefits and costs of expanding General District Court probation services to all districts throughout the Commonwealth;
- Expand the Department of Corrections’ intensive probation and parole supervision programs to all districts, limiting the caseload ratio for intensive supervision to ten clients per officer;
- Provide additional financial incentives to localities for the development of diversion programs;
- Minimize, through alternatives when appropriate, the number of technical parole violators returned to prison; and,
- Expand the use of electronic monitoring of offenders.

Providing for Secure Confinement: The construction of new correctional facilities is an alternative to overcrowding that is being exercised extensively within the Commonwealth. Many types of facilities can be provided: minimum, medium, and maximum security prisons, prison farms, regional jails, local jails and jail farms. The facility selection process is driven by prisoner classification, forecasts of inmate populations, and the definition of “state responsibility.”

Legal challenges, resulting from overcrowding, are not determined on square footage alone but are considered in terms of “totality of conditions.” It is possible to increase current rated capacities if additional program space and common areas, programs, and administrative support are added. Recent emphasis on construction of additional bedspace to relieve the unprecedented overcrowding in both jails and prisons has focused almost entirely on housing space at the expense of program and administrative space needs. Continued construction of both local and state facilities without adequate program space only invites unrest and disruption, and may lead to greater court involvement in corrections administration.

The following recommendations are focused on providing for secure confinement of offenders who must be incarcerated, including ways in which the construction of new facilities may be streamlined and ways in which the use of existing facilities can be maximized:

- Target new construction to the specific groups of offenders who will be incarcerated in those facilities, to insure that an appropriate mix of secure and less secure local and regional detention facilities are constructed;
- Amend the *Code of Virginia* to require that every planning district identify a site suitable for the construction of a correctional facility with a capacity of 1,000 inmates;
- Continue to work with the Virginia congressional delegation to identify federal lands suitable for conversion and use as local or state correctional sites;
- Explore the option of site sharing between the state and localities or regional authorities when any new facility is planned;
- Continue to study issues related to the environmental impact process, to determine ways in which the process can be modified to accommodate in-fill expansion projects and the creation of emergency bedspace;
- Evaluate the procedures regarding planning and implementation of prison construction, in order to streamline and improve the process;
- Organize a specialized construction unit, with its sole focus being the corrections capital facilities planning and construction process;
- Develop and refine standardized designs for prison building types, sizes and capacities;
- Obtain a fixed price for construction projects, unless an emergency condition exists;
- Develop standardized designs for local and regional jail facilities;
- Inventory existing prison and jail sites to identify expansion and in-fill opportunities;
- Inventory underutilized state facilities, and survey to determine the existence of hotels, military barracks, or schools not in state ownership which could be converted to correctional use;
- Maximize the use of existing jail farms;
- Use inmate construction whenever cost-effective to create additional support, program, or dormitory space in existing facilities;
- Construct treatment, program, and administrative support space at facilities where recent in-fill housing projects have been completed without additional non-housing space having been added, and construct an appropriate amount of treatment, program, and administrative support space at new facilities to reflect the degree of double-celling and double-bunking expected there; and,
- Amend the *Code of Virginia* so that any proposed legislation which would have the effect of further increasing the prison or jail population would become law only if the funds required to increase the capacity of the system commensurately are appropriated.

Reducing Recidivism: While incarceration is costly, repeated incarceration takes a toll not only on the offender, but also on the community and ultimately the taxpayer. Approximately 40 percent of Virginia's convicted felons had a felon record prior to their current conviction. While it cannot be stated with certainty

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It now costs more to imprison a felon for four years than it currently costs to provide tuition, room and board for a student to acquire a four-year undergraduate degree, a masters degree and a doctorate at any of the state's finest colleges or universities.

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that educational and vocational skills translate into reduced recidivism, it is clear that limited job skills and an inability to read and write guarantee that high rates of recidivism will continue.

The following recommendations are focused on addressing the number of prisoners who return to the system as recidivists, contributing to overcrowding:

- Provide access to treatment services for drug and alcohol abusers, and those in need of mental health services through existing Community Services Boards;
- Plan and fully implement in three localities diversion, intensive supervision, and treatment services for people who have alcohol and other drug problems;
- Provide funding to each Community Services Board to support sufficient staff positions to provide or arrange alcohol and other drug abuse and mental health services in local jails;
- Make full use of community resources to increase work release, education programs, and drug therapy to facilitate continuing participation following the release of inmates serving their sentence in a jail;
- Amend the *Code of Virginia* to specifically provide that prisoners within one year of their release date may be transferred from a state institution to a local or regional facility in order to participate in work release or other prerelease programming;
- Establish ten prerelease centers across the state, through state or contract operation;
- Establish a statewide substance abuse program, and develop and implement an adequately staffed sex offender program through the Department of Corrections;
- Assess the feasibility of establishing one or more special purpose institutions for the treatment of inmates who are substance abusers;
- Expand educational program capabilities, and expand the role of the Department of Correctional Education in the planning of new and expanded facilities;
- Enhance educational and training opportunities for inmates, and facilitate inmate reintegration into the community;
- Expand cooperative efforts between the Commonwealth's college system and the Department of Corrections; and,
- Establish a quasi-governmental entity to operate Virginia's prison industry program.

Conclusion

This Commission undertook the task of addressing issues related to prison and jail overcrowding during a period of unprecedented growth in both the local jail and state prison populations. It was also a period of resource constraint at both the state and local levels which forced the Commission to examine closely the issues of risk and cost. It now costs more to imprison a felon for four years than it currently costs to provide tuition, room and board for a student to acquire a four-year undergraduate degree, a masters degree and a doctorate at any of the state's finest colleges or universities.

The community, the public, will ultimately decide whether to involve itself in the issues of cost and cost-avoidance. What the Commission offers in this report is a rational perspective regarding the issues of risk and cost, recommendations which may alleviate costs without significantly increasing the risk to the community, and recommendations which will move the system toward operating as a true system.

Chapter One
Introduction and Background

Overview

The present state of overcrowding in Virginia's local jails and state prisons is in large part, a result of policy choices made over the past fifteen years, reflecting public sentiment toward the punishment of criminals. Nationally, and in Virginia, that sentiment has been expressed as a belief that the crime rate has been increasing, and that the court system is lenient on criminals in terms of setting bond/bail and allowing plea agreements. The public also believes that harsher punishment — very long sentences — for criminals is the most appropriate response to crime, and that it is too easy for convicted criminals to be released on parole.

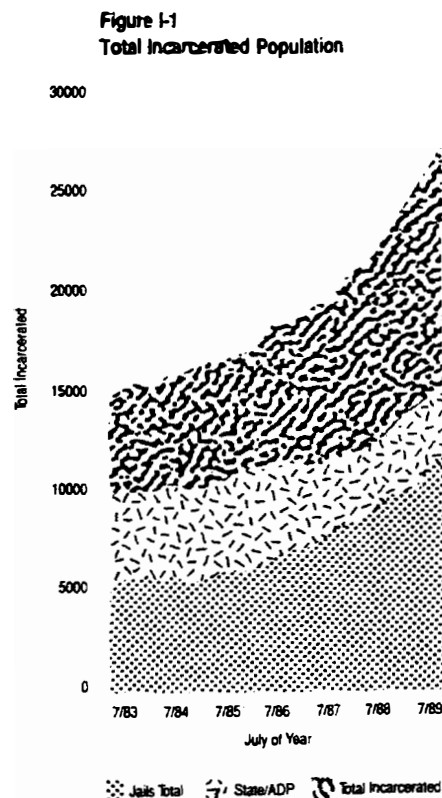
A June 1989 Gallup Poll reported that 61 percent of those surveyed "believe the U.S. crime rate has risen during the past year, and 53 percent think there is more crime in their neighborhood today than there was a year ago." In fact, the national crime rate has remained stable during the past three years, and is significantly lower than the crime rate recorded in 1975. Virginia has a low violent crime rate compared to most other states — 42nd in the nation.

Judges, prosecutors, legislators and other officials in Virginia and across the nation have responded to the public's perception and demand by "toughing on crime." For instance, 17 recent legislative changes have contributed to the increase in the inmate population in Virginia (see Appendix A). Virginia has one of the highest incarceration rates in the nation, and sentences are getting longer. Only a small number of states

have fewer individuals on parole or probation per 100,000 adult population than Virginia. This propensity to use incarceration when dealing with offenders in Virginia has resulted in unprecedented overcrowding in Virginia's prisons and jails, and has made the criminal justice system one of the fastest growing areas of expenditure of taxpayer dollars over the last four years.

The problem of overcrowding is certainly not unique to Virginia. Most states are involved in costly building programs. Thirty-eight states are currently under federal or state court order to alleviate overcrowding in prisons and jails. Fortunately, Virginia is not yet one of these states. Many of the systems under court order have capacity restrictions — "caps" — imposed upon them which establish the maximum number of inmates that may be housed in a given facility or system. Once that "cap" is reached, the admission of each additional inmate requires the automatic release of one other inmate. It is doubtful that Virginians would view this approach as an acceptable response to overcrowding. Certainly, this Commission does not. There are better responses to overcrowding.

While the crime rate in Virginia has remained relatively stable over this decade, Virginia's inmate population has grown steadily. As Figure I-1 illustrates, in July 1983, there were 14,833 inmates in Virginia's prisons and jails; in July 1989, there were 24,851. Since 1983, Virginia's incarcerated population has grown on the



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In response, the Governor and the General Assembly authorized over a three year period a 45 percent increase in the capacity of the state system, at a capital cost of \$232,000,736. Localities have been slower to increase the capacity of jails, but if all recent jail expansion projects proceed as planned, there will be a 30 percent increase in jail capacity statewide by 1992. Considerable expansion, particularly the construction of regional jails, is planned for the near future.

Despite planned increases in capacity, if current trends continue... the system will be far short of the number of beds needed to house inmates in prisons and jails in the 1990s.

Even with the additional planned resources directed towards the offender population, it became clear in 1988 that current construction programs would not keep pace with the number of offenders to be housed in local jails and state prisons. It also became clear that temporary solutions could not alleviate the population pressures over long periods of time. Despite planned increases in capacity, if current trends continue — and there is little reason to expect otherwise — the system will be far short of the number of beds needed to house inmates in prisons and jails in the 1990s.

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The Commission was composed of twelve citizen members appointed by the Governor, four appointees from the state Senate, and six from the House of Delegates. There were three ex-officio members — the Secretary of Administration, the Secretary of Transportation and Public Safety, and the Chairman of the State Compensation Board. To aid the Commission in its work, the Governor appointed 30 advisory members, representing state and local government, the construction industry, the business community, rehabilitation advocacy groups, policy boards, and the legal community.

The members were assigned to one of four working committees based on their interest and expertise. The committees met from May through September of this year to identify and address the areas offering the greatest potential impact on overcrowding. As part of its work, Commission members toured six jails and four state facilities and talked with sheriffs and jail administrators, as well as wardens and correctional officers. To address specific issues, such as prison industries, members of the Commission visited other states to assess their programs and approaches. The Commission also held a public hearing to elicit comments and advice from interested citizens, and, throughout its work, heard testimony from numerous national and regional experts on key issues. Appendix B provides a copy of HJR 402 and identifies the composition of the Commission and committee assignments of each member.

Scope

The Commission's scope was limited to examining the Commonwealth's responses to overcrowding. The Commission's work did not include law enforcement, and it could not include the causes of crime, which are broader societal, ethical and moral issues. Therefore, the Commission's work and resulting recommendations cannot be viewed as a panacea — there is no panacea. The Commission could not solve the problem of overcrowding, but sought to make recommendations as to how the Commonwealth will deal with overcrowding over the next ten years.

The Commission reviewed the issues related to overcrowding as they affect the courts, local jails, state correctional programs, and parole release. The issues of risk to the community and cost were deliberated and debated intensely. One fact is clear: to lower the risk to the community through incarceration alone, the community will continue to pay higher and higher costs. The Commission's work addresses how those who ultimately pay for crime, the citizens of the Commonwealth, can have their tax dollars utilized in the most effective manner. Prisons and jails are very expensive to build and operate. To continue to incarcerate at the present rate will require difficult resource allocation choices by taxpayers and elected officials.

The work of the Commission was organized into four committees: Inmate Management, Space Require-

The Commission's work addresses how those who ultimately pay for crime, the citizens of the Commonwealth, can have their tax dollars utilized in the most effective manner.

Officials predict inmate numbers to double by '95

By Claude Burrows
Times-Dispatch staff writer

The increasing number of lawbreakers sentenced to prison each year for drug offenses will contribute significantly to a doubling of the population of Virginia prisons and jails by 1995.

A projection of continued growth in the state's penal system paints a not-too-bright picture for Virginia taxpayers, who will get the bill for more prison construction through the 1990s.

In presenting projections for state prison and local jail populations, Vivian Watts, secretary of transportation and public safety, said yesterday that annual growth rates will require additional cell space equivalent to a prison holding about 1,700 inmates each year through 2000. Virginia has about 14,000 state felons and 9,500 inmates in local jails.

increase in the number of people sentenced to prison for drug offenses during the past two years, which shows that law enforcement agencies are doing their jobs, she said. While there were 826 inmates serving sentences for drug offenses (possession or distribution) in 1988, the number increased to 1,480, or about 20 percent of new admissions, this year.

"It is anticipated that this will continue to grow until it reaches a point of 30 percent of new admissions before leveling off," she said.

Contributing to this continued growth in drug-offense sentences is an increased get-tough policy such as President Bush's "war on drugs" and campaign platforms by candidates for state offices.

Courts are also contributing to growth through stiffer sentences for offenders who a few years ago receiving probation or jail for drug possession now are being sentenced to prison. Ms. Watts noted that even those sentenced to prison are often

The impact of drug sales and use in the Commonwealth and the nation is — and, as experts told the Commission, will continue to be — a driving force behind increases in prison and jail populations.

Drugs have become a fundamental societal problem. The implications of drug activity for public health, social services, education, and criminal justice will ultimately require a thorough examination of its causes and more effective solutions than the criminal justice system alone can provide.

To label the public safety sector in Virginia a “system” may be inappropriate.

ments, Legal/Legislative Issues, and State/Local Responsibility. Figure 1-2 lists the major issues addressed by each.

While the Commission did not investigate the causes of crime specifically, one issue pervaded the Commission’s debate and demands mention here. The

**Figure 1-2
Issues Addressed By Committees**

Inmate Management:

- Pretrial programs
- Diversion and community-based alternatives
- Intake and classification processes
- Educational, vocational, and treatment programs
- Release and post-release options
- Administrative and structural issues

Space Requirements:

- Prison and jail inmate population forecasts
- Inmate classification systems
- Efficiency/cost-effectiveness of construction approaches
- Site selection issues
- Local responses to increased need for jail space
- Maximizing existing space
- Determining the types and amount of space required at state and local levels

Legal/Legislative:

- Pretrial release alternatives
- Expediting system processes
- Sentencing policy and practice
- Legislative strategies for addressing overcrowding

State & Local Responsibility:

- Current provisions for housing state-responsible felons in local jails and state prisons

impact of drug sales and use in the Commonwealth and the nation is — and, as experts told the Commission, will continue to be — a driving force behind increases in prison and jail populations. A study of arrests in 14 cities across the nation during three months in 1988 revealed that the vast

majority of those arrested for all felonies tested positive for at least one of 10 illegal drugs. According to United States Attorney General Richard Thornburg, two things are clear from these study results:

“There should no longer be any question as to how much of a catalyst for crime the lust for illegal drugs has become in America today....It is equally clear that law enforcement alone will never win the war on drugs.”

Drugs have become a fundamental societal problem. The implications of drug activity for public health, social services, education, and criminal justice will ultimately require a thorough examination of its causes and more effective solutions than the criminal justice system alone can provide.

The remainder of this chapter provides a brief overview of Virginia’s criminal justice system, emphasizing areas of this Commission’s work. It is offered as background information to enable the reader of this report, who might be unfamiliar with the agencies and organizations responsible for different actions in the system, to better understand the report and its recommendations.

The Virginia Criminal Justice System

To label the public safety sector in Virginia a “system” may be inappropriate. Given the various levels of government involved, the jurisdictional authority, mandates, and the different agencies responsible for parts of the “system”, this Commission has learned that the “system” doesn’t really behave as a system should. When one part of a true system effects change, other parts react to that change to keep the system

...a state of balance. In the public safety sector in Virginia, this does not always hold true because of the involvement and independent responsibilities in criminal justice of all branches of government — executive, judicial and legislative — at the local, state, and federal levels.

This Commission believes that for the criminal justice system in Virginia to operate as a true system, fundamental changes must occur in the relationships between the subsystems: in funding relationships, in areas of responsibility, in areas of program development and in the nature of the working relationships between the key individuals in the system.

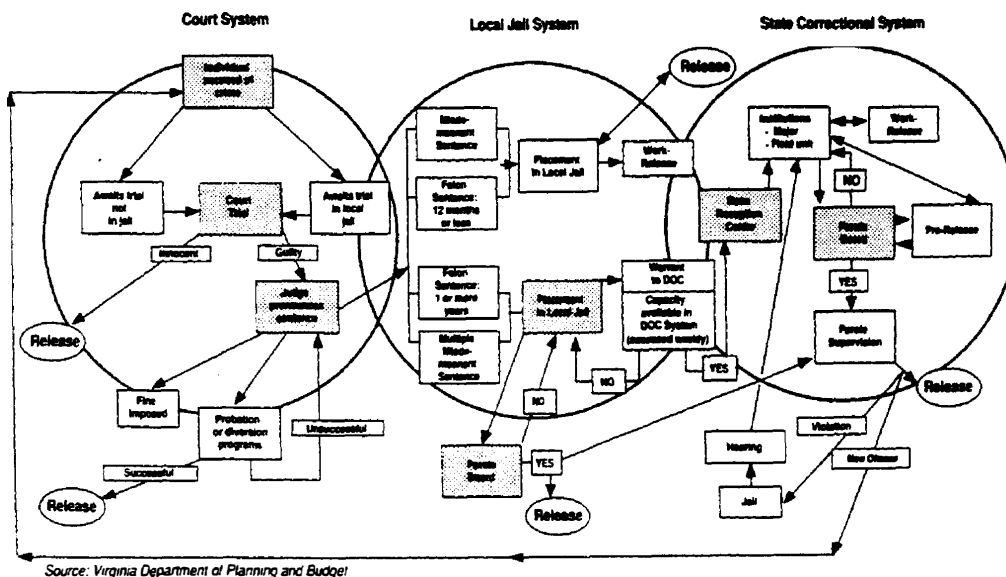
An overview of the criminal justice system in Virginia is presented in Figure I-3. As the figure illustrates, there are three major subsystems within the criminal justice system with which the Commission dealt: the

court system, the local jail system, and the state correctional system. (As previously stated, law enforcement, while a major component of the criminal justice system, was not included in the scope of this Commission's work and is not the subject of any Commission recommendation.) Within each of the three subsystems studied, decisions made by officials at key discretion points determine whether a jail or prison bed will be required to reduce risk to the community, assure appearance in court, provide protection for the accused, or punish or offer opportunity for rehabilitation to the convicted. Some of these key discretion points are described below.

The Court System: The court system in Virginia consists of four levels: the Supreme Court, the Court of Appeals, the Circuit Courts and the District Courts. The 71 General District Courts, 69 Juvenile and Domestic Re-

This Commission believes that for the criminal justice system in Virginia to operate as a true system, fundamental changes must occur in the relationships between the subsystems: in funding relationships, in areas of responsibility, in areas of program development and in the nature of the working relationships between the key individuals in the system.

Figure I-3: The Virginia Criminal Justice System



lations Courts, 57 combined Juvenile and Domestic Relations/General District Courts, and 122 Circuit Courts are organized into 31 judicial circuits and 32 similar judicial districts. Trial judges are elected by the General Assembly. Also, since 1974 Virginia has utilized a magistrate system to provide an independent, unbiased review of complaints brought by law enforcement officers or citizens. The Commonwealth's 440 magistrates are appointed by the Circuit Court judges.

In some cases, although the person may be accused of a minor violation, a secure bond may be set at a level that the person cannot pay — thus forcing the accused to wait in the local jail for the hearing.

The Chief Justice of the Supreme Court is designated by the *Constitution of Virginia* as the administrative head of the judicial branch. Virginia's courts are served by two policy-making bodies. The Judicial Council, chaired by the Chief Justice of the Supreme Court, is responsible for making a continuous study of the organization, rules, and methods of procedure and practice of the judicial system in Virginia. The Committee on District Courts was created to assist the Chief Justice in the administrative supervision of Virginia's unified court system. In addition, the Judicial Conference of Virginia and the Judicial Conference of Virginia for District Courts, composed of all judges in the state, consider and recommend means of improving the administration of justice in Virginia.

In criminal cases, once an individual has been arrested, for the purposes of this Commission, the first discretion point is reached. A law enforcement officer brings that person before a magistrate or other court official to determine whether that person should be released prior to the court hearing or should await trial in jail. The bond process is a mechanism used to allow

the release of an offender before trial. Once bond has been determined and a date for arraignment has been set in the General District Court, the accused can post bond, if required, and be released pending the hearing or may remain in jail until the hearing. In some cases, although the person may be accused of a minor violation, a secure bond may be set at a level that the person cannot pay — thus forcing the accused to wait in the local jail for the hearing.

At the arraignment, the General District Court judge reviews the bond set by the magistrate and may amend it by raising or lowering the amount of secure monetary bond or by converting a secure bond to a nonsecure bond. The General District Court judge also determines guilt or innocence if the person is accused of a misdemeanor. In the case of a felony, the General District Court judge hears the evidence and may reduce the charges to a misdemeanor, or determine whether sufficient grounds exist to certify the charge to a grand jury. The grand jury determines whether sufficient evidence exists to certify the charge to the Circuit Court, where the issue of guilt or innocence is determined either by the Circuit Court judge or by a jury.

If the person is accused of a misdemeanor and is found innocent, the person is released. If the accused is found guilty, the judge has a choice of fining the offender, suspending the imposition of the sentence, sentencing the person to either a period of incarceration or a diversion program such as probation, or using a combination of these options. Restitution to the victim or community service may also

be required if appropriate. A defendant who is found guilty can appeal the decision, as a matter of right, to the Circuit Court, which rehears the case.

In Circuit Court, if the person is accused of a felony, and is found innocent, the person is released. If the accused is found guilty by a jury, the jury recommends a sentence to the judge, who may either impose that sentence or reduce it if the appropriate circumstances exist. If the accused is found guilty after a trial before the bench, the judge alone determines the sentence and may consider facts about the individual's prior criminal record that are not available to juries except in the case of capital murder trials. In either instance, the judge has the discretion to incarcerate the offender or use other sanctions. Other options at this discretion point include fines and restitution, probation, other diversion programs, or a combination of these options.

Local Jails: There are 86 local jails in Virginia, which are administered by locally elected sheriffs. There are also six regional jails, administered by a jail administrator who serves the regional jail board. These boards are typically comprised of local government officials, citizens, and the sheriffs of the localities that built and use the

regional facility. In addition, there are three city jail farms administered by superintendents responsible directly to local units of government. The state maintains jails for Goochland and Powhatan Counties at Powhatan and James River Correctional Centers and at the Virginia Correctional Center for Women.

Sheriffs in Virginia are constitutional officers, required in Article VII, Section 4 of the *Constitution of Virginia* to perform four primary functions: law enforcement, serving warrants and processes, providing courtroom security, and operating the local jail. As constitutional offices, sheriffs' departments are funded in part by state general funds through the State Compensation Board. The State Compensation Board, located organizationally under the Secretary of Administration in the executive branch of state government, is responsible for reviewing the annual budgets submitted by the sheriffs and making recommendations on any additional positions or services requested. The actual funding amounts for certain functions and salary ranges are established by law. For example, the Commonwealth pays the full salary of sheriffs and sheriffs' deputies, two-thirds of all treatment positions in jails, \$8.00 per day for every prisoner in a local jail committed on a state warrant, and an additional \$6.00 per day for sentenced

There are 86 local jails in Virginia, which are administered by locally elected sheriffs.

Sheriffs in Virginia ... perform four primary functions: law enforcement, serving warrants and processes, providing courtroom security, and operating the local jail.

Cocaine's inroads detailed in Charlottesville report

By Carlos Santos
Times-Dispatch state staff

CHARLOTTESVILLE — Cocaine has made sweeping inroads into the Charlottesville area in the past year, causing a jump in burglaries and robberies, burdening social services with more neglected children and filling the jail far beyond its capacity, a city task force reported yesterday.

The draft report, put together in three months by 14 members representing a cross-section of the community, can also serve as a picture of the social ramifications of cocaine use in other cities in the area, officials said.

"We're not a what-

for all of 1988, a jump directly attributable to a higher incidence of cocaine use among adults;

- A total of 664 burglaries were reported in fiscal year 1988-89, compared to 516 burglaries in fiscal year 1987-88, an increase attributed to drug addicts trying to support their habit;
- A total of 80 robberies were reported in year 1988-89 compared to 61 in 1987-88, also attributed to drug addicts.

During fiscal year 1987-88, state financing of local jails ranged between 45 percent and 100 percent; the median was 86 percent.

By authority of the Code of Virginia, the director of the Department of Corrections has the discretion to authorize the transfer of prisoners from local jails provided those prisoners have more than six months left to serve on their sentences after final judgment.

felons in local jails with more than six months to serve after judgment. During fiscal year 1987-88, state financing of local jails ranged between 45 percent and 100 percent; the median was 86 percent.

If a person is convicted of a felony and sentenced to one year or more, or a misdemeanor and sentenced to more than 12 months, that person is held in the local jail until: 1) the sentence is satisfied; 2) the offender is released on mandatory or discretionary parole; or 3) a final court order is received and the inmate is transferred to the state Department of Corrections. At the present time, persons with sentences of one year up to and including four years (by agreement in some localities, the period is up to and including six years) will likely be classified for parole eligibility purposes while in the local jail; many of these offenders will complete their sentences in the local jail. Persons with sentences over four years (six years) are most often classified for parole purposes after they are transferred to the Department of Corrections' facilities.

As of July 1989, any person sentenced to confinement in jail, misdemeanor or felon, may be assigned to work release provided the sentencing court is notified. After a parole eligibility date has been determined, felons sentenced to prison may be placed on local work release only at the discretion of the Department of Corrections with the agreement of the sheriff. Felons with relatively short sentences are likely to be either released on mandatory parole from the local jail or have a discretionary parole hearing while in the jail.

The Department of Corrections: Virginia Department of Corrections operates 19 major institutions and 29 "field units" for adult offenders. Appendix C lists these institutions, their locations, and their operational capacities as of October 17, 1989. The department is located organizationally under the Secretary of Transportation and Public Safety in the executive branch of state government. The director of the department is appointed by, and serves at the pleasure of, the Governor.

Prisoners who are denied discretionary parole while in the local jail, those with longer sentences, and those who are not eligible for parole must await transfer to a state facility. By authority of the *Code of Virginia*, the director of the Department of Corrections has the discretion to authorize the transfer of prisoners from local jails provided those prisoners have more than six months left to serve on their sentences after final judgment.

Most prisoners enter the Department of Corrections through reception and classification centers. All inmates coming into these centers are temporarily assigned to "C" custody, the highest level of security. Once the processing of the prisoner at the reception and classification center is complete, a new custody classification is established and the inmate is moved to a facility based on security requirements, treatment needs, and space availability. After transfer, the prisoner can request participation in educational and work programs available at the facility.

Crowd

FREDERICKSBURG
When Caroline Co.
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hope the suspect isn't
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A number of additional options exist for prisoners once they have entered the state correctional system. Prisoners who have shown successful institutional adjustment and pose minimal risk to the community may be placed in a field unit and work on state highways under armed supervision. Prisoners who present the least risk to the community may be placed in a state work release facility. Prisoners who are to be released on parole in the near future may be placed in a pre-release unit to facilitate the transition from prison life to life in a free society. However, the availability of work release and pre-release placements is limited. Use of these options requires that the risk of reducing the offender's level of supervision be weighed against the offender's potential threat to the community.

The Department of Corrections is also responsible for providing probation and parole supervision services. The state's 407 probation and parole officers typically carry a combined caseload of probationers and parolees. For probation supervision purposes, they are appointed by the Circuit Court judges, who can also remove them. The Board of Corrections promulgates policies and standards that officers must follow in supervising parolees. However, the officers are state employees of the Department of Corrections, which supervises their performance.

Finally, the Department of Corrections provides for community diversion programs in localities which choose to participate. Initiated in 1980 with the passage of the Community Diversion Incentive Act, these community diversion programs allow localities the choice of retaining certain offenders in the community in lieu of incarceration. The department administers state funding for the programs, which is based on an average cost to provide needed services per felon and misdemeanor diverted. The department also promulgates the standards under which the local programs must operate.

Policy for the Department of Corrections and standards for any program receiving funds from the department, including local jails, are set by the Board of Corrections. The nine-member board is appointed by the Governor. In addition to other duties, the *Code of Virginia* requires that the Board of Corrections review and approve construction requests made by localities seeking to build or expand a jail. Localities requesting funding for this purpose must meet Board standards for the construction and operation of local jails before funding is approved. The Board's recommendations are

Initiated in 1980 with the passage of the Community Diversion Incentive Act... community diversion programs allow localities the choice of retaining certain offenders in the community in lieu of incarceration.

Richmond Times-Dispatch, Wednesday, April 26, 1989

Jail 'exports' women, minors

Moore said extra room in other counties is becoming increasingly impossible to find. In the past, places could usually be found in Fredericksburg, Henrico or Richmond, he said. Now, when the department calls it receives what has come to be a standard answer: "We wish we could but we have females doubled and some are on

received a suspended sentence. The other women posted bond. Minors are no longer sent to jail for lesser offenses, but the number of juveniles committing more serious crimes is on the rise. "It's getting almost impossible to find room for them," County Administrator John A. Anzivino said. Anzivino met last week with officials from Hanover, Goochland, New Kent and Powhatan to discuss the possibility of forming a regional jail. They agreed to continue to meet again in

Moore and Anzivino agree that the county made a mistake when it shunned an offer to participate in the operation of a regional jail in Fredericksburg. That jail houses prisoners from King George, Spotsylvania and Fredericksburg.

"That's coming back to haunt us," Moore said. Anzivino says building a jail with other localities is economical because the state rewards localities that work together by reimbursing up to 50 percent of the cost of the project. Spending money for jails is never of mind," he

Virginia is unique in the nation in the delivery of education and vocational education services to juveniles and adults in state learning centers and correctional centers.

Since 1985, an average of 3,163 prisoners per year have been released on discretionary parole. Approximately 2,500 additional prisoners per year have been released on mandatory parole.

implemented through the Department of Corrections, subject to availability of funds appropriated by the General Assembly.

Department of Correctional

Education: Virginia is unique in the nation in the delivery of education and vocational education services to juveniles and adults in state learning centers and correctional centers. The Department of Correctional Education is an independent state agency, reporting to the Secretary of Transportation and Public Safety, with responsibility for providing mandated education for juveniles in juvenile corrections facilities, and offering basic education and vocational education opportunities for adult inmates in prisons and field units.

Parole: Virginia uses two types of parole: discretionary parole and mandatory parole. In discretionary parole, vested by statute to the Virginia Parole Board, an inmate agrees to abide by certain stated conditions in return for the opportunity to serve the remainder of his or her sentence in the community rather than in prison. All persons sentenced to one year or longer are eligible for discretionary parole after serving a portion of his/her sentence. The *Code of Virginia* specifies that a first-time offender must serve one-fourth, or up to a maximum of 12 years, of his sentence before being considered for discretionary parole; repeat offenders serve larger portions of their sentences based on the number of previous felony convictions.

Mandatory parole release without Parole Board action is provided by Section 53.1-159 of the *Code of Virginia*. A mandatory parole release occurs when an inmate is within six

months of completing his sentence and has not been paroled by the Board. The purpose is to require that all felons, following their incarceration, be subject to a period of community supervision. All persons released, whether under discretionary or mandatory parole, spend a minimum period of six months under the supervision of a parole officer.

The parole decision is one of the key discretion points in the criminal justice system. The decision to grant or not grant discretionary parole release, or to revoke parole, is made by the Virginia Parole Board. The Board is comprised of a chairman and four members, appointed by and serving at the pleasure of the Governor. The Board votes on every case that comes up for parole review, based on information gathered by seven parole examiners who review the records of the inmate and conduct interviews. A majority vote of the five-member Board is required to grant parole. During fiscal year 1988-89, the Board considered for parole 10,627 cases from both jails and state institutions and made 3,531 discretionary grants.

Those granted discretionary parole are released under the supervision of a parole officer. Offenders who are not granted discretionary parole are released under mandatory parole supervision six months prior to the expiration of their sentence. Since 1985, an average of 3,163 prisoners per year have been released on discretionary parole. Approximately 2,500 additional prisoners per year have been released on mandatory parole.

Decisions to grant or not grant parole are based on a series of factors including nature of the offense, prior criminal history, institutional behavior, and participation in programs to address individual deficiencies. The Parole Board is in the process of developing an objective risk assessment instrument for helping Parole Board members judge whether an offender is a good risk for parole release.

After a person is released from a state facility under mandatory or discretionary parole supervision, that person is at risk of being returned to a state facility if a new conviction occurs or if the rules of parole are not followed. New convictions may result in return to prison with parole revoked, which means the person must serve any new sentence and satisfy the old sentence as well. Those who violate the technical conditions of parole (e.g. a curfew) are less likely to be returned

to prison, although repeated rule violations may result in a parole revocation for them as well.

The Department of Criminal Justice Services (DCJS): DCJS serves a planning and coordinating role for criminal justice agencies, develops statewide criminal justice statistics, and supports crime prevention and victim assistance programs. The agency also provides technical assistance to local jails and other local programs, such as pretrial release; develops standards for, and delivers, training for many criminal justice and law enforcement functions; and administers federal grants to state and local criminal justice programs. The Criminal Justice Services Board is the department's policy board and includes 23 members representing all aspects of the criminal justice system on both the state and local levels.

Decisions to grant or not grant parole are based on a series of factors including nature of the offense, prior criminal history, institutional behavior, and participation in programs to address individual deficiencies.

F-2 Richmond Times-Dispatch, Sunday, June 4, 1989

Hampton Roads cities study regional jail plan

By Battinto Batts Jr.
Times-Dispatch state staff

CHESAPEAKE — There are plans in the Southeastern Virginia Planning District to build a regional jail to accommodate the area's overflow of prisoners, but the size of such a facility has caused some skepticism and a site has yet to be named. Norfolk, Virginia Beach, Suffolk, Chesapeake and Portsmouth make up the district. As of April, the jails in Norfolk and Suffolk led the area in crowding, each operating 151 percent over capacity.

"Whenever a jail needs to be built it's always difficult. ... Nobody wants to be next to them," said Carlton Bolte of the Virginia Department of Corrections. "There's definitely a need down there [Hampton Roads]." The rate of increase in the area has been about 110 inmates since 1980.

"Whenever a jail needs to be built it's always difficult. ... Nobody wants to be next to them."

— Carlton Bolte

neighborhood, access to major roads and security perimeter. A study prepared for the Southeastern Virginia Planning District Commission lists two sites fitting the criteria — an area near the

"Anytime someone commits an assault within the facility, they must be tried in the local court system," Newhart said.

He said he would be in favor of building two smaller jails instead of one big one.

If a locality decides to build a jail, the state is offering assistance of only up to \$1.2 million. However, it is willing to pay half the cost of a regional jail.

According to Art Collins, executive director of the Southeastern Virginia Planning District Commission, Hampton and Newport News recently shown in

The Virginia State Crime Commission: The State Crime Commission was created in 1966 by the General Assembly and charged with conducting research and developing criminal justice-related legislative proposals. The Commission is composed of 13 members, of whom six are members of the state House of Delegates, three are members of the state Senate, three are appointed by the Governor, and one represents the Office of the Attorney General. The Crime Commission is staffed with two-and-a-half full time positions; other staff support is acquired through federal grant funds on a project-specific basis.

Structure of the Report

This report contains four chapters. This chapter has explained the impetus

behind the creation of the Commission on Prison and Jail Overcrowding, given some background into the cause of overcrowding, described the scope of the Commission's work, and provided an overview of the criminal justice system in Virginia. The next chapter describes recent trends that explain or affect the overcrowding problem. Chapter III discusses trends to the year 2000, including forecasts of the inmate population and the resulting estimated costs of continuing current approaches. Chapter IV describes the range of options considered by the Commission for addressing overcrowding and presents the Commission's recommendations. Appendices follow.

State's quiet catastrophe

Virginia's inmate population has risen relentlessly since the mid-1970s. So nobody pays much attention when yet another Department of Corrections forecast discredits the previous one. Meanwhile, the cell-space problem has escalated from difficult to desperate. Just the other day another ho-hum greeted announcement by Vivian E. Watts, secretary of transportation and public safety, of estimates to the year 2000 that, if accurate, would be catastrophic. The total behind bars today in Virginia is about 25,500 (14,000 state felons and 9,500 local inmates). Using Corrections' "upper limit" predictions advisedly — the state has regularly underestimated even on short-term forecasts — the figure will virtually double by June 1995 to 49,130. By June 2000 to almost 67,000.

Duplicate existing facilities in five years? And half again in 10? The fiscal outlook alone is scary. Since January 1986, the state has initiated \$220 million worth of construction to provide 4,500 beds. Ideally, this would allow Corrections to accept all its prisoners, but this will merely lessen, not eliminate, the backlog of state inmates now pushing many local jails beyond capacity, some beyond reason. And suggest even this mod-

maintaining them is the taxpayers' real burden because this is no one-time expense; it recurs and recurs and recurs. The continuously increasing inmate count also raises questions about Virginia's approach to people convicted of crimes. Everybody seems bent on putting criminals behind bars, but nobody — including the two candidates for governor — wants to pay the price.

Granted, the drug epidemic has contributed to Virginia's woes. The number of offenders sentenced to prison for drug crimes has more than quadrupled since 1984-85, rising from 351 to 1,480. Those imprisoned for other crimes — robbery, murder, etc. — linked to drugs have contributed even more to overcrowding. Still, the numbers of those serving time for non-violent crimes remains unnecessarily high. Virginia has done little to expand punishments other than prison for such offenders. Further, the state doesn't use parole as effectively as it could.

The sharp population rise in our prisons and jails signals societal failures as well. So both politicians and public must focus on programs in education, job training and other areas that can help discourage crime. And then fund these programs.

For if Virginia continues to define punishment primarily as putting and keeping people behind bars, the state eventually pits itself in a fiscal prison.

Chapter Two
Facing the Issues: Recent Trends
and the Current Problem

Overview

The previous chapter presented an overview of crowding in Virginia's prisons and jails, described the impetus for the creation of the Commission, delineated growth in the Commonwealth's incarcerated population, and identified key discretionary decision points within the criminal justice system. This chapter presents, in more detail, trends which have contributed to growth in populations housed in our prisons and jails. The major findings of this chapter are highlighted in Figure II-1.

The findings displayed in the figure illustrate two key points: that the current problem of overcrowding is affecting all major components of the criminal justice system, and that the current approaches taken by Virginia's criminal justice system will not adequately equip us to meet the future challenges of continued growth in incarceration.

Crimes and Arrests

As Table II-1 shows, Virginia's rate of index crime has remained relatively

...the current problem of overcrowding is affecting all major components of the criminal justice system, and... the current approaches taken by Virginia's criminal justice system will not adequately equip us to meet the future challenges of continued growth in incarceration.

Figure II-1 Underlying Trends In The Growth Of The Incarcerated Population

- While Virginia's violent crime rate has remained relatively constant over the past 16 years, the number of total arrests made annually has increased almost every year since 1975.
- The total number of sworn officers in Virginia increased from 10,085 in 1981 to 12,061 in 1988. Improvements in law enforcement approaches and technology have also contributed to more arrests.
- Felony arrests for the sale and/or manufacture of opium, cocaine, and cocaine derivatives in 1988 was over 300 percent greater than the number of similar arrests in 1985. The number of felony drug convictions has been growing at a 21.6 percent average annual rate since 1985.

number of persons held awaiting trial in local jails has doubled in the past six years, and currently half of the statewide jail population is awaiting trial or awaiting sentencing. The number of defendants held pretrial without any release has increased by 14 percent over the past three years.

- While the rate of violent crime in Virginia is lower than that of most states, sentence lengths for violent crimes in Virginia tend to be longer than the national average. The proportion of inmates in Virginia serving 20 years or longer now stands at 42.7 percent and is among the highest in the nation.
- From 1980 to 1988, the average sentence length for confined felons in Virginia increased more than 24 percent.
- Virginia's prisoner escape rate of three escapes annually per 1,000 inmates is one of the lowest in the nation, far below the national average of 26 per 1,000 inmates annually.
- While probation is the state's most frequently used alternative to incarceration, in 1987 only five states had fewer adults on probation per 100,000 adult population than Virginia.
- Virginia's Community Diversion Incentive Program (CDI), although originally intended to divert felons from prison, is being used primarily for the diversion of misdemeanants. Felon diversions accounted for only 11 percent of the 9,462 CDI diversions in fiscal year 1988-89.
- In 1987, Virginia had 141.5 adults per 100,000 adult population on parole, which is lower than the national average adult parole rate of 196.4.
- While statewide jail capacity increased 24 percent over the past six years, the total jail population increased by 104 percent.
- While capacity at state institutions will increase by 45 percent over a four year period and an additional 5,402 prison beds will be added, prison overcrowding will remain a serious problem in the Commonwealth.

Source: Commission staff analysis

While certain localities, primarily major metropolitan areas, have experienced sharp increases in the crime rate over time, Virginia's violent crime rate as a whole has been relatively constant over the 16 year period covered in the Department of Criminal Justice Services' Violent Crime in Virginia report.

stable since 1975, when the Virginia State Police began collecting this information on a statewide basis. This crime rate is computed by dividing the population by 100,000 and dividing the number of reported index crimes by that quotient. Index crimes are: murder/nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft. These are considered to be among those crimes with the highest volume and greatest gravity. They are reported to the Virginia State

Police and subsequently to the FBI Uniform Crime Reporting Program by local law enforcement officials.

The "violent crime" rate has remained relatively stable as well. Violent crime includes the following offenses: murder/nonnegligent manslaughter, forcible rape, robbery, and aggravated assault. While certain localities, primarily major metropolitan areas, have experienced sharp increases in the crime rate over time, Virginia's violent crime rate as a whole has been

Table II-1 Index Crimes And Total Arrests Reported in Virginia 1975-1988

Year	Index Crimes Reported ^a	Index Crime Rate ^b	Violent Crime Rate ^c	Index Crime Arrests	Total Arrests ^d
1975	223,025	4,513	329.7	42,401	242,218
1976	210,625	4,235	307.7	42,840	258,918
1977	206,164	4,050	290.0	44,605	273,886
1978	209,096	4,059	286.4	46,856	277,642
1979	225,768	4,302	301.0	46,848	285,858
1980	245,193	4,615	307.2	49,532	307,845
1981	253,437	4,740	321.7	52,125	324,435
1982	233,540	4,276	309.1	50,993	334,360
1983	219,681	3,975	292.5	47,020	307,867
1984	213,241	3,809	297.6	44,526	308,131
1985	215,642	3,801	296.3	45,083	321,771
1986	223,366	3,851	305.3	47,157	332,185
1987	233,768	3,980	296.5	49,788	346,171
1988	250,436	4,210	301.6	54,839	375,430

a Index Crimes include murder/nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft.

b The number of Index Crimes per 100,000 residents.

c The number of violent crimes per 100,000 residents. Violent crime includes the following offenses reported to the police: murder/nonnegligent manslaughter, forcible rape, robbery, and aggravated assault.

d Arrests include both Index (Part 1) Crimes and Part 2 Crimes. Part 2 Crimes include, but are not limited to: embezzlement; possession, sale, and/or manufacture of narcotics; driving under the influence; and public drunkenness. No direct correlation exists between crimes reported and arrests since one person may be arrested multiple times or several persons arrested for one specific crime.

Sources: Crime in Virginia, Uniform Crime Reporting Section, Virginia Department of State Police and Virginia Department of Criminal Justice Services

State seeks alternative to prison

By Claude Burrows
Times-Dispatch staff writer

The Virginia prison system is in a race and state corrections officials can be forgiven if they feel like "the hurrieder I go, the behinder I get."

An unprecedented increase in the number of people sentenced to prison in recent years has taxed an overburdened penal system that now is operating at about 120 percent capacity.

Even though the state is committed to spending more than \$250 million in prison construction and expansion during the next two years, the system is still expected to fall short of providing sufficient cells.

Virginia's prison population at the beginning of February was 12,700 with another 2,000 in local jails waiting to be transferred when space becomes available.

No one is using the word "crisis" yet, but there is a growing feeling among those concerned with the problem that there may be a better way to deal with the increasing costs and crowded prisons.

Among questions being asked are how long will taxpayers continue to pay for prisons that cost about \$8,000 per cell to build, if there are less expensive and more effective means of dealing with a large segment of offenders other than

relatively constant over the 16 year period covered in the Department of Criminal Justice Services' *Violent Crime in Virginia* report. In fact, the rate of violent crime in Virginia in 1988 (302 crimes per 100,000 population) was slightly lower than the 1972 rate.

As Figure II-2 shows, the violent crime rate experienced in Virginia is lower than most of the surrounding states and lower than the national average. When compared to national indices, Virginia is a low-crime state. According to the Federal Bureau of Investigation, Virginia ranks 34th among all states in the rate of violent crime and 42nd in the nation in Index Crimes.

The crime rate is one measure of the risk potential within a community, and is a useful statistic for comparing geographical areas. However, since crime rates are adjusted to a standard (per 100,000 population), the crime rate is not a useful measure of the volume of crime on the components of the criminal justice system. A more useful measure, which captures the volume the system must address, is the number of arrests.

Table II-1 also shows the total number of arrests for all types of crimes for the period 1975-1988. The number of arrests has increased each year since 1975 with the exception of a decline in 1983, and has a trend line significantly higher than that of crimes reported. The number of index arrests has also shown an increasing trend since 1975.

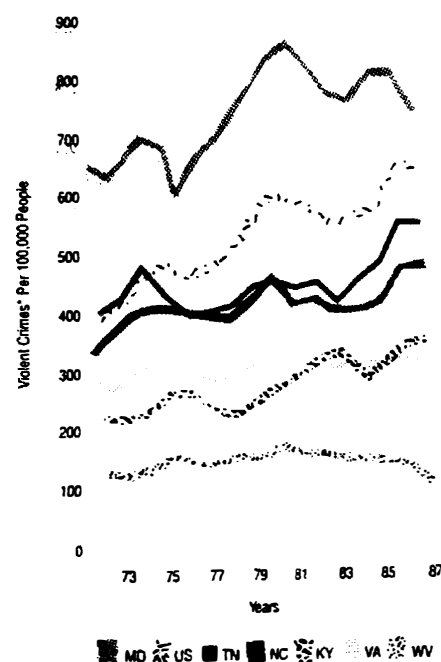
Changes in Law Enforcement: The fact that index crime arrests have increased at a higher rate than index crimes reported may indicate that

increases in the number of sworn officers and improvements in law enforcement approaches and technology have been effective. The total number of sworn officers in Virginia increased from 10,085 in 1981 to 12,061 in 1988. Additionally, the Department of Criminal Justice Services concluded in its 1989 *Violent Crime in Virginia* report that Virginia's "clearance rate" (a measure which gauges the relative efficiency of the criminal justice system in apprehending offenders) for violent crimes is higher than that of bordering states and the nation as a whole. The clearance rate for Virginia violent crimes is 63.5 percent, compared to 52.7 percent in surrounding states and 47.0 percent nationwide.

Changes in technology are also contributing to more arrests. Improvements in technology include the recent development and implementation of the Automated Fingerprint Information System (AFIS), which allows local law enforcement officers computerized access to over 535,000 fingerprint records for comparison purposes. AFIS had an immediate impact, upon its adoption in February 1988, on clearing unsolved crimes in Virginia, identifying 546 suspects in the first full year of operation alone.

Another recent improvement in forensic science technology involves DNA genetic fingerprinting, which allows the identification of individuals by matching the unique genetic material contained in body fluids. While the use of this technique has resulted in a number of capital murder convictions, the permissibility of this technique is currently being tested in the appellate courts.

Figure II-2
Rates of Violent Crime



*Violent crime includes the following offenses reported to the police: murder/nonnegligent manslaughter, forcible rape, robbery, and aggravated assault.

Source: Uniform Crime Reports for the United States. Federal Bureau of Investigation, U.S. Department of Justice

Although Virginia's violent crime rate has remained stable, the number of persons arrested, convicted, and imprisoned on felony drug charges has skyrocketed.

The Impact of Drugs: Although Virginia's violent crime rate has remained stable, the number of persons arrested, convicted, and imprisoned on felony drug charges has skyrocketed. The number of felony arrests for the sale and/or manufacture of opium, cocaine, and cocaine derivatives in 1988 was over 300 percent greater than the number of similar arrests in 1985. Likewise, the number of felony drug convictions has been growing at a 21.6 percent average annual rate since 1985.

As a consequence of these increased drug arrests and convictions, the number of drug offenders committed to the Department of Corrections has grown faster than any other offender population. While total new commitments increased 37 percent since 1983, new admissions for drug offenses increased 195 percent over the same period. There was a 79 percent increase in total drug admissions between 1988 and 1989 alone. These statistics do not count those convicted of other felonies, such as robbery, burglary, and larceny, which were motivated by the need or desire for illegal drugs.

As a percentage of all new admissions, drug offenders have increased from 9 percent in fiscal year 1982-83 to 20 percent in fiscal year 1988-89. While trends in the numbers of new commitments for marijuana and other drugs

have remained relatively constant, new commitments for cocaine and heroin have jumped dramatically since 1986. Of the 1,508 confined drug offenders as of June 1989:

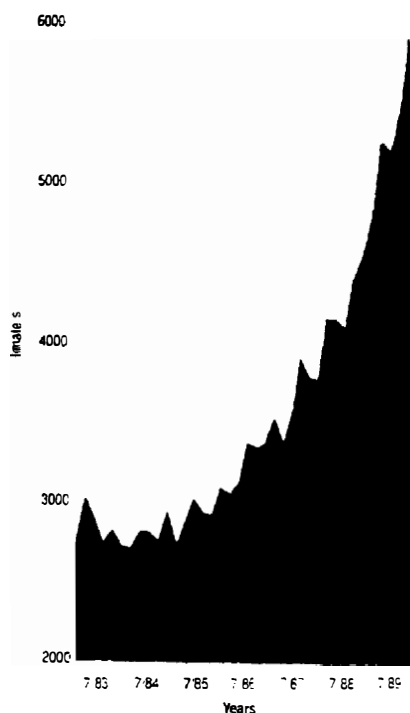
- 50.3% were in prison on cocaine-related charges;
- 12.5% on heroin-related charges;
- 14.2% on controlled drug-related charges;
- 9.2% on hallucinogen-related charges;
- 8.2% on marijuana-related charges;
- 5.6% on charges related to "other" drugs.

The Awaiting Trial Population

As Figure II-3 illustrates, the number of persons held awaiting trial in local jails has doubled in the last six years. In July 1983, the average awaiting trial population was 2,734; in July 1989 the number was 5,459. At present, approximately half of the statewide jail population is awaiting trial or sentencing.

Time Served Pretrial: The Commonwealth does not currently have an information system to determine the amount of time a prisoner serves prior to trial, unless the prisoner is convicted and subsequently sentenced. For those prisoners held pretrial who were subsequently convicted and sentenced, the average time served awaiting trial has increased by six days per case over the past three years, from an average of 151.0 days in 1986 to 157.1 days in 1988. This increase has resulted in the need for an additional 310 beds daily statewide, and is attributable only to those prisoners who were never released from jail after arrest. Increases in case processing time have also been noted.

Figure II-3
Virginia's Awaiting Trial Population



Source: Population Survey of Local Correctional Facilities
Virginia Department of Corrections

One factor affecting case processing time is the ability of the state's Division of Consolidated Laboratory Services (DCLS) to process drug evidence. DCLS provides the judicial system an important service by analyzing drugs, found in defendants' possession for the purpose of establishing charges against them. In recent years, the Commission was told, DCLS has experienced difficulties in recruiting and retaining qualified personnel due to a national shortage of forensic chemists. This shortage of laboratory staff and the rapidly growing number of drug-related cases combined to increase delays between time of arrest and trial by the end of 1988. However, increased efforts and overtime by laboratory personnel have since helped to reduce that backlog.

Bonding and Pretrial Release: The primary reason for detaining a person in a local jail prior to trial is the perceived threat that person poses to the community at large. A second reason is to ensure that accused's appearance in court for trial. Magistrates have the discretionary authority to determine whether to commit to jail or admit to bail, and to set bond. Although guidelines are provided for magistrates in determining the type of bond to be set, they have little objective criteria upon which to base their decision unless they or the arresting officer have substantive knowledge of the accused's prior criminal record. According to presentence investiga-

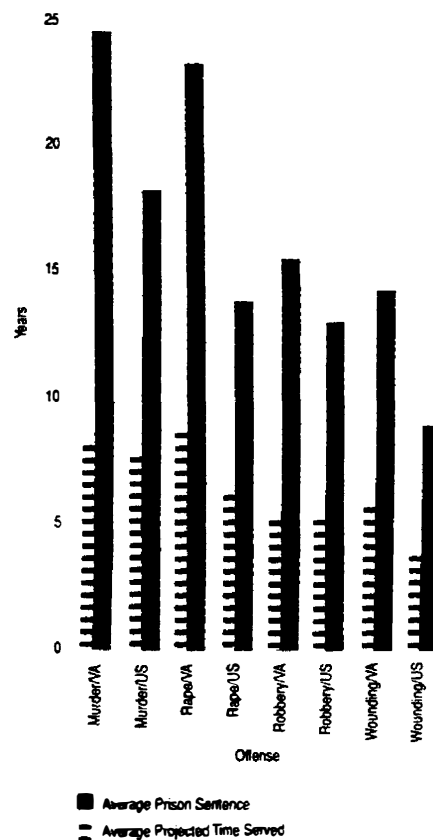
tion data systems, the number of defendants held pretrial without any release has increased by 14 percent over the past three years. This increase equates to 222 jail beds over the three year period. In the absence of objective criteria upon which to base bonding decisions, an overemphasis on high bond amounts may be intended to assure the likelihood of the accused's appearance for trial. Significant numbers of local jail beds are currently being occupied by persons who eventually are released on bond or bail, and others who are ultimately found not guilty at trial.

Sentencing

The courts play a major role in the criminal justice system, and through sentencing practices have a direct impact on both jail and prison inmate populations. Judges in Virginia tend to impose longer felony sentences than do their colleagues in other states, especially for violent crimes. Virginia has one of the highest proportions of offenders serving 20 years or longer in the nation. Additionally, Virginia's already lengthy sentences are becoming even longer over time: the average sentence length for confined felons increased 24 percent from 1980 to 1988.

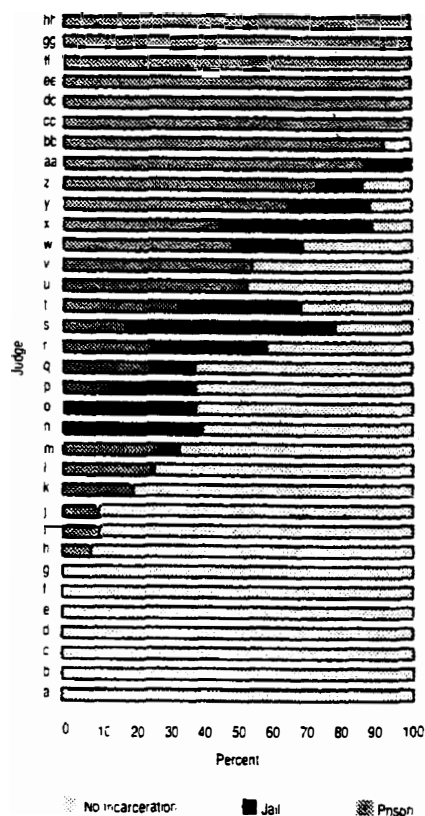
In addition to longer sentence lengths, the amount of time actually served by Virginia's violent offenders is often longer than the national average. These differences are illustrated in Figure II-4, which compares Virginia's average sentence lengths and projected average time served for three types of violent crimes with national average sentence lengths and projected time served for those same crimes.

Figure II-4
Average Prison Sentences and Projected Time Served in Prison for Violent Offenses
Virginia and the United States - 1986



Source: Violent Crime in Virginia, Virginia Department of Criminal Justice Services

Figure II-5
Drugs: Distribution of Sentence
Dispositions by Judge
 (each judge sentenced a minimum of
 15 cases with these characteristics)



Offense: sell, distribute, etc. Schedule I or II drug (Virginia Code 18.2-248(a)).
 Circumstances: one count of the instant offense, no additional charges, no prior felony record, no legal restraint

Source: Virginia Department of Criminal Justice Services

Differences in the sentences imposed in similar cases also exist within the Commonwealth. Both the 1982 Governor's Task Force on Sentencing and the 1985 Judicial Sentencing Oversight Committee appointed by Chief Justice Carrico concluded that wide disparity does exist in both the types and lengths of sentences imposed for similar offenses and offenders. Figure II-5 and Figure II-6 present analysis of the disparity in sentences for similar offenses under similar circumstances and, when prison sentences were imposed, the disparity in the length of those sentences.

Figure II-5 shows the sentence disposition distributions for 34 Virginia Circuit Court judges when sentencing offenders charged with one count of the sale/distribution of a Schedule I or II drug, who faced no additional charges, had no prior felony record, and had no legal restraints against them. As seen in the figure, judges "a" through "g" consistently imposed probation in these cases, while judges "cc" through "hh" always imposed a prison term. Judges "g" through "bb" chose to use a mixture of sanctions when making sentencing decisions in these cases.

Figure II-6 displays the disparity between the average lengths of prison sentences imposed by different judges for the same group of offenders. As this figure shows, the average length of an imposed prison sentence can range between one and 14 years, depending upon the sentencing judge.

In response to this disparity, the Chief Justice and the Judicial Conference of Virginia, with assistance from the Department of Criminal Justice Services, developed a system of voluntary sentencing guidelines for use by Virginia's judiciary. These guidelines have been piloted in six judicial circuits and there is strong evidence that they indeed lead to more consistent and predictable sentencing.

Community Alternatives

If a defendant is convicted of a crime, a judge may choose to use one of a number of community sentencing alternatives. These include supervised and unsupervised probation, referral to the Community Diversion Incentive Program, or referral to other locally operated community programs such as restitution and community service. These alternatives may be used in conjunction with each other, or in conjunction with monetary fines and relatively short periods of incarceration in a local jail.

Probation: Although probation is the most frequently used alternative to incarceration in Virginia, use of probation in the Commonwealth is low when compared with rates in other states. Data collected by the National Council on Crime and Delinquency show that in 1987, only five states — North Dakota, West Virginia, Kentucky, New Mexico, and Mississippi — had adult probation rates lower than Virginia's.

Recent years, a smaller percentage of Virginia's felons have been placed on probation. As shown in Table II-2, the proportion of felons who received probation has fluctuated over the past decade, from a high of 59.9 percent in 1985 to a low of 50.3 percent in 1989.

Community Diversion Incentive (CDI) Program: In 1980, the General Assembly approved an innovative approach, proposed by the Governor, to address overcrowding occurring at that time. The Community Diversion Incentive Act established locally operated programs to divert from prison nonviolent, first-time offenders convicted of a felony. Through "incentive" grants to localities operating the programs, funds were provided for psychological and substance abuse counseling and case management. After sentencing and referral by the judge, local advisory boards screen cases for the programs. The programs now operate in 27 jurisdictions and, by amendment to the Code of Virginia, also serve misdemeanor offenders and local felons (felons sentenced to less than 12 months). Table II-3 shows the growth of the program since its inception.

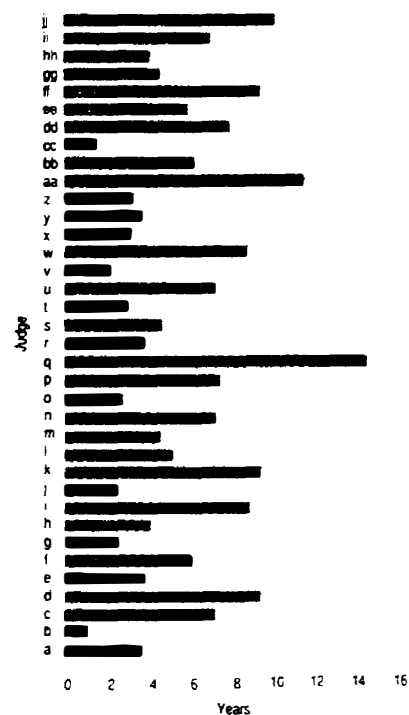
Table II-2
New Cases Received From Circuit Court Under Probation Versus New Commitments To Institutions

Year	Placed in Institution	Placed on Probation
1980	42.6%	57.4%
1981	40.3%	59.7%
1982	47.5%	52.5%
1983	47.9%	52.1%
1984	43.4%	56.6%
1985	40.1%	59.9%
1986	49.0%	51.0%
1987	48.7%	51.3%
1988	48.2%	51.8%
1989	49.7%	50.3%

Source: Virginia Department of Corrections

As the table shows, significant growth has occurred in the CDI program. Although CDI was originally envisioned as an alternative for felons sentenced to incarceration, most of the program's recent growth has occurred in the misdemeanor population. Some judges tend not to use the program and instead use the traditional probation/incarceration approach; others tend to use the programs for offenders who would have otherwise received a monetary fine or possibly a suspended sentence as punishment.

Figure II-6
Drugs: Average Prison Sentence by Judge
(each judge sentenced a minimum of 10 cases with these characteristics)



Offense: sale or distribution of Schedule I or II drug (Virginia Code 18.2-248(a)), penalty 5 to 40 years.

Circumstances: one count of the instant offense, no prior felony record, no additional offenses at conviction, no legal restraint.

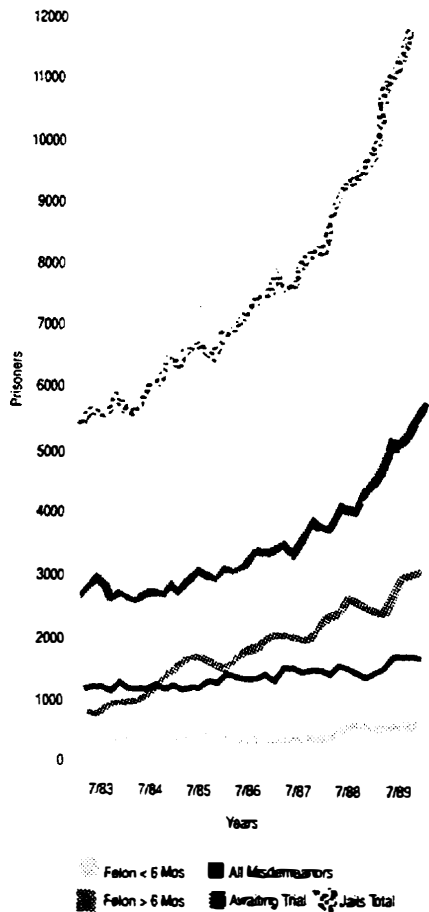
Source: Virginia Department of Criminal Justice Services

Table II-3 Virginia Community Diversion Incentive Program (CDI)

Fiscal Year	State Felon Diversions	Local Felon Diversions	Misdemeanant Diversions	Total Diversions
81-82	104	0	0	104
82-83	251	52	299	602
83-84	345	113	1,998	2,456
84-85	468	80	1,987	2,535
85-86	598	99	3,402	4,099
86-87	717	183	5,521	6,421
87-88	699	119	6,426	7,244
88-89	876	174	8,412	9,462

Source: Virginia Department of Corrections

**Figure II-7
Local Jail Population In Virginia**



Source: Population Survey of Local Correctional Facilities, Virginia Department of Corrections

Judges in the second group have essentially "widened the net" of offenders who would otherwise serve elsewhere within the criminal justice system. The tendency to widen the net creates major concerns relating to this type of program:

- Are programs and funds being used for those offenders who will receive the greatest benefit from them?
- To what extent do misdemeanor diversions reduce the number of future felon diversions?
- Do misdemeanor and local felon diversions have any impact on over crowding at the state correctional level?
- Are misdemeanants being diverted to CDI because of the absence of services to the General District Courts?

The 1989 General Assembly limited the amount of money which could be allocated for the diversion of misdemeanants and directed that future expansion in this program should be directed towards increasing the number of state felon diversions.

Inmates in Local Jails

Figure II-7 shows the growth in the local jail population since July 1983. Additionally, the capacity of local jails during the same time period is shown.

As shown in the figure, growth in the local jail misdemeanor population has been the lowest of the offender groups displayed. This population grew by 45.1 percent from the beginning of fiscal year 1983-84 through the end of fiscal year 1988-89, while

the population of felons with less than six months to serve grew by 83.4 percent. The population awaiting trial grew by 95.7 percent during this same period. The most rapid growth has occurred in the felon population with greater than six months to serve (the population of felons for whom the state is responsible). However, in terms of absolute numbers, the growth in the awaiting trial population far exceeded that of felons with greater than six months to serve, and growth in the awaiting trial population has surpassed all other categories in the last five years.

Although all of the groups displayed in Figure II-7 showed growth trends during the past six fiscal years, the ability of local jails to house those offenders by increasing capacity did not keep pace with that growth. The total jail population grew by 104 percent during the past six fiscal years while the capacity of local jails increased by only 24 percent. Even without growth in the category of felons with greater than six months to serve, local jail capacity as of June 30, 1989 was approximately 2,000 beds below the actual population.

Table II-4 lists some of the most overcrowded local jails across the Commonwealth and their operational capacities and total populations on September 24, 1989.

Table II-4
Selected Virginia Jails
Capacities and Populations on September 24, 1989

Jail Location	Operating Capacity*	Population	Percent of Capacity
Alexandria	240	507	211%
Arlington	174	384	221%
Fairfax	589	1,018	173%
Henrico	178	415	233%
Newport News	198	312	158%
Norfolk	365	929	255%
Orange	7	37	529%
Portsmouth	243	482	198%
Prince William	267	442	166%
Richmond City	782	1,024	131%
Roanoke City	215	322	150%
Virginia Beach	179	535	299%

*Operating capacity does not assume any double-celling.
Source: Population Survey of Local Correctional Facilities, Virginia Department of Corrections

Table II-5
Recent And Approved Jail Construction Projects

Estimated Date Of Completion	Board Approved And Funded	Number Of Beds	
12/89	Shenandoah County	21	
6/90	Brunswick County	20	41
	Board Approved		
12/89	Norfolk City	200	
3/90	Albemarle/Charlottesville Regional Jail	65	
4/90	Prince William/Manassas	200	
5/90	Central Virginia Regional Jail	78	
5/90	Richmond City	100	
5/90	Gloucester County	19	
4/91	Winchester Regional Jail (closing Frederick and Clarke Jails)	190	
12/91	Western Tidewater Regional Jail	284	1,136
	Board Approval Pending		
9/91	Virginia Beach	156	
1/92	Arlington County	318	
2/92	Riverside Regional Jail	500	
		974	
Total Additional New Beds Planned		2,151	

Source: Virginia Department of Corrections

Recent Responses to Local Jail Overcrowding: Some localities have reacted to this shortfall of jail beds by planning to construct new jails and/or make additions to existing facilities. The 1989 General Assembly passed legislation which provides that the state will reimburse localities for 50 percent of the construction costs of regional jail facilities. Statewide jail capacity on September 1, 1989 was 7,155 beds. However, if all recent and Board approved construction projects are approved and funded by the General Assembly, an additional 2,151 beds will be added to Virginia's rated jail capacity by February 1992, bringing the total number of jail beds statewide to 9,306. Table II-5 shows localities with planned jail construction/addition projects underway, and the additional bedspace that they are expected to provide. Seven additional regional jails are in the preliminary planning stage. However, the number of beds proposed for these facilities is unavailable at present.

Virginia ranks first in the nation in financial aid to localities for corrections. In addition to sharing the expense of local and regional jail construction, the Commonwealth, through the state Compensation Board, provides financial assistance to localities for all adults confined in the local jails on state charges. Localities currently receive \$8.00 per diem for all state responsible prisoners housed in their jails, an additional \$6.00 per diem for sentenced felons in local jails, a substantial portion of medical and treatment personnel salaries, the full salaries of sheriffs and approved deputies and support personnel, and administrative expenses. The total 1988-90 appropriation to localities for local jail operations is \$80.7 million.

The total jail population grew by 104 percent during the past six fiscal years, while the capacity of local jails increased by only 24 percent.

The 1989 General Assembly passed legislation which provides that the state will reimburse localities for 50 percent of the construction costs of regional jail facilities.

Virginia ranks first in the nation in financial aid to localities for corrections.

...the Commonwealth's total prison population has grown from 9,454 in 1983 to 13,347 in 1989, an increase of 41 percent in just six years.

Table II-6 shows the results of a Compensation Board study of local jails initiated by the Secretary of Administration for the Commission. Of total responses, 15 were deleted from the analysis as erroneous. Of those remaining, the lowest percentage of state funding to total expenditures for fiscal year 1987-88 was 45 percent, the highest was 100 percent, and the median was 86 percent.

Inmates in State Institutions

From the end of the Second World War to the early 1970s, prison inmate populations in the United States re-

mained fairly constant. During the 1970s the nation's rate of incarceration began to climb steadily, and it has continued to grow as a result of the 1980s "get tough" approach to drugs and other types of crime. Virginia has been a part of this national trend, and the Commonwealth's total prison population has grown from 9,454 in 1983 to 13,347 in 1989, an increase of 41 percent in just six years. Since 1984, growth in Virginia's prison population has continued to outpace capacity by increasingly larger increments, resulting in a shortfall of 1,772 beds on June 30, 1989.

Table II-6 Comparison Of Selected Local Jail Funding From The Compensation Board And Other Sources Fiscal Year 1987-88

Locality	Compensation Board Funded	Local And Other Funded	Locality	Compensation Board Funded	Local And Other Funded
Amherst	100.00%	0.00%	Lancaster	85.97%	14.03%
Mecklenburg	100.00%	0.00%	Roanoke Co.	85.95%	14.05%
Bath	100.00%	0.00%	Louisa	85.61%	14.39%
Frederick	100.00%	0.00%	Petersburg	85.53%	14.47%
Augusta	100.00%	0.00%	Roanoke City	84.78%	15.22%
Carroll	99.41%	0.59%	Martinsville	84.46%	15.54%
Northumberland	98.59%	1.41%	Albe/Char	83.90%	16.10%
Bedford	98.18%	1.82%	Franklin	83.74%	16.26%
Rockingham	96.32%	3.68%	Campbell	83.60%	16.40%
Southampton	95.42%	4.58%	Stafford	83.11%	16.89%
Richmond City	95.10%	4.90%	Russell	82.84%	17.16%
Hanover	94.99%	5.01%	Henrico	80.58%	19.42%
Warren	93.48%	6.52%	Portsmouth	80.30%	19.70%
Dinwiddie	92.96%	7.04%	Suffolk	78.35%	21.65%
Rappahannock	92.94%	7.06%	Charlotte	77.56%	22.44%
Piedmont Reg	92.57%	7.43%	Radford	77.27%	22.73%
Pittsylvania	91.85%	8.15%	Rockbridge Reg	74.73%	25.27%
Greensville	91.21%	8.79%	Williamsburg	74.56%	25.44%
Norfolk	91.21%	8.79%	Wise	74.24%	25.76%
Newport News	91.18%	8.82%	Caroline	74.20%	25.80%
Wythe	91.16%	8.84%	Dickenson	73.08%	26.92%
Botetourt	90.38%	9.62%	Tazewell	68.91%	31.09%
Clarke	89.57%	10.43%	Orange	68.38%	31.62%
Buchanan	89.48%	10.52%	Fburg/Rap Ctr	64.67%	35.33%
Danville	89.04%	10.96%	Arlington	57.97%	42.03%
Westmoreland	88.62%	11.38%	Fairfax	57.25%	42.75%
Alleghany	88.57%	11.43%	Loudoun	53.44%	46.56%
Chesterfield	88.04%	11.96%	Alexandria	46.65%	53.35%
Fauquier	87.72%	12.28%	Lynchburg	44.94%	55.06%
Bristol	86.18%	13.82%			

Source: Jail Survey Reports and Compensation Board Records

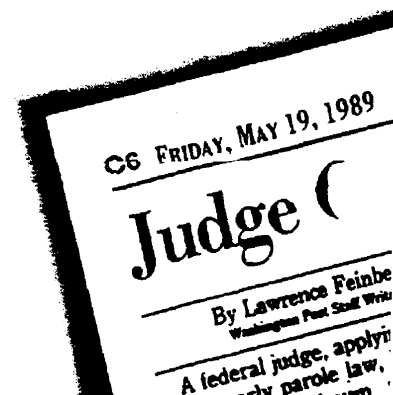


Table II-7
State Prison Capacity And Population

Date	Violent Offense*	Nonviolent Offense*	Total Population	Total Capacity**	Mean Sentence Length in Years:	
					Violent	Nonviolent
6/30/83	4,910	4,544	9,454	10,087	30.10	12.09
6/30/84	5,145	4,695	9,840	9,544	31.57	12.92
6/30/85	5,535	5,296	10,831	9,617	32.83	14.12
6/30/86	5,907	5,056	10,963	10,117	32.91	14.94
6/30/87	6,304	5,173	11,477	10,159	33.20	15.26
6/30/88	6,483	5,558	12,041	10,746	33.78	15.17
6/30/89	7,024	6,323	13,347	11,575	33.35	14.68

*Offense reflects the most serious current offense, without regard to prior criminal history.

**Capacity includes 25 percent double-celling at institutions built since 1982.

Source: Virginia Department of Corrections

Table II-7 shows the growth in the Commonwealth's prison population for those convicted of violent offenses, nonviolent offenses and the total prison population since July 1983. Offenses classified as "violent" are murder, rape, robbery, abduction, assault, and weapons offenses. All other offenses are classified as "non-violent" and include burglary, larceny, drug offenses, arson, car theft, and traffic offenses. Table II-7 also shows the average sentence lengths in years for those serving sentences for violent and nonviolent offenses.

To meet this constantly increasing need for bedspace at the state level, the Commonwealth has mounted a large building and expansion program. Additional capacity authorized for state institutions during the past four fiscal years alone will increase the capacity 45 percent by the end of 1990, yet Virginia's prisons will remain overcrowded.

Table II-8 provides information on total prison additions that have come under construction in the Commonwealth since January 1987. Two new major institutions, Buchanan and Greensville, will open within the next year and will add approximately 2,600 beds to the state system. Reconstruction at Deep Meadow Correctional Center and renovation projects at Staunton Correctional Center and the Virginia Correctional Center for Women added 642 beds to the system this year. Infill projects at the existing sites of Augusta, Nottoway, and Buckingham had already added 864 new beds to Virginia's prison capacity, and expansions of minimum security field units will net an additional 800 beds when completed. Nine trailers approved to be sited at three locations will soon make 216 more

To meet this constantly increasing need for bedspace at the state level, the Commonwealth has mounted a large building and expansion program. Additional capacity authorized for state institutions during the past four fiscal years alone will increase the capacity 45 percent by the end of 1990, yet Virginia's prisons will remain overcrowded.

THE WASHINGTON POST

Minimum D.C. Sentence for First-Degree Murder

Green's decision is stayed during an appeal.

Stephens said he had not decided yet whether to appeal Green's decision to the U.S. Court of Appeals.

In a letter to Mayor Marion Barry and the D.C. Council, Stephens argued that serious consideration be given to repeal of the early parole provision of the Good Time Credit Act of 1986.

phens declared. "Those who commit the most heinous crime against the citizens of this community should expect to pay the full price." About 35 states authorize the death penalty for first-degree murder and most of the others provide for life sentences without the possibility of parole, Stephens said. With an "effective minimum sentence" of just over 13 years in prison, the District is "now at the very edge of the penalty structure."

ically exempted those given mandatory minimum sentences for drug distribution and violence while armed under an initiative passed by D.C. voters in 1982.

That the District of Columbia Council chose to except certain sections [of the criminal code] from the broad reach of the [early parole] act evinces clear intent," Green said, "that the act's provision for good time credits applies to every prisoner convicted and sentenced under a D.C. statute other than those specifically listed...."

The U.S. attorney's office had argued the D.C. Council could not

The bill's sponsor, council member Wilhelmina Rolark (D-Ward 8) declined to comment on whether she had intended it to apply to first-degree murderers, saying she had not read Green's decision.

The decision came in a case brought by Eugene J. Cunningham, 40, who was sentenced in 1973 to 20 years to life in prison for each of two counts of first-degree murder. Since he has served years with good behavior, Cunningham is eligible for release, indicated. But a D.C. Council spokesman said that she did not know whether Cunningham had been in prison yet or how many years are now eligible

Virginia's prisoner escape rate of three escapes annually per 1,000 inmates is one of the lowest in the nation, and is far below the national average of 26 escapes annually per 1,000 inmates.

**Table II-8:
Prison Beds Approved and Under Construction**

	No. of Beds	Costs Expended or Appropriated
Total Capacity 6/1/87	10,426	
Infill Additions (FY 88)		
Augusta	320	\$7,045,330
Appalachian Phase 2	40	205,940*
Wastewater treatment upgrades	130	0 ^b
Total Capacity 7/1/88	10,916	
Infill Additions		
Nottoway (July 1988)	352	9,794,544
Buckingham (July 1988)	192	6,650,356
Wastewater treatment upgrades	33	0 ^b
1987/1988		
Approved Expansions		
Buchanan (April 1990)	516	46,707,454 ^c
Greensville (Phase-in starting May 1990)	2,107	126,039,846 ^c
Governor's June 1989 Initiative		
VCCW (January 1989)	64	512,900
Staunton (June 1989)	70	540,300
Deep Meadow (July 1989)	508	7,889,616
Future Deletions		
Penitentiary Closing (July 1990)	-675 ^d	
Spring Street Work Release Closing (January 1990)	-19	
Total Capacity 7/1/90	14,064	
	(+35%)	
December Initiative (Sept. - Dec. 1989)	800	25,077,250
Modular Trailer Infill Initiative (Jan. 1990)	216	1,537,200*
Total Capacity 7/1/90	15,080	\$232,000,736
	(+45%)	

Net increase of 3,743 beds from January 1987 to July 1990 equals actual new construction and double-celling of 4,418 minus the closing of the Penitentiary.

**Represents one-half the total cost of \$411,880 to convert Appalachian to an adult facility with 80 beds.*

^b Upgrades were required to meet safe water standards; additional capacity was a secondary benefit.

^c Actual amounts subject to increase in the amount of interest earned from bond projects.

^d Property sold for \$5 million, which will revert to the state's General Fund.

**Nine trailers at 3 locations: Marion (48 beds), Bland (72) and VCCW (96).*

Source: Virginia Department of Corrections

beds available for use by the Department of Corrections. Still, it is expected that these new facilities will be filled to capacity soon after they begin operation.

State Inmate Profile: At the end of fiscal year 1988-89, 52.6 percent of the inmates in state prison facilities were incarcerated for committing violent offenses, while 47.4 percent were imprisoned for nonviolent offenses, including drugs. (These "offenses" reflect the most serious current offense, without regard to prior criminal history.) Historically the balance between white and nonwhite prisoners has been approximately 40 percent white and 60 percent non-white. Some 97 percent of Virginia's prisoners are male, while 3 percent are female. Under the state's current classification policy, 36 percent of Virginia's prisoners are being housed in maximum security facilities, 46 percent in medium security facilities and 18 percent in minimum security/dormitory settings. In July 1989, 52.6 percent of Virginia's prison population was either double-celled or double-bunked, and approximately 32 percent of available prison cells were used for double-celling purposes. Virginia's prisoner escape rate of three escapes annually per 1,000 inmates is one of the lowest in the nation, and is far below the national average of 26 escapes annually per 1,000 inmates.

Determining Capacity

For the purposes of this report, the Commission used the term "operational capacity" as if it represented the absolute number of prisoners that can reasonably be housed in a single facility or system. In fact, the term "capacity" is a flexible base and any one of a number of definitions for

capacity" can be used. For example, there is design capacity, rated capacity, operational capacity, American Correctional Association standards capacity, temporary emergency utilization capacity, and "JLARC" capacity, each differing on variables such as available aggregate floor space, construction/design standards, and offender management needs. In addition, a facility's capacity is restricted not only by the number of inmates it can house, but also by the ability of its support units — such as kitchen, dining, and waste treatment facilities — to function properly. For example, a kitchen or dining facility designed to serve 500 prisoners daily should not accommodate 700 prisoners on a regular basis.

For jails, "design capacity" refers to the number of inmates that the facility was designed to accommodate, and is essentially the same as its "rated capacity," which was used as the normal capacity number until December 1988. By direction of the General Assembly, jails are now uniformly rated by "operating capacity." This capacity measure for jails, based on American Correctional Association standards, is an outgrowth of the methodology in the Joint Legislative Audit and Review Commission (JLARC) 1986 report *Local Jail Capacity and Population Forecast*. Jail "operating capacity" assumes no double-celling, 70 square feet of cell space per inmate, plus an additional 35 square feet of dayroom space for facilities constructed after 1978; "operating capacity" for jails built

prior to 1978 assumes 35 square feet of cell space and 35 square feet of dayroom space. Special purpose beds, such as those for isolation or medical needs, are not included in "operating capacity." When "operating capacity" superseded "rated capacity" as the official definition, 579 jail beds were automatically added to the state's jail capacity as a result of this re-rating. As of October 31, 1989 there were 12,000 inmates housed in a statewide jail operating capacity of 7,155, resulting in the jails statewide operating at 168 percent of their capacity.

The dichotomy between "rated" and "operational capacity" also exists at the state level, as well as a more confusing dichotomy between the standards used to rate operating capacity for jails versus prisons. The primary difference between jail and

...a facility's capacity is restricted not only by the number of inmates it can house, but also by the ability of its support units — such as kitchen, dining, and waste treatment facilities — to function properly.

CORRECTIONS

No way to run our prisons

In Florida, prisoners don't go behind bars so much as they move through revolving doors. A federal court order often requires Doyle W. Kemp — who, as central prison transfer coordinator, operates those doors — to rely on things like the breakdown of a bus bringing new inmates to keep the penal population within the court-set limit.

This is how bad things are in Florida, conceded to have the worst convict-confinement problem in the country. But 36 other states have also fallen under court orders to combat overcrowding in individual prisons or entire systems. And while the small minority not working under the court decree includes Virginia, the Old Dominion is in much the same predicament.

So what is happening nationally can be instructive here at home — and timely. The Commission on Prison and Jail Overcrowding is studying Virginia's penal system and alternatives to incarceration.

National statistics confirm, for example, that building one's way out of the next crunch won't work. Florida is opening more than 9,000 new cells over the next year. But as one penal official there points out, the system now receives about 100 inmates a week; if this pace continues, the system will be almost a fourth full by the end of the year.

The nation's prison systems, which now hold more than 628,000 inmates, would have to add five beds every hour, or 840 a week, to handle the effects of mandatory sentences, longer prison terms, the skyrocketing number of drug-related convictions and the public clamor to get tough on criminals. This last translates almost automatically to extended imprisonment.

And this is a major part of the problem. Society views the crime problem in the limited context of finding, convicting and confining wrongdoers; few people accept alternatives to traditional incarceration and punishment. Many states, Virginia among them, have lagged in the development and application of alternatives.

Nor does the public generally link crime to its roots: a persistent economic underclass where poverty is generational, where education and job opportunities elude millions. This nation must address more fully the conditions that breed crime. For we are proving today that we build cells fast enough to hold the bare of felons we are sending into prison.

Prisons will continue to be swamped by revolving doors more than by new faces. (1) find ways to punish criminals those convicted of non-violent offenses) through alternatives to incarceration and (2) find ways to improve the classroom and the home — more Americans more prepared to live without crime.

Parole hearings are conducted annually for offenders who have satisfied the necessary portion of his sentence.

During fiscal year 1988-89, a total of 10,627 parole considerations were made.

prison operating capacity is that while jail capacity assumes no double-celling, the definition of "operational capacity" used for the state prison system assumes that 25 percent of the medium security cells built since 1982 will be double-celled. Increased pressure to double-cell and double-bunk prisoners to relieve jail overcrowding also has masked measures of permanent versus temporary emergency capacity. Measuring prison capacity in a way comparable to the calculation of jail capacity reveals the Department of Corrections' facilities operating at 133 percent of capacity in November 1989. During the month of August 1989, the Department of Corrections reported an operational capacity (as defined by state, not local jail, standards) of 11,829 with a reported average daily population of 13,817.

Parole

During fiscal year 1988-89, 3,531 inmates were granted discretionary parole and 2,566 inmates were released on mandatory parole in Virginia.

Parole hearings are conducted annually for offenders who have satisfied the necessary portion of his sentence. Interviews are conducted, primarily by parole examiners, with inmates who have reached their parole eligibility dates. During fiscal year 1988-89, a total of 10,627 parole considerations were made. A simple majority vote of the five-member Board is required to make a parole decision. There are three options available to the Board: 1) grant parole; 2) not grant parole; or 3) make a "not grant" decision with the recommendation that the inmate participate in vocational or educational programs offered by institutions. This third option, however, is exercised infrequently.

In determining whether an inmate should be released on parole, the Board is guided by many factors. These include, but are not limited to:

- The nature of the current offense.
- Prior criminal record.
- Personal and social history.
- Type and length of sentence.
- Availability of community resources.
- Institutional adjustment.
- Involvement in the Literacy Incentive Program and other programs.

County jail housing women

By Andrea Leeman
Staff Reporter

Designed to hold 40 prisoners when it was built 27 years ago, today, the Hanover County Jail is bursting at the seams.

The average number of inmates housed in the facility in April was 101. That number peaked at 112 during the month; the low point held at 94.

Until recently, Hanover housed only males in its jail, shipping female prisoners off to Richmond or Goochland which have jails with facilities for women. But, for the first time since early 1973, the Hanover County Jail is once again housing women.

The change came about as a result of a law suit filed by the Richmond

County Jail seeking removal of prisoners sentenced to the state's penitentiaries from the local jail.

According to Hanover County's Chief Correctional Officer, Lt. W.S. Hall, conditions set forth as a result of the suit required the removal of all prisoners being housed in Richmond from other jurisdictions.

Sleeping on floor

For Hanover, the success of the Richmond lawsuit translated into the redistribution of a cellblock full of men to accommodate women.

Now, those 100 or so male prisoners occupying the eight cellblocks - already double bunked to house twice the number of prisoners for which they were designed, and requiring some

ing packed into seven.

The county has hired three matrons - with starting salaries at slightly more than \$17,000 - each working a shift on a five-day work weeks. But while Monday through Friday are covered, there are no matrons on duty on the weekends. To cover the slack, each of those employees is required to be on-call on a rotating basis each weekend to handle any arrests or emergency situations.

As of Monday, there were eight women in the single cellblock that was designed to accommodate five people. The occupancy - through double bunking - has been raised to 10, but there are still occasions that mandate prisoners sleep on the floor; last week, the jail housed 12 women.

oximately 37 percent of the total inmates interviewed in fiscal year 1988-89 were granted discretionary parole; 63 percent were denied. As shown in Figure II-8, the number of parole interviews, as well as the number of grants as a percentage of total interviews, has fluctuated widely over the past ten years. The grant rate has ranged from a low of 20 percent in 1980 to a high of 43 percent in 1983. At present the grant rate stands at 37 percent. In 1987, Virginia had 141.5 adults per 100,000 adult population on parole, which is lower than the national average of 196.4. Appendix D provides additional information on the percentages of grants upon each type of interview (first, second, third, etc.) for the past ten fiscal years.

Recidivism

Recidivism, or the tendency of past offenders to return to criminal activities, is often used to measure the effectiveness of the criminal justice system. Methods used to gauge recidivism can differ widely, but criminologists typically measure recidivism by an offender's new conviction following his or her release from prison. According to the Department of Criminal Justice Services, approximately 40 percent of Virginia's convicted felons can be considered recidivists since they had a felony record prior to their current conviction. Two-thirds of these offenders were free from confinement for less than two years before committing a new felony offense. In fact, for all felons who did resume criminal

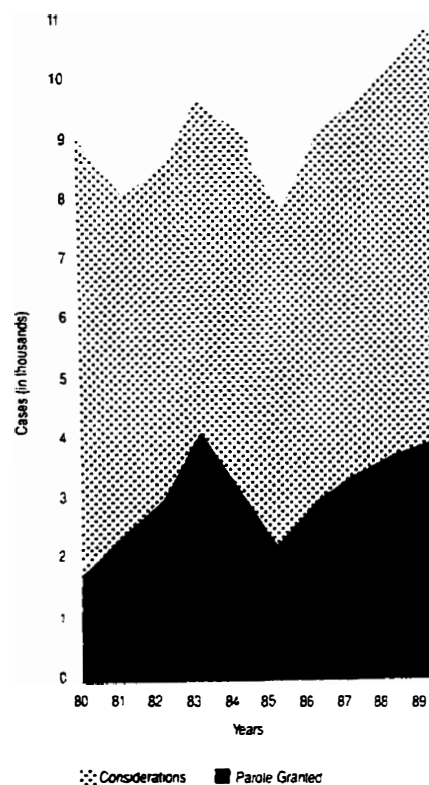
activities following incarceration, the average time between release and the commission of a similar offense was 18.1 months. The average time between their release and the commission of a dissimilar offense was slightly longer, 23.8 months.

Summary

In this chapter, trends within each component of the criminal justice system were presented. Although the violent crime rate has remained relatively stable over this decade, the number of crimes reported and arrests have steadily increased. There has been a fundamental change in society's attitude toward the use of drugs — especially cocaine — and its collective inclination to incarcerate those who use them.

Compared to the nation, Virginia is a relatively low crime state. However, our courts incarcerate higher proportions of our criminals, give longer sentences to them, and are inclined to use alternatives like probation and parole less often than the nation as a whole. In addition, although the number of offenders serviced through the Community Diversion Incentive Program has increased over time, this incarceration alternative has not stemmed the growth in the incarcerated population and has sometimes "widened the net."

Figure II-8
Parole Interviews And Grant Rates
For Fiscal Years 1980-1989



Source: Virginia Parole Board

...local jails are holding more people than they were designed to house. State institutions are overcrowded as well, despite an unprecedented construction program which was instituted four years ago. If these trends continue, the problem will only become worse.

As a result, local jails are holding more people than they were designed to house. State institutions are overcrowded as well, despite an unprecedented construction program which was instituted four years ago. If these trends continue, the problem will only become worse.

These trends are the basis for constituting this Commission. The following chapter examines how the

Commonwealth's criminal justice system will look by the end of the 1990-92 biennium, by 1994, and by the year 2000, assuming present trends continue, and assuming the Commonwealth elects to continue present policy approaches.

Marine base for jail? N.Va.: Yes Corps: No

By CATHERINE TOUPS
Journal staff writer

Northern Virginia leaders said Wednesday they would go over the heads of officials at the Quantico Marine Corps base and seek congressional authority to build a regional Quantico security jail there.

Quantico commanders had vowed to block efforts to put a jail on the base in Prince William County, saying the land is used for training, including aerial bombing, live machine gun fire and platoon maneuvers.

"We're in opposition to it totally," Kenneth Oliver, Quantico community planning and liaison officer, said Wednesday. "The commander (Lt. Gen. William Etnyre, the commanding general of the Marine Corps Development Command at Quantico) has restated our position that we have no excess land."

But Northern Virginia officials voted Wednesday to seek support from each Northern Virginia governing body in asking Congress for the right to use 100 of Quantico's 60,000 acres for a 950-bed jail that could be expanded to hold as many as 1,750 inmates by the year 2005.

"With all due re-
s-
pect, the Marine Corps

Chapter Three
Facing the Future:
The Year 2000

Overview

The previous chapter focused on historical crime, arrest, pretrial incarceration, and post-trial outcome data. This chapter uses that historical information to present a picture of the future, based on the best present estimates of the numbers of persons to be under the control of the criminal justice system in Virginia in the year 2000. If the causes of crime are not addressed and the forecasts contained in this chapter hold true, significant numbers of today's elementary and middle school children will be spending a portion of their adult lives behind bars.

It is important to note that the forecasts and costs contained in this chapter are based on continuing the current and historical practices of pretrial incarceration, post-trial incarceration, sentence lengths, and parole. Any change either to increase or decrease an individual's length of stay, or policy changes which increase or decrease the numbers of persons arrested, held awaiting trial, convicted, and/or sentenced to prison or jail, will significantly impact these forecasts. Contained in this chapter are:

- a brief summary of previous forecasting efforts and a description of the process used this year;
- tables and graphs of the numbers of people forecast to be under the control of the criminal justice system by the year 2000; and,
- the estimated costs of meeting these forecasts through future capital and operating expenses in our prisons and jails.

History of the Forecasting Process

Virginia has not always had a forecast of the state inmate population. In 1974, a Corrections Planning Task Force established by then Secretary of

Public Safety H. Selwyn Smith began working to develop an inmate projection model. The only forecast produced from the model developed by that group was generated in August 1977. At that time, Virginia was one of only six states to have developed an inmate projection model.

This model was adjusted four times between 1977 and July 1982. The adjustments were intended to improve the forecast by accounting for recent legislative changes. Although the model remained within four percent of the actual population between 1977 and 1982, in October 1982 it began a continuous pattern of overprediction.

In February 1983, then Secretary of Public Safety Franklin E. White requested a review of the original forecast methodology. After becoming familiar with forecast models used by other states, a forecasting method used in Florida (Simulated Losses/Admissions Model: "SLAM") was adapted for Virginia and approved for development. An intensive effort to develop a new population forecasting model was undertaken, and in December 1983, the initial forecast from the new inmate model (SLAM II) was presented.

The 1984 Appropriation Act directed the Joint Legislative Audit and Review Commission (JLARC) to review several topics related to Virginia's correctional system, including the forecast. JLARC staff released a new version of SLAM II in January 1985. In April 1985 the Department of Corrections and JLARC jointly released a SLAM II forecast, projecting 11,225 inmates by the end of fiscal year 1989-90.

Jails in holding pattern

No place for county convicts

By CHARLES CLARY
Staff Writer

CHARLES CITY — It's becoming a familiar refrain to Sheriff James Bowman: There is no room.

Bowman is being told by jail officials in surrounding localities that they have no space for Charles City County prisoners.

Since April 1, the county, which does not have its own jail, has had nowhere to put its prisoners. Before then, sentenced county prisoners were held in the Richmond City Jail until they could be moved to a state Department of Corrections facility.

Last month, however, a judge ordered the state to accept more state-ready prisoners from Richmond and ordered Richmond to stop holding prisoners from other jurisdictions after Sheriff Andrew J. Winston said the corrections department's cause of jail overcrowding.

The decision has left Charles City and similar localities nowhere to place convicts awaiting sentencing transfer to a state-operated facility. A sentenced prisoner is ready to serve time in prison system must be held in the sentencing jurisdiction.

Recognizing the need for the development of a ten-year Master Plan... this Commission requested the Secretary of Transportation and Public Safety to extend the "horizon" of the forecasts produced by the consensus forecast group to the year 2000.

The volatility of SLAM II estimates proved to be unacceptable by the fall of 1987, and Secretary of Transportation and Public Safety Vivian E. Watts convened a technical review panel to evaluate the SLAM II methodology, discuss development of an alternative model recommended by JLARC staff, and produce a consensus forecast of the state's prison inmate population through fiscal year 1991-92, using two different forecasting approaches.

The consensus forecasts produced in 1987 and 1988 still underpredicted, but to a lesser extent, the inmate population. In 1989, the Secretary authorized use of a new model developed by a nationally recognized consultant, and expanded the panel to include agency heads and chairmen of state agencies such as the Compensation Board, the Department of State Police, the Department of Criminal Justice Services, the Virginia Parole Board, the Office of the Executive Secretary of the Supreme Court, and others involved in the criminal justice process. In addition to the traditional technical review, the intent was to bring the broadest possible set of perspectives and backgrounds to bear on the question of forecasting the number of inmates in Virginia. The group was chaired by Dr. Gary Henry of Virginia Commonwealth University and formerly of JLARC. Brief explanations of the various forecasting models considered by the Prison and Jail Forecasting Policy Committee are provided in the following section.

Forecast methodologies decrease in reliability as the projections are extended further into the future. Some methods are best used for short-range planning — one to two years — while others are reasonably accurate within a five-year range. Recognizing the need for the development of a ten-year Master Plan (discussed in Chapter IV), this Commission requested the Secretary of Transportation and Public Safety to extend the "horizon" of the forecasts produced by the consensus forecast group to the year 2000. The results of this forecasting process are the basis for the remainder of this chapter.

Forecasting Models

Three statistical techniques for forecasting incarcerated populations were employed in the 1989 forecasting process: a complex simulation model, and two time series forecasting techniques. The SLAM methodology was not used. The 1985 JLARC report, *Virginia's Correctional System: Population Forecasting and Capacity*, recommended major revisions of the model and also suggested SLAM be phased out while a new model was developed.

Simulation Model: This year marks the first application of the simulation model, which has been under development by the Virginia Department of Corrections and the National Council on Crime and Delinquency since 1986. The simulation model seeks to "mimic"

Jury trials in Va. drug cases lead

VIRGINIA NEWS

Associated Press

ALEXANDRIA — City prosecutors are using jury trials in drug cases to get longer prison sentences for offenders, but public defenders criticize the long sentences. Since the killing of an Alexandria police officer four months

Since April, five cocaine distributors have received prison sentences of 20 years or more from Alexandria Circuit Court judges, prosecutors told The Washington Post, compared with one such sentence in a cocaine case during all of last

coaine distribution trials, with some cases involving amounts as small as one-eighth of an ounce. But the city's public defenders say the tactic is unfair.

duce a sentence but most of have remain A Washin

the legislative and administrative processes that govern and control the flow of individuals through the judicial process into prison, parole, and re-entry into society. In brief, the model uses 122 data elements to mimic the process of an inmate moving through the criminal justice system. The model simulates an individual inmate being sent to prison by the court system, and then uses the actual probabilities experienced by Virginia inmates, during the 12 months ending in June 1989, to move the simulated case through the prison system.

The model considers, for example, a typical offender who enters the system convicted of a particular crime, and computes the probability that that offender will receive a certain sentence, will get (or be denied) good time, will be granted or denied parole, and so on. At each of these "gates," the model assigns each case a probability that it will pass through the gate to the next step or gate in the process, using the actual probabilities from fiscal year 1988-89 Virginia data. The model then weights the individual simulations based on the relative incidence of convictions for each category of crime to compute a composite projection.

In addition to more sophisticated tracking of individual trends, the new simulation model can be updated throughout the year to reflect shifts as they occur. The Secretary's Consensus Forecasting Group recommended quarterly updates, with a new projection to be provided at the end of December 1989.

ARIMA Model: ARIMA (Auto-Regressive Integrated Moving Average) is a sophisticated statistical technique that allows the identification of recurring patterns and trends in processes that occur over time. This information can be used in forecasting by assuming that the observed patterns and trends will continue into the future. The model, used for forecasting state-responsible inmates and originally developed by JLARC, has been updated and maintained by the Department of Planning and Budget since 1986.

An important additional feature of ARIMA is its capability to include leading indicators as inputs into the model. The current ARIMA model uses as a leading indicator the number of arrests for murder, rape, armed robbery, drug sales, drug possession, aggravated assault, and motor vehicle theft. This indicator was found to be a statistically significant leading indicator for the number of state-responsible inmates.

Exponential Smoothing: The forecasting technique used for the local jail population was exponential smoothing, a time-series technique for modeling trends present in a data series. An important feature of exponential smoothing is that more recent data is given more "weight" in the forecast than older data points. For example, the June 1989 population of misdemeanants will influence the forecast more than will the number of misdemeanants in June 1983. Determining the best exponential smoothing model is largely a matter of finding the most appropriate weights for the various data points. Growth in

In addition to more sophisticated tracking of individual trends, the new simulation model can be updated throughout the year to reflect shifts as they occur.

SM THE VIRGINIAN-PILOT TUESDAY, AUGUST 1, 1989 A3

ug to longer sentences

imposed by a jury, sentences so far changed.

shocked and outraged by the shooting, might impose stiffer sentences on drug criminals.

tenuating circumstances

In Virginia, as in most states, it is not a case of a single factor causing tremendous growth in the criminal justice system. Instead, there is a compounding effect of several related factors which is precipitating the exceptional growth of correctional populations.

If previous trends and patterns continue into the future, a 37 percent increase in arrests can be expected over the next decade.

misdemeanants, local felons, nonsupport offenders, and those awaiting trial are projected separately.

Factors Driving the Forecast

In Virginia, as in most states, it is not a case of a single factor causing tremendous growth in the criminal justice system. Instead, there is a compounding effect of several related factors which is precipitating the exceptional growth of correctional populations.

Arrests are clearly a leading indicator of the number of persons incarcerated during a given period of time. Table III-1 shows the projected number of total arrests from fiscal year 1988-89 through 1999-2000. If previous trends

**Table III-1
Total Arrest Forecast**

Fiscal Year	Arrests
1988 - 89	383,197
1989 - 90	396,589
1990 - 91	408,408
1991 - 92	421,515
1992 - 93	434,640
1993 - 94	447,771
1994 - 95	460,908
1995 - 96	474,050
1996 - 97	487,198
1997 - 98	500,351
1998 - 99	513,510
1999 - 2000	526,674

Source: Virginia Department of Corrections

and patterns continue into the future, a 37 percent increase in arrests can be expected over the next decade.

Offenders are being sentenced to incarceration at a rate faster than the increase in either crime or arrests. The number of new admissions to the prison system (including parole violators returning to prison with new sentences) increased 21.2 percent between fiscal year 1987-88 and 1988-89. This compares to a 10.2 percent growth in the number of arrests for serious crimes in the prior year, and to a 7 percent increase in the number of serious crimes reported in the prior year.

Between fiscal year 1986-87 and 1988-89, average sentence lengths for most crimes remained stable or increased slightly. Sentences for marijuana and heroin abuse reflected this pattern, while average sentence length decreased significantly for cocaine abuse. It is thought that persons recently sentenced for cocaine abuse are more likely to have less of a criminal history and, as a consequence, draw relatively short sentences. In the past, offenders with a similar profile (little or no criminal background, charged with possession) would have received probation or jail sentences, but they now receive prison terms.

Consensus Forecast of State-Responsible Felons

Table III-2 presents the official forecast of the expected growth in the state-responsible felon population. State-responsible felons are those felons with greater than six months to serve on their sentences. The table displays, from fiscal year 1989-90 through 1999-2000, the inmate population for which the state is re-

Table III-2
State-Responsible Population Forecast

Fiscal Year	Lower Limit	Midpoint	Upper Limit	Growth	
				#	%
1989-90	16,928	17,362	17,796	2,074	13.6%
1990-91	18,873	19,457	20,041	2,095	12.1%
1991-92	20,783	21,537	22,291	2,080	10.7%
1992-93	22,668	23,612	24,556	2,075	9.6%
1993-94	24,312	25,458	26,604	1,846	7.8%
1994-95	25,903	27,266	28,629	1,808	7.1%
1995-96	27,285	29,027	30,769	1,761	6.5%
1996-97	28,525	30,672	32,819	1,645	5.7%
1997-98	29,694	32,276	34,858	1,604	5.2%
1998-99	30,907	33,964	37,021	1,688	5.2%
1999-2000	32,166	35,740	39,314	1,776	5.2%

Note: Forecasts shown are for June 30 of each year. Growth based on midpoint. The upper and lower limits adopted by the consensus group reflect a confidence interval around the midpoint or "most likely" scenario that increases over time. The interval widens over time (starting at +/- 2.5% and "widening" to +/- 10% in 2000).

Source: Prison and Jail Forecasting Policy Committee

...the state-responsible population is expected to grow dramatically over the next decade. By the year 2000, the state will be responsible for more than twice the number of felons than the number projected for fiscal year 1989-90.

sponsible. The forecast is presented as a range, with a specific midpoint and an upper and lower limit. The midpoint is considered to be the "most likely" estimate for each year. As

shown in Table III-2, the state-responsible population is expected to grow dramatically over the next decade. By the year 2000, the state will be responsible for more than twice the number of felons than the number projected for fiscal year 1989-90.

This forecast derives from two adjustments: an adjustment in the offense group distribution to reflect the increasing number of drug offenders coming into prison, and an adjustment to the admissions forecast which assumes that recent rapid growth will continue for two to three years, but will then begin to level off somewhat. The consensus forecast group discussed the prospects for change in the trend toward more arrests and convictions for drug-related crime, and concluded there was no reason to expect a slowdown of this activity within the next biennium. The table then shows a

declining percentage growth, because the base number in that calculation increases each year while the number of new prisoners received stabilizes. This stabilization is based on an assumption that the proportion of drug commitments will decline after 1992-93.

Consensus Forecast of Local Jail Populations

In September 1988, the Virginia Department of Planning and Budget developed the first statewide forecast of the local jail population. The forecast is based on historical trends of

Richmond Times-Dispatch, Sunday, July 30, 1989

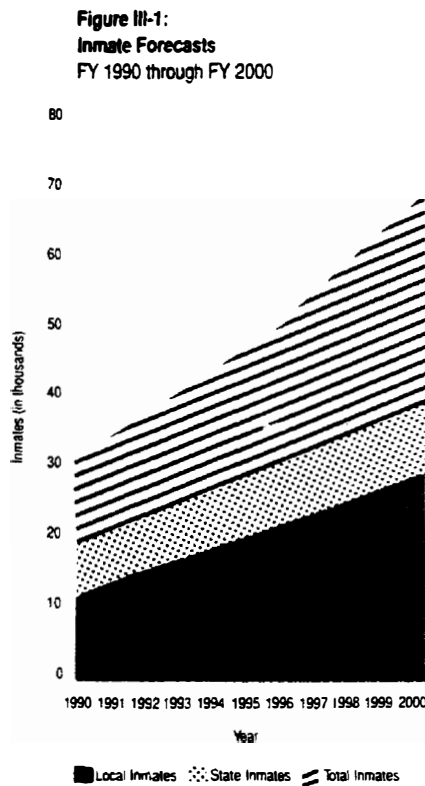
Board studies parole policies

By Claude Burrows
Times-Dispatch staff writer

Although Virginia has not used parole to throw inmates out of crowded prisons, there is concern that parole policies could be more consistent. In some states, pressure has been put on the authorities to be more lenient in determining whether inmates should be released on parole. In Virginia, on the other hand, only 36 percent, or 3,566, of inmates interviewed by the Parole Board last year were granted conditional release, the vast majority for those charged with non-violent crimes.

The General Assembly approved mandatory parole, also called maxing out, a number of years ago. Proponents of mandatory parole argued that it would be better for such inmates to have at least six months of parole supervision after release, and it would free space in prisons. Inmates can receive discretionary parole after serving a certain percentage of their sentences. The percentage generally varies with the length of sentence. There is little doubt that parole boards are coming under increased scrutiny and more structured guidelines can result in more consistency in how parole boards base their decisions, Ms. Adams said.

The study done by the Department of Planning and Budget involved the



Source: Prison and Jail Forecasting Policy Committee

**Table III-3
Local Jail Population Forecast**

Fiscal Year	Lower Range	Midpoint	Upper Range	#	Growth %
1989-90	10,424	10,691	10,958	1,807	20.3%
1990-91	12,206	12,584	12,961	1,893	17.7%
1991-92	13,829	14,331	14,833	1,747	13.9%
1992-93	15,432	16,075	16,718	1,744	12.2%
1993-94	17,003	17,804	18,605	1,729	10.8%
1994-95	18,548	19,525	20,501	1,721	9.7%
1995-96	19,982	21,257	22,533	1,732	8.9%
1996-97	21,365	22,974	24,582	1,717	8.1%
1997-98	22,726	24,702	26,678	1,728	7.5%
1998-99	24,038	26,416	28,793	1,714	6.9%
1999-2000	25,319	28,132	30,945	1,716	6.5%

Note: Forecasts shown are for June 30 of each year. Growth based on midpoint.

Source: Prison and Jail Forecasting Policy Committee

the local jail population in Virginia. This forecasting model essentially extrapolates past trends, and thus does not take account of space or capacity limitations in the jails. The model in essence is "blind" to such constraints — it simply continues the already-established trends. Because the model forecasts the aggregate statewide jail population, and not locality-specific jail populations, it has limited applications to a specific locality's jail construction planning.

The consensus forecast of local jail populations includes all misdemeanants, felons with less than six months to serve, non-support offenders, and persons who are awaiting trial. The forecast also includes an estimate, provided by the Department of Corrections, of the number of state-responsible felons expected to be unavailable for transfer to the state system. (This group remains in the local jail while an appeal is pending in the local court, until the final court order authorizing transfer is received at the Department of Corrections, or because of a need for this testimony in another trial.) The forecast does not

include the backlog of felons for whom the state is responsible, which, unless policies change, will increase jail populations and correspondingly decrease the population to be housed in state facilities.

A separate forecasting model was prepared for each of the four types of offenders included in the local forecasts. In addition, the separate estimate was developed for felons unavailable for transfer. The projections for each of these groups were summed to obtain a total local population forecast. These summed forecasts are shown in Table III-3 as the "midpoint." As with the state-responsible forecasts, the upper and lower limits reflect a widening confidence interval around the "most likely" scenario.

The forecast shows that a large increase — 163 percent — in the local jail population is projected over the next decade. The awaiting-trial population is expected to grow at the fastest rate; by the year 2000, it is expected to make up fully 70 percent of the local-responsible population.

Summary of Capital and Operating Costs to Meet Projected Incarceration

Figure III-1 depicts the expected growth in the total incarcerated population over the next decade. Based on the best available estimates, there will be nearly 64,000 prisoners in the Commonwealth's local jails and state institutions by the year 2000. Table III-4 presents the estimated capital and operating costs required to build and operate the prison and jail beds required by these forecasts. If present trends continue, and if current policies and practices are not changed, over \$4.4 billion will have to be spent by the year 2000 to meet the additional capital and operating costs associated with increases in our prison and jail populations. That amount is four times greater than the amount spent on all capital projects for institutions of higher education during the decade of '980's.

The costs to construct enough facilities to accommodate the expected number of inmates represents a "one-time" cost. More importantly, if the Commonwealth chooses to continue current practices, the cumulative operating costs within state and local

correctional facilities will be \$2.8 billion more than is being paid today. This amount would more than pay for what it now costs to educate every child in Virginia for two years. Further, no future costs have been assumed for increases in the numbers of sworn law enforcement officers, magistrates, judges, Commonwealth's Attorneys, public defenders/court-appointed counsel, or probation and parole officers. Given the expected growth in the incarcerated population, it is safe to assume that significant increases in the numbers of criminal justice personnel outlined above will be needed as well.

Conclusions

The process of estimating future populations within the criminal justice system is fraught with pitfalls: laws change, law enforcement policies change, new rehabilitative programs are developed, and socio-economic programs and factors, which may affect the "at-risk" population, change. While all this change occurs, planning *must* continue. A forecast is a tool that must be used to prepare for what is to come.

The forecast shows that a large increase — 163 percent — in the local jail population is projected over the next decade. The awaiting-trial population is expected to grow at the fastest rate; by the year 2000 it is expected to make up fully 70 percent of the local-responsible population.

Table III-4

Additional Estimated Costs Attributable Solely to Growth in Incarceration
Cumulative Estimated Costs (in thousands)

Area of Activity	FY 1991-92	FY 1993-94	FY 1999-2000
Local Jails-Capital	\$133,000	\$ 263,000	\$ 651,000
Local Jails-Operating	\$ 72,000	\$ 234,000	\$1,300,000
State Institutions-Capital	\$136,000	\$ 379,000	\$ 987,000
State Institutions-Operating	<u>\$ 80,000</u>	<u>\$ 283,000</u>	<u>\$1,500,000</u>
Total Cost	\$421,000	\$1,159,000	\$4,438,000

Source: Commission staff analysis

Based on the best available estimates, there will be nearly 64,000 prisoners in the Commonwealth's local jails and state institutions by the year 2000.

The costs to continue current practice in the criminal justice system are staggering: an additional \$4.4 billion in today's dollars will be required for capital and operating costs to house these additional prisoners in our prisons and jails.

An accurate forecast of the inmate population is an integral part of planning prison and jail construction projects, since it must be used to determine the number of facilities to be built and the security levels of those facilities. Forecasts of the inmate population should take into account the interrelationship between state and local correctional populations and facilities. In order to have inmate forecasts that provide a reliable basis for the master planning of correctional space requirements, forecast horizons should be expanded to at least ten years and local inmate populations should be forecast along with the state inmate forecast.

When a system is stable, and clear trends and patterns of growth can be detected, forecasting population growth is a relatively simple and straightforward mathematical/statistical exercise. However, the criminal justice system in Virginia — and in the nation — is not experiencing a stable growth trend. By the end of 1988, Virginia had 1,000 more inmates than it would have had if the already high rate of growth experienced in the three preceding calendar years simply continued. During 1989, the unprecedented 1988 growth rate has virtually doubled, now being driven by an average net increase of 50 state inmates every week.

One overriding assumption was in producing the forecasts presented in this chapter: that the current policies and trends of the criminal justice system would continue over the next ten years. The costs to continue current practice in the criminal justice system are staggering: an additional \$4.4 billion in today's dollars will be required for capital and operating costs to house these additional prisoners in our prisons and jails.

This future system, as costly as it will be, makes no clear claim to guarantee society a reformed or rehabilitated parolee. In fact, one expert testified before this Commission likened society's expectation that prisons produce rehabilitated members of society to "expecting to cure 'AIDS' by building hospitals."

This Commission has focused on ways in which the present system is working to fulfill its mission of protecting society, and on ways in which the system can be altered to reduce the costs of fulfilling that mission while providing opportunities for rehabilitation to incarcerated offenders. The following chapter gives a detailed view of the issues considered by the Commission, and recommends ways in which the cost of the criminal justice system may be reduced with little or no negative impact on community safety.

Prisons get brunt of drug war

Narcotics offenses increase faster than other crimes

Associated Press

RICHMOND — Drug offenses, the subject of President Bush's focus on crime and a chief topic in Virginia's campaign for governor, are a major factor in the state's rapidly rising prison and jail populations.

Figures released by the Department of Corrections indicate the number of inmates sent to state prisons for drug offenses has increased almost 300 percent during the 1980s, and the percentage of drug offenses to the overall incoming prison population has nearly doubled, from 10.1 percent to 20 percent.

In contrast, the number of inmates going to prison for homicides — first and second-degree murder and manslaughter — has increased 27.5 percent during the period, while the percentage of homicides to all total crime actually has fallen, from 4.6 percent to 2.8 percent.

Rape, robbery and assault also have declined during the period.

And while the crime rate rose 8 percent from 1985 to 1987, arrests increased 21 percent. The proportion of felons receiving probation declined from 64 percent to 57 percent between 1985 and 1988.

But drug crimes are a major influence on prison crowding. One committee found a 79 percent increase in the number of people going to prison and jail for drug offenses during the past year. "These statistics do not count those convicted of other felonies, such as robbery, which were motivated by the need or desire for illegal drugs," the committee report said.

The panel also found a racial aspect of new drug commitments. In 1987, whites accounted for 55 percent of drug offenders, while blacks comprised 45 percent.

Chapter Four
Issues and
Recommendations

Overview

Many approaches to reduce or control prison and jail overcrowding have been suggested to this Commission. This chapter summarizes the presentations to and discussions by the Commission on the options and needs within the criminal justice system which affect overcrowding, and the Commission's recommendations. Other recommendations were considered but are not included here because consensus could not be reached. These issues and recommendations are presented under four major headings: System Improvements; Alternative Sanctions; Providing for Secure Confinement; and Reducing Recidivism.

The consensus recommendations in this chapter represent a future direction for the Commonwealth's criminal justice system. A bipartisan, diverse group of people shared in the development of this report. This Commission is under no illusion that these recommendations will provide an immediate solution to overcrowding or prove to be a cure for crime. The causes of crime are fundamental, societal and economic issues which are not addressed here. However, this consensus does include a fundamental philosophy: that whatever the causes of crime, those who commit crimes must be dealt with in a rational manner and be held accountable for their crimes, or the criminal justice system becomes part of the problem and not part of the solution.

In developing its recommendations, the Commission sought a balanced perspective. Testimony from differing views was carefully considered. The recommendations reflect an attempt to balance the punitive and rehabilitative

functions of the criminal justice system in an effort to end the expensive cycle of crime and incarceration. The safety of our communities and fairness to the taxpayer, who ultimately pays for crime, are the themes underlying these recommendations.

System Improvements

In the course of its work, the Commission became acutely aware of the fragmented nature of the criminal justice system. Spread across three branches of government and all levels — state, federal, local — of government, the system lacks a consistent policy and comprehensive data for management purposes. The following issues and subsequent recommendations cover a wide range of opportunities for system improvements.

Information and Analysis

Capabilities: In order to make sound and effective decisions on the many complex issues facing Virginia's criminal justice system, policy-makers must be provided with reliable and comprehensive information which is objectively analyzed and clearly presented. The research presently being conducted in Virginia's criminal justice system is often fragmented and does not always recognize the systemic nature of the problems at hand.

Accurate and consistent information about local jail populations is necessary for planning, forecasting, and problem-solving at the local, regional, and state levels. At present, sheriffs or jail administrators supply the Department of Corrections with two reports that contain data on local jail populations - the "DC-J7 Record of Prisoners

This Commission is under no illusion that these recommendations will provide an immediate solution to overcrowding or prove to be a cure for crime.

The safety of our communities and fairness to the taxpayer, who ultimately pays for crime, are the themes underlying these recommendations.

A unified data system... would allow both state and local decision-makers access to the data needed to plan for the types and quantity of future construction and consider alternatives.

Inmate population forecast models should have horizons of not less than ten years.

Currently one-half of the jail population, statewide, is awaiting trial. Recent growth in the awaiting trial population has outpaced other components of the local jail population.

Confined” Report and the “Population Survey of Local Correctional Facilities (Tuesday) Report.” The “DC-J7” Report is prepared monthly and provides prisoner admission and release information for reimbursement purposes; the “Tuesday Report” is prepared weekly and profiles the jail population on Tuesday morning and shows the “Sunday” population. Significant gaps and inconsistencies in what is currently collected in these two reports make problem definition, alternatives formulation, and policy articulation difficult. For example, information needed by this Commission to address the population awaiting trial in local jails — 50 percent of the statewide jail population — had to be manually collected because it could not be generated from existing data.

Future correctional construction activities must reflect an improved level of coordination among key decision-makers, both on the state and local levels, and primary responsibility for that coordination must rest within state government. A unified data system, which includes key data from criminal justice agencies at the local, state and federal levels, would allow both state and local decision-makers access to the data needed to plan for the types and quantity of future construction and consider alternatives. Such a system should be accessible to sheriffs, Commonwealth’s Attorneys, judges, the Department of Corrections, and others for purposes of criminal justice decision making and correctional facility management and planning.

In addition, the complex nature of time calculation, for the purposes of determining parole eligibility dates, inmate movement, and tracking, require automated recordkeeping systems for the future. For instance, the Commission heard presentations that state prisoners in local jails are not receiving parole reviews in a timely manner due to current classification and notification processes. Starting in July, a new method for early identification of parole eligibles on a weekly basis was initiated by the Parole Board. However, if this identification became automated, by means of an on-line information system, the number of cases of inmates in jail not being considered for parole in time for actual release on their parole eligibility date would be further reduced.

Recommendation 1: A Criminal Justice Research Center should be established in the Department of Criminal Justice Services (DCJS). The purpose of the center would be 1) to develop and maintain a single, unified criminal justice data system for the purposes of state facility and jail management and construction planning, and 2) to conduct statewide criminal justice research. The center should operate under the direction of a standing advisory board composed of sheriffs and other local officials, Commonwealth’s Attorneys, judges, the Supreme Court of Virginia, the Department of Corrections, and others, which would guide the development of the information system and approve any revisions to the system once established. The use of this system should be mandatory for sheriffs and regional jail and jail farm superintendents, and is intended to

replace reporting on the present DC-J7 and DC-J8 Forms, and the current "Tuesday Jail Report." As part of this process, a feasibility study should be conducted in coordination with the Department of Information Technology (DIT), to determine the most appropriate configuration of computer hardware and software. The study should also consider ways to allow small jails to report information directly to the host agency for data entry. The feasibility study should include an estimate of additional personnel required to maintain and operate the system. The DCJS and DIT should report jointly to the Secretary of Transportation and Public Safety, the Secretary of Administration, the Governor and the General Assembly by October 1, 1990, on feasibility and implementation plans.

Forecasting: A forecast of the inmate population, that is sensitive to policy options and subsequent decisions, is an integral part of planning prison construction projects. It is needed to determine the number of facilities to be built and the security levels of those facilities. Any forecast is based upon assumptions about the future and will contain an implicit level of error. The consequence of error in overestimating statewide inmate populations initially would allow the closing of outmoded facilities but eventually could translate into millions of dollars in unnecessary construction costs. The consequence of error in underestimating statewide inmate populations increases the potential of severe overcrowding at both state and local levels. Underestimation can also lead to costly emergency construction programs carried out under less-than-ideal conditions.

Recommendation 2: Inmate population forecast models should have horizons of not less than ten years. These models should use the best data available from all elements of law enforcement and criminal justice, as well as demographic and econometric models. The models should include state, local, federal, and private data wherever applicable. The assumptions of these models should be reviewed and critiqued at least quarterly by a consensus group of criminal justice experts and legislators, and be reviewed at least annually by an expert from outside the state's criminal justice system. The forecast of the inmate population should reflect the relationship between state and local correctional populations and facilities, and between juvenile and adult crime and arrests. The total local inmate population should be forecast every year, along with the state inmate forecast, and should reflect projections for growth by categories, such as pretrial, nonsupport, misdemeanants and local felons, which will aid in program formation and policy analysis. Forecasts of state responsible inmates should include characteristics which can be used to approximate levels of security required and numbers in each level of custody classification, such as projections by offense category and growth in convictions, length of sentence, and repeat offenders. Estimates of inmates in need of mental health services, literacy training, substance abuse counseling, and sex offense programming should be developed in conjunction with these population estimates. The Secretary of Transportation and Public Safety should take lead responsibility

for implementing this recommendation, and report to the Governor and General Assembly on progress made toward these improvements by December 1, 1990. In addition, a plan for the annual development of jail population forecasts for individual localities and regions should be developed by the Department of Criminal Justice Services, and should be presented to the Secretary of Transportation and Public Safety by December 1, 1990.

Pretrial Detention, Risk Analysis, and Release Alternatives: Currently one-half of the jail population, state-wide, is awaiting trial. Recent growth in the awaiting trial population has outpaced other components of the local jail population. Data collected for this Commission on all bookings for two days in October 1988 in five jails — the counties of Fairfax and Henrico, and the cities of Norfolk, Petersburg and Suffolk — reveal that:

- 67 percent of commitments to the jails were for misdemeanor or ordinance offenses;
- 85.5 percent were charged with nonviolent offenses;
- 185 cases came before a magistrate during these two days for setting of bail and bond. Only 14 of the 185 commitments ultimately were judged to be of sufficient risk that no bond was established;
- When release on bond was established, approximately one-half were unable to post the required amount. The median amount of bond established for those released was \$500; the median for those not released was \$10,000;

- The average time spent in jail awaiting pretrial release by those arrested during that two day period was 7 hours for drunkenness/driving under the influence; 43 hours for misdemeanor and ordinance commitments; and 8.3 days for felony commitments;
- 22 percent of the cases were eventually nolle prossed/dismissed.

If the findings for these five jails represent general statewide patterns, up to 883 jail beds, annually, are used by offenders who are ultimately released awaiting trial. The Commission discussed numerous ways of reducing the population awaiting trial in local jails, consistent with public safety and assured appearance in court. There was concern about decision-making at the pretrial phase of the process, particularly as it regards decisions about bail and bond by judicial officers (magistrates and judges). The information about an offender, available to the judicial officer upon arrest, is minimal, resulting in decisions which must err, in the absence of reliable information, on the side of public safety.

Direction to judicial officers about priorities for pretrial release or detention are confusing. Various statutes define what is to be considered in making bail and bond decisions. Statutory guidance on use of bail and bond are currently found in seven separate sections of Chapter 19.2 of the *Code of Virginia* (Section 19.2-80; 82; 120; 121; 123; 132.1; and 135) and are somewhat inconsistent in their direction. There are also inconsistencies between the statutes on bail and recognizance (Sections 19.2-119; 134; 135; and 150).

However, it is usually not feasible, under current law and practice, for a magistrate to have verifiable information available on a suspect's prior criminal history. As such, the magistrate is often limited to self-reported information from the suspect or testimony from the officer related to the nature and circumstances of the offense and the weight of the evidence. Little more may be available to the District Court judge when the offender appears on the next day of court. Improvements in the information system for making these important decisions are needed.

Risk assessment instruments, currently being piloted in the state, offer officials information that has been shown to be accurate in predicting those offenders who are the best risks for pretrial release. At the present time, the development of these risk assessment instruments includes consideration of many key factors, including the prior criminal history of the offender. The increased use of risk assessment tools will allow law enforcement and justice officials to improve the differentiation of offenders who truly represent a risk to public safety from those who do not. Once this difference has been established, offenders can be assigned to the option which best reflects their level of risk. These risk assessment tools would cost little to implement, yet could provide savings through the use of fewer jail beds and increased public safety through better identification of offenders who require incarceration.

In addition to improved risk assessment, other pretrial release alternatives have created a broader range of judicial choices and have helped reduce the awaiting trial population in many

localities where they are utilized. These alternatives include:

- **Release on Recognizance** which involves no financial deposit (bail) and requires only a promise from the defendant to appear in court on an appointed date, subject to forfeiture of the bond imposed.
- **Supervised Release** in which the defendant is released but must maintain contact with a law enforcement official until the date of trial. This supervision can also be accomplished through electronic monitoring.
- **Third Party Release** in which the defendant is released into the custody of a third party — a family member, for example — who assumes responsibility for both the defendant's future conduct and his or her appearance in court.
- **Deposit Bail** in which the accused pays a certain percentage of bail with the agreement to forfeit the balance if he or she fails to appear in court on a specified date.

In Virginia localities that have formal pretrial services programs, the Commonwealth's Attorney and sheriff play an active role in identifying cases in which the amount of bond may be the only reason for continued detention. All cases with bonds below a certain dollar amount are screened for possible supervised release and subsequently brought to the attention of a judge for his consideration. In Norfolk, the Commonwealth's Attorney's program staff reviews, after arraignment, the cases of all persons unable to meet bail in which bond was set below \$5,000. The Arlington Sheriff's Department staff reviews all cases, prior to arraignment, in which bond is set below \$25,000.

The Commission discussed recommending that monetary bond be prohibited in misdemeanor cases. However, members cited instances when this would be ill-advised, such as cases of assault, particularly spouse abuse, and cases when the accused is not a resident of the state and who, therefore, might not return for arraignment.

Recommendation 3: Alternative release procedures and programs should be used for the minimum risk pretrial population, to reduce the need to construct additional jail space for pretrial detention. Funding to establish pretrial services programs, including risk assessment and needs assessment services for use by magistrates, sheriffs, and judges, should be expanded and targeted at localities experiencing severe jail overcrowding. By October 1, 1990, the Department of Criminal Justice Services should identify localities to target for such programs, and submit a proposal/budget request for establishing programs in the areas of greatest need.

Recommendation 4: The General Assembly should consider amending Section 53.1 - 124 of the *Code of Virginia* to require sheriffs to provide weekly information to the courts (Circuit, General District, and Juvenile and Domestic Relations). Commonwealth's Attorneys, and Public Defenders on the population awaiting trial in local jails. The report should include the name, date of commitment, offense, and amount of bail/bond established. Such information should be used to provide the impetus for action by judges and Commonwealth's Attorneys to have some of these persons who are not a threat to

public safety released awaiting trial. This data should be incorporated into the unified data system.

Recommendation 5: The Judicial Council of Virginia and Committee on District Courts should develop guidelines for docketing practices which give scheduling priority for trial in both Circuit and General District Courts to those cases in which the defendant is awaiting trial in a local jail. The Office of the Executive Secretary of the Supreme Court should report to the Governor and the General Assembly on progress to implement this recommendation by October 1, 1990.

Recommendation 6: A legislative subcommittee composed of members of the House and Senate Courts of Justice Committees should be established to study and recommend ways of improving the bail/bond decision-making process. The study should assess: 1) improvements possible through clarifying the provisions, and eliminating inconsistencies, in the various sections of the *Code of Virginia* pertaining to bail, bond, and recognizance; 2) methods to provide critical information about an offender to judicial officers at the time of making bail/bond decisions; and 3) the need for developing bonding guidelines and requiring participation in bail risk training for all magistrates and judges. The study should also identify satisfactory ways of providing identifying information about the complainant, when the complainant is not a police officer, to Commonwealth's Attorneys. The study results should be reported to the 1991 session of the General Assembly.

The information about an offender, available to the judicial officer upon arrest, is minimal, resulting in decisions which must err, in the absence of reliable information, on the side of public safety.

...risk assessment tools would cost little to implement, yet could provide savings through the use of fewer jail beds and increased public safety through better identification of offenders who require incarceration.

Local alternatives to jail for these individuals are lacking in most Virginia localities, resulting in significant numbers of those arrested on these charges being placed in expensive and overcrowded jails.

The Commission was told that the shortage of laboratory staff and the rapidly growing number of drug-related cases have combined to create a backlog of drug analysis cases and resulted in increased delays between time of arrest and trial.

The evidence... supports the premise that sentencing guidelines will lead to more consistent and predictable sentencing. There are also indications that these guidelines may have a tempering effect on the average length of sentences...

Dealing with Public Drunkenness and Mentally Ill Arrestees: Public intoxication is the single most common offense for which American adults are arrested each year, accounting for approximately 16 percent of all arrests. Driving while intoxicated is a close second. If the number of substance abusers and mentally ill arrested annually are added, it becomes apparent these individuals represent a large percentage of the pretrial jail population.

Local alternatives to jail for these individuals are lacking in most Virginia localities, resulting in significant numbers of those arrested on these charges being placed in expensive and overcrowded jails. Public inebriate shelters, alcohol safety action programs, and mental health and substance abuse facilities could provide less costly and more appropriate alternatives to jail. Such diversion programs would require ongoing funding, but could also provide savings in local jail bed days, more humane housing, and services targeted to offenders in need of treatment.

The Commission commends recent decisions of the General Assembly providing funds to Community Services Boards (CSBs) for meeting local needs in mental health and substance abuse, including detoxification programs and encourages DMHMRSAS and local CSBs to work in conjunction with the Department of Criminal Justice Services to provide detoxification treatment services in established centers.

Recommendation 7: Pursuant to Section 9 - 173.1, the Department of Criminal Justice Services (DCJS), with assistance from the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS), should: 1) identify localities/regions in greatest need of alternatives to jail for those arrested for being drunk in public or for driving under the influence of alcohol and/or drugs, 2) develop a model for providing such alternatives, and 3) identify funding required to provide these alternatives where they are most needed. DCJS should report the result of this effort to the Secretary of Transportation and Public Safety by October 1, 1990.

Improving Consolidated Laboratory Services: The state's Division of Consolidated Laboratory Services (DCLS) provides the judicial system an important service by analyzing drugs for the purpose of establishing charges against defendants. Over the last two years, DCLS has experienced difficulties in recruiting and retaining qualified personnel, due to a national shortage of forensic chemists. The Commission was told that the shortage of laboratory staff and the rapidly growing number of drug-related cases have combined to create a backlog of drug analysis cases and resulted in increased delays between time of arrest and trial. Those offenders jailed, awaiting trial, and not released due to drug charges contribute to the increase in the awaiting trial population in jails. Improved laboratory services could aid in expediting these cases and help ensure that jail beds are not occupied any longer than necessary prior to a determination of guilt or innocence.

Recommendation 8: Necessary resources should be provided to recruit and retain adequate personnel to staff the state's Division of Consolidated Laboratory Services, in an effort to achieve the goal of completing 95 percent of drug analyses within 10 working days. The Commission recommends that the Secretary of Administration continue to work with the Virginia State Crime Commission to address the need for forensic chemists, and report to the Governor and the General Assembly on progress by October 1, 1990.

Recommendation 9: The General Assembly should consider legislation that would allow field drug testing by qualified police officers and preliminary laboratory results as sufficient to establish probable cause for certification to a grand jury in preliminary hearings in drug cases.

Sentencing Guidelines: When compared to other states, one of the most significant factors contributing to Virginia's overcrowding problem is length of sentence. Virginia's average sentence length for confined felons is among the longest in the country, and Virginia has one of the highest proportions of offenders in the nation serving sentences of 20 years or longer.

In response to a different concern — the wide disparity found in sentences imposed in similar cases — the Chief Justice of the Supreme Court of Virginia and the Judicial Conference, with assistance from the Department of Criminal Justice Services, developed a system of voluntary *Felony Sentencing Guidelines*. These guidelines were designed to ensure greater consistency, neutrality, and proportionality in criminal sentencing.

The guidelines have been piloted in six of Virginia's judicial circuits. The evidence from this pilot project supports the premise that sentencing guidelines will lead to more consistent and predictable sentencing. There are also indications that these guidelines may have a tempering effect on the average length of sentences, by reducing over time the use of sentences which are significantly higher than the historical average range of sentences. If this tempering effect occurs as use of the guidelines is expanded, it would provide some measure of relief to overcrowded institutions.

The Sentencing Guidelines Project was conducted with federal grant funds which expire in June 1990. The Supreme Court of Virginia estimates that approximately \$850,000 will be required to both continue and expand the use of these guidelines over the next two years. However, changes in sentencing could potentially save millions of dollars by helping to reserve expensive prison and jail space for the most serious offenders.

Recommendation 10: The Commission commends the Chief Justice of the Supreme Court of Virginia, the Judicial Conference, the Department of Criminal Justice Services, and participating Circuit Court judges for the development and testing of voluntary sentencing guidelines in Virginia. The Commission also recommends the continuance of the sentencing guidelines project through the provision of state funding to support the project when the federal grant period expires. Further, the Commission recommends that the General Assembly of Virginia

acknowledge the contributions of the sentencing guidelines project through a resolution in the 1990 legislative session, and recommends that the guidelines be implemented statewide.

Jury Sentencing: The fact that Virginia juries give longer sentences than judges was discussed by the Commission. The discussion centered on what a Virginia jury can be told about the effect of parole provisions and "good time" credit allowances on the sentence they give. Research conducted for the Commission revealed that there are arguments both for and against instructing the jury on the impact of these two considerations.

Arguments prohibiting such instruction seem to outweigh the arguments favoring such instruction, and include:

- In order to compensate for future diminution of sentence, the jury may impose a harsher sentence than it actually finds just;
- Knowledge of further review, by other authorities, may lead a jury to compromise on the question of guilt on the theory that a mistake can be corrected by such authorities;
- Guilt and punishment should be determined at the time of trial; parole, pardon and awarding of good time are based on future conditions arising after incarceration and are to be considered by executive rather than judicial officials; and
- Instruction and consequent consideration of parole and good conduct provisions, at sentencing, frustrates the purpose of these laws, which are intended to promote good behavior of prisoners and to assist in their control.

Options to resolving the jury's lack of knowledge include eliminating jury sentencing or using bifurcated trial, where guilt or innocence is decided at one phase and sentence at a subsequent time. The first of these two options was recommended in the 1989 *Report of the Commission on the Future of Virginia's Judicial System*. Therefore, the Commission defers to their decision.

Redefining State/Local Responsibility: The Commonwealth is using a two-tiered model of state-local responsibility, with often confusing lines of demarcation. Current provisions of the *Code of Virginia* dictate that:

- All felons (sentences of 1 year or more) serve in state facilities;
- Class 5 and 6 felons may serve in jail;
- All misdemeanants serve in jail;
- All individuals with sentences of 12 months or less serve in jail;
- Section 19.2 - 309.1 allows judges to sentence offenders to 2 year sentences on jail farms (local facilities);
- All felons, if in jail, who have an actual term left to serve of less than 6 months are to serve in local jails; and
- Felons with outstanding warrants (unavailable for transfer) will remain in jail.

The *Code* also gives the director of the Department of Corrections discretion as to the priority for receiving prisoners from local jails. The *Code* makes the director responsible, in effect, for equalizing overcrowding between state and local facilities. Current practice is that priority is given, for transfer to state facilities, to felons with sentences of four years or more in jails which are significantly overcrowded.

One "agreement" between the department and a sheriff has been to house, locally, felons with six year sentences. This results in many shorter term state-responsible felons remaining in jails and, in fact, receiving their first discretionary parole hearing in the local jail. On October 10, 1989, there were over 3,000 sentenced state felons with more than six months to serve in local jails in Virginia.

With pressures of overcrowding in state facilities and local jails, this definitional issue has become contentious, even litigious. The Prince William County jail is currently under a court-ordered cap. The courts recently settled a case filed by the City of Richmond against the Department of Corrections, to remove state prisoners within 60 days from the severely overcrowded jail. While the state agreed to act, the city agreed to provide additional jail space.

Local government officials serving on the Commission explained that local governing bodies are reluctant to commit local dollars for future construction, particularly regional jails, on the basis that it will become, in effect, a local facility for state prisoners. The overcrowding problem is one which affects the Commonwealth and its cities and counties, and demands a more systematic approach than currently exists. The current transfer policy is inadequate for planning and management, and will continue to generate court involvement in correctional administration.

Recently enacted provisions for 50 percent state reimbursement of jail construction, enlargement or renovation costs are limited to regional or multijurisdictional facilities, and are

intended to encourage cooperation among localities to construct facilities of efficient size. The Commission was told by local government officials that some of the state's larger localities, in addition to participating in regional facilities for certain numbers of their offenders, will need to maintain, through construction or expansion, large jail facilities of their own which can also achieve operational efficiencies. For that reason, certain large, single-jurisdiction facilities should qualify for the higher percentage of construction reimbursement from the Commonwealth.

Recommendation 11: The General Assembly should consider modifying Title 53.1 of the *Code of Virginia* to provide that prisoners with sentences totalling more than two years must be accepted by the Department of Corrections within 60 days of receipt of the court order from the clerk of the court committing the prisoner. All other prisoners shall serve their sentence in a jail facility. Parole violators returned to incarceration should be placed in the appropriate facility based on their original sentence length. The effective date of the change in the definition of state responsibility should be July 1, 1996. This effective date will allow one year for the development of a plan by the Secretary of Transportation and Public Safety to phase in the change in definition, and five years to implement the plan. Further:

- The plan for the transfer of responsibility should be built on annual increments, based on sentence categories of offenders. For example, in the second year following implementation, the Department

Corrections would be required to transfer to state institutions within 60 days all offenders with sentences of six years or more; in the third year, all those with sentences of five years or more; in the fourth year, all those with sentences of four years or more; etc; until, on July 1 of the sixth year, the new definition would have been fully implemented.

- The implementation would be accomplished in addition to a maintenance of current efforts to transfer state felons from local jails.
- The discretion of the director of the Department of Corrections to determine the priority for receiving prisoners into the state corrections system would be eliminated, according to the phasing-in process, except as currently provided for medical emergencies in the *Code of Virginia*. However, discretion for transfer into the state system would be provided to the Governor who could declare an emergency existed, in the event of a threat to public safety, by the levels of crowding in state facilities.
- The state would discontinue the \$6.00 felon per diem payment 1) for those felons with sentences totalling two years or less, who would now be local responsibility, and 2) for the period of 60 days provided for transfer of all other felons to the state system.
- Local responsible felons would be subject to local policies on eligibility for work release, prerelease and other programs; fees charged to inmates for participation in these programs would accrue to the locality.
- Local sheriffs should be enabled to contract with local Community Diversion Incentive (CDI) programs for placement in the program of local

responsible felons identified as appropriate clients, with the concurrence of the sentencing judge.

- Those felons with sentences of more than 12 months would remain parole eligible.

Recommendation 12: The General Assembly should consider amending Section 53.1-80 of the *Code of Virginia* to extend the provision of 50 percent state reimbursement for jail construction, enlargement or renovation costs to single-jurisdiction facilities in localities with populations of 100,000 or more.

Changes in "Good Time" Computations: Under current "good time credit" allowances (GCA), felons serving a one year sentence earn "good time" at the state rate of 20 days "good time" credit for every 30 days served, if they do not violate the rules of the institution. Additionally, the Mandatory Parole Release Act requires that felons be released on parole supervision six months before the expiration of their sentence. The purpose of this Act was to require that all felons, following their incarceration, be subject to a period of supervision to increase the chances of their successful re-entry into the community. The combined result of mandatory parole and "good time" earnings is that a felon with a one year sentence who follows the disciplinary standards of the institution generally serves 3.6 months. An offender serving time for a misdemeanor earns "good time" at the jail rate of 15 days for 30 days served, and is not eligible for discretionary or mandatory parole. The result is that a misdemeanant serving a 12 month sentence actually serves 8.17 months.

The Commonwealth is using a two-tiered model of state-local responsibility, with often confusing lines of demarcation.

The overcrowding problem is one which affects the Commonwealth and its cities and counties, and demands a more systematic approach than currently exists.

Changes in the rate of jail "good time" credit would have the effect of bringing time served by misdemeanants in jails in line with time served by felons...

Classification can be a powerful tool in inmate management and in the reduction of incidents and disturbances within already crowded facilities.

...statewide classification guidelines for local jails would provide all jails with the tools needed to more accurately classify their inmates and would expedite the transfer of inmates from one facility to another... or from local jails to state prisons.

Because this seemed unjust and counter to a reasonable approach to punishment for the two categories of offenses, the Commission sought a way to provide parity of time served between the one year felon sentence and the 12 month misdemeanor sentence, on the premise that a less serious offense should not result in more time spent in incarceration than the more serious felony offense.

While parity can be achieved on the issue of "good time" credit alone, at a rate of 20 days earned for 30 served, this will not achieve parity on time served because of the 6 month mandatory release provision which applies to all felons in Virginia. The Committee considered eliminating mandatory parole for the one year felon but discovered that such an action would dramatically increase the jail population and would undermine the benefits sought by supervision of felons in the community. Granting mandatory parole to misdemeanants was also considered and dismissed as generally unnecessary for these less serious offenders and because of the impact on parole supervision caseloads.

Therefore, the closest to parity of time served that can be achieved using GCA alone as the equalizing tool for misdemeanor sentences is a GCA rate of two days earned for one day served in which the prisoner has not violated the rules of the jail. This would result in a twelve-month misdemeanor with no institutional infractions serving four months in jail, which would still be slightly more than a comparable one year felon sentence.

There is currently a statutory provision that allows sheriffs discretion to award "exemplary good time" at a rate of five days per month. While "good time" is awarded for following the rules of the institution, "exemplary good time" implies conduct that exceeds the established standards of behavior. This award is rarely used by sheriffs because it is difficult to define and defend.

Changes in the rate of jail "good time" credit would have the effect of bringing time served by misdemeanants in jails in line with time served by felons, eliminating the present practice of less serious offenders serving more time, while retaining important insurances of public safety — mandatory parole — for the more serious felony offenders. Because approximately 16 percent of the statewide jail population is misdemeanants, changes in the rate of jail "good time" could also have the additional advantage of relieving overcrowding and freeing up costly and limited institutional space for more serious offenders. Commission staff estimate a statewide reduction of as much as 8 percent of the jail population as a result of a change in "good time" credit, although the effect would vary for specific jails according to the composition of each local jail population.

At the state level, the use of the level system of "good time" provides an incentive for successful institutional adjustment. The Department of Corrections is in the process of implementing procedures which would require a review of inmates' progress on an annual schedule, rather than every six months. The Commission does not

agree with this decision. A valid review of adjustment can occur after six months and this more expeditious change in "good time" levels can serve to contribute to reduced length of stay, and immediately reinforce good behavior, particularly for those in higher custody levels.

Recommendation 13: The General Assembly should consider amending Section 53.1-116 of the *Code of Virginia* to 1) provide a rate of "good time credit" for local misdemeanants at two days for every one day served in which the prisoner has not violated the written rules of the jail, unless a statutory provision for a mandatory minimum sentence applies; and 2) eliminate the provision for exemplary conduct credit. The Department of Corrections should revise its instructions to the jails on calculating good time to reflect this change of rate and use the calculation on days served.

Recommendation 14: The Department of Corrections should maintain its current practice of assigning all incoming inmates into "Good Time Credit" allowance Level II. However, "good time" reviews should be completed every six months for inmates in Levels II, III and IV, and once a year for inmates in Level I.

Enhanced Classification Processes: The primary objective of the correctional system must be the protection of the public, the staff of an institution, and the inmates housed within an institution. Classification can be a powerful tool in inmate management and in the reduction of incidents and disturbances within already crowded facilities. Reclassification decisions

also have a major impact on the level at which the inmate earns "good time." The use of overly restrictive criteria in determining custody and "good time" earnings will result in an inmate serving a significantly greater length of time than may be necessary and limit those inmates' opportunities to participate in programs and work release.

The method by which inmates are classified also drives decisions about the type of institutions that will be built. Space requirements and facility plans at the state, regional, and local levels need to reflect bed space requirements by level of security. The Commonwealth and its localities need to be able to plan for the most appropriate mix of dormitory and medium and maximum security cells.

The Commission was told that under the current Department of Corrections classification and reclassification scoring model, major emphasis is placed on negative behavior and on the seriousness of the inmate's offense. As such, these decisions may be over emphasizing risk avoidance. A more focused effort could take place to recognize inmates' positive adjustment, their participation in educational and vocational training, work efforts, and other indicators that they are making progress toward successful release to the community, as well as any infractions of institutional rules. This would have the effect of serving as an incentive to the inmate and would likely result in inmates moving more quickly into higher levels of "good time" earning and lower levels of custody.

While all jails use some type of classification process, not all have the resources to develop risk assessment models or other tools for use in classification evaluations. The development of statewide classification guidelines for local jails would provide all jails with the tools needed to more accurately classify their inmates and would expedite the transfer of inmates from one facility to another, if needed, or from local jails to state prisons. Because all state offenders are in local jails prior to being received in a state facility, standardized jail classification could have the additional advantage of expediting the reception and classification process in the state system. Standardized local classification would also contribute to an improved information system on inmates in local jails.

Recommendation 15: The current state inmate classification system should be expanded to include at least five levels of custody classification. Further, the Department of Corrections, with assistance from experts, should re-examine guidelines that direct classification decisions to assure that 1) an inmate is being held in an appropriate security environment for the protection of the community, other inmates and staff, and 2) that decisions can be shown to be objectively based and reflect an inmate's achievements as well as infractions. A report on this re-examination should be provided to the Secretary of Transportation and Public Safety, the Governor and the General Assembly by December 1, 1990.

Recommendation 16: Classification standards, promulgated by the Board of Corrections, should be developed for local jails through a cooperative effort between the Board, the Sheriff's

Liaison Committee, and the Department of Corrections; these standards should be developed and submitted to the Secretary of Transportation and Public Safety by December 1, 1990. These standards should recognize the different classification needs and capabilities of small and large jails, and provide sheriffs and chief jailers with a consistent guide for the classification of inmates throughout the Commonwealth.

Parole Processes: As has been discussed earlier in this report, Virginia has one of the lowest parole grant rates in the country. In 1987, the most recent year for which nationwide data is available, Virginia had an average parole rate of 141.5 adults on parole per 100,000 adult population. In contrast, the national average was 196.4.

Department of Corrections analysis, conducted for this Commission, indicates that small changes in the parole grant rate can have significant impact on prison overcrowding. For example, a five percent increase in the parole grant rate for crimes other than homicide, manslaughter, rape, and possession/distribution of cocaine, heroin, marijuana, and controlled drugs would have the effect of reducing the institutional population by 678 beds by fiscal year 1994.

Reasons for Virginia's low parole rate are difficult to identify. The Commission was told variously that it was due to: 1) the nature of Virginia inmates; 2) the laws governing parole review; 3) lack of community services, such as halfway houses and drug treatment, and 4) policies guiding the parole process. Data to support these claims are elusive. As such, it behooves the Commonwealth to understand why the

parole process results in such a low release rate, so that action may be taken if appropriate.

The length of time that inmates are staying in prison has a greater impact on the need for increased prison capacity than the number of inmates admitted each year. Empirically developed, objective parole criteria could safely reduce the length of time served in prisons or jails, allow more accurate prediction of success on parole, and improve forecasting and planning. It would also provide prisoners a clearer sense of what is expected for release on parole, enhancing inmate management.

Recommendation 17: Necessary resources should be provided to the Virginia Parole Board to complete the research and implementation of a system of parole guidelines and parole risk assessment in fiscal year 1990-91. The Parole Board should report to the Secretary of Transportation and Public Safety, the Governor, and the General Assembly by December 1, 1990 on plans to fully implement these improvements.

Recommendation 18: The General Assembly should consider requesting the Joint Legislative Audit and Review Commission to conduct a comprehensive study of parole review in Virginia, with goals of increasing efficiency, providing meaningful comparisons with other states, and recommending improvements. The study should include a review of statutory provisions in Virginia and other states guiding parole review, and processes and policies of all agencies involved in the parole process, including jails, courts, the Department of Corrections, and the Parole Board. The study should be reported to the

Governor and General Assembly on December 1, 1990.

Corrections Policy for the Commonwealth: Philosophically and practically, there are two directions that can be taken in Corrections at all levels: 1) to "warehouse" inmates; or 2) to attempt to prepare them to lead responsible lives upon release. The Commonwealth needs a philosophy of corrections that will guide long-range decision-making at both the legislative and executive levels. The 1985 session of the General Assembly approved House Joint Resolution 251 (see Appendix E), which focused policy direction on the fact that the vast majority of those who come into a local or state correctional facility return to the community at some time. HJR 251 stated that while the primary emphasis of the corrections system should be the protection of the citizens of the Commonwealth, that protection should include programs and activities for offenders that would reduce the likelihood that an offender would return to crime after release.

Local Criminal Justice Advisory Committees can be used to coordinate local decisions about criminal justice issues. These advisory groups are generally comprised of local criminal justice practitioners, representatives from organizations providing criminal justice services, and interested/concerned citizens. The formation of such advisory groups could result in a more coordinated approach to criminal justice activities and policy development, could prevent problems created by decisions being made "in a vacuum" without regard to the potential for negative impact on other system com-

ponents, and could provide a forum for discussion and resolution of problems as they develop.

Recommendation 19: The state policy on correctional approaches contained in HJR 251, passed by the 1985 session of the General Assembly, should be used to guide all decisions concerning the future direction of corrections, both state and local, in Virginia. The policy establishes goals for corrections which would provide that all inmates should have the opportunity to participate in educational, job skills, and coping skills; that services to inmates needing mental health care and substance abuse treatment should be provided; and that correctional approaches integrate local and state, public and private sector resources.

Recommendation 20: Local Criminal Justice Advisory Committees, composed of representatives of the judiciary, Commonwealth's Attorneys, prosecuting attorneys, law enforcement, sheriffs, and citizens, should be encouraged throughout the Commonwealth. The purpose of such groups would be the comprehensive consideration of issues affecting all phases of local criminal justice systems, improved planning and budgeting, and avoidance of actions which negatively affect segments of the system inadvertently. The Department of Criminal Justice Services should develop a plan for implementing this recommendation, and report to the Secretary of Transportation and Public Safety by October 1, 1990.

Public Information Initiatives: Often, community-based alternatives are not fully utilized because of a perception that they are "soft on criminals" or

that inmates assigned to these programs are a threat to the community. However, expert testimony to the Commission cited research showing the effectiveness of these sanctions, when proper safeguards are included and the programs are held to a high level of accountability. A concerted effort must be mounted to inform the community, judges, and others of the advantages of these programs, the safeguards built into their design, and the consequences of continued use of incarceration at current levels. A public relations campaign is needed to promote the advantages of community based alternatives to incarceration and to make communities a more cooperative part of the correctional process.

Recommendation 21: The Secretary of Transportation and Public Safety, working with the Supreme Court of Virginia, the Department of Corrections, the Virginia Parole Board, and others, should develop a statewide effort to educate and advise the Commonwealth's citizens on the issues involved in the criminal justice system and solutions which will make best use of public funds while maintaining the public safety. The Secretary of Transportation and Public Safety should present to the Governor and General Assembly by December 1, 1990 a plan for implementing this recommendation.

Alternative Sanctions

While there has been significant use of community-based alternatives in Virginia in the past, highly publicized recent actions by a few individuals have resulted in concern among decision-makers and the public about the use of some of these alternatives. However, an expansion of services and a refo-

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Electronic monitoring could be especially effective if used in concert with parole, work release, or intensive supervision.

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...the fastest growing use of CDI has been for misdemeanor offenders.

cusing of existing programs, with sufficient safeguards of public safety, must take place if any effective reduction of projected populations at the state and local levels can occur.

A concern in creating any alternative program is the effect referred to as "net widening." The phrase is used to describe the often observed result of new programs, designed to divert offenders from more stringent and expensive sanctions, actually serving those that would otherwise have received less controlling options or no formal control at all. "Net widening" increases the cost to corrections with no commensurate decrease in criminal activity. To avoid costly "net widening," a methodology is needed which accurately indicates that offenders in a program would have actually entered a state or local correctional facility.

Recommendation 22: The Commonwealth should provide additional financial incentives to localities for the development of diversion programs, targeted to those which have a proven record of success in reducing inmate populations in local and state facilities. To avoid a "net widening" effect and assure that programs are being used as a diversion, the Department of Criminal Justice Services (DCJS), with assistance from the Department of Corrections, should develop and report to the Secretary of Transportation and Public Safety, the Governor and the General Assembly by July 1, 1990, guidelines for the acceptance of funding which include certification that the person being placed in the diversion program is being placed there in lieu of incarceration. Further, a separate method of local, state or federal funding should be developed for innovative programming to begin

pilot projects. An evaluation of the effectiveness of new or untried programs should be required of any program receiving funds. DCJS should study possible funding alternatives for pilot programs, and report its findings to the Secretary of Transportation and Public Safety by October 1, 1990.

Electronic Monitoring: Electronic monitoring uses modern technology to supervise individuals placed in home confinement or community release programs. Electronic monitoring was introduced in Florida in 1984, and by 1988 was being utilized in 32 states to monitor approximately 2,300 offenders. Although once reserved primarily for persons convicted of serious traffic violations, the use of electronic monitoring has since been expanded to encompass a broad range of criminal violations. The types of programs currently using electronic monitoring include pretrial release, home arrest, work release, parole, and incarceration alternatives for probation and parole violators.

Electronic monitoring has been operational in two Virginia localities — Norfolk and Fairfax — since 1986, and four additional pilot programs are funded to begin operation during fiscal year 1989-90. The effectiveness of electronic monitoring has been evaluated in a number of state and national studies. Its effectiveness has been established when used in limited conditions, particularly when used for offenders who have not been shown to be a risk to family or community. In any program of this type, specific guidelines need to be developed to govern its utilization so as to restrict its potential for "net widening." Elec-

Electronic monitoring could be especially effective if used in concert with parole, work release, or intensive supervision.

Recommendation 23: The use of electronic monitoring should be expanded from current pilot locations, with sentenced offenders as priority placements. At a minimum, the current appropriation of \$300,000 to the Department of Criminal Justice Services should be continued to provide the incentives for additional communities to utilize this program in lieu of incarceration. The currently established program guidelines, which include avoidance of "net widening," are sound and should be continued.

Shock Incarceration Alternatives: Shock Incarceration programs are characterized by a demanding regimen of military style drilling, physical exercise and labor, and strict discipline. These programs use short terms of placement (usually three to six months), are targeted at young, first-time offenders convicted of nonviolent crimes, and often use intensive supervision when an offender is released. An inmate's placement into such a program has traditionally been voluntary; however, mandatory placement into them is becoming more common.

The level of programming offered in conjunction with these facilities varies by location. Some programs provide offenders with vocational training, compulsory adult basic education, alcohol and substance abuse treatment, and rehabilitative services. Because shock incarceration is a relatively new concept, little data is currently available to accurately assess its effectiveness. Initial evaluations of programs

currently in operation in Louisiana and New York should become available in late 1989.

The Virginia State Crime Commission was charged by the 1989 General Assembly to examine the feasibility and advisability of a "boot camp" program for Virginia. Recently, after a study of existing programs, the Crime Commission endorsed the establishment of a pilot "boot camp" program, with specific guidelines on the nature of the offender to be eligible, and the length and nature of time to be served.

The members of this Commission were divided in their opinions of the benefits of "Boot Camp" programs. While some supported the approach as a pilot effort, others voiced reservations about the Commonwealth's adopting this approach, and no consensus was reached.

Development of General District Court Services: Except for the Virginia Alcohol Safety Action Program (VASAP) staff, who address the criminal offense of Driving Under the Influence, most General District Courts do not have staff members similar to the probation officers assigned to the Circuit Courts. Consequently, there are few options available to General District Court judges at the time of sentencing. Since one-fourth of the population of Virginia's jails are sentenced misdemeanants, District Court Services staff could allow for greater use of pretrial services and of sentencing alternatives to be used in lieu of incarceration for these offenders. The Community Diversion Incentive

(CDI) program is the single General District Court service program available to most judges. The original intent of CDI was to provide an incentive to the community to divert felons who would have otherwise been incarcerated. However, changes in the wording in the *Code* and in actual practice no longer tie the funding to diverting felons who would have come into the state or local facilities. As a result, the Commission learned, the fastest growing use of CDI has been for misdemeanor offenders. While this may, in fact, reduce the numbers of persons coming into the local jails, it is more expensive than probation services and does little to improve the situation in the state system. There are indications that a significant percentage of persons on CDI would have been placed on probation had CDI not been available, or had District Court Service programs been available.

Recommendation 24: General District Court probation services should be initiated and/or expanded to all districts throughout the Commonwealth, through state personnel or nonprofit organizations such as "Offender Aid and Restoration," in order to provide alternatives to incarceration for General District Court judges. The Secretary of Transportation and Public Safety should prepare a plan for implementing this recommendation, and present the plan to the Governor and the General Assembly by November 1, 1990. The plan should include an analysis which examines the potential benefits to be derived against the costs.

Increased Use of Probation and Intensive Supervision: Probation provides an alternative for offenders who would otherwise be sentenced to confinement or released into the community without restrictions. When compared to other states, Virginia's use of probation has been low.

A 1983 Department of Planning and Budget study of the probation and parole system concluded that the use of probation as an alternative to incarceration could be increased if the perceived lack of sufficient community resources to ensure community safety and handle offender rehabilitation, and the perception that probation officers are overworked, were addressed. Judges, interviewed as part of that study, indicated that family counseling, substance abuse treatment, and job readiness training were particularly needed to assist probationers. Judges also indicated that the decision between incarceration and probation was heavily influenced by the issue of community safety.

Today, the issues impacting the use of probation are similar to those described in the 1983 study. Caseloads for probation officers have increased, rehabilitation services to probationers outside of residential treatment programs could be improved, and the public's perception of the crime problem may influence some judges to incarcerate those who could benefit from intensive probation.

Intensive supervision is a type of probation or parole which places more stringent requirements on participants and requires more frequent contact with a probation or parole officer.

These officers work with smaller caseloads than regular probation officers, and make frequent contact with the offender's place of employment, treatment program, and family. This form of supervision is most appropriate for nonviolent offenders who would have been, or would have remained, incarcerated had regular supervision been the only other option.

While no clear evidence exists to suggest that probation is more or less successful than incarceration in lowering recidivism rates, there is little doubt that probation programs are less costly to operate. Given the increasing costs of incarceration, further enhancements to the probation system may be an attractive cost avoidance mechanism. It currently costs approximately \$2,700 to place one felon on intensive supervision for a year; the cost to keep that offender in jail is \$15,000 per year and \$18,000 per year in prison, not including initial capital costs.

In an interview with the Chairman of this Commission, Parole Board members cited the availability of intensive supervision as a key to safely increasing the parole grant rate. As noted earlier in this chapter, a five percent increase in the annual parole grant rate, for crimes other than homicide, manslaughter, rape and manufacture/sale/distribution of cocaine, heroin, marijuana, and controlled drugs, would equate to a reduction in the state prison population of approximately 678 by fiscal year 1994. Increased availability of intensive supervision is likely to show a direct and immediate reduction in the number of inmates entering the correctional system, as well as a reduction in

the length of time served in prison, while providing safeguards for public safety. While heightened supervision will likely increase the rate of violations, there will be a net reduction in the need for prison beds with any expansion of intensive supervision.

Recommendation 25: The Department of Corrections should expand intensive probation and parole supervision programs, which may include team supervision, to all districts, and should limit such caseloads to a ratio of no more than 10 clients to each probation/parole staff member (10:1). These intensive supervision caseloads should be restricted to those offenders identified through the Sentencing Guidelines assessment process as likely to have received a jail or prison sentence, and to technical probation and parole violators (not new offenses) whose probation or parole would have otherwise been revoked, resulting in their incarceration. To increase judges' confidence in probation as an alternative to incarceration for certain offenders, a budgetary goal for the regular, nonintensive supervision, caseloads of probation officers should be established at a ratio of 50 clients per officer (50:1). The Department of Corrections should submit addenda in the 1991-92 budget process for the positions required to implement these recommendations.

Recommendation 26: The Parole Board should minimize, when appropriate, the number of parole violators being brought back into the state correctional system for technical violations (not new criminal offenses) of parole by increased use of alternatives such as placement in intensive supervision, prerelease centers or other community-based programs designed

or created for such a purpose. The Parole Board Chairman should report annually on the supervision status of technical violators to the Secretary of Transportation and Public Safety.

Providing for Secure Confinement

The need to provide new facilities and to expand existing ones is certainly not unique to Virginia. Forty-seven states currently have new prison facilities under construction or are building additions to those that already exist. Many types of facilities can be provided: minimum/medium/maximum security prisons, prison farms, regional jails, local jails and jail farms. The facility selection process is driven by prisoner classification, forecasts of inmate populations, and the definition of state responsibility.

There are significant differences in the costs of cellblock and dormitory construction, and in the costs of various security design features to be included in either type of construction. Any space needs plan should reflect bed space needs by level of security desired. The state should maintain a range of standard designs and/or specifications for use in assisting in the planning of state facilities, local jails, regional jail facilities, and jail farms to accommodate various types of prisoners identified through an improved classification system.

Legal challenges, resulting from overcrowding, are not determined on square footage alone but are considered in terms of "totality of conditions." It is possible to increase current rated capacities if additional program space and common areas, programs, and administrative support are added. Re-

cent emphasis on construction of additional bedspace to relieve the unprecedented overcrowding in both jails and prisons has focused almost entirely on housing space at the expense of program and administrative space needed. Studies have shown that physical crowding is less disruptive when the inmates have meaningful activities to occupy their time. Continued construction of housing without adequate program space in both local and state facilities can only invite unrest and disruption in the future, and may lead to greater court involvement in corrections administration.

Master Planning to the Year 2000:

Long-term planning, for the remainder of the century, must be undertaken now to provide the necessary bedspace through the year 2000. Despite the current aggressive construction program, which will result in a 45 percent increase in prison capacity in less than four years, even more extraordinary growth has produced a critical bedspace shortfall. The current shortfall in cell and dormitory space, coupled with the projected need for more prisons and jails, points to the need to acquire land and initiate planning for construction of additional correctional facilities and expansion of existing facilities over the next decade.

The construction of new correctional facilities is an alternative to overcrowding that is being exercised extensively within the Commonwealth. The completed or continuing construction of over 5,400 beds at 13 different construction sites in four years has placed a heavy demand on the Department of Corrections' management team. The continued need to provide for new correctional facilities should be handled by an

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...unprecedented shifts in crime patterns have created the need to quickly expand the capacity of the prison and jail system.

...future site selection decisions will need to balance the advantages and disadvantages of locating new major facilities along Virginia's southern border and in the state's western regions, versus in the eastern one-third of the state from which over 70 percent of state inmates come.

organizational unit with no other responsibilities than state correctional capital facilities planning and construction. Such an organizational entity would need to provide three major functional responsibilities: planning and acquisition; design and engineering; and construction management. A fourth support function, fiscal services, may also be needed.

Recommendation 27: The Department of Corrections, with assistance from the Department of Criminal Justice Services or other agency designated as the statewide jail planning agency, should develop a 10-year corrections needs Master Plan, composed of two parts: state facility needs and local facility needs. Outside experts in the development of long-range planning should be contracted to assist in the development and preparation of the Master Plan. The foundation of such a plan should be the forecast of offenders to be housed in jail and in prison, and the plan should contain contingencies for accommodating levels of error which are intrinsically a part of any forecast. The Master Plan should provide for full consideration of environmental impact in site selection and permit the early identification and purchase of land parcels suitable for prison facilities. Site selection decisions should, to the extent possible, ensure that any corrections expansion program is carried out in the overall interest of the Commonwealth, minimize costs during all phases of the project, and be supportive of sound management over the life of the facility. The plan should reflect the varying levels of security required by the types of inmates to be housed in them, and prioritize the types of facilities needed within the next biennium. The plan

should be presented to the Governor and General Assembly, with updates and extensions every year to coincide with the development of the budget.

The 10-year Master Plan for state prison needs should include 1) time-tables for site selection and acquisition, 2) number of new facilities or existing facility expansion by size and level of security, 3) capital outlay and operating estimates, and 4) a calendar for approval, financing, regulatory oversight, and contracting.

The 10-year Master Plan for local and regional jail facilities should be based on the statewide local facilities forecast and information received from individual localities and should include 1) number and location of new facilities or existing facility expansions by size and level of security, 2) capital outlay and operating estimates, and 3) a calendar for approval, financing, regulatory oversight, and contracting, for identified localities.

In addition, the Master Plan should incorporate estimates and plans for the use of probation, community diversions, prerelease placements, and parole supervision as they relate to the incarceration needs of the Commonwealth. The Master Plan should be completed by October 1, 1991; an interim report on its development should be provided to the Secretary of Transportation and Public Safety, the Governor and the General Assembly by October 1, 1990.

Recommendation 28: A specialized construction unit should be organized to focus solely on the process of planning and constructing new corrections facilities. The organization should be responsible for planning and acquisi-

design and engineering, and construction management, and should be funded to be able to draw from professional construction experience and expertise. The unit should also be responsible for providing technical assistance to localities and regional authorities desiring to construct jail facilities. The unit should be operational by July 1, 1990, and a report on its structure and responsibilities made to the Secretary of Transportation and Public Safety, the Governor and the General Assembly by December 1, 1990.

Site Selection: Site selection decisions should, to the extent possible, ensure that any corrections expansion program is carried out in the overall interest of the citizens of the Commonwealth. Controversy often surrounds the selection of prison sites, as well as the expansion of existing sites.

Decisive efforts to improve forecasts beginning the development of a five-year Master Plan, unprecedented shifts in crime patterns have created the need to quickly expand the capacity of the prison and jail system. The need for immediate expansion must be balanced with the need to satisfy construction permit and environmental impact requirements. The current review and update of the Commonwealth's environmental impact requirements may be beneficial in clarifying actual requirements and removing legal ambiguities.

In order to build quickly, it is necessary to have sites preselected and readied to accommodate new correctional facilities. This entails projecting the number of locations and

amount of property necessary in the planning horizon, locating sites that are acceptable for prisons of various security levels, acquiring those properties or options to those properties, and obtaining prior land use approvals. The necessity of this process becomes apparent when one considers that litigation can delay indefinitely prison construction start-ups, further aggravating overcrowding in existing institutions.

The Master Plan should provide full consideration of community and environmental impact in site selection, and permit the early identification and purchase of land parcels suitable for prison facilities. In addition, future site selection decisions will need to balance the advantages and disadvantages of locating new major facilities along Virginia's southern border and in the state's western regions, versus in the eastern one-third of the state from which over 70 percent of state inmates come. Work force availability, effective corrections practices, transportation and construction costs, and environmental constraints are all issues which must be considered.

Recommendation 29: The General Assembly should consider an amendment to the *Code of Virginia* which: 1) requires every planning district in Virginia to identify a suitable site for a state correctional facility with a capacity of 1,000 inmates, and 2) establishes a policy board, appointed by the Governor with fixed staggered terms, to determine the priority of sites for actual construction. The Secretary of

Transportation and Public Safety should develop an implementation plan for this recommendation and requirements for site suitability and report to the Governor and General Assembly by December 1, 1990.

Recommendation 30: The Governor, in coordination with the Virginia Congressional Delegation, should continue to work with federal officials to identify federal lands, not part of an existing correctional facility, suitable for conversion and use as local or state correctional sites.

Recommendation 31: The option of site sharing should be explored between the Department of Corrections and the locality/regional authority when any new facility is planned, either state or local/regional.

Recommendation 32: The Secretary of Administration, in coordination with the General Assembly and the Office of the Attorney General, should continue to review the environmental impact process to determine ways that the process can be modified to accommodate in-fill expansion projects and the creation of emergency bedspace.

Construction Needs Attributable to Changes in Policy: Prisoners convicted of violent crimes in Virginia serve longer periods of time behind bars than the national average serving time for like crimes. This is partly a function of legislation which has met the public demand to "get tough on crime." As a result, the demand for prison beds has been increasing at a rate construction has not been able to match. In an attempt to tie policy changes to the provision of needed bedspace, at least one state, Louisiana,

through a Commission on Overcrowding, has proposed legislation requiring that funding for expanding the correctional system be provided before any proposed law that would increase the inmate population can become law.

The construction of any correctional facility is expensive. The capital costs associated with a 1,700 cell (2,100 inmate) medium/maximum security institution such as Greenville would be approximately \$125 million; the annual operating cost of such a facility would be close to \$35 million. A less secure dormitory-type facility of 600 beds would require an outlay of approximately \$26 million and annual operating costs of \$8 million. In-filling projects have been accomplished which provided an additional 800 beds at a capital cost of \$25 million, with an annual operating cost of approximately \$11 million.

While attention is often focused on the capital costs of constructing new prison and jail facilities, the cost of maintaining and operating them is often overlooked. Capital dollars are a one-time investment, while operating funds continue over the life of a facility. Over the 20-year life span of a correctional facility, operating costs can equal three to five times the cost of initial construction. Before a decision is made to construct a new facility, cost should be analyzed, not just on the initial cost to construct, but also taking into account ongoing funding requirements.

Recommendation 33: The General Assembly should consider amending the *Code of Virginia* so that any proposed legislation which would have

the effect of increasing the prison or jail population would become law only if the funds required to increase the capacity of the system commensurately are appropriated. This recommendation is intended to include requests for increases in sworn law enforcement officers, increases in penalties for criminal activities, and other legislative enactments which may increase the number of prison and jail inmates. The Governor and the General Assembly should jointly assess the Constitutional and practical implications of this action in order for such legislation to be considered in the 1991 legislative session.

Containing Construction and Operating Costs: In order to contain both the construction and operating costs of new facilities, it has been advantageous to develop standard layouts for a range of state prison building types, sizes, and capacities. This approach should also be extended to local and regional jails. Plans should call for the use of materials and systems that are cost-effective and should incorporate standard components wherever possible. These plans should also place emphasis on minimizing adverse economic, environmental and community impacts.

After each application in construction, the standard designs should be reviewed for potential modifications to enhance future construction and efficient management. Some of these efficiencies may be reductions in construction time, reductions in the cost of construction, or decreased staffing and operational costs. Even small decreases in operational costs can lead to significant savings over an extended time period. For example, design changes from Augusta/Nottoway/

Buckingham will save \$3.6 million annually in the staffing of Greenville and Buchanan Correctional Centers.

Construction management, by the proposed special construction unit, with some modifications to permit the use of General Contractor or Project Managers, should be used in conjunction with standard designs. The Commonwealth should utilize competitive bidding from prequalified bidders, and obtain a fixed price for the project, except in emergency situations where nonstandard designs and "fast track" techniques are required.

Recommendation 34: The Secretary of Administration should contract for a study of the procedures for planning and implementing prison construction, in order to streamline and improve the process and encourage the most efficient completion of projects with minimal delay or legal ambiguity, while preserving full regulatory oversight. The results of this study should be reported to the Governor and the General Assembly by October 1, 1990.

Recommendation 35: The Departments of Corrections and General Services should continue to develop and refine standard designs for prison building types, sizes, and capacities. Emphasis should be placed on replicable and expandable units as the most flexible for future expansion. These standard designs should incorporate the use of materials and systems that are cost effective on a life cycle basis and the use of standard components wherever possible, with an emphasis on minimizing construction time and cost. After each application in construction, the standard drawings should

ewed by the Department of Corrections for potential modifications to incorporate changes that will enhance future construction and efficient management, such as security issues, staffing or other operational efficiencies, reductions in construction time, or reductions in the cost of construction. By August 1, 1990, the agencies should have an approved inventory of standard designs for future use.

Recommendation 36: Once standard designs are complete, the specialized construction unit should manage the construction of all new facilities. The Commonwealth should use competitive bidding from prequalified bidders, and obtain a fixed price for the project, unless an emergency condition exists.

Recommendation 37: All new local and regional jail facilities, and expansion of existing facilities, should be designed and constructed to be efficient in staffing and operation and to minimize construction time and cost. Standard layouts for inmate housing units and program space should be developed for new facilities through a coordinated effort among the Department of Corrections, the Department of General Services, and local government officials. The Department of Corrections should issue guidelines consisting of construction standards, reference documents, standard layouts, and representative floor plans which accommodate various approaches to inmate supervision. These guidelines should be reviewed and updated regularly to incorporate improvements in construction technology and operating techniques. Where possible, jurisdictions should utilize previously designed plans proven to be cost and staff

efficient. The Department of Corrections should maintain an inventory of such plans and standard layouts and notify localities and regional authorities of the existence of the inventory by August 1, 1990.

Public versus Private Operations:

There are currently several private companies constructing and operating correctional facilities in the country. These companies are responsible for the construction of their own prisons, and receive a per diem payment for each inmate housed. Perhaps the most significant advantage to some states are the financing options to lengthy and costly prison construction projects offered by private sector financing. However, through the Virginia Public Building Authority, the Commonwealth currently has methods of financing similar to those used by private contractors.

Operating cost comparisons are seldom made on the same level of security. While private operations typically handle only low security inmates, their costs are frequently compared to average inmate costs in public institutions. Legal questions have been raised as to whether a state or locality can contract away its liability for public safety or injury within a private facility. An additional concern has been raised about the potential for increased costs because of the lack of competition for contract renewal.

The Commission favors continuing the practice of purchasing services for offenders, but not contracting for the operation of a secure facility.

Capital dollars are a one-time investment, while operating funds continue over the life of a facility. Over the 20-year life span of a correctional facility, operating costs can equal three to five times the cost of initial construction.

Even small decreases in operational costs can lead to significant savings over an extended time period. For example, design changes from Augusta/Nottoway/Buckingham will save \$3.6 million annually in the staffing of Greenville and Buchanan Correctional Centers.

Another means of conserving the use of existing resources is double-celling or double-bunking.

In order to continue to maximize existing space, the numbers and types of inmate educational, rehabilitative, and work programs should mirror increases in population, including those associated with double-celling. With increased investment in programs for inmates... additional double-celling may be feasible and some new construction may be avoided.

While it cannot be stated with certainty that educational and vocational skills translate into reduced recidivism, it is clear that limited job skills and an inability to read and write guarantee that high rates of recidivism will continue.

Maximizing Existing Sites: Sound planning strategies require a thorough assessment of current space utilization at both the state and local level. One means of prudently utilizing existing space is the construction of buildings within, or adjacent to, an existing security perimeter. This technique, known as in-fill construction, reduces the cost of facility expansion by minimizing the cost of security fencing and related perimeter detection devices. It also makes maximum use of the existing support services and infrastructure (water, wastewater, food, and medical services).

Another means of conserving the use of existing resources is double-celling or double-bunking. A joint report of the Senate Finance and House Appropriations Committees to the 1987 General Assembly recommended that, for planning purposes, the capacity of all new major institutions should include double-celling at the 25 percent level. Although the practice of double-celling inmates is currently used to maximize existing space, educational and rehabilitative opportunities, as well as opportunities to perform meaningful work in state institutions, are limited.

The Supreme Court of the United States has determined that the "totality of conditions" within an institution determine whether those conditions are Constitutionally acceptable. Idleness, the population density, and finite limits to program and work opportunities compound the problem of inmate population management. In order to continue to maximize existing space, the numbers and types of inmate educational, rehabilitative, and work programs should mirror increases in

population, including those associated with double-celling. With increased investment in programs for inmates (education, work, rehabilitation), additional double-celling may be feasible and some new construction may be avoided.

Recommendation 38: The Department of Corrections, with assistance from the Department of General Services, should inventory existing prison and jail sites to identify expansion and in-fill opportunities within state facilities, and report their findings by December 1, 1990 to the Secretary of Administration, the Secretary of Transportation and Public Safety, the Governor, and the General Assembly. Facility expansions and in-fill construction should be held in reserve for contingency use, recognizing that these options may be needed in the short range to meet immediate capacity deficits.

Recommendation 39: The Department of General Services, in cooperation with the Department of Corrections, should inventory underutilized state facilities, such as schools, mental health hospitals, and learning centers to determine if it is possible to convert them to corrections facilities. The agencies should also contract for a survey to determine the existence of hotels, military barracks, or schools not in state ownership which could be converted to correctional use. The agencies should provide for a preliminary estimate of the cost of converting buildings identified through the survey, including analysis of cost issues related to licensed asbestos abatement, fire code requirements, and historic preservation. The Department of General Services should report the

Results of the inventory and progress on the contracted survey to the Secretary of Administration and the Secretary of Transportation and Public Safety and the Governor by October 1, 1990.

Recommendation 40: The use of existing jail farms should be maximized. The Department of Criminal Justice Services (DCJS) should study the use of these farms with the intent of recommending the most appropriate population to be housed there, and report to the Secretary of Transportation and Public Safety and the localities by December 1, 1990. In addition, DCJS and the Department of Corrections should examine the feasibility of local jail inmates working on state prison farms, and report those results to the Secretary of Transportation and Public Safety.

Recommendation 41: Because of the benefits associated with providing meaningful work opportunities, inmates should be used to construct additional support, program, or dormitory space in an existing facility, whenever cost-effective. The Master Plan should reflect time lines for such facilities commensurate with the constraints of expediting such construction.

Recommendation 42: The numbers and types of educational, rehabilitative, and work programs for inmates should mirror increases in population, including increases associated with double-celling. No new prison or jail facility should be constructed without an appropriate amount of treatment, program and administrative support space being constructed at the same

time. Treatment, program and administrative support space should be constructed at facilities where recent in-fill housing projects have been completed without such additional space.

Reducing Recidivism

While incarceration is costly, repeated incarceration takes a toll on not only the offender, but also on the community and ultimately the taxpayer. As discussed earlier in this report, approximately 40 percent of Virginia's convicted felons had a felon record prior to their current conviction. However, research shows that:

- 80 percent of substance abusers, who do not receive treatment, will return to prison within three years, while less than 25 percent who receive treatment will recidivate;
- 60 percent of untreated sex offenders recidivate with another sex crime, while only 15 to 20 percent of sex offenders who receive treatment will return to prison;
- The likelihood of a person becoming involved in crime decreases if he or she gets a job within 30 days of release, and stays in that job for at least 90 days; and
- While it cannot be stated with certainty that educational and vocational skills translate into reduced recidivism, it is clear that limited job skills and an inability to read and write guarantee that high rates of recidivism will continue.

Increased Use of Work Release and Prerelease: The use of work release and prerelease is an effective method to ease inmates back into society. By gradually providing greater contact and interaction with society, while retaining considerable control of in-

mate's time and activity, and by enforcing values of work and responsibility, these options may also serve to reduce an offender's likelihood to recidivate.

Section 53.1-131 of the *Code of Virginia* has recently been amended to allow sheriffs or jail administrators the discretion to assign any person sentenced to confinement in jail to a work release program. Sheriffs or jail administrators may also authorize the offender to participate in educational or rehabilitative programs to supplement his work release employment. The sentencing court is to be notified about any work release assignments, and retains the power to revoke an offender's work release privilege.

If sheriffs choose to use this new authority for inmates they believe to be good risks, but who were formerly unable to obtain work release status, there could be a significant impact on overcrowded jails. Offenders placed on work release could provide savings by paying a "user fee" for services they receive, such as room and board, electronic monitoring, supporting their families, and by making restitution payments to victims from their wages. Work release also ensures that an inmate will have a job upon full release from jail.

Existing policies can work to the detriment of the few rehabilitative efforts that are in place in the local jails. Once an inmate, housed in a local jail, is classified by the Department of Corrections, that inmate is no longer eligible for many local programs, including work release, even though transfer to a Department of Corrections' facility may not be imminent.

Recommendation 43: The Department of Corrections, as part of the Master Plan, should establish throughout the 10-year period at least 10 regional prerelease centers located primarily in the southeast, central and northern Virginia areas, from which the majority of state inmates come and to which they will return.

Recommendation 44: The General Assembly should consider amending the *Code of Virginia* to specifically provide that prisoners within one year of their release date, upon individual written agreement between the director of the Department of Corrections and the local sheriff or regional jail superintendent, may be transferred from a state institution to a local or regional facility to participate in work release or other prerelease programming.

Programs for Inmates in Jails: Many of Virginia's jails offer little or no programming for inmates. This is due primarily to a shortage of space brought on or aggravated by severe overcrowding. Few jails across the Commonwealth have access to, or make full use of, rehabilitative services which should be made available to them by local education, mental health, substance abuse, and social services agencies. In a few localities, Community Service Boards provide some programming through their staff, but most do not. Some localities are fortunate to have volunteers provide some of these valuable services; however, this becomes difficult when jails lack adequate program space.

Since some inmates currently remain in a local jail for as long as two years, there is a real need for programs that will educate and rehabilitate offenders and prepare them for eventual release to the community. A concerted effort across agency lines is needed to attempt to break the cycle of criminality exhibited by many offenders.

Significant numbers of inmates come into local jails with a history of substance abuse or mental illness. Immediate intervention in these areas could prevent problems in the initial adjustment to the jail setting, and could prevent a person from being detained, for his own protection, longer than would be necessary. Longer term treatment programming, for the length of time an inmate is confined, could result in positive movement toward solving the root problems underlying the substance abuse or mental health problem.

At present, the Commonwealth provides the bulk of funding in support of local incarceration and there is little incentive for localities to develop meaningful local diversion initiatives. The Commonwealth needs to expand current efforts and encourage new and innovative approaches to post conviction diversion. By closely monitoring the development of new programs, from their inception, controls could be put in place which would allow an effective evaluation to be completed before the program becomes institutionalized.

Recommendation 45: Each Community Services Board should have funding to support sufficient staff positions to provide or arrange alcohol and

other drug abuse and mental health services in local jails. These services should include identification, assessment, counseling, prerelease service planning, crisis intervention, and liaison with probation and parole. The Department of Mental Health, Mental Retardation and Substance Abuse Services should prepare a plan for implementing this recommendation, and present its findings to the Secretary of Health and Human Resources, the Secretary of Transportation and Public Safety, the Governor and the General Assembly by November 1, 1990. The plan should include analysis which examines the potential benefits to be derived against the costs.

Recommendation 46: Full use should be made of community resources to increase work release, education programs, and drug therapy to facilitate continuing participation following the release of inmates serving their sentence in a jail. The Department of Corrections, through the Chief Probation and Parole Officer, should develop formal agreements by August 1, 1990 with local Community Services Boards or other service providers, to assure the availability of follow-up treatment as needed by those persons being released on discretionary/mandatory parole. This recommendation would apply primarily to cases with mental health, substance abuse, and/or sex offender needs. Increased funding should be made available for the purchase of services for offenders released to parole who are in need of treatment for specialized needs. The Department of Corrections should report to the Secretary of

Transportation and Public Safety and the Secretary of Health and Human Services by October 1, 1990 on the implementation of this recommendation.

Programs for Inmates in State

Prisons: It has been estimated that 85 percent of inmates, nationwide, have serious drug addiction problems, even though many of these inmates were not convicted on drug-related charges. In a recent study conducted in fourteen major cities across the nation, it was found that 54 to 82 percent of all persons arrested tested positive for illegal drug use.

Even though this Commission's work did not address the causes of crime, the themes of drug use and distribution have been prevalent issues throughout this Commission's work. Research suggests that effective substance abuse treatment of inmates can significantly reduce their involvement in crime upon release. Given the numbers of offenders committing drug-related crimes, the Commonwealth must find ways to deal with large numbers of these offenders and their drug problems in order to stop their revolving door of drugs, crime and incarceration.

Studies have also shown that nearly 16 percent of the incarcerated population of the Department of Corrections have been identified as sex offenders. The treatment needs of these inmates vary greatly, with the most serious needing treatment in a setting separate from the general population. A comprehensive series of services must be developed and implemented. Intensive treatment services for the most serious needs

should be provided in institutions where the program has specifically been designed to meet these needs. At present, some services, such as literacy training, are being provided by volunteers to inmates in state institutions. However, there are not enough of these volunteers, nor adequate space to provide these services to all inmates who require them.

Historically, the ratio of the number of inmates in state facilities to inmates needing mental health care, in one of three categories — acute care, sheltered care, and outpatient care — has remained relatively constant. As population projections continue to escalate, planning to maintain an adequate number of acute and sheltered care beds must move forward aggressively. Given the two- to four-year timeframe required to construct space for these inmates, planning must begin now.

Recommendation 47: The Department of Corrections should implement a statewide substance abuse program as currently being piloted under a federal grant, and should develop and implement an adequately staffed statewide sex offender program. The plan to implement these services statewide should form the basis for a 1992-94 budget addendum request for the Department of Corrections.

Recommendation 48: The Departments of Corrections, Criminal Justices Services, and Mental Health, Mental Retardation and Substance Abuse Services, Community Services Boards, Community Corrections Resource Boards and other state and local agencies, should plan and fully implement in three localities during fiscal year 1990-1991, diversion, in-

Since some inmates currently remain in a local jail for as long as two years, there is a real need for programs that will educate and rehabilitate offenders and prepare them for eventual release to the community.

It has been estimated that 85 percent of inmates, nationwide, have serious drug addiction problems, even though many of these inmates were not convicted on drug-related charges.

Currently, Department of Correctional Education programs reach only about one-third of the inmate population, with approximately 10 percent participating in vocational education and 20 percent in academic programs.

Over the past year-and-a-half, Virginia Correctional Enterprises has made a dramatic turnaround. Significant changes have taken place in modernization of equipment, cost and inventory controls, and in maximizing profits from the sale of goods.

tensive supervision and treatment services for people who have alcohol and other drug problems. The plan to implement this network of services state-wide should form the basis for 1992-94 budget addendum requests for the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Recommendation 49: The Departments of Corrections (DOC) and Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) should jointly assess the feasibility of establishing one or more special-purpose institutions for the treatment of inmates who are substance abusers. The goal of establishing such an institution would be to treat significant numbers of drug abusers, with the intent of reducing future drug-related crime. Consideration should be given to mandated participation by those identified by the courts as most amenable for such treatment (e.g. indications of significant drug use, a history of criminal activity), and the use of sentences within specified ranges for those in the institution, to be released only when professional staff agree that sufficient progress has been made to suggest postincarceration success. The need to adequately monitor and follow-up prisoners after their release to discourage their continuing in criminal activity and to provide a basis for evaluating the success of this approach should be identified in the assessment. A report of the feasibility and impact should be provided by DOC and DMHMRSAS to the Secretary of Health and Human Resources, the Secretary of Transportation and Public Safety, the Governor and the General Assembly by July 1.

1990. If deemed feasible, the institution should be incorporated into the Master Plan.

Recommendation 50: Access to treatment services for the chronic public inebriate, the substance abuser and those in need of mental health services should be expanded at the local level through existing Community Services Boards; the need for additional secure beds in facilities of the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) should also be identified. DMHMRSAS should report on the implementation of this recommendation to the Secretary of Health and Human Services and the Secretary of Transportation and Public Safety by October 1, 1990.

Inmate Education and Vocational Training: Educational and rehabilitative opportunities, as well as opportunities to perform meaningful work state institutions are currently limited in the Commonwealth. As Virginia's prisons become increasingly overcrowded and prison officials are occupied primarily with the task of housing inmates, the chance for effective inmate programs has not kept pace.

Currently, Department of Correctional Education (DCE) programs reach only about one-third of the inmate population, with approximately 10 percent participating in vocational education and 20 percent in academic programs. Typically, an adult inmate receives 90 minutes of academic instruction per day. Vocational students usually have 180 minutes per day. Resources and space are already stretched to capacity. The Commission heard testimony that

for educational programs to as well as serve as an important key to combating inmate idleness, the daily time an inmate spends in the classroom should be extended to one-half day.

The Commission was also told that some of the current vocational shops at adult institutions are so small that more than eight students can be instructed at any one time, despite the fact that instructors could, and should, instruct at least twelve students in each class. Over the course of a year, one-third of a teacher's salary is wasted, and one-third of the potential number of students who could be served are not, because of undersized classroom space.

Inmates housed in field units are the ones most likely to be re-entering the community soon. In order to be job-ready upon release, they need basic skills, vocational and life/pre-employment training. The current addition of only a "quick" solution should be followed by more permanent shop and classroom space, some of which could be built by inmate labor and inmate educational students.

DCE has suggested a two-strand approach be taken to vocational education. The first should focus on inmates who will soon be released and could offer training in trades that offer good employment opportunities. These trades must be taught to current market standards and with technologically up-to-date equipment. This would require extensive upgrading of current equipment. The second should focus on inmates with long sentences and would enable them to learn skills in trades that could be utilized in Virginia Correctional Enterprises

(VCE) jobs, industrial settings and institutional jobs. This training would offer an additional payback to the community in meaningful work training to be used upon the inmate's release. Greater coordination between DCE and VCE must be established, through formal channels, to be effective.

Finally, educational opportunities should not be limited simply to those leading to a GED or high school education. Some inmates could benefit from significantly more schooling. The Commonwealth's college system is in a unique position to provide additional training to inmates confined in local jails and state prisons. Limited use of this resource is currently being made.

Recommendation 51: Memoranda of Understanding should be developed between the Department of Corrections, the Department of Correctional Education, colleges, local boards of education, state employment and labor agencies, local private industry councils and nongovernmental agencies (both private for-profit and nonprofit) by December 1, 1990. These agreements should be for the purpose of enhancing educational (including basic literacy training) and vocational training opportunities for inmates while incarcerated, and facilitating reintegration of inmates into the community and into jobs or further educational and training opportunities upon release.

Recommendation 52: Cooperative efforts between the Commonwealth's college system and the Department of Corrections should be strengthened and expanded by concentrating appro-

priate inmates in facilities close to the colleges willing to provide college courses to the inmate population.

Recommendation 53: The Department of Correctional Education should have a greater role in planning for new institutions, renovations, and expansions, to ensure that the space allocated for educational programming meets national and state standards, and will permit cost effective delivery of services. The Department of Correctional Education should identify an appropriate role and report to the Secretary of Transportation and Public Safety, the Governor and the General Assembly by October 1, 1990 on the implementation of this recommendation.

Prison Industries: Over the past year-and-a-half, Virginia Correctional Enterprises (VCE) has made a dramatic turnaround. Significant changes have taken place in modernization of equipment, cost and inventory controls, and in maximizing profits from the sale of goods. Further expansion of the program is warranted. Additionally, placement of VCE within the structure of Department of Corrections does not always provide an adequate forum for the needs of prison industries. It is forced to compete with other programs and issues for resources and the attention of decision makers, sometimes at the expense of inmate jobs and expansion of the program.

Implementation of a corporate prison industries model would: allow faster expansion of prison industries, building on the progress made to date; reduce the state fiscal responsibility;

increase the visibility of prison industries in Virginia; provide the greatest flexibility in decision-making; increase the private sector involvement in prison industries; provide for the most cost-efficient operation by lifting of procurement and personnel restrictions; increase inmates' job skills, job placement and follow-up; and more closely mirror working conditions of the outside world.

Recommendation 54: A quasi-governmental entity should be established to operate Virginia's prison industry program. Based on a corporate model for prison industries tailored to meet Virginia's needs, it should include the following elements:

- Flexibility in the model to allow development of private sector, or "free venture" model programs that allow private industries to establish "factories within fences" at correctional facilities.
- Financial incentives to attract private sector involvement, including the ability to make product lines available in the private sector when appropriate.
- A policy board (corporate board) appointed by the Governor and confirmed by the General Assembly, the members of which cannot be removed without cause during the term of their appointment.
- A focus on the employment of the maximum number of inmates possible, not to fall below the current percentage of inmates employed by the Virginia Correctional Enterprises (VCE).
- A continuum of industry settings, some of which would require relatively unskilled labor but which still establish good work habits, and others which would require relatively sophisticated job skills.

- A consistent inmate pay scale in all prison industry settings.
- Progress in other educational/vocational programs as part of inmate pay decisions, as appropriate.
- Deductions from inmate pay for the recovery of the cost of room and board, payment into a restitution fund, as well as federal and state income taxes. Additional deductions for "forced savings" should be considered.
- A program of job skills training, job placement, and intensive follow-up upon release.
- A formal mechanism between the Department of Correctional Education and the new corporation to assure a more coordinated effort to train inmates in skills which can be used in correctional enterprise settings and in skilled and semi-skilled institutional jobs.

The goal of this entity should be to operate wholly on income generated by the enterprise, in lieu of state funds; however, maximum employment of inmates must be the priority. A report of the implementation plan and impact of this recommendation should be provided by the Department of Corrections to the Secretary of Transportation and Public Safety, the Governor and the General Assembly by October 1, 1990.

Addressing Overcrowding Issues in the Future

Criminal justice in Virginia currently is a two-tiered, state/local system which involves all branches of government in a complex interplay of impact and responsibility. The current overcrowding problem is one which will continue to affect the Commonwealth

and its cities and counties, as well as the executive, legislative and judicial branches, and demands a more systematic approach than currently exists in identifying long-range solutions.

This Commission, because of its composition, has brought expertise to bear on issues affecting overcrowding that transcend any one component of the criminal justice system. The knowledge and understanding of the complexities of these issues that are now encompassed in its members could be invaluable to resolving further the problems contributing to overcrowding in the future.

Recommendation 55: The Governor and the General Assembly should consider continuing the Commission on Prison and Jail Overcrowding for two years to provide ongoing state-wide oversight of efforts to consider and implement the recommendation of the Commission, and to continue pursue system-wide responses to the problem of overcrowding.

Conclusion

This Commission undertook the task of addressing issues related to prison and jail overcrowding during a period of unprecedented growth in both the local jail and state prison populations. It was also a period of resource constraint at both the state and local levels that forced the Commission to examine closely the issues of risk and cost. It now costs more to imprison a felon for four years than it currently costs to provide tuition, room and board for a student to acquire a four-year undergraduate degree, a masters degree and a doctorate at any of the state's finest colleges or universities. There exists a broad range of opportunities to impact on the serious prob-

prison and jail overcrowding. Some alternatives can have a major impact by themselves — changes in sentencing, for example — while others may have only a modest effect. Some are extremely expensive while others will cost little.

There is no single alternative that will serve as a panacea to overcrowding. Instead, a combination of the preceding alternatives must be thoughtfully selected and carefully implemented. A variety of changes at all phases of the judicial/correctional process, must be used in concert to reduce system inflows, reduce time spent in the system, increase system outflows, and reduce recidivism, while preserving public safety.

A rational approach is to continue to incarcerate the hard core, dangerous criminal while allowing some other offenders to remain in a community placement under controlled supervision and in corrective programs. This approach presents the more cost-effective option of reducing the bed-space shortfall. It must be noted though that no system, however well designed, is perfect.

A primary issue repeatedly raised before the Commission was whether the Commonwealth can build itself out of prison and jail overcrowding. The community, the public, will ultimately decide whether to involve itself in the issues of cost and cost-avoidance. What the Commission offers in this report is a rational perspective regarding the issues of risk and cost, recommendations which may alleviate costs without significantly increasing the risk to the community, and recommendations which will move the system toward operating as a true system.

It now costs more to imprison a felon for four years than it currently costs to provide tuition, room and board for a student to acquire a four-year undergraduate degree, a masters degree and a doctorate at any of the state's finest colleges or universities.

The community, the public, will ultimately decide whether to involve itself in the issues of cost and cost-avoidance.

Appendix A

Recent Legislation that Impacts Prison and Jail Populations

In 1980, House Bill 768 added malicious wounding to the list of offenses during which it is unlawful to use or display a firearm under penalty of a mandatory prison sentence. This list had previously included murder, rape, robbery, burglary, and abduction.

In 1981, Senate Bill 258 escalated the punishment of nonforcible sodomy from 1-5 to 5-10 years in prison in cases involving a parent and a child older than 12 but less than 16 years old; it also escalated the punishment for adultery and fornication from 12 months in jail to 5-20 years in prison in cases involving a parent and a child older than 12 but less than 16 years old.

In 1982, House Bill 2 increased the penalty for use of a firearm during the commission of a felony, first offense, from one year to two years in prison and increased the penalty for use of a firearm during the commission of a felony, subsequent offense, from three years to four years in prison.

In 1983, House Bill 220 authorized a mandatory minimum prison term of two years for the assault and bodily wounding of a full-time law enforcement officer and created three new categories of assault on such an officer. These three new offenses, also punishable by mandatory terms of incarceration, are: malicious bodily injury (punishable by 5-20 years in prison with a mandatory minimum of two years), unlawful bodily injury (punishable by 1-5 years in prison with a mandatory minimum of one year), and assault and battery (punishable by up to 12 months in jail with a minimum of six months).

In 1983, House Bill 266 authorized the circuit court, at its discretion, to order delinquent minors over the age of 14 to be incarcerated in facilities for adults (despite the availability of other space) when they have been convicted of rape or robbery and sentenced as adult felons.

In 1985, House Bill 1206 authorized a mandatory prison term for the assault and bodily wounding of a part-time law enforcement officer, thus equalizing the punishment for this offense regardless of whether the victim is a part- or full-time officer.

In 1985, House Bill 1669 mandated that the assault and bodily wounding by a supervised probationer or parolee of his or her own supervisor be punished by 1-10 years in prison.

In 1985, Senate Bill 463 made escape from secure custody a Class 6 felony, and mandated that prisoners with life sentences who escape from secure custody are ineligible for parole.

In 1985, Senate Bill 640 increased the statutory penalty for attempted capital murder from 5-20 years to 20 years-life in prison.

In 1986, House Bill 27 created, as a Class 2 felony, the offense of willful wounding which results in total and permanent disability.

In 1986, House Bill 378 established marital sexual assault as a new offense (punishable by 1-20 years in prison) and authorized forcible rape, forcible sodomy, or sexual penetration with an inanimate object of one's spouse to be punishable by five years in prison in cases involving marital separation or the serious physical injury of the victim.

In 1987, House Bill 861 mandated that anyone convicted of three separate offenses of the manufacture, sale, or distribution of or possession with intent to distribute a controlled substance, or murder, rape, or robbery — if at liberty between each conviction — is not eligible for parole.

In 1987, House Bill 1049 created a new offense, possession of a firearm while in possession of Schedule I substances or Schedule II coca products. This new offense is a Class 6 felony (penalty range 1-5 years).

In 1988, House Bill 3 created a new offense, the sale, barter, or gift of any firearm to certain convicted felons unless these felons are specifically authorized by the governor to receive firearms. This new offense is a Class 1 misdemeanor (penalty range up to 12 months in jail).

In 1988, House Bill 1068 mandated that discretionary parole consideration be extended from 15 to 25 years for Class 1 felons.

In 1988, Senate Bill 452 mandated the prohibition of certain restricted ammunition in the commission of any crime rather than just in certain crimes, as previously. The use of such restricted ammunition in the commission of a crime is a Class 5 felony (penalty range 1-10 years).

In 1989, House Bill 1765 mandated that those offenders convicted of criminal sexual assault must undergo DNA analysis and typing of their blood and that the test results must be provided to law enforcement officers upon request. It is expected that this legislation will result in the clearance of greater numbers of sex crimes.

1989 SESSION

LD7135301

HOUSE JOINT RESOLUTION NO. 402

Offered January 24, 1989

Creating the Commission on Prison and Jail Overcrowding.

Patrons—Almand, Hall, Hellig, Harris, R. E., Thomas, Martin, Philpott, Dicks, Marks, Diamondstein, Miller, Woodrum, Ball, Higginbotham, Maxwell, Glasscock, Jones, R. B., Cunningham, J. W., Jennings, Finney, Brown, Clement, Kennedy, Smith, Grayson, Plum, Mayer, Cooper, Robinson, Van Landingham, McDiarmid, Jackson, McGlothlin, Jones, J. C., Stosch, Axselle, Allen, Crshaw, Ackerman, DeBoer, Byrne, Stambaugh, Keating, O'Brien, Van Yahres, Forehand, Creekmore, Moore, Abbitt, Watkins, Bloxom, Morgan, Parrish, Hargrove, Hanger, Tata, Purkey, Rollison, Hagood, Crenshaw, Hamilton, Rollins, Council, Woods and Putney; Senators: Andrews, Gray, Anderson, Goode, Holland, E. M., Holland, R. J., DuVal, Fears, Buchanan, Colgan, Waddell, Truban, Lambert, Joannou, Miller, E. F., Wampler, Scott, Schewel, Calhoun, Miller, K. G., Russell, Walker, Holland, C. A., Nolen, Macfarlane, Stallings, Chichester, Barker, Gartlan, Saslaw, Marye and Houck

Referred to the Committee on Rules

WHEREAS, the Commonwealth already is responsible for more than 14,000 felons incarcerated in the Commonwealth's prison system and local jails; and

WHEREAS, the inmate population of Virginia's prisons has increased by fifty-one percent since 1980; and

WHEREAS, the population of Virginia's jails also is increasing dramatically; and

WHEREAS, at the same time, the length of sentences imposed on felons is increasing significantly; and

WHEREAS, the cost of building and operating correctional facilities to house prisoners is becoming burdensome for both the Commonwealth and its local governments; and

WHEREAS, these demands and needs can only be met through a thorough examination of our present and future needs for correctional facilities and through careful consideration of innovative and responsible approaches and alternatives to meeting these needs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, that there hereby is created the Commission on Prison and Jail Overcrowding to study prison and jail space. The Commission shall be composed of twenty-five members. The Governor shall appoint twelve members, including representatives from the Commonwealth's sheriffs, Virginia's judiciary, local government leadership, business and industry, the Board of Corrections and other experts in the field of criminal justice. The Commission also shall include six House members to be appointed by the Speaker and four Senate members to be appointed by the Senate Committee on Privileges and Elections.

The Secretary of Transportation and Public Safety, the Secretary of Administration, and the Chairman of the Compensation Board shall be ex-officio members of the Commission. The Governor shall designate a chairman and a vice chairman from among the membership of the Commission.

The Commission is charged with examining the short- and long-range demand for prison and jail space. Specifically, the Commission shall examine the relationship, interdependence, financing and functions of the state and local penal systems. It shall review the procedures and methodology for projecting demand. The Commission shall assess Virginia's and other states' approaches to pretrial detention, alternative sentencing, housing of various categories of nonviolent offenders, inmate work and educational activity, substance abuse and other rehabilitation programs, prerelease counseling and postrelease supervision.

All members of the Commission shall be reimbursed for actual expenses incurred in the performance of their official duties and shall be paid the same compensation and in accordance with the same limitations contained in § 14.1-18 of the Code of Virginia.

The Commission shall complete its examination of these matters and report to the Governor and General Assembly no later than December 1, 1989, in accordance with the procedures of the Division of Legislative Automated Systems for processing legislative documents.

Appendix B
Members of the Commission on Prison and Jail Overcrowding

**From the Senate
of Virginia**

Joseph V. Gartlan, Jr.,
Vice-Chairman of
the Commission
Howard P. Anderson
William A. Truban
Stanley C. Walker

**From the Virginia
House of Delegates**

Robert B. Ball, Sr.
J. Samuel Glasscock
Robert E. Harris
Lewis W. Parker, Jr.
W. Roscoe Reynolds
Alson H. Smith, Jr.

**Appointments by
the Governor**

Jack H. Ferguson
Chairman of the Commission
Chief Executive Officer (retired)
Virginia Power
Lin S. Atkins
Executive Director
Virginia CARES
James H. Dunning
Sheriff, City of Alexandria
Helen F. Fahey
Commonwealth's Attorney
County of Arlington
Joseph N. Green, Jr.
Vice Mayor, City of Norfolk
Clay B. Hester
Sheriff, City of Newport News
Raymond C. Louth
Business Representative
Sheet Metal Workers International
William F. Rutherford
Commonwealth's Attorney
City of Norfolk
H. Selwyn Smith
Judge, 31st Judicial Circuit Court

Dr. Richard E. Sorensen
Dean, R. B. Pamplin College
of Business/Virginia Polytechnic
Institute and State University
Wilford Taylor, Jr.
Judge, General District Court
of Hampton
Charles B. Walker
Executive Vice President
Ethyl Corporation

Ex-officio Members

Carolyn J. Moss
Secretary of Administration
J. T. Shropshire
Chairman, State
Compensation Board
Vivian E. Watts
Secretary of Transportation
and Public Safety

Steering Committee

Mr. Ferguson
Chairman
Senator Gartlan
Delegate Glasscock
Delegate Parker
Secretary Watts

**Legal/Legislative
Subcommittee**

Appointed Members
Senator Gartlan
Chairman
Senator Anderson
Ms. Fahey
Delegate Reynolds
Mr. Shropshire
Judge Smith

Advisory Members

Peter G. Decker, Jr., Esquire
Director, Board of Corrections
Calvin W. Fowler
Judge, Juvenile and Domestic
Relations, Danville
F. Claiborne Johnston, Esquire
Attorney, Mays & Valentine
Nancy Lake
Clerk, General District
Court, Fairfax
R. L. Simpson, Jr.
Judge, General District Court
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Theophlise Twitty, Esquire
Executive Director
Peninsula Legal Aid Center

*Principal Staff to Legal
Legislative Subcommittee*

Lin Corbin-Howerton
Department of Planning
and Budget
Id Powell
Department of Corrections

**Space Requirements
Subcommittee**

Appointed Members

Secretary Watts
Chairperson
Delegate Ball
Mr. Dunning
Reverend Green
Delegate Harris
Secretary Moss
Delegate Smith
Mr. Walker
Senator Walker

Advisory Members

Robert C. Bobb
Manager, City of Richmond
Edward S. Byrne
Vice President of Construction
The Evans Company
S. Cary Gill
Architect, I. V. Harris &
Associates, Inc.
R. Lindsay Gordon, III
Chairman, Board of
Supervisors, Orange County
William A. Hazel
Chairman of the Board
The Hazel Company
M. Wayne Huggins
Sheriff, County of Fairfax
William A. Kent
Mayor, City of South Boston
James M. Turner, Jr.
Chief Executive Officer
J. M. Turner Construction
Robert E. Washington
F.A.I.A., Washington Design
Group, Ltd.
Aubrey V. Watts, Jr.
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Virginia Beach
Brenda Wharton
Member, City Council
of Hampton

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Department of Planning
and Budget
Pat Finnerty
Department of Planning
and Budget
Michael Jones
Department of Corrections

**Inmate Management
Subcommittee**

Appointed Members

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Chairman

Ms. Atkins

Mr. Hester

Mr. Louth

Delegate Parker

Mr. Rutherford

Dr. Sorensen

Judge Taylor

Senator Truban

Advisory Members

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James M. Dyke, Jr.

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Professor Emeritus, Virginia
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Dr. McDonald Rimple

State Health Department
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Dr. James Windsor

President & Consultant
Personal Development Services

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Management Subcommittee*

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Department of Criminal
Justice Services

Jim Jones

Department of Corrections

**State/Local Responsibility
Subcommittee**

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Chairman

Senator Anderson

Delegate Ball

Mr. Robert Bobb

Mr. Dunning

Senator Gartlan

Delegate Glasscock

Delegate Harris

Mr. Hester

Mr. Huggins

Secretary Moss

Delegate Parker

Delegate Reynolds

Mr. J.T. Shropshire

Delegate Smith

Judge Smith

Senator Truban

Senator Walker

Mr. Aubrey Watts, Jr.

Secretary Watts

Appendix C
Virginia Department of Corrections
Major Institutions

Facility	Location	Capacity^a
Augusta Correctional Center	Craigsville	935
Bland Correctional Center	Bland	440
Brunswick Correctional Center	Lawrenceville	615
Buckingham Correctional Center	Dillwyn	807
Deep Meadow Correctional Center	Powhatan	508
Deerfield Correctional Center	Capron	290
James River Correctional Center	Powhatan	321
Marion Correctional Center	Marion	160
Mecklenburg Correctional Center	Boydton	335
Nottoway Correctional Center	Burkeville	967
Virginia State Penitentiary	Richmond	675 ^b
Powhatan Correctional Center	Powhatan	710 ^c
Powhatan Reception & Classification	Powhatan	245
Southampton Correctional Center	Capron	474
Southampton Reception & Classification	Capron	116
Southampton Youthful Offender	Capron	105
St. Bride's Correctional Center	Chesapeake	451
Staunton Correctional Center	Staunton	597
Virginia Correctional Center for Women	Goochland	389

^a As of October 17, 1989

^b Includes "C" Cell and Penitentiary Hospital

^c Includes North Housing, Infirmary, and "M" Building

Appendix C
Virginia Department of Corrections
Field Units

Facility	Location	Capacity*
Pulaski Unit #1	Dublin	75
Caroline Unit #2	Hanover	130
Nansemond Unit #3	Walters	90
Baskerville Unit #4	Baskerville	129
White Post Unit #7	White Post	85
Harrisonburg Unit #8	Harrisonburg	100
Rustburg Unit #9	Rustburg	119
Cold Springs Unit #10	Greenville	85
Culpeper Unit #11	Culpeper	65
New Kent Unit #16	Troy	90
Pocahontas Unit #13	Chesterfield	210
Chatham Unit #15	Chatham	95
Fluvanna Unit #12	Barhamsville	95
Haynesville Unit #17	Haynesville	85
Wise Unit #18	Coeburn	91
Capron Unit #20	Capron	85
Stafford Unit #21	Stafford	90
Tidewater Unit #22	Chesapeake	95
Halifax Unit #23	Halifax	192
Smith Mountain Lake Unit #24	Moneta	90
Botetourt Unit #25	Troutville	88
Haymarket Unit #26	Haymarket	90
Dinwiddie Unit #27	Church Road	90
Patrick Henry Unit #28	Ridgeway	113
Appalachian Unit #29	Honaker	83
Fairfax Unit #30	Fairfax	150
Tazewell Unit #31	Tazewell	100
Chesterfield Work Release Unit	Chesterfield	100
Southampton Work Release Unit	Capron	32

* As of October 17, 1989 -

Appendix D
Table Grant Rates

	Percent Granted on:				
	1st Interview	2nd Interview	3rd Interview	4th Interview	5th Interview
1980	24	41	33	23	17
1981	30	47	47	45	38
1982	42	56	50	44	32
1983	59	62	54	56	38
1984	39	39	31	25	21
1985	30	34	26	22	10
1986	33	38	31	23	14
1987	37	40	36	25	17
1988	40	39	32	28	21
1989	42	39	26	26	17

Acknowledgements

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The Honorable John Rollison
House of Delegates

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Alvin A. Crutchfield
Total Action Against Poverty

Correlli Rasheed
Total Action Against Poverty

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Sheriff B. R. Overman and Staff
Virginia Beach City Jail

Sheriff Clay Hester and Staff
Newport News City Jail

Sheriff David Mapp and Staff
Norfolk City Jail

Warden E. M. Grizzard and Staff
Southampton Correctional Center

Warden Robert Kelly and Staff
Deerfield Correctional Center

Warden Fred Greene and Staff
Brunswick Correctional Center

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COMMONWEALTH OF VIRGINIA
SENATE

HOWARD P. ANDERSON
18TH SENATORIAL DISTRICT
APPOMATTOX, BUCKINGHAM, CAMPBELL,
CHARLOTTE, HALIFAX, LUNENBURG AND
PRINCE EDWARD COUNTIES, CITY OF
SOUTH BOSTON
HALIFAX, VIRGINIA 24558

COMMITTEE ASSIGNMENTS:
AGRICULTURE, CONSERVATION AND
NATURAL RESOURCES CHAIRMAN
COURTS OF JUSTICE
FINANCE
PRIVILEGES AND ELECTIONS
RULES

November 15, 1989

Mr. Jack H. Ferguson, Chairman
Commission on Prison and Jail Overcrowding
Ninth Street Office Building, Sixth Floor
P.O. Box 2D
Richmond, Virginia 23203

Dear Mr. Chairman:

I want to take this opportunity to commend you for your leadership of the Commission on Prison and Jail Overcrowding over the past several months. The Commission's draft report, dated November 9, 1989, is an excellent document which brings together in one piece a tremendous amount of information to assist the Governor and the General Assembly in developing workable solutions. You and the staff have done an outstanding job.

With two exceptions, I am in agreement with the recommendations contained in the draft report. I must, however, respectfully offer my dissent from two of the actions taken by the Commission at the November 9 meeting. My first dissent is to the action with respect to reimbursing localities for jail construction. My second dissent relates to the action regarding the boot camp proposal. My reasoning on each matter follows.

The Commission voted to recommend that the Commonwealth reimburse localities (with more than 100,000 residents) for up to half the cost of construction or renovation of local jails. As you recall, a thorough study was made last year by a joint subcommittee of the House Appropriations and Senate Finance Committees, on which I was privileged to serve. The Report of the Joint Subcommittee on State Support for Adult Jails and Juvenile Detention Facilities (House Document 21 of 1989) recommended we pay for half the construction cost of regional jails only. At the same time, it recommended that the old caps on state reimbursement for local jails be doubled. Those recommendations were adopted by the General Assembly.

Mr. Jack H. Ferguson
November 15, 1989
Page Two

We adopted the policy of paying half the cost of building regional jails specifically because we felt it was in the Commonwealth's best interest to encourage localities to work together to build regional jails. At last count, I believe there were about ten such projects, representing over 5,000 new beds, under consideration across Virginia. These included two projects in Hampton Roads.

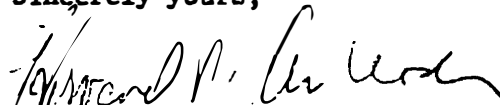
I am concerned the proposed change in policy at this time would send the wrong signal to our urban localities, encouraging them to defer their plans for regional cooperation. If the various proposals for regional facilities were replaced with new proposals for single-locality jails, I believe the ultimate capital and operating costs would be higher for both the Commonwealth and the localities.

I must also dissent from the action of the Commission to eliminate reference to the boot camp proposal of the Virginia State Crime Commission. I believe a new direction is needed to instill greater discipline in the lives of younger drug offenders, and I have been impressed with the potential of the boot camp concept. While I would agree that all the evaluation research has not yet been completed, the Crime Commission has already seen some positive results in other states. The Commonwealth should proceed with a pilot program with the intent to evaluate the effectiveness of the program in a rigorous and fair manner.

I appreciate this opportunity to include my dissenting opinions as an attachment to what I believe is an outstanding report on one of the most serious problems now facing the Commonwealth.

With best personal regards, I am

Sincerely yours,



Howard P. Anderson



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

ROBERT B. BALL, SR.
827 EAST PARKMAN ROAD, BOX 8
RICHMOND, VIRGINIA 23227

SEVENTY-FOURTH DISTRICT

COMMITTEE ASSIGNMENTS
PRIVILEGES AND ELECTIONS
ROADS AND INTERNAL NAVIGATION
APPROPRIATIONS

November 13, 1989

Mr. Jack H. Ferguson, Chairman
Commission on Prison and Jail Overcrowding
Post Office Box 2D
Richmond, Virginia 23203

Dear Jack:

I want to take this opportunity to commend you and the other members of the Commission for your dedication and hard work these past months. The Commission's report will serve as a useful tool in our efforts to address the problems of the state's corrections system. However, with due regard for the considerable work of the Commission, I must dissent from a portion of the final report.

In my judgment the Commission's recommendation to amend § 53.1-80, et. seq., of the Code to increase the state share of funding for construction of certain local jails will be prohibitively high in cost, will detract from efforts to develop regional jails, and fails to recognize that this issue was studied closely by a joint legislative subcommittee just last year. Indeed, a number of amendments were adopted by the 1989 legislative session as a result of that subcommittee study.

An unequivocal state funding commitment to both regional jails and individual local jails already is provided for by law. It is my view that if there are unique jail funding needs in certain localities they can be accommodated by the current laws and procedures. It is also my view that adequate time has not elapsed to see the effects of the amendments adopted this past year. This matter is truly too complex, and has too great a potential fiscal impact, to have been one of the last considered by the Commission. For these reasons I cannot support the Commission recommendation.

Again, I appreciate your commitment to the Commission. I look forward to working with you in the future.

Sincerely,

Robert B. Ball, Sr.

RBB:lf1

