

**REPORT OF THE
JOINT LEGISLATIVE AUDIT
AND REVIEW COMMISSION**

**OVERSIGHT OF HEALTH AND SAFETY
CONDITIONS IN LOCAL JAILS**

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



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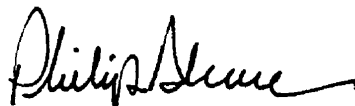
Preface

Senate Joint Resolution 91 of the 1994 General Assembly directed the Joint Legislative Audit and Review Commission (JLARC) to study the oversight of health and safety conditions in local jails. This review was undertaken in response to concerns about the effectiveness of the Department of Corrections' jail oversight process, which is intended to ensure that appropriate health and safety conditions exist in Virginia's local jails. This report presents the staff findings and recommendations regarding existing jail oversight activities and conditions in local jails.

This study found that the level of inmate overcrowding is the most significant impediment to maintaining adequate health and safety conditions in local jails. As of October 1994, local jails, as a system, were operating at 168 percent of rated capacity. Jail overcrowding creates an environment in which relatively minor problems can more rapidly escalate into life threatening situations. In addition, the level of overcrowding present in some jails creates an atmosphere that makes it difficult for sheriffs and jail administrators to maintain appropriate conditions for both inmates and staff. Compounding this situation is the large number of State-responsible inmates held in local jails — in violation of the *Code of Virginia* — awaiting transfer to Department of Corrections' institutions.

Standards used by the Department of Corrections in jail oversight need to be enhanced or developed to better protect both jail inmates and staff. In addition, this report recommends modifications in the Department of Corrections oversight mechanisms to ensure more consistent oversight of local jails and to ensure that the Board of Corrections is provided timely and accurate information regarding local jail conditions. Further, oversight of juveniles held in jails would be improved by transferring that responsibility from the Department of Youth and Family Services to the Department of Corrections. Finally, the report recommends that the Department of Health assume a more active role in the oversight of sanitation conditions in jails' food service and living areas.

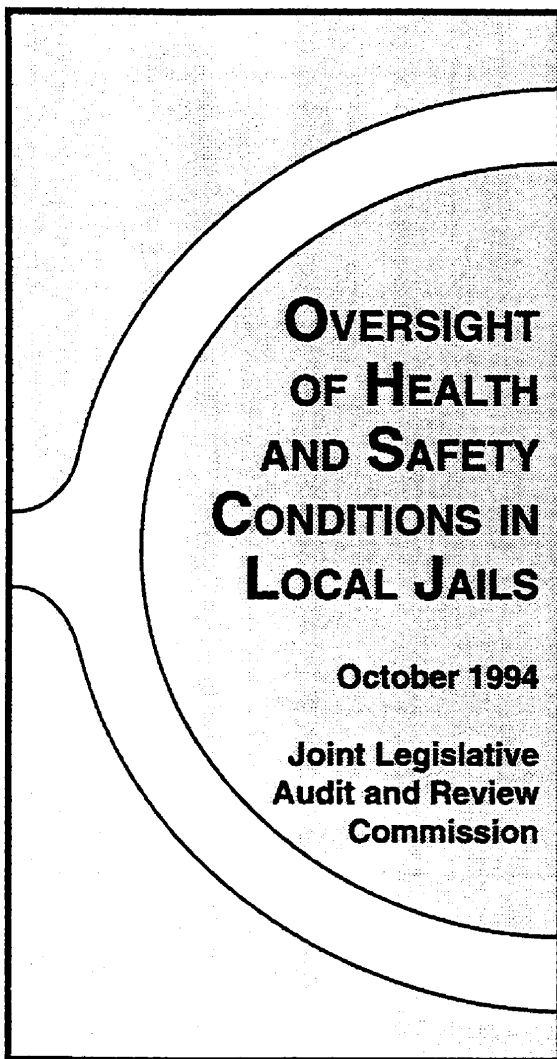
The majority of the recommendations in this report have received the support of the Department of Corrections, the Department of Health, and the Department of Youth and Family Services. On behalf of JLARC staff, I would like to thank the staff of these departments, sheriffs and jail administrators and their staff, the Virginia State Sheriffs' Association, and the other State and local agencies that assisted in our review.



Philip A. Leone
Director

December 20, 1994

JLARC Report Summary



Local jails, jail farms, and regional jails are the responsibility of sheriffs and jail administrators to operate. Local governments are responsible for the construction and maintenance of jails. On October 4, 1994, more than 16,300 local, State, and federal inmates were housed in these facilities, which had a total rated capacity of 9,747 inmates. In other words, local jails on a statewide basis were operating at 168 percent of their rated capacity.

Oversight of local jails is provided primarily through the Board of Corrections and

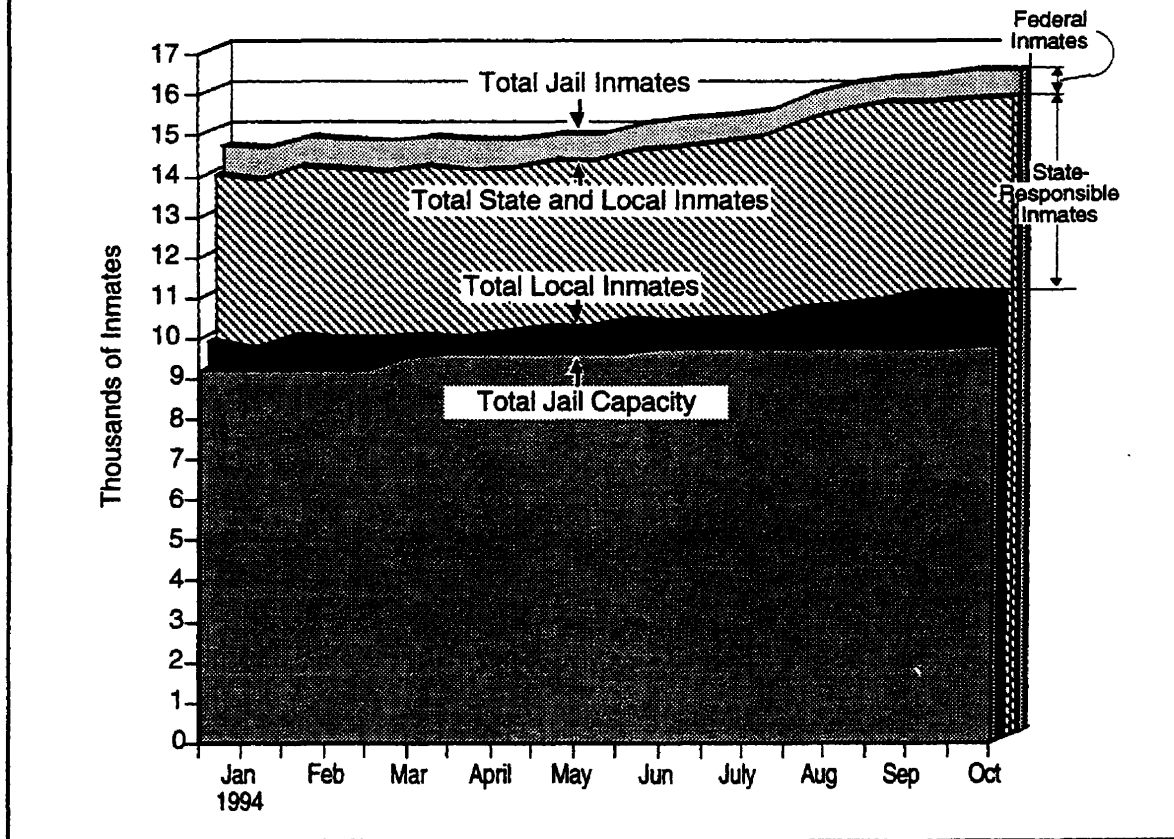
its agent, the Department of Corrections (DOC). The *Code of Virginia*, §53.1-68, requires the Board of Corrections to develop standards for "the construction, equipment, administration, and operation of local correctional facilities." DOC audits jails for compliance with these standards in addition to providing periodic monitoring and technical assistance.

Senate Joint Resolution 91 (SJR 91) of the 1994 General Assembly Session directed the Joint Legislative Audit and Review Commission (JLARC) to evaluate the oversight of health and safety conditions in local jail facilities. Several factors cited in SJR 91, including severe overcrowding, limited program space and work opportunities, and increased challenges to inmate management in local jails provided the major impetus for the present study.

One goal of jail oversight and regulation is to ensure that inmates receive adequate care and treatment. In addition, adequate oversight is also necessary to help ensure that otherwise minor problems or conditions in local jails do not, due to overcrowding, develop into more serious incidents. Finally, adequate oversight can help consistently ensure that conditions in local jails are constitutionally acceptable. There are, however, some functions in the process that could be enhanced to ensure that there is adequate oversight. Significant findings of this report include:

- DOC should begin to comply with the *Code of Virginia* regarding the intake of State-responsible prisoners from local jails. State-responsible inmates, although not entirely responsible for local jail overcrowding, significantly compound the overcrowding issue for many jails.

Change in Local Jail Capacity and Number of Inmates Bimonthly Counts, December 1993 - October 1994



- Selected Board of Corrections' standards need to be strengthened, developed, or reclassified in order to ensure the proper protection for both jail inmates and staff.
- The processes guiding the annual inspections should be strengthened to ensure unannounced inspections are conducted, that the inspections encompass the entire jail operating environment, and that the results of annual inspections are available to the Board of Corrections.
- Additional oversight by the State and local health departments is necessary both in the food service area and in general jail sanitation.

- Finally, DOC should take a more active role in managing the population in local jails. The *Code of Virginia* currently provides the Director of DOC with the authority to balance local jail populations.

Overcrowding Negatively Impacts Jail Health and Safety Conditions

Overcrowding appears to be the most significant impediment to maintaining proper conditions in local jails. For example, overcrowding resulted in about 2,700 inmates sleeping on jail floors in August 1994. Overcrowding also magnifies physical plant deficiencies or limitations. For example, some jails are plagued with continual plumbing problems or damage to the jail physical plant. In addition, overcrowding limits sher-

iffs' and jail administrators' ability to both impose discipline for poor behavior and to reward good behavior. Moreover, overcrowding may lead to increases in the number of incidents, such as assaults, that occur in jails.

Compounding the overcrowding situation in local jails is the number of State-responsible inmates in local jails awaiting transfer to a DOC institution. As of September 1994, about 1,700 inmates were being held in local jails in violation of §53.1-20 of the *Code of Virginia*. Some local jails, however, would remain overcrowded absent any State-responsible inmates. Nonetheless, State-responsible inmates in local jails simply exacerbate already stressful and potentially dangerous conditions. DOC should meet its statutory requirement for accepting State-responsible inmates in local jails into the State prison system. To assist DOC in this endeavor, the General Assembly appropriated funding during the September 1994 Special Session to add 1,500 beds to the State prison system for State-responsible inmates in local jails.

Finally, overcrowded conditions create an environment in which minor problems could rapidly increase into life threatening situations. These situations only heighten the possibility of court involvement in the operation of the jail system. Further, it emphasizes the need for timely and unrestricted access of State and local regulatory and public safety officials to local jails.

Selected Jail Standards Need to Be Strengthened

The Board of Corrections' standards governing jail operations are the framework through which health and safety conditions in local jails are assessed. The Board has promulgated 114 standards, of which 30 are considered life, health, and safety standards, to govern local jail operations. DOC staff use these standards to evaluate conditions in local jails.

Some standards, however, lack clarity, others fail to provide clear directives for jail staff, and others lack the important life, health, and safety designation. For example, requirements for food service and fire safety inspections do not clearly state the intent of the Board of Corrections, which may result in many jails failing to comply with this important standard.

Standards addressing medical screening of jail inmates and medication management in jails need to be more prescriptive in order to ensure inmates and jail staff are properly protected from disease, serious illness, and unsafe living conditions. This is especially crucial in the current environment in which many jails are operating far in excess of their rated capacities.

Finally, standards regarding communicable disease control in local jails should be promulgated. Jails reported that more than 390 inmates in calendar year 1993 were infected with HIV. Further, local jails reported that 13 inmates were determined to have active cases of TB in calendar year 1993. Given the levels of overcrowding, limited opportunities for exercise, and poor ventilation in some jails, standards regarding communicable disease control are necessary.

DOC Oversight and Enforcement Mechanisms Should Be Strengthened

Insight into the living and working conditions inside a jail are provided by the oversight activities of DOC. The effectiveness of this oversight is determined by the ability of DOC staff to identify problems and ensure corrective action is taken in a timely manner. Some weaknesses, however, appear to be evident in the current jail oversight and monitoring process. These weaknesses include the lack of unannounced inspections and policies and procedures guiding the DOC annual inspection process.

Unannounced Annual Inspections Are Needed. A significant deficiency in the

jail oversight process is the lack of unannounced inspections of local jails. The current triennial certification audit is announced at least 60 days in advance. In addition, all but one DOC regional manager provide jails notice of upcoming annual inspections. Conducting all inspections on an announced basis may not always provide DOC staff, and subsequently the Board of Corrections, with an accurate assessment of a jail's condition. To correct this, the *Code of Virginia* should be amended to require that DOC conduct all annual inspections on an unannounced basis.

Annual Inspection Process Should Be Strengthened. The entire DOC annual inspection process should be strengthened. This is a critical function as it is the only formal assessment of jail conditions that is conducted in the two years between the DOC certification audit. However, despite the importance of this function, its effectiveness is questionable.

For example, the annual inspection appears to neither prepare jails for the certification audit nor help jails continually maintain compliance with the Board of Corrections' standards. Furthermore, the process lacks policies and procedures to guide DOC staff in conducting the audit. The lack of policies and procedures could lead to inspectors making subjective assessments of jail conditions. Finally, the process lacks a mechanism for ensuring that the Board of Corrections is systematically apprised of jail conditions that are not in compliance with promulgated standards.

Certification Audit Cycle Should Be Revised. Currently, all jails are formally audited once every three years for compliance with all of the Board of Corrections' jail standards. In addition, the certification audit is the most consistent mechanism currently available to the Board for receiving comprehensive information on conditions in local jails.

However, many jails consistently fail to meet many of the Board of Corrections' standards in every certification audit. More than 30 jails have been out of compliance with 10 or more standards on at least one certification audit since 1988. Results such as these indicate that some jails experience difficulty continuously maintaining compliance with the Board of Corrections' jail standards. To correct this situation, the Board of Corrections should shorten the audit schedule of jails having difficulty maintaining compliance with standards.

Furthermore, it appears that jails that undergo extensive renovations should be audited soon after the renovations are completed. Certification audits can detect potentially dangerous deficiencies in standards that result from renovations that might otherwise go undetected. As a result, the Board of Corrections should direct DOC to conduct certification audits of jails that have undergone renovation or additions shortly after project completion.

Additional Options for Improving Conditions in Local Jails

In addition to changes in the Board of Corrections' jail standards and the oversight process of DOC, additional mechanisms may be available for improving health and safety conditions in local jails. These mechanisms include assigning responsibility for sanitation and food service oversight to the State and local health departments, requiring DOC to become more active in balancing local jail inmate populations, transferring oversight of juveniles from the Department of Youth and Family Services (DYFS) to DOC, and emphasizing regional jails.

Require State and Local Health Department Involvement in Jail Oversight. Due to overcrowding, some local jails are having difficulty maintaining appropriate sanitary conditions. Improper sanitary conditions can have a significant impact on jail

safety and health. Further, DOC staff involved in jail oversight lack expertise to address environmental health issues in local jails. As a result, the Board of Corrections, with input from the Board of Health, should develop standards addressing sanitation in local jails which the health department can use for inspections of local jails.

In addition to general sanitation, the State and local health departments should inspect and permit all jail kitchen facilities. There appears to be substantial variation in how local health departments currently permit and inspect jail kitchens. Given the levels of overcrowding and the almost continuous operation of some jails' kitchens, proactive oversight by local health departments of this function appears necessary.

DOC Should Take a More Active Role in Balancing Jail Populations. Currently, jail staff transport State-responsible inmates, often with only 24 hours notice, from local jails to DOC institutions. For many jails, this can impose a significant hardship on their operations as staff must also transport State-responsible inmates in some cases across the State. For some sheriffs' offices, this can require taking law enforcement deputies off of patrol or taking a deputy from an overcrowded jail. To mitigate the effect of these transports on overcrowded jails, DOC should meet the requirements of the *Code of Virginia* and provide transportation from local jails to State prisons.

In addition, the *Code of Virginia* provides the Director of the Department of Corrections with the authority to transfer inmates to other State or local correctional facilities he may designate. Some local jails currently have, and others may soon have, additional jail capacity that could be used to alleviate severe overcrowding in selected jails. In addition, DOC initiated transfers could alleviate the need for jails to pay often substantial rates to other jails to house inmates.

Transfer Oversight of Juveniles from DYFS to DOC. Prior to February 1993, DOC was responsible for oversight of juveniles in local jails. Currently, DYFS has that responsibility. However, under DYFS, standards regarding juveniles in jails have not always been in effect. This periodic absence of standards does not allow for consistent and effective oversight. In addition, DYFS' monitoring activities have not been consistent. Finally, current DYFS' oversight efforts are redundant with DOC's general oversight of jails. As a result, responsibility for oversight of juveniles should be returned to DOC.

Regional Jails Should Be Emphasized. There are a number of small jails that receive significant amounts of State funding for staff and operating costs. Due to their size, they also have a high per-inmate operating cost to the State. For example, the Bath County jail had a per inmate-day operating cost to the State in FY 1994 of \$242. In contrast, the statewide average was \$29 per inmate day.

In addition, many of these jails lack adequate program space, and lack the administrative facilities for easy expansion that is available with newer jails. Moreover, many small jails have an average daily population well below the threshold for receiving State supported medical and treatment positions. Medical and treatment staff provide a significant contribution to the health and welfare of inmates in local jails. If some localities continue to operate single jurisdiction jails, they will not be eligible to receive State funded medical and treatment positions in the near future. Therefore, where regional jails are appropriate, the State should no longer fund the construction and subsequent operation of small, inefficient single jurisdiction jails.

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I. Introduction

Senate Joint Resolution 91 (SJR 91) of the 1994 General Assembly Session directed the Joint Legislative Audit and Review Commission (JLARC) to evaluate the oversight of health and safety conditions in local jail facilities (Appendix A). The General Assembly's interest in State and local corrections is documented by many studies of both the State prison system and local jails. These studies, many conducted by JLARC, have addressed issues that include:

- prison and jail overcrowding;
- staffing standards for sheriffs;
- State support for jail construction;
- jail capacity and population forecasts; and
- medical, mental health, and dental care for the Department of Corrections' (DOC) prison inmates.

Several factors cited in SJR 91 provided the impetus for the present study: jail overcrowding, limited program space and work opportunities, and increased challenges to inmate management in local jails. Also, because the goal of oversight and regulation is in part to ensure inmates receive care and treatment consistent with constitutional criteria, this study provides an assessment of health and safety conditions in local jails and evaluates DOC's oversight of those conditions.

Local jails, as a system, are currently overcrowded. On October 4, 1994, local jails and jail farms, with a total DOC rated capacity of 9,747 inmates, reported holding more than 16,300 inmates. This magnitude of overcrowding is the most direct impediment to proper health and safety conditions in local jails. Overcrowding limits the ability of sheriffs and jail administrators to maintain an environment in jails that is proper for both the housing and care of jail inmates and staff who work in the facilities. However, consistent and adequate oversight is a mechanism that can assist sheriffs and jail administrators in maintaining a safe and secure environment.

This chapter briefly describes the current role of the Board of Corrections and DOC in the jail oversight process. In addition, legal issues and standards affecting local jails are discussed. An overview of the current JLARC review is presented with a brief description of the research activities conducted by JLARC staff. The final section of this chapter describes how the report is organized.

Board of Corrections and DOC Jail Monitoring Activities

The State's regulation of health and safety conditions in local jails is provided by dual processes of standards promulgation and compliance monitoring. The Board of Corrections promulgates minimum standards for local jails, and DOC staff provide oversight of jail conditions by monitoring jails' compliance with the standards.

DOC oversight is provided through two divisions: field services and field operations (Figure 1). The certification unit, which conducts certification audits of jails for the Board of Corrections, is located in the division of field services. Periodic jail oversight, monitoring, and technical assistance is provided through the field operations division and, more specifically, the four DOC regional offices.

Historically, standards promulgation and compliance monitoring have been used to ensure adequate conditions in local jails. However, health and safety conditions in local jails have changed in the past decade due to changing external environments, legal pressures, and professional expectations. If monitoring and oversight activities are to be effective, they must adapt to changing needs and conditions. In addition, present conditions of overcrowding, aging physical plants, limited financial resources, and the increased potential for litigation place renewed emphasis on the importance of having adequate standards and an adequate oversight process in place to consistently maintain safe and healthy jail conditions.

Legal Issues Affect Local Jails

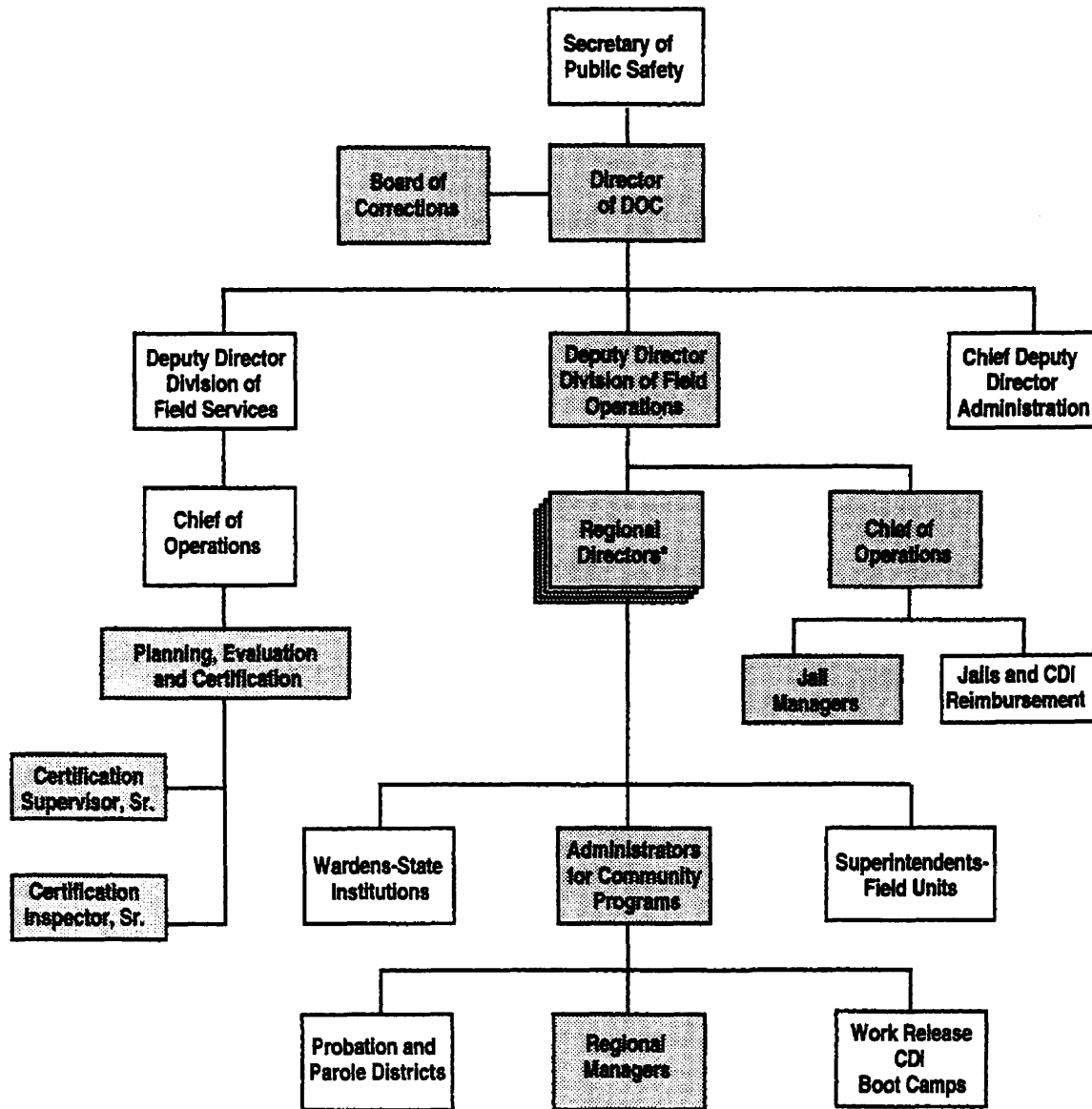
Court rulings at the federal, state, and local level have a continuing impact on health and safety conditions in local jails. The imposition of "cruel and unusual punishment," prohibited by the Eighth Amendment to the *United States Constitution*, has been interpreted to disallow unsanitary or unsafe living conditions in jails and is a common reason courts declare jail facilities unconstitutional. In many instances, sheriffs as well as local government entities have been held liable for unacceptable jail conditions based on constitutional challenges.

In addition to the "cruel and unusual punishment" standard, other constitutional standards such as the right to reasonable protection from violence and the right to adequate medical care also apply to jail facilities. For example, in *Estelle v. Gamble*, the U.S. Supreme Court stated that the Eighth Amendment embodies "broad and idealistic concepts of dignity, civilized standards, humanity and decency." Conditions in jails across the country have been successfully challenged because they have failed to embody these concepts. This report provides some avenues for improving both the standards and the oversight process, thereby improving the likelihood that conditions faced by both inmates and staff are both legally adequate and appropriate.

Figure 1

Organization of Local Jail Oversight in DOC

Shading indicates units with direct responsibilities for oversight of local jails.



*Each of the four Regional Directors has responsibility for the organizational units shown below that position in the chart.

Source: JLARC staff graphic based on Department of Corrections organizational chart.

Standards Address Jail Conditions

Preventive and professional practices have improved in areas such as sanitation; infectious disease control; nutrition; and mental health in federal, state, and local correctional facilities. Consequently, various professional correctional organizations have developed and revised jail standards that reflect more efficient levels of care and professional experience. Professional organizations have also developed or improved standards in response to inmates' rights litigation. These organizations, including the American Correctional Association, the National Sheriff's Association, the American Medical Association, the American Bar Association, and the American Public Health Association, seek to prescribe minimum, constitutionally mandated criteria for jail conditions, operations, management and inmate treatment. In Virginia, the Board of Corrections' standards are used as the framework for assessing health and safety conditions in local jails, and are based in part on standards developed by other professional organizations.

Study Issues

JLARC staff developed five major issues to evaluate oversight of health and safety conditions in local jail facilities. These issues address:

- the current process for providing oversight of safety and health conditions in local jails,
- legal requirements affecting the regulation and operation of local jail facilities,
- adequacy of the standards governing local jail operations,
- adequacy and appropriateness of the oversight process used by State agencies to regulate local jail facilities, and
- the appropriate role for other State and local government agencies in the jail oversight and regulatory process.

Research Activities

Several research activities were undertaken to address the study issues. These activities included site visits to local jails, structured interviews, file reviews, document reviews, mail surveys, and telephone interviews with jail regulatory staff from other states.

Site Visits to Local Jails. Site visits were conducted at 18 local jails and three regional jails (Figure 2). Jails were selected for inclusion in the study based on size, age,

type of facility, the jail's Board of Corrections' certification status, and the level of overcrowding.

During site visits to most of the jails, JLARC staff: conducted interviews with sheriffs, jail administrators, or jail staff; toured the jail facilities; interviewed medical care staff; and reviewed inmate records. In addition, JLARC staff accompanied DOC staff on an annual jail inspection and a jail certification audit.

Structured Interviews. In addition to the structured interviews conducted in conjunction with the site visits, structured interviews were also conducted with the following:

- DOC division of community programs regional administrators, DOC regional program managers with jail responsibilities, DOC certification unit staff, and selected staff from other DOC operating divisions;
- Department of General Services risk management staff;
- Department of Youth and Family Services staff;
- Department of Criminal Justice Services staff;
- State and local health department staff;
- State Compensation Board staff; and
- the State Fire Marshal.

File Reviews and Analysis. Various units and divisions within DOC maintain files that contain information about local jails. Documents in these files range from the certification audit results to correspondence from local jail inmates. The study team reviewed these files to, in part, assess jails' compliance with the standards and to evaluate the effectiveness of the current standards.

Mail Survey of Sheriffs and Jail Administrators. The study team conducted a survey of sheriffs responsible for operating local jails and administrators of regional jails and jail farms. The survey was designed to obtain information related to safety and health issues in local jail facilities. Ninety of the 93 surveys were completed for a response rate of 97 percent. The survey requested data related to the following:

- incidents that occurred in the jail,
- the manner in which medical care services were provided, and
- opinions and issues related to jail operations and standards regulating local jails.

Document Reviews. Team members reviewed DOC reports and documents related to local jail oversight, such as annual jail inspections and jail plans of actions, in order to examine compliance with standards. In addition, team members reviewed pertinent sections of the *Code of Virginia* and selected court decisions related to inmate safety. Further, the team reviewed reports and standards related to jails from the American Jail Association, the National Institute of Corrections, the American Correctional Association, and the National Commission on Correctional Health Care.

Telephone Interviews with Other States' Jail Regulatory Staff. The study team conducted telephone interviews with staff in other selected states to identify their process for providing oversight of local jails. The majority of southeastern states were contacted as well as states considered to have effective or notable jail oversight systems. Results of these interviews were used by the study team to evaluate substantive issues related to jail standards, oversight, and the potential involvement of other State agencies.

Report Organization

This chapter has provided an overview of the current study effort. The remainder of the report is divided into three chapters. Chapter II provides an overview of jails in Virginia, a discussion of the effects of overcrowding, and the need for proactive oversight. Chapter III discusses local jail regulation and oversight, the need for strengthened standards, and the need for enhanced oversight and enforcement activities. Chapter IV discusses additional avenues for improving oversight of and conditions in local jails.

II. Jails In Virginia

Local jails are an important component of the State's criminal justice system. On October 4, 1994, more than 15,700 State and local inmates and almost 600 federal inmates were housed in local jails. In addition to housing inmates convicted of violating local ordinances and misdemeanors, the State has also relied on local jails as a resource in managing the inmate population in State correctional institutions by housing many State-responsible inmates in local jails. Reflective of this, more than 4,000 State-responsible inmates who had been convicted of felonies and received sentences greater than two years resided in local jails. However, DOC is not, according to the *Code of Virginia*, required to transfer all of these inmates to State institutions.

It is, however, this large number of State-responsible inmates that is compounding the most prevalent, unsafe condition in local jails — overcrowding. Local jails, as a group, are now operating at almost 168 percent of their rated capacity. Individually, the majority of jails are also operating over capacity. Some jails are severely overcrowded, as evident by the two local jails operating at more than 300 percent of their operating capacity in August 1994. The level of overcrowding present in some jails creates an atmosphere that makes it difficult for sheriffs and jail administrators to maintain appropriate conditions for both inmates and staff.

Due in part to jail overcrowding, timely oversight is important. The lack of timely oversight, combined with overcrowding, could lead to situations in jails in which otherwise minor problems could quickly develop into serious incidents. To further the goal of timely oversight, unrestricted access to local jails is necessary for both State and local regulatory and public safety officials.

This chapter provides a general overview of local jails in Virginia. In addition, the effects of jail overcrowding on jail safety and health issues are presented. Finally, the need for unrestricted access to local jails by both State and local regulatory and public safety officials is also discussed.

OVERVIEW OF LOCAL JAILS

For purposes of funding, there are 81 local jails, nine regional jails, and three jail farms in Virginia. The majority of these facilities are under the direct control of a locally-elected sheriff. Regional jails and jail farms, for the most part, are operated by a jail administrator who is appointed by and reports to a regional jail board or local governing body. The operating capacity of all jail facilities in October 1994 was 9,747 inmates. At that time, local jails were housing a total of 16,345 inmates, which includes 594 federal inmates. Including federal inmates, these facilities were operating at 168 percent of their rated capacity.

Jails, as evidenced by the classifications of the inmates they hold, are an important component in the State's criminal justice system. Jails incarcerate individuals convicted of breaking local ordinances. In addition, significant numbers of individuals awaiting trial are detained in jails. Local jails also serve an important function in the State's adult detention system as evidenced by the number of inmates in local jails that are considered State-responsible.

Finally, despite the fact that sheriffs, jail administrators, and local governments are ultimately responsible for the operation and maintenance of local jails, the State is extensively involved in funding both jail operations and local jail construction. From FY 1992 through FY 1994, the State has provided local jails almost \$420 million for staffing and operating local jails, and more than \$29 million for local jail construction.

Local Jail Facilities

Most local jails serve a single city or county. A few local jails, although not considered regional jails, also serve adjoining or nearby localities that do not operate jails. Regional jails typically serve a consortium of localities that have formally joined together to construct and operate a jail facility. Jail farms are typically locally-operated facilities that house inmates who are assigned to work on various local projects.

Local Jails and Jail Farms. For purposes of funding, there are 81 local jails and three jail farms in Virginia. As depicted in Figure 3, the majority of localities in DOC's western region have a local jail. In contrast, many localities in the northern and central region either have no jail or participate in a regional jail. Powhatan and Goochland Counties do not have a local jail. Instead, Powhatan and Goochland Counties have an arrangement with DOC to use space in the State adult institutions located in their respective counties.

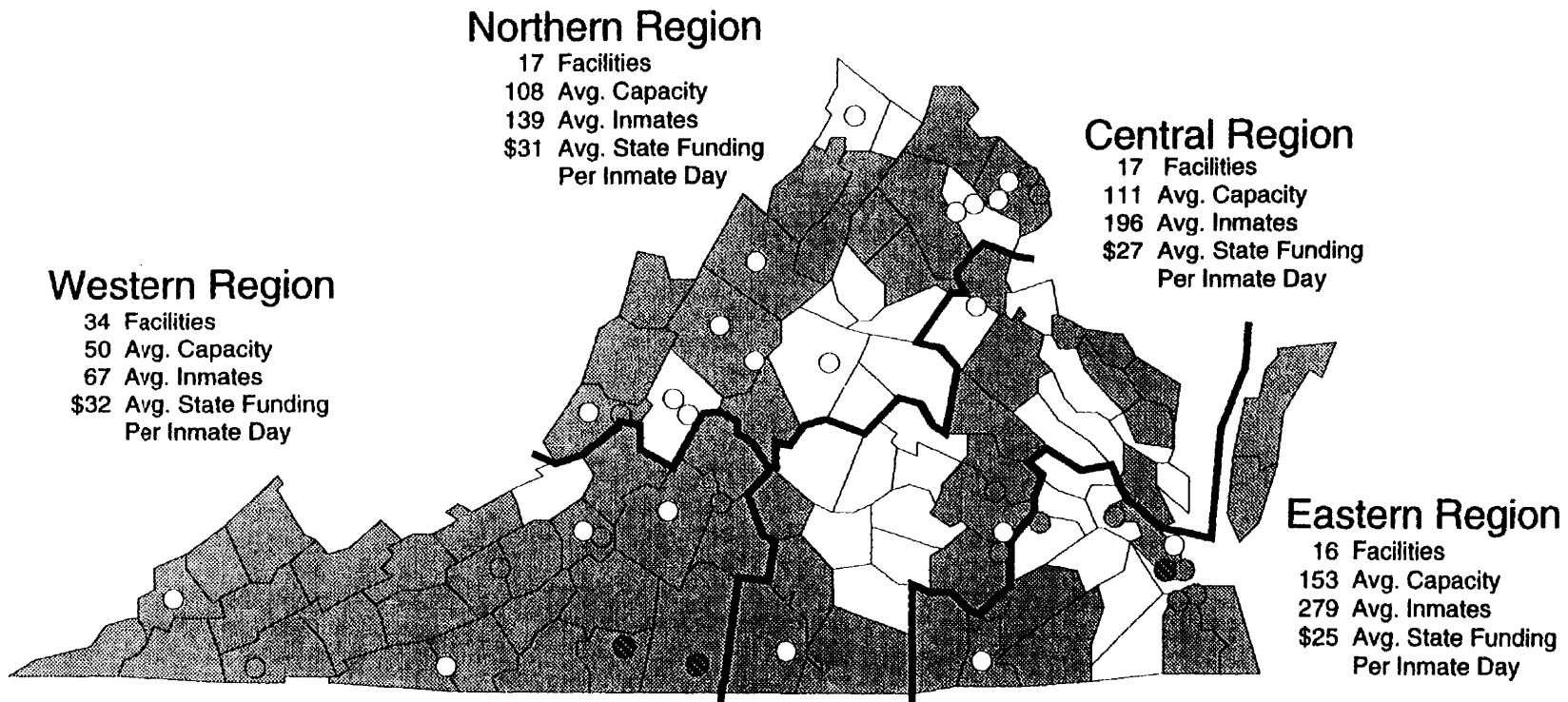
Local jails also vary greatly in terms of operating capacity and the number of inmates incarcerated. Analyzing jails by the four DOC regions uncovers significant, but not unexpected, differences. For example, the largest number of local jails and jail farms, 34, are located in the western region. These jails are also the smallest, both in terms of operating capacity and number of individuals incarcerated. Because this region has the largest number of small facilities, the average State funding per inmate day is slightly higher than it is for the other regions. Small jails, which have the same fixed expenses as large jails, can incur severe operating diseconomies which lead to higher per inmate costs.

Regional Jails. There are also nine regional jails in Virginia. Another regional jail, the Northern Neck regional jail, is currently under construction, with an anticipated opening date of late 1994 or early 1995. As depicted in Figure 4, the majority of the regional jails are located in DOC's northern and central region. Regional jails are operated by or for a consortium of localities, usually through a formal contractual arrangement. Day-to-day operations of regional jails are the responsibility of an

Figure 3

Virginia Localities With a Local Jail or Jail Farm Fiscal Year 1994

■ Localities With a Local Jail □ Localities Without a Local Jail, or Served by a Regional Jail ■ Localities With a Local Jail and Jail Farm



Source: JLARC staff analysis of Department of Corrections and State Compensation Board data


Note: A map key identifying all localities is provided in the appendices to this report.


Figure 4

Virginia Localities Served by Regional Jails

 Albemarle/Charlottesville
Joint Security Complex (Charlottesville)


 Clarke-Frederick-Winchester Adult Detention
Center (Winchester)


 Middle Peninsula Regional
Security Center (Saluda)


 Central Virginia Regional Jail
(Orange)


 Prince William/Manassas
Adult Detention Center (Manassas)

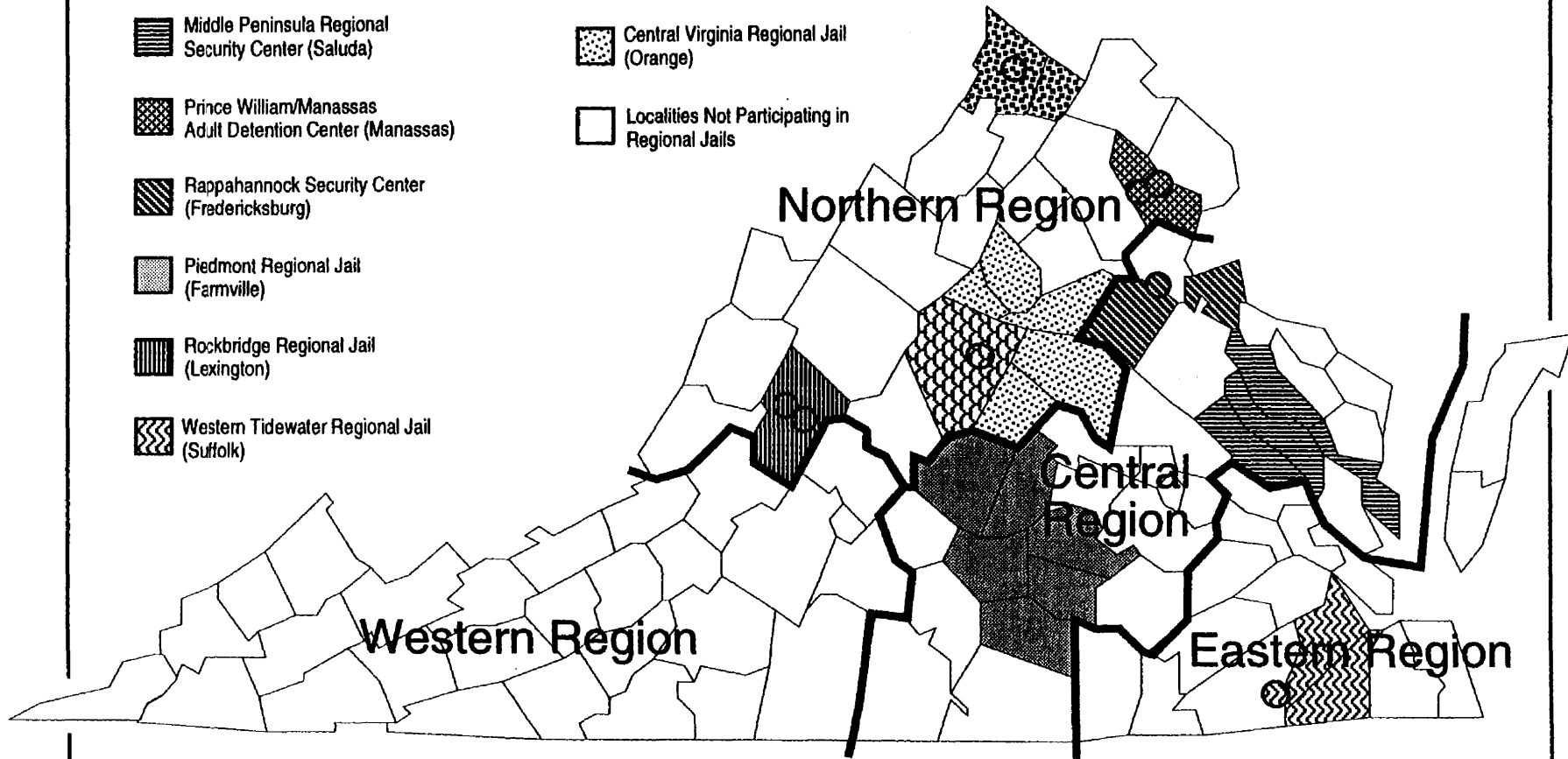
 Localities Not Participating in
Regional Jails

 Rappahannock Security Center
(Fredericksburg)

 Piedmont Regional Jail
(Farmville)

 Rockbridge Regional Jail
(Lexington)

 Western Tidewater Regional Jail
(Suffolk)



Source: *State/Local Relations and Service Responsibilities*, JLARC, 1992; and the Department of Corrections.

A map key identifying all localities is provided in the appendices to this report.

administrator who is appointed by a regional jail board. Regional jail boards are typically composed of individuals appointed by the governing bodies of the participating localities.

Regional jails have an average operating capacity almost double that of non-regional jails. However, the typical regional jail was only operating at about 130 percent of its capacity in August 1994. In contrast, non-regional jails statewide were operating at 172 percent of their capacity for the same time period.

Local Jails Are a Vital Element in the State's Criminal Justice System

Local jails, although only one component, have a very important role in the State's criminal justice system. For example, there are a large number of inmates in local jails classified as locally-responsible and a significant number classified as State-responsible. In addition, some jails house inmates for the federal government on a reimbursement basis. However, jails' daily operations can be significantly impacted by factors beyond their control. The demand for local jail space is affected by the actions of the State court system and the ability of the State prison system to absorb State-responsible inmates.

Locally-Responsible Inmates. A locally-responsible inmate is someone who has typically violated a "local" law or ordinance. These individuals may be convicted of misdemeanors and have received sentences of one year or less, or may have been convicted of felonies and received sentences of two years or less. These individuals are often referred to as local "felons."

Individuals awaiting trial, and those who are held in local jails who have not yet been convicted of any offense, are also described as locally-responsible inmates. Inmates awaiting trial include individuals who may not yet have had a bond hearing or who are unable to post the required bond. In addition, individuals awaiting trial include inmates who have been convicted of at least one charge but are awaiting trial for the adjudication of other charges. In August 1994, more than 10,700 jail inmates were classified as locally-responsible inmates.

State-Responsible Inmates. State-responsible inmates are individuals convicted of felonies with sentences of greater than two years. In August 1994, more than 4,700 convicted felons with sentences greater than two years were housed in local jails. DOC is not, however, required to receive all of these inmates into the State corrections system. Currently, §53.1-20 of the *Code of Virginia* requires DOC to receive into the State corrections system within 60 days of receiving the court's order, all individuals convicted of felonies and sentenced for a total period of more than three years. On July 1, 1996 the sentence length will be reduced to two years or more. In September 1994, about 1,700 inmates were in local jails in violation of the *Code* awaiting transfer to a DOC institution.

Federal Inmates. In addition to State and locally-responsible inmates, many local jails also incarcerate inmates for the federal government. In August 1994, local jails reported housing 576 inmates for the federal government. Typically, jails housing

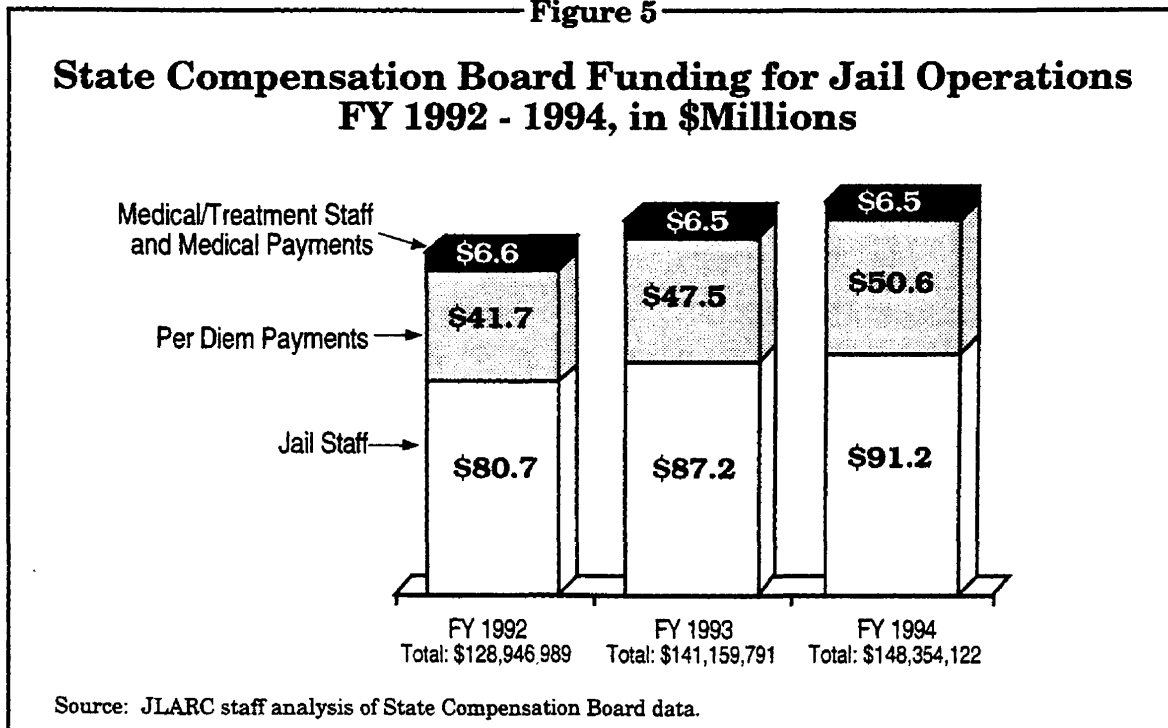
federal inmates receive funding from the federal government on a per inmate day basis. The per diem payment ranged from \$8 to \$80 in calendar year 1993.

State Funding for Local Jails Is Extensive

Despite the implication of the word local, the State is heavily involved in most facets of a local jail’s activities including staffing and construction. Past studies have concluded that the State provided approximately 85 percent of the funding for jail operations statewide. The majority of State funding for local jail operations is provided through the State Compensation Board. State Compensation Board funding for local jails is primarily used for jail staff and other operating expenses. The Compensation Board reported that from FY 1992 through FY 1994, the State has provided almost \$420 million in direct funding for the operation of local and regional jails and jail farms (Figure 5).

State Funding for Jail Staff. State support for jail staff salaries and certain fringe benefits is provided through the State Compensation Board. Jail farms do not receive State funding specifically for staff positions. In addition, certain office expenses related to both the operation of the jail and the remainder of the sheriff’s office are reimbursed through the Compensation Board. As of July 1994, more than 4,100 correctional deputies and cooks in local jails were funded by the State. This does not include sheriffs, regional jail administrators, dispatchers who function as a correctional officer in many small jails, and administrative positions that may work in or support the operation of the jail.

Figure 5



State funding is also provided through this subprogram for two-thirds of the salaries and fringe benefits for approved medical and treatment positions. The local government receiving funding for these positions is responsible for providing funds for the remaining one-third of the salaries. Personnel in these positions typically provide health services to inmates, treatment services for inmate well-being, and classification services to help jail staff determine the appropriate security or custody level of the inmate. As of July 1994, there were 475 State funded medical and treatment positions in local jails.

State Funding for Other Jail Operating Costs. In addition to the State-support for jail staff, a significant level of State financial aid for other operating expenses is provided through jail per diem payments. According to the Appropriation Act, this funding is provided to “compensate localities for the cost of maintaining prisoners arrested on state warrants in local jails, regional jails and jail farms.”

Every jail receives \$8 per day for each inmate held in the facility. If the inmate is a convicted felon sentenced to DOC, an additional \$6 per day for each inmate so classified is paid to the locality. Jail farms receive \$22 per day for each inmate confined and are also eligible to receive the additional \$6 per day funding for State-responsible inmates. Reflective of the number of inmates in local jails, total jail per diem payments made to localities are substantial. In FY 1994, local jails and jail farms received almost \$51 million in State per diem payments.

State Funding for Jail Construction Is also Extensive

Although the preponderance of State funding for local jails is provided through the State Compensation Board, State funding for jail construction is provided through DOC. From FY 1992 through FY 1994, the State provided local governments more than \$29 million to aid in the construction or renovation of local jails.

Under the current provisions, regional jails are eligible for State reimbursement for up to 50 percent of approved costs, including approved financing costs. Localities building single-jurisdiction jails are also eligible to receive State reimbursement for 25 percent of the new jail's approved costs with no predetermined limit on the State's contribution. Localities will also be allowed to receive the State funding during the construction process as expenses are incurred instead of at the project's completion. Finally, as with regional jails, localities are also allowed to include financing costs associated with jail construction in the expenses to be reimbursed by the State.

OVERCROWDING IMPACTS SAFETY AND HEALTH CONDITIONS IN LOCAL JAILS

As noted earlier, local jails in Virginia are operating significantly over their capacity. In October 1994, Virginia's jails were operating at about 168 percent of their

capacity. As a result, about 2,700 inmates slept on mattresses on jail floors in August 1994. Overcrowding can also place significant demands and stresses on jail facilities, jail staff, and jail inmates. Overcrowding can also endanger the health and safety of inmates and staff when conditions deteriorate and facilities and staff are pressed to provide services for populations they were not designed to house. Some sheriffs and jail administrators have provided additional housing for inmates by converting jail program space into living areas. Overcrowding intensifies stress placed on the jail's physical plant. For example, maintenance and repairs may be delayed or omitted due to jail officials' inability to relocate inmates while these needed services take place.

One of the major factors driving overcrowding in local jails is the number of State-responsible inmates in these facilities. DOC is not meeting the statutory requirements for accepting State-responsible inmates in local jails into the State's prison system. This failure to remove State-responsible inmates according to the timetable in the *Code of Virginia* only exacerbates the environment that negatively impacts conditions in local jails. As of September 1994, more than 1,700 State-responsible inmates were being held in local jails in violation of §53.1-20 of the *Code of Virginia*.

Jail Overcrowding Is Not a Recent Occurrence

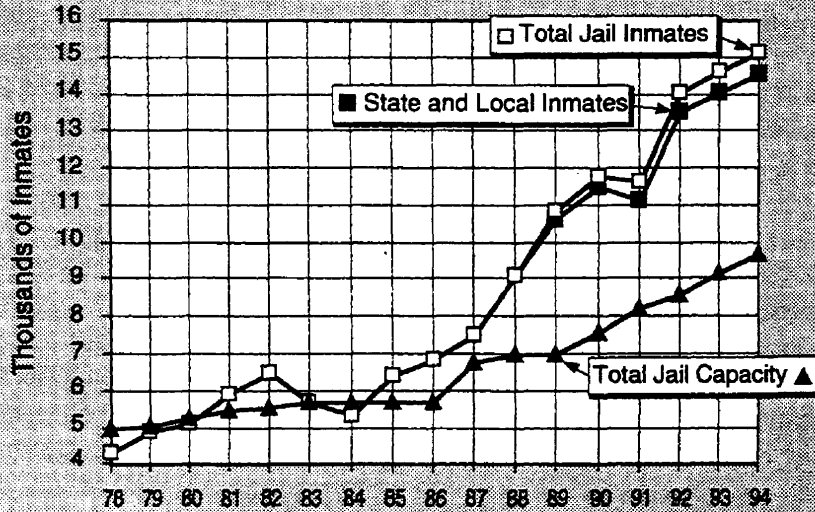
Overcrowding in local jails has been occurring to varying degrees for almost ten years (Figure 6). Further reflecting this trend, the number of inmates in local jails, not including federal inmates, since December 1993 has increased by about 12 percent. Jail capacity, on the other hand, increased by only about 6 percent for the same time period. (A complete list of local jails, their operating capacity, their inmate populations, and other inmate characteristics on August 2, 1994 is provided in Appendix C).

Examining jail overcrowding on a systemwide basis, however, masks the extent to which specific jails are dealing with very significant levels of overcrowding. For example, excluding the number of federal inmates, two jails were operating at more than 300 percent of their rated capacity in August 1994. An additional 19 jails were operating at 200 percent or more of their rated capacity. Moreover, only 17 jails were operating at or below their rated capacity.

Overcrowding is not an occurrence that is experienced by only the very large jails located in urban areas. For example, excluding the number of federal inmates, the jail with the highest rate of overcrowding is the Hopewell City jail which has a rated capacity of 24 inmates. In August 1994, this jail was operating at 358 percent of its rated capacity. The Westmoreland County jail, which has a rated capacity of eight inmates, was operating at 338 percent of its rated capacity. Conversely, the Clarke-Frederick-Winchester regional jail, which has a rated capacity of 294 inmates, was operating at only 64 percent of its capacity. The five jails experiencing the highest rates of jail overcrowding in August 1994 are presented in Figure 7.

Figure 6

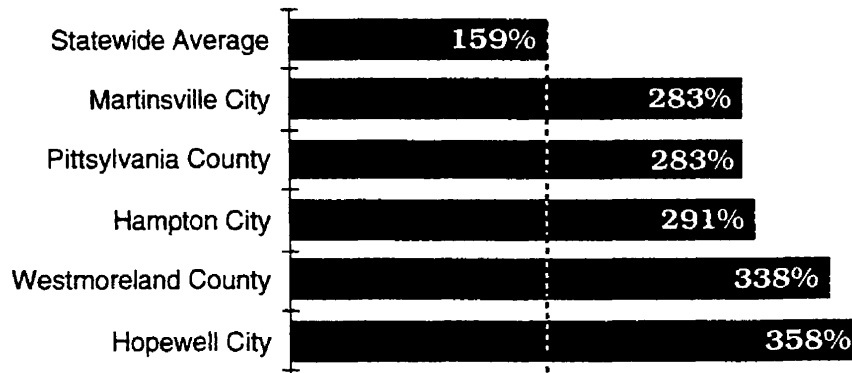
**Increase in Local Jail Capacity and Number of Inmates
1978 - 1994, June of Each Year**



Source: JLARC staff analysis of Department of Corrections data.

Figure 7

**Five Local Jails with the
Highest Rate of Overcrowding, August 1994**



Note: Does not include federal inmates housed in local jails.

Source: JLARC staff analysis of Department of Corrections "Tuesday Report" data.

Overcrowding Negatively Impacts Local Jail Health and Safety Conditions

As expected, overcrowding directly impacts local jail operations. In the long-term, health and safety conditions in local jails can deteriorate under conditions of overcrowding. Sheriffs and jail administrators have had to reduce programs, reduce program space, and utilize other innovative, and often costly, methods for mitigating the impact of jail overcrowding. Despite these efforts, however, jail overcrowding has usually remained, which can create unsafe and unhealthy conditions. For example, sheriffs and jail administrators reported that incidents of assaults, both inmate on inmate and inmate on staff, increased as the rate of overcrowding increased in their jails.

Jail Design Also Exacerbates Effects of Overcrowding on Health and Safety Conditions. Many of the jails in Virginia that were constructed during the 1950 through 1970 time period are of the cell block design. These cell blocks typically contain four to six cells, many containing 35 square feet of space, and are fronted by a small dayroom often no larger than a wide corridor. A typical dayroom dimension for a jail of this design is about five to six feet wide. The length will be about 30 to 40 feet, depending upon the number of individual cells in the block. Newer jails typically contain more dormitory-style housing and cell areas with far more spacious cells (usually 70 square feet or more of space) and relatively large dayrooms.

Effects of overcrowding in the jails with the older and smaller cell block designs were clearly evident during JLARC staff visits. The majority of jails visited by JLARC staff had double-bunked the cells, including the 35 square foot cells. As one sheriff noted, the jail he operated had to be double bunked within two years of the facility's opening. JLARC staff also visited jails where larger cells had three or four inmates living in the cell. As noted earlier, about 2,700 inmates were sleeping on the floors in local jails in August 1994. In many jails, the results of the overcrowding are clearly evident:

One jail reported having more than 160 individuals sleeping on mattresses on the floor. During the JLARC staff visit, as many as nine inmates in one cell block were sleeping on the floor. Showers were located at either end of the dayroom. Inmates were sleeping on the dayroom tables in order to avoid the water splashing out of the showers and running onto the floor.

* * *

One jail had removed the library and educational facilities and converted the space to secure inmate housing areas. During the JLARC staff visit, the converted library housed more than 20 inmates who jail staff reported were mainly convicted felons and State-responsible inmates. Because the area had not been originally designed for housing inmates, the lights were also not designed for secure housing of inmates, and many were inoperable at the time of the visit. As a result, the area was so poorly lit, it was almost impossible to clearly see into the back of

the room. Jail staff reported that every time they fixed the lights, they were soon damaged by the inmates.

* * *

Another jail facility was operating at more than 300 percent of its rated capacity when visited by JLARC staff. One cell block held 37 inmates with about 15 sleeping on the floor. Only one shower was available for all of the inmates in the cell block, and the jail reported it was used almost constantly. As a result, the shower was never able to dry out completely and mold and mildew were clearly evident, as was crumbling paint. Staff from DOC and the jail reported that many showers in the jail had the same problem, but that the jail could not secure the shower for the length of time needed to properly dry, paint, and reseal it.

Jail design and overcrowding affect other areas of a jail's operation that negatively impact health and safety conditions. For example, recreation or any type of physical exercise is almost impossible in small dayrooms crowded with many inmates. In addition, some jails do not have outdoor recreation or physical exercise facilities available. As a result, recreation or physical exercise programs in some jails appear to be almost nonexistent.

Overcrowding Magnifies Physical Plant Deficiencies. Overcrowding, combined with the age of many Virginia jails, intensifies physical plant deficiencies that jails would likely be better able to manage were jail populations within the range of rated capacity. These deficiencies in turn can impact the safety and health of both inmates and staff. For example:

During a Department of Corrections audit of a local jail that was operating at about 270 percent of capacity, it was determined that more than 40 toilets and more than 20 sinks were non-operable in a facility serving, at that time, almost 400 inmates. DOC staff noted that "faulty equipment has been an ongoing problem due to the age of the facility, severe overcrowding, and abuse by inmates . . ." An assessment of the same jail by a professional corrections' organization determined that "the exorbitant amount of people are overtaxing a system which was neither designed nor intended to accommodate such numbers."

* * *

Another jail visited by JLARC staff had a dormitory area that held about 30 inmates which had most of the drop ceiling tiles missing and trash bags hanging from the ceiling to catch dripping water. The sheriff also noted that this area had never been originally designed for secure housing and had been refurbished at one time in order to house work

release inmates. However, due to overcrowding, the jail had to use the area to house general population inmates, who had destroyed the ceiling and ripped out many of the conduits running across the overhead.

* * *

One sheriff of an overcrowded jail reported that the jail kitchen operates from 4:30 a.m. until 11:00 p.m. Inmates are allowed about 10 minutes to eat. In addition, the jail must curtail hot water use in the laundry when the jail's kitchen is in use preparing meals because the current hot water system cannot supply the amount of hot water necessary for both service areas to operate at the same time.

* * *

A jail administrator noted that he had a difficult time imposing any meaningful discipline when so many people were in his jail. He noted that a lock down is a tremendous tool for maintaining and promoting discipline. However, when 35 square foot cells are double bunked and five or more inmates are sleeping on the dayroom floor, using a lock down is effectively impossible. He further noted that the limited number of isolation cells in his jail makes administrative segregation as a disciplinary tool a non-option.

And, as one sheriff noted, it is also difficult to reward the positive behavior and contributions of inmates with privileges or special living areas when there is no longer any such space available.

Overcrowding May Result in More Incidents of Assaults and Suicides.

During visits to local jails, some sheriffs and jail administrators reported to JLARC staff that overcrowding appears to lead to more fights between inmates, which could also lead to the involvement of a correctional officer. In addition, there has been concern recently over the number of suicides occurring in local jails. Sheriffs and jail administrators were asked on the JLARC staff survey to provide the number of specific types of incidents that occurred in their jail in calendar year 1993. Jail specific information requested included the number of inmate assaults by other inmates, assaults of jail staff by inmates, and the number of attempted suicides.

Based on responses from a total of 90 sheriffs and jail administrators, there were in local jails in calendar year 1993:

- nine successful suicides,
- 486 attempted suicides,
- 745 assaults on staff by inmates, and
- 2,708 assaults on inmates by other inmates.

Analysis of the data indicate that as the rate of overcrowding in a jail increases, the number of assaults and the number of attempted suicides may increase as well. The data have been standardized by the average number of inmates in each local jail in order to control for the effect of the number of inmates. As depicted in Table 1, the average number of assaults and attempted suicides for each 100 inmates of average daily population generally increase as the level of overcrowding increases, which supports the concerns raised by sheriffs and jail administrators.

Table 1

**Number of Reported Jail Incidents Per 100 Inmates of
Average Daily Population
(Calendar Year 1993)**

<u>Jail Occupancy as Percent of Capacity</u>	<u>Inmate on Inmate Assault</u>	<u>Inmate on Staff Assault</u>	<u>Attempted Suicide</u>
0 - 100 %	5.9	2.5	2.1
101 % - 150 %	19.0	2.5	3.9
151 % or greater	21.2	6.3	3.5
Statewide:	19.7	5.4	3.5

Source: JLARC staff analysis of data from the JLARC staff survey of sheriffs and jail administrators, summer 1994.

The effect of overcrowding and incidents of violence are further highlighted in the report based on the U.S. Department of Justice's 1993 investigation regarding conditions in the Norfolk City jail. The report noted:

An unacceptable level of violence had occurred in the jail. The U.S. Department of Justice's consultants determined that several reasons existed for the violence at the jail. These reasons included: "lack of opportunities for exercise and constructive activities, poor staff supervision, lack of a sufficient number of single cells, and the severe overcrowding." The report further noted that "many of the assaults within the housing units occur as a result of the inmates fighting over who will receive an available bunk off of the floor."

Sheriffs and jail administrators also voiced frustration over their inability to provide recreational opportunities due to overcrowding and the impact that has on inmate stress and tension.

Overcrowding in Local Jails Could Lead to Increased Court Involvement

Virginia's local correctional system has been fortunate that the courts have not found it necessary to intervene on a systemwide basis in the operation of local jails. This reflects the professional manner in which sheriffs and jail administrators operate the facilities, as well as the fact that Virginia requires jails to meet minimum operating standards. It also emphasizes the need for ongoing and consistent oversight of local jails.

Currently, the Lynchburg City jail is operating under a federal court order. In this situation, the federal court has imposed a limit on the number of inmates that the jail can hold in the main jail facility. In addition, the court order requires the sheriff to report monthly whether a recreation program is in place. To meet the directives of the court mandate, the Lynchburg City jail has added two modular security units and also utilizes a large number of beds at the Bedford County jail annex.

Continual overcrowding could lead to health and safety conditions that courts may also find improper. Conditions in jail facilities that have led to findings of cruel and unusual punishment under the Eighth Amendment of the *United States Constitution* include:

- inadequate ventilation,
- inadequate square footage,
- inadequate lighting and heating, and
- lack of toilets and sinks in cell areas.

Overcrowding can be a major factor that may cause many of the inadequate conditions to first appear and then to persist in local jails. It is important to note that courts typically do not look to any one deficiency or problem. Instead, the courts will evaluate the "totality of conditions" of the jail.

In other words, the courts will look at the combination of problems together, not individually. In addition, professional jail organizations have reported that the constitutionality of jail conditions often depends on the length of an inmate's incarceration in the facility. For example, conditions that an inmate could be expected to tolerate for a few days might be unconstitutional if allowed to continue for one year.

There appears to be a potential for significant court involvement in local jail operations in Virginia. As noted earlier, the U.S. Department of Justice has recently released a report based on its 1993 investigation into conditions in the Norfolk City jail. The U.S. Department of Justice concluded that:

Based on our investigation, we believe the conditions at the Norfolk City Jail are grossly deficient and violate the constitutional rights of prisoners. . . . the [U.S.] Attorney General may initiate a lawsuit to correct deficiencies at an institution 49 days after appropriate local officials are notified of them.

The report further noted that many of the jail's deficiencies were directly related to overcrowding. Based on overcrowding witnessed in other local jails by JLARC staff that appeared comparable to that experienced in the Norfolk City jail, the possibility of additional court interaction in local jail operations exists. For example:

One sheriff noted that unless the overcrowding issue is addressed and progress made at reducing the number of inmates in his jail, he said some type of court involvement would not be a surprise.

In August 1994, 11 jails, excluding federal prisoners, had a higher rate of overcrowding than did the Norfolk City jail.

Sheriffs and Jail Administrators Are Attempting to Alleviate the Effects of Jail Overcrowding

Despite the pressures of jail overcrowding, sheriffs and jail administrators are attempting to minimize the effects of overcrowding on their facilities through a number of methods. A common method for sheriffs and jail administrators to deal with overcrowding is to transfer inmates among jails. For example, some jails are better equipped to house females; thus, other jails will house their female inmates in these jails. Jails certified to house juveniles may provide space for jails not certified to hold juveniles. Finally, jails that are significantly overcrowded will often try to obtain space in less crowded facilities or make creative use of space in facilities that may never have been intended for housing inmates. For example:

Due to a lack of space in the main jail, jail staff reported using court holding cells in the basement of the courthouse adjacent to the jail as a housing unit for individuals sentenced to serve weekends in the jail.

* * *

Another local jail added modular security units in the jail's recreation yard while another renovated a small store adjacent to the jail to use as a jail annex.

Unfortunately, despite agreements among selected jails to house each others inmates, local governments often have to pay a per diem rate which in some cases can be substantial. For example:

In the spring of 1994, a jail's governing body placed a limit on the number of inmates the facility could hold in response to a significant level of overcrowding in the jail. The maximum number of inmates allowed would be 206 percent of the jail's rated capacity. According to the jail administrator, the limit was imposed because the "level of overcrowding has created an extremely tense and potentially dangerous

situation . . . which cannot be handled through management of inmates. It also puts an undue amount of pressure on the staff” When inmates exceed the imposed limit, the jail administrator reported he must utilize bed space in other local jails, one of which is almost 100 miles away, at a cost of up to \$55 per inmate day.

In general, sheriffs and administrators appear to have been responsive in addressing the jail overcrowding problem.

Additional Local Jail Capacity Will Also Be Needed

The number of State-responsible inmates in local jails clearly intensifies the stressful and potentially dangerous environment associated with jail overcrowding. However, overcrowding would still occur in some local jails even if DOC were required to remove all felons with sentences greater than two years (which is not required until July 1, 1996). For example, 51 facilities would still be operating, many significantly, above their rated capacity based on August 1994 jail population figures. In addition, ten of these jails would be considered overcrowded if they were required to hold only the unsentenced awaiting trial population. For example:

Based on August 1994 data, the Norfolk City jail would be operating at more than 160 percent of its rated capacity even if the jail housed only inmates classified as locally-responsible. For the same period, the Westmoreland County jail would be operating at 175 percent of its rated capacity if the jail housed only individuals classified as unsentenced and awaiting trial.

In total, these 51 local jails would need more than 2,000 additional beds to hold all locally-responsible inmates.

Clearly, some local jails would be operating above their rated capacities even without any State-responsible inmates. Moreover, some of these jails are becoming aged and may require both extensive and expensive maintenance and upkeep programs. Further, many have no adequate space for recreation, physical exercise, or other inmate programs. For example:

One local jail visited by JLARC staff was constructed in the mid to late 1950s. Jail staff noted that many of the plumbing items for the jail were no longer available for direct purchase. As a result, when repairs to the plumbing need to be completed, some parts are special ordered or manufactured individually which results in costs to the local governing body of up to \$100 per item.

* * *

A 1992 DOC survey of local jails determined that 21 jails in DOC's western region had neither indoor nor outdoor physical exercise areas for inmates to use. Of these 21 jails, more than 10 were originally constructed before 1960. In contrast, six jails constructed since 1970 in the same region have inmate physical exercise areas.

Many local governments are constructing, or are in the process of planning, new jails or additions to existing facilities. For example, the new Rockingham County jail will open in the fall of 1994 and the new Northern Neck regional jail will open in late 1994 or early 1995. The Northern Neck regional jail will replace two of the smallest, but most overcrowded jails in the State — the Richmond and Westmoreland County jails.

State-Responsible Jail Inmates Should Be Taken into State System According to Statute

The number of State-responsible inmates in local jails is a significant factor in local jail overcrowding. In order to minimize the effects of overcrowding on local jail facilities, inmates, and staff, DOC should make every effort to transfer State-responsible inmates, in compliance with §53.1-20 of the *Code*, from local jails to the State prison system. While reducing the total number of State-responsible inmates in local jails will not entirely eliminate the local jail overcrowding situation for some jails, it will provide local sheriffs and jail administrators some much needed flexibility in the manner in which they operate and administer their jails.

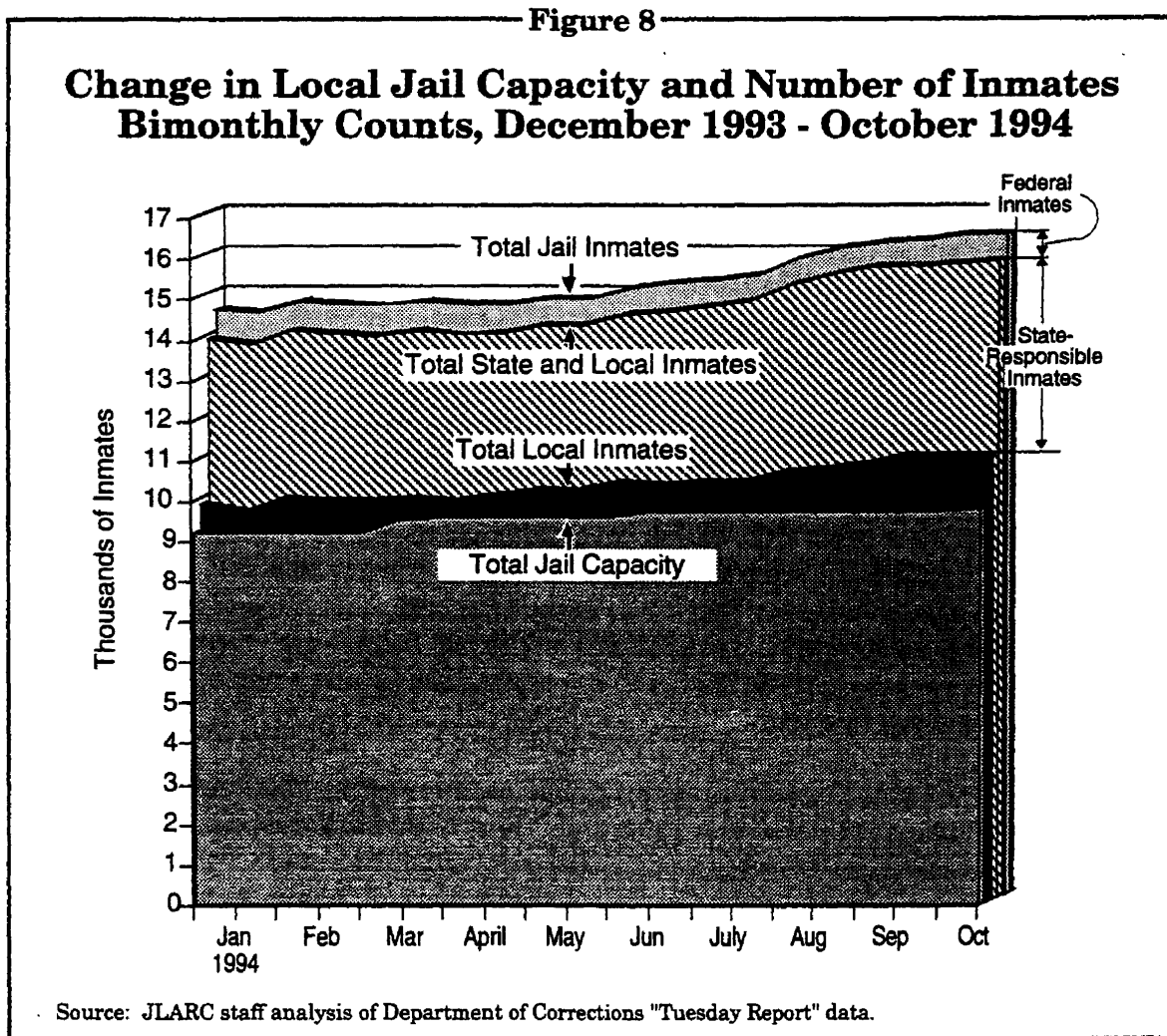
DOC Is Not Meeting Requirements for Removing State-Responsible Inmates from Jails. According to §53.1-20 of the *Code of Virginia*, DOC is responsible for removing felons sentenced to more than three years from local jails within 60 days of receiving the final court order from the clerk of the court. Since July 1, 1991, there has been in effect a graduated intake system for State-responsible inmates in local jails. For example, effective July 1, 1991, DOC was responsible for only those inmates with sentences greater than six years. The sentence length has been reduced every July 1 by one year. Beginning July 1, 1996, DOC will be responsible for all convicted felons with a sentence greater than two years.

Despite the statutory requirements, DOC is not meeting the local jail inmate intake requirements. As of September 1994, more than 1,700 State-responsible inmates who had been processed by DOC were held in local jails in violation of §53.1-20 of the *Code of Virginia*. Although DOC's ability to accept these inmates has been affected by a number of factors, such as the declining parole rate and the lack of capacity in the State prison system, these State-responsible inmates are a significant element in the overcrowding and subsequent poor conditions that are prevalent in some local jails.

To assist DOC in reducing the numbers of State-responsible inmates in local jails, the General Assembly, during the October 1994 Special Session that addressed the elimination of parole, appropriated funding to add approximately 1,500 additional beds

to the State's prison system. This additional capacity will be a significant resource to DOC in transferring State-responsible inmates from local jails.

State-Responsible Inmates Are a Major Factor in Local Jail Overcrowding. If DOC were currently responsible for assuming all sentenced felons with sentences greater than two years into the State prison system, the impact on local jail capacity would be significant. It must be noted, however, that DOC is not responsible for assuming all sentenced felons with sentences of two years or more until July 1, 1996. Even then, local jails will always house some State-responsible felons due to the time required to process an inmate for assumption into the State system. As depicted in Figure 8, the total number of jail inmates would be slightly higher than total local jail capacity if all sentenced felons with sentences greater than two years were removed from local jails.



Nevertheless, the effect of housing inmates awaiting transfer to DOC institutions on individual jails can be significant. For example:

The Hampton City jail, which was operating at almost 300 percent of its rated capacity, reported to DOC that it was housing a total of 77 jail inmates in other jails in order to manage the jail overcrowding. In August 1994, there were at least 74 inmates in the Hampton City jail who had been processed for transfer to DOC-operated institutions. Of these 74 inmates, 43 had been awaiting transfer to a DOC facility for more than the 60 days allowed by the Code of Virginia.

* * *

The Middle Peninsula regional jail reported to DOC on August 16, 1994 that it was housing eight inmates in other jails due to overcrowding at a cost of \$55 per inmate day. In August 1994, there were nine inmates in the jail awaiting transfer to DOC-operated institutions. Further, four of these inmates had been processed and awaiting transfer to a DOC facility for more than the 60 days allowed by the Code of Virginia.

While local jails will always house some State-responsible felons due to the time required to process an inmate for assumption into the State's prison system, felons with sentences greater than two years are a significant factor in the levels of overcrowding facing many local jails. However, as discussed earlier, some jails would still remain overcrowded even if all State-responsible inmates were taken into the State system.

DOC staff have also recognized the extent to which overcrowding and State-responsible inmates impose significant stress on jail facilities and jail staff. For example:

DOC regional office staff provided to DOC central office a list of local jail inmates for which DOC was out of compliance with the provisions of 53.1-20 of the Code of Virginia and who needed to be transferred to DOC. The correspondence stated that the "[jail's] count today is 409 The jail is having a difficult time dealing with the influx of inmates. Any help DOC could afford is needed."

* * *

In corresponding to staff in the DOC intake and information unit, DOC regional office staff noted that "We visited the [jail] yesterday. They are in BAD shape! I've been advised that of the 81 total population, approximately 14 are state responsible inmates having been sentenced to 4+ years. Any assistance you can provide in getting these folks moved would be appreciated!"

State-Responsible Inmates Can Cause Administrative Problems for Local Jails. State-responsible inmates in an overcrowded jail can also cause administrative problems. For example, during JLARC staff visits to local jails, inmates who indicated they were State-responsible consistently questioned when they would be

transferred to State institutions. These inmates cited the lack of programs or facilities in local jails that would otherwise be available to them in the State prison system. In addition, inmates in local jails who are State-responsible often are difficult for local jails to properly classify and place in the general jail population, much of which is composed of locally-responsible inmates or individuals awaiting trial.

For example, a jail facility operating at more than 300 percent of capacity with about 40 percent of the inmates sleeping on the floor has recently had to address the problems some sheriffs and jail administrators stated are often associated with holding a State-responsible inmate for an extended period of time:

An inmate had been in the jail for more than 550 days at the time of the JLARC staff visit. The individual was convicted of rape and other crimes in August 1993 and received a sentence of 50 years. This inmate had been transferred, according to the jail's records, within different areas of the jail about 19 times. Reasons for the transfers included suicidal thoughts and the inmate's own protection because other inmates became aware of the specific crimes he was charged with committing.

The DOC regional program manager responsible for the jail indicated that he had discussed this situation with staff in DOC's intake and records unit to facilitate the inmate's transfer and relieve stress on the jail. The program manager reported that this individual was on the list to be transferred but, given the backup of State-responsible inmates in all of the jails, it was not clear when the actual transfer to a DOC facility would be accomplished.

Female inmates can also present significant administrative challenges for local jail staff. Female inmates must be kept entirely separate from male inmates. This may lead to sections in local jails that are either underutilized or overcrowded. For example:

When visited by JLARC staff, one local jail reported it was holding nine male inmates in other jails. The jail was also holding one female inmate. However, to maintain sight and sound separation from the other male inmates in the jail, the jail had to empty an entire cell block to hold the female inmate.

* * *

Another jail visited by JLARC staff housed female inmates in two cell blocks originally designed for a total of 23 people. On the day of the visit, more than 95 female inmates were housed in these two cell blocks. About 30 women were sleeping on mattresses on the floor. On August 3, 1994, more than 20 of the female inmates in this jail had been processed by DOC and awaiting transfer to a State institution for more than the 60 days allowed by the Code of Virginia.

Or, female inmates may require jails that do not have the capability to house females to transfer them to other jails able to house female inmates. Often, the distance between the two jails can be significant, resulting in substantial effort on the part of jail staff to complete the transfer. For example:

The Westmoreland County jail, which has an operating capacity of eight inmates and is one of the most overcrowded jails in the State, reported to DOC that it was housing a female inmate in the Virginia Beach City jail. Prior to housing the inmate at Virginia Beach, the Westmoreland County jail housed this inmate at the Rappahannock regional jail. However, the Rappahannock regional jail apparently became overcrowded and the Westmoreland County jail had to find another jail to house this inmate.

According to jail staff, space was subsequently found at the Virginia Beach City jail. Staff from the Westmoreland County jail reported that a part-time female deputy spent about ten hours arranging and completing the transfer from the Rappahannock regional jail to the Virginia Beach City jail. Westmoreland County jail staff reported that they now pay \$44 per inmate day instead of \$55 per inmate day to house the inmate.

It must be noted that this inmate was not an inmate that DOC was required to transfer to one of its institutions. Nonetheless, it illustrates what action local jails must sometimes take in order to house female inmates.

The ability of DOC to facilitate a timely transfer of State-responsible female inmates to an adult institution has been relatively limited. In August 1994, approximately 350 female inmates were in local jails awaiting transfer to DOC institutions. DOC staff noted that, at the time, a State-responsible female inmate would likely wait in jail for at least one year before a bed would become available at the Virginia Correctional Center for Women.

DOC officials have recognized and have also taken steps to improve their limited ability to transfer female State-responsible inmates from local jails to State institutions. For example, DOC recently converted a correctional unit that, at the time, housed male inmates into a facility to house State-responsible female inmates. This conversion has apparently assisted DOC in moderating the local jail female inmate population. As a result, on September 29, 1994, the number of female inmates in local jails processed by DOC for transfer to the State prison system had been reduced to about 200.

Recommendation (1). In order to moderate the effects of overcrowding on safety and health conditions in local jails, the Department of Corrections should meet the statutory requirements of §53.1-20 of the *Code of Virginia* addressing the removal of State-responsible inmates from local jail facilities.

UNRESTRICTED ACCESS OF STATE AND LOCAL OFFICIALS TO LOCAL JAILS IS NECESSARY

One of the factors critical to the successful oversight of local jails is unrestricted access of State and local regulatory staff to the facility. State and local agency staff with jail oversight and regulatory responsibilities must be able to respond quickly to complaints regarding conditions or other problems that may be occurring in local correctional facilities. Otherwise, given the overcrowding evident in some jails, health and safety conditions could deteriorate quickly and small, relatively minor issues, that could easily be addressed in a jail operating at or near capacity, could expand into a major or dangerous situation.

Code of Virginia States Who Can Enter Local Jails

Regarding the issue of access to local jails, §53.1-127 of the *Code of Virginia* states:

Members of the local governing bodies which participate in the funding of a local correctional facility may go into the interior of that facility. Agents of the Board may go into the interior of any local correctional facility.

DOC staff responsible for monitoring and auditing local jails use their authority as agents of the Board of Corrections to enter local jails. This provision in the *Code of Virginia* recognizes the important oversight role that DOC staff play in the jail oversight process. However, as currently enacted, this provision does not specify that other public safety and health officials may also have access to the local jail in order to ensure appropriate conditions are maintained.

Clarification Regarding Access to Local Jails Is Necessary

There are no data to indicate that DOC staff or staff from other public safety organizations have been routinely denied access to local jails. However, access to a jail has been denied to DOC staff, and the incident involved a jail that was operating significantly in excess of its rated capacity. In response to a complaint from a judicial employee regarding the potential use of temporary holding cells as permanent jail space and other health and safety concerns, DOC regional office staff attempted to investigate the circumstances surrounding the complaint as noted in the following example.

When the DOC program manager attempted to enter the jail to review the area in question, jail staff informed him that the sheriff and the chief jailer were not available. The program manager noted "that all [he] needed to do was walk through the Booking Area, any employee could

accompany [him]; it did not have to be the [chief jailer].” However, he was informed he would still need to make an appointment.

The program manger was subsequently able to enter the jail and review the area in question five days after he originally visited the jail regarding the complaint. Local health department staff from this locality also reported difficulty in conducting unannounced visits to inspect the kitchen at the same jail facility.

During interviews with other DOC staff who have jail oversight responsibilities, obtaining unrestricted access to a jail was not reported to be a problem. In addition, sheriffs and jail administrators reported having no problems with unannounced visits by DOC staff. However, based on comments made to JLARC staff during site visits, the need to clarify the issue of unrestricted access was further evident. For example:

During a visit to one local jail, the sheriff noted that he could have denied JLARC staff entrance to the facility if he had so desired.

* * *

A DOC regional program manager told JLARC staff that had he not called a jail in his region in advance to inform them of our intention to visit, we would likely have been refused entrance.

Clearly, security interests of a local jail dictate that immediate access to the entire facility by DOC staff and other public safety staff may not always be possible or even safe. For example, disturbances occurring in the jail or movement of large numbers of inmates may pose a safety threat to non-jail staff. In this situation, immediate and unrestricted access to entire facility may not always be appropriate.

However, it is in the interest of the State to ensure jails are consistently complying with the Board of Corrections' and other applicable standards and that staff are working and inmates are confined in an appropriate environment. Unrestricted access is appropriate and necessary since the Board of Corrections prescribes minimum standards regarding jail operations, jails hold a significant number of State-responsible inmates, and the State provides almost \$150 million annually in funding to local jails. In order to ensure the continued effectiveness of the oversight process, continual and timely access to all local jail facilities is required.

Recommendation (2). The General Assembly may wish to amend §53.1-127 of the *Code of Virginia* to clarify who may enter the interior of a local correctional facility. The General Assembly may wish to require unrestricted access for staff from the Department of Corrections, State and local health departments, and State and local fire marshals while carrying out their official duties.

III. DOC Oversight of Health and Safety Conditions in Local Jails

The State has formally provided oversight of local jails since 1980 when the first standards regulating local jails were promulgated. The responsibility for regulation has been vested with the Board of Corrections and, as the Board's agent, the Department of Corrections (DOC). The goal of regulation is to ensure that adequate conditions exist and that the treatment and care of inmates confined in local jails is proper. This oversight is particularly important for inmates in local jails since few other groups or individuals observe conditions in the jails on a regular basis. Appropriate oversight can assist in preventing minor incidents or operational deficiencies from developing into situations that may threaten inmates, jail staff, and public safety. Timely and efficient oversight can also assist localities and jail staff in avoiding costly litigation or court intervention.

The current oversight process was probably adequate when jails were smaller and not as severely overcrowded as some are today. Jail overcrowding appears to have caused some of the current Board of Corrections' standards and DOC oversight mechanisms to lose their effectiveness in consistently and adequately protecting both inmates and jail staff. To correct this situation, some standards should be clarified, developed, or reclassified to facilitate more consistent oversight and enforcement.

Further, mechanisms guiding current DOC oversight practices should be developed or revised. The current oversight process needs to be more structured in order to provide the Board of Corrections with timely information regarding local jail conditions. Access to timely and accurate information is critical because the Board of Corrections is required to certify local jails to operate and to enforce their standards as provided in the *Code of Virginia*.

OVERVIEW OF JAIL STANDARDS AND COMPLIANCE MONITORING

Currently, jail oversight consists of three major activities: development and promulgation of standards; routine monitoring and regular inspections; and certification of jails by the Board of Corrections. Each of these activities serves a particular purpose in the oversight process. The standards prescribe conditions for the operation of local jails, inspections and monitoring assess compliance with the standards, and certification recognizes the extent to which each jail has complied with applicable standards.

Virginia's Local Jail Standards

The Board of Corrections is authorized and directed by §53.1-68 of the *Code of Virginia* to prescribe minimum requirements for "the construction, equipment, administration and operation of local correctional facilities." To fulfill its statutory mandate,

the Board of Corrections has promulgated 114 minimum standards addressing the operation of local jails. The standards prescribe requirements for, among other things, jail administration, management, programs, services, operations, and the physical plant. Of the 114 standards, 30 are designated life, health, and safety standards because they broadly relate to conditions of confinement guaranteed to inmates under the Eighth and Fourteenth Amendments to the *United States Constitution*.

The Board of Corrections' jail standards have been revised on several occasions to meet changing needs or conditions in jails or to bring them into compliance with changing statutes. The most recent revision was completed in 1993. Proposed revisions to the standards have recently been developed and distributed for public comment.

Compliance Monitoring and Jail Inspections

DOC uses a three-tiered system of oversight for monitoring compliance with the standards: monitoring visits, annual inspections, and triennial certification audits. Except for the triennial certification audit, DOC regional office staff conduct most of the compliance monitoring. Regional office staff visit the jails for purposes of conducting routine monitoring visits and annual inspections, and providing technical assistance. DOC staff from the certification unit conduct all certification audits of the jails with the assistance of regional office staff. DOC central office staff review and approve plans of action submitted by jails for correcting deficiencies cited on certification audits.

Jail Monitoring Visits. Regional program managers, operating out of four DOC regional offices across the State, reported that they visit each jail at least once every three months. These routine inspections are often called monitoring visits, and the term underscores their basic purpose, which is to monitor the conditions in the local jails. These visits are used to conduct a somewhat informal check on the conditions in jails and to provide assistance on technical or procedural matters.

Annual Jail Inspections. Regional program managers also inspect jails annually, excluding the year the jail is scheduled for a certification audit. Unlike routine inspections, annual inspections are more formalized and involve documenting each jail's compliance with selected standards involving administration and management procedures, security, inmate money and property control, and the physical plant.

Jail Certification Audits. DOC appears to have a well-developed and thorough certification audit process. Jails undergo a formal audit process for purposes of certification by the Board of Corrections once every three years. Certification audits evaluate facilities' compliance with the applicable standards promulgated by the Board of Corrections. Certification audits are conducted by DOC staff from the certification unit and DOC regional office staff familiar with local jail operations and standards.

If deficiencies are found on the triennial certification audit, the certification team develops a written report noting each deficiency. The report is sent to the sheriff or jail administrator. The sheriff or jail administrator, often with the assistance of DOC

regional office staff, develop a plan of action for correcting deficiencies. The plan of action is then reviewed by DOC regional administrators and by DOC central office staff. If found to be satisfactory, the plan of action is approved by DOC central office staff.

Jail Certification Status

Jails which adequately comply with the standards are unconditionally certified to operate for a subsequent three-year interval. Jails found deficient in meeting standards are, depending on the scope or severity of the deficiencies, awarded a conditional or probationary certification until the deficiencies are corrected. If major deficiencies are noted, jails may be placed in a decertified status.

Unconditional Certification. Unconditional certification is granted by the Board of Corrections to jails that comply with 100 percent of the life, health, and safety standards on the certification audit and a minimum of 90 percent of all other standards. Unconditionally certified jails do not need to be audited for another three years. As of October 1994, all but five jails in Virginia were unconditionally certified.

Probationary/Conditional Certification. Probationary certification may be granted to jails that were found to comply with less than 100 percent of life, health, and safety standards and less than 90 percent of all other standards. Further, the deficiencies have been determined to be within the control of the facility. Jails are allowed to remain in probationary status for not more than one year. Conditional certification is similar to probationary except that a one-year extension can be granted by the Board. However, unlike a probationary certification, the deficiencies are determined to be beyond the control of the facility. As of October 1994, four jails had been placed on probation by the Board of Corrections (Hampton City, Floyd County, Carroll County, and Buchanan County).

When jails receive a probationary or conditional certification, DOC regional office staff provide periodic reports to DOC central office staff on the jails' efforts to correct the deficiencies. When the deficiencies are corrected, DOC central office staff will recommend to the Board of Corrections that the jail be unconditionally certified.

Decertified Status. Jails that are on probation or have a conditional certification may be decertified by the Board of Corrections if they do not meet requirements for certification within prescribed time limits. As in jails with a probationary or conditional certification, DOC regional office staff provide periodic reports to DOC central office staff regarding decertified jails' efforts to correct the deficiencies. According to the *Code of Virginia*, the Board of Corrections is also authorized to limit confinement of prisoners in jails that are not operated in compliance with minimum standards as well as to petition the courts to have the responsible local government repair the facility. According to DOC staff, it has not been necessary to place any local jails under court order to correct deficiencies that resulted in decertification. As of October 1994, one jail (Rockingham County) had been decertified by the Board of Corrections.

SELECTED JAIL STANDARDS NEED TO BE STRENGTHENED TO IMPROVE SAFETY AND HEALTH CONDITIONS

The Board of Corrections' jail standards provide the framework for assessing health and safety conditions in local jails. They are the primary criteria that the Board of Corrections and DOC staff use to evaluate conditions in the jails. Because the standards are fundamental to the oversight process, they must be clear, comprehensive, and measurable to meet the needs of DOC monitoring staff who provide oversight of the jails. The standards must also provide clear direction for the jail staff who are responsible for implementing the standards in the local jails.

JLARC staff analysis of the Board of Corrections' standards indicates that some standards lack clarity, others fail to provide clear directives for jail staff, and others lack the life, health, and safety designation which appears important in the present situation of severe overcrowding. For example, the standard requiring periodic food and fire safety inspections appears to lack clarity since it has been misinterpreted by jail and DOC staff. Further, certain medical standards should be more prescriptive in order to ensure inmates and jail staff are properly protected from disease, serious illness, and unsafe living conditions. Finally, some standards should be reclassified as life, health, and safety standards to reflect their increased importance to the health and safety of individuals living in overcrowded facilities.

Standards Should Be Clarified to Enhance Oversight

Standards that are unclear may not be implemented as the Board of Corrections intends, and their lack of clarity may be a reason some jails are frequently cited for non-compliance with particular standards. An analysis of the Board of Corrections' standards and observations during site visits to local jails indicate that a lack of clarity with standards appears to be an issue in at least two areas: the periodicity of food service and fire safety inspections, and local jail inmate supervision.

Periodicity for Food Service and Fire Safety Inspections Should Be Clearly Stated. Results from site visits to local jails and an analysis of the current Board of Corrections' standards determined that lack of clarity in the requirement for annual food service and fire safety inspections of local jails appears to be partly responsible for confusion in the frequency with which they are to be conducted. This standard should be clarified since food service facilities and safety conditions of many jails are presently strained beyond capacity to meet the needs of increasing numbers of inmates.

The standard states that "the facility shall have an annual state or local health food service and fire safety inspection . . ." Further, the compliance documentation and definitions included with the standards define "annual" as "each calendar year." However, it appears that this wording is being understood to mean that a jail may be inspected once every 23 months and still be in compliance with the standard. Such a scenario could

occur if a jail had a food service or fire safety inspection in January of one year and then in December of the following year.

Some jail staff believe that their jail would be in compliance if these inspections occurred at least once each calendar year, not necessarily within twelve-month intervals. However, DOC staff stated that the intent of the standard is to require the jail to have food service and fire safety inspections at least once every 12 months, and this discrepancy has apparently created some confusion. For example:

At one jail, correctional staff stated that they thought the jail was in compliance with the standard because the inspections had been conducted during each of the calendar years in question (although more than 12 months had elapsed between the food service inspections and the fire safety inspections). DOC staff subsequently determined that the jail was out of compliance with this standard because more than 12 months had elapsed between the food service and fire safety inspections.

The frequency of non-compliance with this standard also suggests that it is unclear since it has been missed more than 40 times on certification audits since 1988.

Timely and regular food service and fire safety inspections are essential to inmate health and safety in local jails. Timely food service inspections are necessary since many jail kitchens are now preparing food for more than double the number of inmates for which they were originally designed. The annual fire safety inspection ensures oversight of potentially life-threatening jail conditions. Fire safety inspections assess the condition and maintenance of safety equipment in the jails, storage of hazardous materials, and adequacy of occupant evacuation in emergencies. Under the present conditions of severe overcrowding, it is important that these inspections be conducted at least once every 12 months.

Recommendation (3). The Board of Corrections should revise standard §6.1 addressing food service and fire safety inspections. The language of the standard should clearly state that annual food service and fire safety inspections shall be conducted at least once every twelve months.

Visual Obstructions on Bars and Cell Doors Should Be Clearly Prohibited. The ability to directly observe inmates is critical for ensuring that all incidents, but especially potentially fatal incidents, are discovered in a timely fashion by jail staff. Yet, the Board of Corrections' standard regarding inmate supervision appears to lack specific criteria regarding the visual observation of inmates. The standard contains broad language requiring that all inmate housing areas are to be inspected at a minimum of twice per hour. DOC compliance documentation states, "inspection means physical presence in the inmate housing area." The standard provides no clear directive that the inmates actually need to be observed.

According to DOC staff, the intent of this standard is for jail staff to observe inmates and inmate housing areas on a regular basis. In addition, they stated that this

standard is also intended to prohibit inmates from obstructing the jail staff's view of their cells or cell blocks because obstructions interfere with the ability of jail staff to comply with the standard.

In some jails, the JLARC study team observed that some inmates would cover the bars to their cell blocks or cells with newspapers, sheets, or towels, thus obscuring jail staff supervision even in open dormitories and cell blocks. For example:

In one jail operating at more than 250 percent of its rated capacity, sheets, blankets, and newspapers were used to obstruct the view into the interior of some inmates' cells. Security staff told JLARC study team members that the inmates did not like the bright lights or wanted to get some privacy.

* * *

During a visit to a local jail, the study team observed that many of the cell doors were closed. Further, the windows in many of the cell doors were covered with towels, sheets, or newspaper. No inmates were observed in many of the dayrooms. Security staff stated that the inmates were in their cells. However, the inmates in the cells could not be observed.

Problems with insufficient observation of inmates were also noted in the U.S. Department of Justice report of the Norfolk City jail. For example:

[G]iven the lack of lighting and the rags, clothing, and blankets that inmates tie to the bars for privacy, vision into the cells is severely limited. In fact, our penology consultant had difficulty ascertaining whether a cell was even occupied. Thus, it is nearly impossible for a guard to make a cursory check on the inmates in the cells during his routine "floor checks."

The intent of a regular inspection of inmate housing areas is to maintain safety in the jail environment, to ensure that assaults or harmful incidents do not occur, and to observe and respond to any emergencies, such as attempted suicides, that may arise. Regular and thorough observation of inmates is necessary, especially in overcrowded jails where inmates are often housed in areas such as converted libraries or other program space that were not constructed for long-term, secure detention of inmates. Because the standard does not clearly state that placing obstructions in the bars is prohibited, enforcement and compliance determinations are difficult. Furthermore, this important security standard does not provide appropriate guidance to jail security staff or DOC monitoring staff; thus it appears limited in preventing the occurrence of potentially dangerous incidents.

Recommendation (4). The Board of Corrections should revise standard §5.34 regarding inmate supervision. The standard should clearly state that no

obstructions shall be placed in the bars or windows that would interfere with the ability of jail staff to view inmates or the entire inmate housing area.

Selected Medical Standards Need to Be Improved or Developed to Facilitate Enforcement

All medical standards prescribed by the Board of Corrections appear to be based on standards developed by professional correctional or health care associations. However, some of the Board of Corrections' standards are neither as comprehensive nor, in some cases, as specific as those of other organizations. Particular areas of concern about lack of specificity or failure to address key issues altogether were noted with the standards for medical screening of inmates, pharmaceutical administration, suicide prevention, and communicable disease control.

Medical Screening Standard Is Too Broad. The initial medical screening of incoming inmates is one of the most critical assessments or reviews completed by jail staff. Medical screening is designed to prevent newly arriving inmates from being placed in jail housing where they may not receive the medical or supervisory attention they need, or where they may threaten the health or safety of jail staff or other inmates.

The Board of Corrections defines a medical receiving screening as "an observation and interview process within the booking procedure designed to obtain pertinent information regarding an individual's medical or mental health condition." The primary tool used for the medical screening of inmates by local jails is the medical screening form. The contents of this form determine the scope and the adequacy of medical screening. In some cases, the scope of the medical screening forms used in some jails may be inadequate.

An analysis of medical screening forms currently used by 21 jails indicates that all medical receiving forms assessed the general physical condition of inmates, but wide variability was noted in their contents. Three medical screening forms did not include questions concerning inmates' tuberculosis status. Further, five of the 21 medical screening forms did not include questions about inmates' potential suicidal behavior. In addition, in some cases, the overall scope and adequacy of the screening appeared to be inadequate. For example:

Several forms only contained one or two general questions about the mental health or communicable disease status of inmates, such as, "Do you have any illnesses . . . ?" or "Is your mental condition OK?" In contrast, other medical screening forms contained questions designed to obtain a more detailed assessment of these conditions, such as, "Have you ever had or do you now have hepatitis or jaundice?" or "Are you under psychiatric care?"

The medical screening form for one jail contained 11 questions relating to present illnesses and allergies, medications, present physician, emergency contact, and whether the individual had any artificial limbs or eyes. The form contained no assessment of past medical problems, mental health status, suicidal tendencies, or any screening for communicable diseases. In contrast, the medical screening form used by another jail consisted of over twenty questions that assessed a range of health problems, including dental health, sexually transmitted and other infectious diseases, past and present medications, use of drugs or alcohol (including type and frequency), and past and present hospitalizations for medical and mental health problems. The form also assessed possible suicidal tendencies and included sections for jail staff to note their observations of the inmates' behavior and appearance.

The medical screening process provides critical information on individuals who may have diseases, infections, or mental or behavioral conditions that, if not recognized and treated immediately, could not only threaten their own lives but also the health and safety of other inmates and staff. Although professional medical staff may perform a more rigorous health assessment at a later time, the initial screening should be comprehensive enough to detect a range of physical, mental, and behavioral problems which may become life-threatening if jail staff are unaware of them.

The importance of a thorough medical screening process is intensified by the severely overcrowded conditions under which many inmates are presently housed. In these environments, serious, undetected communicable diseases may spread rapidly among inmates, or chronic mental health problems may be exacerbated by the confined living space that now characterizes most jails.

Recommendation (5). The Board of Corrections, with input from the Department of Corrections' Office of Health Services, should revise standard §4.15 concerning medical screening of inmates. At a minimum, the medical screening should specify assessment of: (1) current illnesses, health problems and conditions, and past history of infections or communicable diseases; and (2) current symptoms regarding the individual's mental health, dental problems, allergies, present medications, special dietary requirements, and symptoms of venereal disease. The medical screening should also include inquiry into past and present drug and alcohol abuse, mental health status, depression and suicidal tendencies, and skin condition. For female inmates the assessment should also include inquiry into possible pregnancy or gynecological problems.

Medication Management. Jail staff are often required to administer both prescription and non-prescription medications to inmates because most jails do not always have licensed medical staff available for these functions. Based on 90 responses to the JLARC survey of sheriffs and jail administrators, only 22 jails have licensed medical staff in the jails 24 hours each day. Consequently, many jail inmates who have been prescribed medications or who need non-prescription medication for certain

medical problems are often dependent on non-medical jail staff to manage and administer pharmaceuticals to them.

The Board of Corrections' standards, however, provide little guidance in administration and control of medications and the policies appear to vary widely among jails. For example, only two standards, both of which are administrative, concern medication management in jails, and one states that each jail shall develop its own standard operating procedures for drug management. In addition, although medication management practices are supposed to be reviewed annually by the jails' physician or pharmacist, JLARC staff observed problems in selected areas of pharmaceutical management such as distribution, storage, disposal, and inmate access to medication.

The JLARC study team observed that many jail staff, including medical staff, put required doses of medications into small cups and carry the cups on carts or on trays to inmates in their cells. In some jails, medical or jail staff may distribute medication from paper envelopes, while others distribute medicine to inmates directly from original drug containers. In these situations, it is possible for the cups to tip over and for spilled medicine to be replaced into the wrong inmate's cup. Without careful monitoring, it is possible for unauthorized persons to have relatively easy access to medications intended for specific inmates. For example:

In a crowded elevator of a large jail, a nurse was observed carrying a large tray of medications for distribution to jail inmates. The tray was filled with uncovered cups containing medication intended for the inmates.

Storage of pharmaceuticals is another area of concern. During visits to local jails, most medications were stored in locked cabinets or closets. However, there were instances when JLARC staff observed pharmaceuticals in open containers with unsecured inmates in relatively close proximity. For example:

In one jail, inmates were seated outside the room where medicines were being prepared for distribution. In the room, shipping containers filled with pharmaceuticals were on the floor. The shipping cartons had been opened and left unattended. The door to the room was open and inmates were waiting in the hallway to see jail staff in another office.

DOC's policies for adult institutions state that, "procedures should be developed and strictly adhered to for the maximum security storage of all controlled substances . . ." Local jail facilities appear to need similarly prescriptive standards in order to maintain safe control over drugs.

The proper disposal of unused medications is another area in which jail staff appear to need more direct guidance. For example:

In one jail, JLARC staff observed prescription medications clearly separated into groups on two separate shelves. The correctional officer

pointed out that the medications on one shelf were for distribution to inmates in jail at the present time. When asked about the medications on the other shelf, the correctional officer claimed that he was saving the unused medications for inmates who had left, in case they returned to the jail.

In contrast, DOC's policies regarding medication management in adult institutions requires that all unused medications be returned to the provider pharmacy within seven days of their discontinued use.

Standards that provide insufficient guidance for administering pharmaceuticals to inmates are potentially dangerous to both inmates and staff. Most jail staff are not professionally-trained medical personnel, and they therefore may be particularly vulnerable to litigation unless they are properly trained and adequately guided by appropriate standards. For example:

Legal action was brought against jail staff following the death of an inmate in a local jail due to an apparent drug overdose. The suit alleged that, "[the inmate] died as a direct result of an overdose of a certain prescribed medication negligently and carelessly administered by the defendants" The suit further alleged that "failure to provide proper and adequate medical treatment . . . constituted deliberate indifference . . . resulting in an unnecessary infliction of pain" In this case, the suit was settled in favor of the inmate's family for more than \$153,000.

Jail staff are not trained on an ongoing basis to recognize all possible negative side effects of some drugs, nor are they trained to know when possible combinations of certain drugs may be harmful to the inmate. In addition, a greater need for training may be indicated since DOC staff reported that they are seeing increased numbers of inmates remaining in jails for longer periods of time who are receiving psychotropic or other strong medications.

DOC has realized the importance of providing detailed standards for State facilities. Standard operating procedures for the DOC adult institutions specify how to store and dispose of medication and they clearly describe procedures for administering medication to inmates. DOC adult institution policies clearly state that only trained staff shall administer medications and DOC has provided continuing education to adult institution staff in this area. Greater levels of specificity would be helpful for jail staff and would help ensure greater safety for inmates. Increased specificity regarding management, medical oversight, and staff training would also provide DOC auditors with definitive criteria for evaluating the safety and appropriateness of specific pharmaceutical management and administration practices in jails.

Recommendation (6). The Board of Corrections, with consultation from the Board of Pharmacy and the Department of Corrections' Office of Health Services, should revise standard §4.18 governing the administration and management of pharmaceuticals in jails. The standard should specify that

written policy, procedure, and practice provide for: (1) the proper management of pharmaceuticals, including receipt, storage, dispensing and distribution of drugs; (2) medical authority review of policy, procedure and practice governing administration and management of pharmaceuticals at least once every 12 months, or sooner if there is a change in the jail's medical authority or pharmacist; and (3) administration of medication by persons properly trained and under the supervision of the health authority and facility administrator or designee.

Communicable Disease Control Standard Is Needed. Currently, there are no standards addressing communicable disease control in local jails, and the absence of such standards could potentially jeopardize the health of both inmates and staff. For example, outbreaks of infectious diseases such as tuberculosis (TB), pneumonia, and viral infections have been documented in jails. A recent Centers for Disease Control study linked severe overcrowding in a large jail to an outbreak of pneumonia that infected 46 inmates and resulted in two deaths. The report noted the importance of standards in controlling the spread of diseases in jails:

The living conditions in this jail exemplify a national problem in correctional facilities . . . and the well-documented association of the transmission of tuberculosis with incarceration indicate the need to reassess standards . . . and other preventive measures in correctional facilities.

In addition, the incidence of life-threatening communicable diseases is increasing in jails throughout the United States, and appears to be an issue in Virginia's jails as well. For example, the JLARC staff survey asked sheriffs and jail administrators to respond to questions regarding the number of HIV, AIDS, and TB cases that occurred in their jails in calendar years 1992 and 1993. Ninety local jails responding to the survey reported significant numbers of inmates with HIV and AIDS during calendar years 1992 and 1993 (Table 2).

The numbers reported in the survey may understate the actual incidence of HIV and AIDS because inmates are not required to be tested for these illnesses. Also, some inmates may not know they are infected, may refuse testing, or may not yet have developed noticeable symptoms of AIDS. The need for a communicable disease control standard is further underscored by documented increases in the number of jail inmates who continue to be housed in overcrowded living space with little opportunity for exercise or outdoor activities. These conditions are known to facilitate the spread of disease. For example:

At one jail, DOC staff noted that, "some inmates have been incarcerated for as long as 18 to 24 months without being allowed outside . . ." When JLARC staff visited this jail, which had no air-conditioning, the windows had been covered with metal plates that had narrow slits for air and light, limiting the flow of fresh air and daylight in the cell blocks.

Table 2

**Number of Cases of Selected Diseases in Local Jails
(Calendar Years 1992 and 1993)**

<u>Disease</u>	<u>1992</u>	<u>1993</u>
HIV	311	392
AIDS	52	105
TB (Inmates)	6	13
TB (Jail Staff)	0	1

Source: JLARC staff analysis of data from the JLARC staff survey of sheriffs and jail administrators, summer 1994.

JLARC staff analysis of medical screening forms and medical testing policies provided additional information supporting the need for standards addressing communicable disease control in jails. For example, the lack of screening questions on medical receiving screening forms, as reported in a previous section, could have a significant impact on the introduction and spread of communicable diseases in jails. In addition to problems with medical receiving screening, responses to the JLARC staff survey indicate that over 50 percent of the jails responding to the survey have no current policy regarding the administration of TB screening tests to inmates.

Inadequate testing policies, together with undefined medical screening protocols, could create situations in which inmates may be placed into general jail populations without adequate knowledge of their communicable disease status. This could be a dangerous practice because, in the absence of adequate screening and testing, infected individuals may spread life-threatening diseases to non-infected inmates or staff. Given conditions of overcrowding, poor sanitation, and lack of exercise, inadequate testing policies enhance the possibility of spreading diseases to non-infected inmate populations. Policies addressing the testing of inmates for communicable diseases would be an important component of communicable disease control in jails.

However, the extent to which all jails should be required to provide every inmate a TB screening test should be evaluated when developing the standards. Many jails do not have any medical staff, so their ability to provide timely screening tests to all inmates is limited. Further, many jails reported that they will have an inmate tested if there is a positive response to the initial screening questions regarding TB. As a result, the Board of Corrections should evaluate whether TB screening requirements should apply only to jails of specific rated capacities.

According to health care experts, the spread of most communicable disease can be prevented or contained in correctional facilities. In Virginia, DOC has developed procedures for communicable disease control in State prison facilities. These procedures address the detection, identification, management, and prevention of diseases within those facilities, and include provisions for staff training and medical management of accidental exposure to blood-borne pathogens such as HIV and hepatitis. These

procedures could serve as guidelines for development of communicable disease control programs in jails. Data regarding communicable diseases reported by local jails indicate that a standard requiring the basic components of a communicable disease control program needs to be developed, especially under the present overcrowded conditions that exist in some local jails.

Recommendation (7). The Board of Corrections should develop, with consultation from the State Board of Health and the Department of Corrections' Office of Health Services, minimum standards for communicable disease control in jails. At a minimum, the standards should include requirements for: (1) development of communicable disease screening items for inclusion on medical receiving screening forms used in jails; (2) review, by the jail's medical authority, of communicable disease screening procedures and subsequent documentation at least once every 12 months; (3) development of policies for communicable disease testing in jails and, when indicated, for housing inmates prior to their placement in the general population; and (4) training of jail staff in the identification and transmission of communicable diseases and of identifying hazardous conditions that may facilitate the spread of disease.

Proposed Suicide Prevention Standard Needs to Be Promulgated. According to the JLARC staff survey, there were nine suicides in Virginia's jails in 1993. Moreover, jails reported 486 attempted suicides in calendar year 1993. In addition, at least three local jail inmates have committed suicide in 1994, with two of the suicides occurring at one jail. These data indicate there may be a need for better suicide prevention strategies and for additional training of correctional officers in screening and managing potentially suicidal inmates. Further, situations have apparently occurred in local jails that also indicate the need for improved plans to identify and manage suicidal inmates appropriately. For example:

At the request of DOC central office staff, a regional program manager went to a jail to investigate a complaint regarding a specific inmate. The program manager noted that, among other requests, the inmate had apparently requested to be placed in isolation. This inmate had previously been transferred to other jails and had also been committed to a State mental health hospital on a temporary detention order as the result of an apparent attempted suicide. The program manager further noted that "[the jail officer] feels that the [inmate] is better served in a cell block where other inmates can serve as "observers" should the [inmate] try to commit suicide again."

Inadequate training of jail staff in the recognition and management of suicidal inmates may result in placement of high-risk inmates in potentially fatal circumstances and may also place jail staff at unnecessary risk of subsequent litigation. For example:

A legal suit brought against jail staff that resulted in a significant monetary award to the plaintiffs stated that, "... the defendants have a duty . . . to provide for [inmate] safety and to provide and establish

adequate policies and procedures for the care of inmates suffering from psychiatric disorders [The defendants] were aware of the inadequate facilities, policies and procedures . . . regarding the care and treatment of inmates with psychiatric disorders . . . including suicide attempts.”

The Board of Corrections, recognizing the need for guidance in this critical area, recently developed a proposed standard requiring jails to have approved suicide prevention and intervention plans. Promulgation of this standard is still necessary.

Until the Board of Corrections promulgates the proposed standard addressing suicide prevention plans, DOC should make additional training in suicide prevention available for local jail staff. Recognizing the need for such training, one DOC regional office recently sponsored a suicide prevention workshop for local correctional staff from jails in that region. Staff from this office noted that “several recent suicides and suicide attempts in jails and lockups makes this training especially necessary.” The chief psychologist from DOC’s mental health facility led the presentations and also developed a set of model suicide prevention policies that could be modified for use by all jails. DOC regional office staff noted that they considered the program a success and that more than 50 correctional officers from jails in the region attended this training.

Recommendation (8). Due to overcrowding and the number of attempted and successful suicides reported in local jails, the Board of Corrections should promulgate the proposed standard that requires each jail to prepare a suicide prevention plan. Until the proposed standard becomes effective, the Department of Corrections should provide, on a regional basis, suicide prevention training for local jail staff.

Additional Standards Need to Be Reclassified as Life, Health, and Safety

Some Board of Corrections’ jail standards have been designated life, health, and safety standards. Life, health, and safety standards are those determined necessary for ensuring that living conditions in jails meet constitutional criteria. In effect, it is mandatory that jails comply with these standards. Currently, 30 of the 114 standards governing local jails have been designated life, health, and safety standards by the Board of Corrections.

However, it appears that some of the standards not classified as life, health, and safety standards should be reevaluated by the Board of Corrections in the context of present overcrowding and the increasing incidence of potentially life-threatening communicable diseases. Two standards appear to have become more critical to inmate health and safety under these conditions: the standard involving inmate access to physical exercise, and the standard prescribing clothing changes for inmates.

Physical Exercise Standard Needs to Be Reclassified. The Board of Corrections’ standards require jails to provide all inmates access to regular physical

exercise. Currently, this standard is not a life, health, and safety standard, and jails can be unconditionally certified without providing inmates with adequate opportunities for physical exercise. Given the present conditions of severe overcrowding, the inability of inmates to exercise appears both unsafe and unhealthy, and thus, the Board of Corrections should designate the standard requiring the availability of exercise for inmates a life, health, and safety standard.

The importance of exercise for jail inmates is reflected in statements made by correctional experts and by the existence of professional standards requiring regular exercise for local jail inmates. For example, one legal analyst wrote:

Good facility administrators know the value of recreation and exercise in helping to relieve some of the tensions that can build up in a jail environment

In addition, the American Correctional Association, the National Commission on Correctional Health Care, and the American Public Health Association have developed standards addressing the availability and frequency of regular exercise in jails. These professional organizations base the rationale for their standards on the need for individuals to maintain their physical health in jail environments where space is limited and opportunities for movement are significantly constrained. Further, professional standards recognize that even though space and security concerns may preclude the availability of exercise at certain times, regular exercise is known to reduce tension, stress, and aggressiveness. However, since the Board of Corrections has not designated exercise a life, health, and safety standard, it is possible for jails to be unconditionally certified without providing inmates with any access to either indoor or outdoor exercise for prolonged periods of time. For example:

DOC staff noted on the audit documentation for one jail that “. . . inmates do not have access to regular physical exercise due to overcrowding.” This jail had been unconditionally certified by the Board of Corrections. During a JLARC staff visit to this jail, which was operating in excess of 200 percent of its rated capacity, inmates complained about having been in the jail for more than 10 months without having been outside or having had the opportunity for any significant physical exercise. This jail also held juvenile inmates.

Limited adherence to the standard requiring exercise for inmates may have long-term negative consequences that place inmates and staff in unsafe environments. For example, according to the JLARC staff survey, there were 2,708 physical assaults on inmates by inmates and 745 inmate assaults on correctional staff in Virginia's jails in calendar year 1993. Some of these assaults might be attributed to overcrowding and lack of regular physical exercise, as indicated in a recent U.S. Department of Justice report on conditions found during its 1993 investigation of the Norfolk City jail:

Adequate opportunity for regular exercise is essential for maintaining both physical and mental health. Moreover, . . . regular exercise takes

on added value . . . in that it provides a constructive means of letting out the inevitable tensions which arise in circumstances in which personal privacy and space are virtually non-existent.

The Board of Corrections also appears to have recognized the importance of this standard. Since March 1990, it has denied six requests from jails for variances to this standard. However, unless compliance with this standard directly impacts jail certification, local governments, sheriffs, and jail administrators have no compelling reason to rectify or address the lack of exercise for inmates. Designating this standard a life, health, and safety standard would require all involved with local jails to find methods for providing access to regular physical exercise.

Reclassifying inmate exercise as a life, health, and safety standard may assist existing local jails, many of which are small and overcrowded, in obtaining reimbursement for renovations needed to provide exercise space. For example, DOC currently assigns funding priorities for renovation projects based partly on life, health, and safety considerations. If a jail can demonstrate the need to comply with a life, health, and safety standard, it may receive greater funding priority than a jail seeking reimbursement for non-life, health, and safety purposes.

Some sheriffs and jail administrators have recognized the importance and value of regular inmate exercise and have created opportunities for various types of exercise. For example, one regional jail administrator used inmate commissary funds to build a small but secure outdoor basketball court. Some sheriffs reported purchasing exercise equipment and making it available to inmates on a regular basis to fulfill the requirement for exercise. However, unless the standard is designated a life, health, and safety standard, compliance is not mandatory and, even where space exists, there is no requirement that the facilities, space, or equipment be used for exercise.

Inmate Clothing Issue Standard Should Be Reclassified. Current Board of Corrections' standards require that inmates be provided a change of clothing at least two times per week. However, some jails are frequently out of compliance with this standard. This standard has been missed 39 times on certification audits of jails since 1988. Yet, because it is not a life, health, and safety standard, jails could still be unconditionally certified despite not maintaining compliance with this standard.

Having clean clothing is critical when many jails are not air-conditioned and are overcrowded. For example:

Inmates in one jail reported to the JLARC study team that they only received a change of clothes once per week. This jail was severely overcrowded and had no air-conditioning. The walls were moist from condensation and the cell blocks were extremely hot. A clothes dryer running on the top floor created intense heat and humidity on that floor of the jail.

In these conditions, inmates' clothes can easily become wet with perspiration. Lack of adequately clean clothes compromises inmates' ability to remain clean, dry, and vermin free. These conditions are essential to maintaining a healthy environment, especially under conditions of severe overcrowding now experienced by most jails.

Reflective of this, the U.S. Department of Justice, in its review of the Norfolk City jail, stated that "prisoners should have clean clothes and linen exchange at least three times per week" as a method for ensuring adequate environmental health. Also, the National Commission of Correctional Health Care has published jail standards requiring three clothing changes per week. Since many jails are not air-conditioned, it is important that inmates are assured appropriate clothing changes by a standard that has been designated a life, health, and safety standard. At a minimum, jails should be required to provide inmates at least two changes of clothing per week.

Recommendation (9). The Board of Corrections should reclassify standard §4.2 (2), which addresses physical exercise and standard §6.1 which addresses the availability of clean clothing as life, health, and safety standards.

DOC OVERSIGHT AND ENFORCEMENT ACTIVITIES SHOULD BE STRENGTHENED

The previous section addressed the clarity and adequacy of the Board of Corrections' standards in providing an effective framework for DOC's monitoring activities. This section focuses on the oversight activities DOC uses to provide the Board of Corrections information related to conditions in local jails. Oversight of jails' compliance with standards is an important component of jail oversight. Appropriate and consistent monitoring should:

- assess compliance or non-compliance with standards,
- ensure identified deficiencies or problems are corrected, and
- provide documentation that the jail is operating in accordance with statutory and regulatory requirements.

Monitoring activities are mechanisms for assessing the facility's compliance with prescribed standards. The jail's compliance and certification status can have significant legal implications if lawsuits are brought against the jail or jail staff. Monitoring and oversight activities also provide insight into the living and working conditions inside a jail.

The effectiveness of this oversight is determined largely by the ability of DOC staff to identify problems and ensure corrective action is taken in a timely manner. DOC could improve the current oversight and monitoring process through a number of mechanisms. First, periodic training could be provided to enhance the regional program

manager's ability to consistently identify and assist in correcting identified problems. Second, improvements to the current jail monitoring process, including unannounced inspections, should be considered. Finally, policies and procedures should be developed to strengthen the current DOC annual inspection process to ensure that the inspection is directed at critical areas of jails' operations and that necessary information from the inspection is transmitted to the Board of Corrections.

Additional Staff Training Should be Provided to Enhance Oversight

DOC regional office staff are the primary link between local jails, DOC, and the Board of Corrections. Regional office staff are continually in local jails to monitor the jails' compliance with standards, and to provide technical assistance. Because these staff work out of different regional offices, it is critical that their oversight and technical assistance efforts be characterized by consistent interpretation and implementation of the standards across the regions. Increased training of regional program managers and other DOC staff who have jail responsibilities could help ensure more consistent interpretation, implementation, and enforcement of standards.

Periodic training of all DOC staff with jail responsibilities would likely improve consistency, which appears to be lacking, in the interpretation of standards. For example:

In many of the jails in one DOC region, JLARC staff observed garbage bags, acting as trash receptacles, hanging on bars in the inmate housing areas. This practice was not systematically observed in jails in other DOC regions. This is also a violation of the Board of Corrections' standards. According to DOC staff, the reason this practice is not allowed is due to the threat of fire and also the potential for an inmate to use the bag as a means of suffocating another inmate. When DOC staff were asked why this practice seemed prevalent in one particular DOC region, they noted that the previous regional administrator had considered plastic garbage bags to be acceptable trash receptacles.

* * *

Proposed revisions to the jail standards are intended to enhance inmate supervision by requiring no less than 20 minute intervals between inmate checks by jail staff. The revision would ensure, for example, that inmate checks were spaced out over a period of time rather than occurring within short intervals followed by long intervals during which inmate checks by jail staff do not occur. JLARC staff observed some confusion regarding the interpretation of this standard. During a jail visit by JLARC staff, the DOC regional program manager was explaining to the sheriff that the proposed regulation would require inmate checks every 20 minutes — which is not the intent of the standard. In contrast, a chief jailer in another DOC region interpreted

the standard correctly as requiring that at least 20 minutes elapse between inmate checks. The chief jailer noted he had confirmed this interpretation with his jail's DOC program manager.

In this area, there appears to be some inconsistency among the DOC regional office staff concerning the intent of jail standards. To correct possible misinterpretations of new and existing standards, DOC certification staff should conduct periodic training on the rationale and compliance criteria for standards promulgated by the Board of Corrections. Regional office staff should also be better informed as to how the standards should be interpreted and enforced. In addition, offering such training to jail administrative staff might also be beneficial.

Further, some regional program managers noted that there was a lack of training forums for them to discuss jail issues with their peers from around the State and with the certification unit staff. These sessions could be an excellent opportunity for DOC certification unit staff to discuss standards for which jails are repeatedly cited for noncompliance on certification audits. Potential methods for helping jails comply with the standards could be developed and discussed in a more centralized manner. This type of information could then be shared by the regional program managers with local jail staff.

In addition, these forums would provide excellent opportunities for certification unit staff and regional office staff to share successful methods for addressing operational issues or resolving problems. For example, on a site visit to a local jail, JLARC staff told the regional program manager assigned to that jail about a grievance process used by a jail in another region. The regional program manager stated that the information was useful. Training forums would enable DOC program managers and certification unit staff to share successful ideas, increase technical expertise in jail oversight, and assist in problem-solving.

Recommendation (10). The Department of Corrections should conduct periodic training for all Department staff with jail oversight or technical assistance responsibilities to discuss any changes or proposed changes to the standards governing local jail operations. In addition, certification unit staff should use these training sessions to discuss existing standards with which jails have difficulty maintaining compliance and possible mechanisms for helping jails maintain compliance with these standards.

Unannounced Jail Inspections Are Necessary

Currently, DOC regional office staff make at least four monitoring visits to local jails annually. In addition, regional office staff conduct annual inspections in the intervening two years between the triennial certification audits. With the exception of two program managers who stated their monitoring visits were unannounced, the majority of program managers make arrangements with the jails concerning upcoming visits or inspections.

There are no written policies or procedures for either the monitoring or annual inspections that stipulate whether they will be conducted in an announced or unannounced manner. One regional program manager reported that he provides his jails one month's notice of upcoming annual inspections. Announced inspections, however, may not always provide DOC staff, and ultimately the Board of Corrections, with an accurate assessment of the jail's condition. For example:

One sheriff noted that he only cared about the standards when a DOC inspection was to occur. He noted that jail staff then spend countless hours getting ready for the inspection.

* * *

A regional program manager noted that he does unannounced visits because if you tell the jail you are coming, "they will clean the jail like mad." Records reviewed by JLARC staff indicate that this program manager even visited a jail unannounced on a holiday.

* * *

Inmates in another jail informed JLARC staff that they had been instructed to remove towels and sheets from the cell room doors and windows before JLARC staff arrived at the jail.

Many regional program managers noted that the reason for scheduling visits and annual inspections in advance was to ensure that supervisory personnel and individuals with the proper records and manuals were available. However, standards require that policy and procedure manuals be available to all staff 24 hours a day. Further, one program manager who conducts unannounced visits noted that if there is a problem and the individual he needs to talk to is not at the jail, he will talk to the individual on the telephone to discuss the problem or findings or make an appointment to meet with that individual to discuss his findings.

Recommendation (11). **The General Assembly may wish to amend §53.1-68 of the Code of Virginia to require that the Department of Corrections conduct all annual inspections of local jails on an unannounced basis.**

DOC Annual Inspection Process Should Be Strengthened

As discussed earlier, annual inspections are conducted during each of the two years between a jail's triennial certification audit. However, despite the importance of this formal inspection, the effectiveness of this process is inadequate. The current process does not appear to help jails consistently maintain compliance with the Board of Corrections' standards. In addition, policies and procedures guiding the annual inspection process are lacking, and the scope of the annual inspection appears to be inadequate.

Annual Inspections Appear to Be Ineffective. Some DOC staff noted that they view the annual inspection as a resource for helping jails prepare for the certification audit and to help reinforce the need to maintain compliance with the Board of Corrections' jail standards. However, a review of the results of many annual inspections indicate that the process may not be very effective. For example:

An annual inspection was conducted the month before a jail underwent a triennial certification audit. The program manager noted on the inspection guide that the jail had not reviewed procedures related to standard §5.38, and that the fire safety and health department inspections were due. Also, a question mark was next to the standard requiring review of emergency evacuation plans. The next month the DOC audit team cited the jail for noncompliance with 22 standards. The jail was subsequently decertified by the Board of Corrections.

* * *

An annual inspection was conducted at a jail in the fall of 1993 by a DOC regional program manager. No deficiencies were cited during this inspection. In the spring of 1994, this jail had an announced certification audit conducted by the DOC certification audit staff. The certification audit team cited the jail for noncompliance with more than 15 standards.

The potential ineffectiveness of the annual inspection is further highlighted by the fact that more than 20 jails did not comply with at least two specific life, health, and safety standards on consecutive certification audits conducted since 1988. In fact, ten jails did not meet five or more specific life, health, and safety standards on consecutive certification audits.

Finally, the standard requiring one cardio-pulmonary-resuscitation (CPR) certified staff member be on duty per shift has been missed more than 50 times since 1988. However, a review of more than 70 DOC annual inspections documented only two cases where jails were not in compliance with this standard. Clearly, the annual inspection has not prepared these jails for the certification inspections; nor has it apparently assisted them in maintaining continual compliance with Board of Corrections' standards.

Annual Inspection Guide Is Inadequate. An important component to a successful oversight process is the actual inspection guide used by the auditors. The inspection guide used for the annual inspection of jails should be revised to assess compliance with standards in the critical areas of a jail's operation that can directly impact the health and safety of both inmates and staff.

For example, the current form asks inspectors to verify that one staff member is on duty 24 hours a day who can respond to prisoner needs. Yet it also asks inspectors to verify whether there is one person per shift with a valid CPR card, as well as asks for

verification of one trained officer on duty per shift. It would appear that the intent of these three questions is to assess whether a fully trained and qualified staff person is available each shift. Further, many of the areas DOC inspectors are asked to audit do not address very important life, health, and safety standards. Also, DOC inspectors are not required to assess compliance with other very important standards that have frequently not been met on certification audits (Table 3). Unmet standards on certification audits and all medical standards should be audited formally on an annual basis.

Table 3

**Unmet Standards on Certification Audits That
are Not Reviewed During Annual Inspections
(January 1988 - May 1994)**

<u>Standard</u>	<u>Number of Times Unmet</u>
Non-Toxic Mattresses, Pillows and Trash Receptacles	53
Distribution of Clean Linen, Towels, and Clothing	39
Written Fire Prevention Practices and Staff Review	37
Daily Examination of Security Devices	34
Control and Use of Tools, Culinary Items, and Cleaning Equipment	28
Manning of Post to Control Activities and Flow of People In and Out of Secure Area of Jail	25

Source: JLARC staff analysis of data from the Department of Corrections.

The need to ensure that the annual inspection guide is focused on areas in a jail's operation that are directly linked to life, health, and safety conditions is evident in this example.

JLARC staff accompanied a DOC regional program manager on a routine visit to an overcrowded jail. In the kitchen area, the program manager went directly to the office to check the jail's control of culinary instruments and small hand tools stored in a tool box. A jail officer demonstrated how tool control was maintained in that facility. Inmate trustees had access to the tool box if they had a legitimate need for a tool and if they signed the log book to obtain the key. When the deputy opened the tool box at the request of the DOC program manager, a knife was found in the top tray. None of the jail staff knew the knife was there.

Despite incidents like this and the fact that certification audits since 1988 have identified 28 incidents of noncompliance with the standard governing tool and culinary item control, this standard is not included on the annual inspection guide.

Given the stress that overcrowding creates for local jails, it is essential that the annual inspection focus on important standards with which jails have a difficult time

complying. In addition, the annual inspection guide needs to include all standards that could directly impact the safety and health of inmates and staff in local jails. For example, life, health, and safety standards that are frequently missed on certification audits and all medical standards should be reviewed on annual inspections.

Recommendation (12). The Department of Corrections should revise the annual inspection guide to ensure that it provides more specific direction on essential life, health, and safety standards related to a jail's safe and secure operation, standards that jails have frequently missed on certification audits, and all medical standards. Revisions to the annual inspection guide should include input from Department staff in the certification unit, the regional program managers, and the Board of Corrections.

Annual Inspection Policies and Procedures Are Lacking. DOC staff stated that the annual inspection process was developed because they realized some jails needed to be formally inspected more than once every three years. JLARC staff observations of local jail conditions confirm the importance of annual inspections as essential checks on conditions in jails during the intervening years between certification audits. Annual inspections are necessary because many jails are older and are presently operating far in excess of their rated capacities. Under these conditions, physical plants, policies and procedures, security, safety, health conditions, and sanitation are likely to breakdown if problems are not detected through efficient and frequent oversight. The annual inspection is designed to provide proactive oversight. However, hindering the effectiveness of the process is the lack of written policies and procedures to guide both the conduct of the annual inspection process and the subsequent reporting of the results.

All of the DOC regional program managers with jail responsibilities noted that they had no written policies and procedures to guide them in planning or conducting an annual inspection. This could lead to inconsistencies in the manner in which the process is conducted across the four DOC regions. As noted earlier, most program managers conduct annual inspections on an announced basis, while one program manager reported conducting them on an unannounced basis. Further, some managers provide jails one week notice, one manager provides one month advance notice, and another tells the jail what week he will be at the jail but not the exact day.

One important tool in conducting an inspection is compliance documentation. Compliance documentation instructs the auditor what the jail must do to meet compliance with a standard and how to verify compliance. The triennial certification audit has accompanying compliance documentation for use by the audit team; however, no such documentation exists for the annual inspection process.

Finally, the reporting requirements for the annual inspection should be formalized. Three of the four regional offices reported that they filed copies of the completed form with the DOC central office. Yet, it is not clear how the central office uses the information provided by the regional offices. Further, there appears to be no formal mechanisms to systematically report the results of annual inspections to the Board of Corrections.

As noted earlier, more than 20 jails missed at least two life, health, and safety standards on consecutive audits. Because a significant number of jails miss the same life, health, and safety standards on consecutive audits, it may indicate that noncompliance with these standards has occurred at various times throughout the intervening three years. An effective annual inspection process should consistently identify noncompliance with these standards. Further, if the deficiency cannot be corrected in an appropriate length of time, the Board of Corrections should be apprised of the condition. However, under the current process, the Board of Corrections would likely never become aware of situations in which serious infractions have occurred. Therefore, an unconditionally certified jail could in fact be operating in noncompliance with one or more life, health, and safety standards.

Recommendation (13). The Department of Corrections should develop policies, procedures, and standards to guide Department staff in conducting annual inspections of local jails. Further, policies for reporting the results of these inspections to the Board of Corrections should be developed. Development of policies, procedures, and standards for the annual inspection process should include Department staff from the certification unit, regional offices, and the Board of Corrections.

Jail Certification Audit Cycle Should Be Revised for Many Jails

Local jails must undergo a formal certification audit process once every three years. Compliance with all of the Board of Corrections' standards for local jails are formally assessed during this audit. At the current time, the certification audit is the most consistent mechanism available to the Board of Corrections for receiving comprehensive information on conditions in local jails. These audits are generally conducted once every three years, regardless of the subsequent condition of a jail or findings on annual inspections or monitoring visits. As a result, the Board of Corrections may wish to direct the DOC certification unit to vary the audit cycle for jails that appear to have difficulty maintaining compliance with the Board's standards as well as for recently renovated jails.

Jails that Miss Standards Repeatedly Should Be Audited More Frequently. As noted earlier, a number of jails consistently fail to meet many of the Board of Corrections' standards every certification audit. More than 30 jails have been out of compliance with 10 or more standards on at least one certification audit since 1988. Ten jails were determined to be out of compliance with 10 or more standards on consecutive audits. Moreover, two jails were identified as out of compliance with at least 20 standards on consecutive audits. Results such as these indicate that the certification audit consistently detects violations and that some jails experience difficulty continually maintaining substantial compliance with the Board of Corrections' jail standards. It is the latter group that need to be audited more frequently

On the other hand, the remaining jails were determined to be, on average, out of compliance with five or fewer standards during certification audits. Further, at least 20 jails have achieved 100 percent compliance with the Board of Corrections' standards

for local jails since 1988. In fact, during this time, three jails have achieved 100 percent compliance on two consecutive audits (Henrico County, Montgomery County, and Alexandria City). Clearly, the majority of the jails substantially comply with the Board of Corrections' jail standards, and for them the current three-year audit cycle appears appropriate.

However, to ensure that all jails are continually maintaining compliance with the Board of Corrections' standards, the Board should require DOC staff to shorten the current audit cycle for jails that appear to have difficulty maintaining compliance with its standards. The Board of Corrections should have the certification unit develop criteria that could be used to determine when jails should be audited more frequently than once every three years. For example, jails that receive probationary certification could be audited again in one or two years. And, decertified jails could be audited at least annually. Finally, if the results of an annual inspection indicate that a jail is having difficulty maintaining compliance with the Board of Corrections' standards, the Board may wish to require that DOC staff conduct a certification audit of that jail.

The effect of such a policy would be to ensure that the Board of Corrections is provided timely and accurate information regarding jails that appear to have difficulty continually meeting all of the current standards. If necessary, the Board of Corrections would be able to revise the jail's certification status to correspond to the jail's degree of compliance with standards. Or, it could indicate the need for more direct enforcement measures by the Board of Corrections. This would also help ensure that small problems that could be easily corrected do not develop into large or even dangerous situations. This is especially important with the current state of jail overcrowding.

Renovated Jails Need to Be Audited Sooner. A jail that has undergone renovations or had space added will not undergo a certification audit until three years from the date of the previous audit. Under this scenario, a jail that has extensive renovations completed the first year after a certification audit would not be audited for an additional two years. DOC staff noted that if space were added to an existing facility, the jail would be required to obtain a certificate of occupancy from building code officials prior to moving inmates into the facility.

However, potential shortcomings with this policy are evident. First, there may be potential life, health, and safety deficiencies specific to the Board of Corrections' standards or specific to jail security that building code inspectors may not identify. In the case of a renovation or addition to an existing facility, a potentially dangerous deficiency could go undetected for more than a year. For example:

In 1993, a small jail opened an annex that is neither connected to the main jail nor enclosed by a perimeter security fence. A 1993 staffing study completed by DOC for the new annex recommended an additional seven positions to staff the new facility. The DOC staffing study made no mention of possible problems with security key control or other security related issues with having the annex entirely separate from the main jail facility.

Subsequently, during the jail's 1994 certification audit, DOC staff noted noncompliance with the standards dealing with key control and proper staffing of security posts. According to the audit team, there was a "Breach of security relative to key and door control in the new annex: (1) on tour of the annex the sole officer in charge did not have the key to cell block doors #1, #2, #3, & #4. Interview revealed the key was kept in the old jail control room across the street. (2) Later the sole officer in charge was observed releasing an inmate from a cell block while in possession of the keys to all three security doors. The hall security door was not locked at the time."

The concern of DOC audit staff centered around two issues. First, under the staffing arrangements in place at the time of the audit, the staff in the annex may not have been able to respond to an emergency in the secure area of the annex in a timely manner because the keys would have to be carried over from the main jail. This would take valuable time in an emergency. Further, it could leave only one correctional officer in the main jail to staff the duty post when two are required.

The second violation could have exposed the officer to being overtaken by other inmates who, because the main hall security door was not locked, could have potentially fled the jail annex. As noted earlier, the annex is not surrounded by a perimeter security fence and is located directly on the town's main street. Further compounding this violation was the fact that there was an inmate folding laundry in the administrative area of the annex. According to the jail staff, this inmate was not a trustee.

Jails that have undergone extensive renovations should be audited within 30 days of project completion if the renovations resulted in additional inmate capacity or significant changes to the numbers and duties of security staff. However, to mitigate the inconvenience of an extensive certification audit on a renovated jail, DOC could develop a less-extensive interim audit that focuses on security; physical plant; and specific life, health, and safety standards that may have been affected by the renovation project. The results of this audit could be used by the Board of Corrections to either continue the jail's current certification status or revise it depending upon the audit results.

Recommendation (14). The Board of Corrections should consider shortening the certification audit cycle for jails that appear to have difficulty maintaining compliance with the Board's standards. To accomplish this, the Board of Corrections should develop criteria for use in adjusting the frequency of jail certification audits.

Recommendation (15). The Board of Corrections should consider directing the Department of Corrections' certification unit to conduct certification audits of jails that have undergone renovation or additions that have resulted in additional inmate capacity or significant changes to the numbers and duties of security staff within 30 days of project completion.

IV. Additional Options for Improving Conditions in Local Jails

The previous chapters described the current operating environment evident in many local jails in Virginia as well as recommendations for improving the Department of Corrections' (DOC) oversight process. There are, however, a number of other avenues available, either directly or indirectly, to maintain or improve the conditions in local jails in which inmates live and jail staff work.

An assessment of local jail operating conditions indicates that a more specialized and systematic review of sanitary conditions in local jails is necessary. To provide this specialized oversight, the State and local health departments should be required to inspect jail kitchens to existing Board of Health standards and to inspect the jail facility to environmental health standards. The jail environmental health standards should be promulgated by the Board of Corrections with assistance and guidance from the State Board of Health.

Further, to mitigate the effects of overcrowding in specific jails, DOC could take a more active role in the inmate population management of the local jail system. To effect this, DOC should meet its current statutory responsibility for transporting inmates from local jails to State correctional institutions. Also, to properly ensure the continuous oversight of juveniles in jails, the current responsibility for certifying jails to house juveniles and the subsequent monitoring and inspection duties should be transferred from the Department of Youth and Family Services to DOC. Finally, the State could encourage more rapid adoption of regional jails as a means for improving health and safety conditions for both inmates and staff.

HEALTH DEPARTMENT SHOULD BE ASSIGNED RESPONSIBILITY FOR SANITATION AND FOOD SERVICE OVERSIGHT

Based on JLARC staff visits to local jails, the need for a more rigorous, systematic review of sanitation in local jails is necessary. Many of the jails visited by JLARC staff were visibly clean, despite significant levels of overcrowding. However, some jails, especially some older, overcrowded facilities, were visibly dirty. This type of environment, combined with significant overcrowding, is not safe.

At the present time, DOC staff involved in the jail audit and inspection process typically do not have a background in sanitation or environmental health. In addition, the Board of Corrections' standards used by the DOC audit and oversight staff for general sanitation are limited in both scope and number. Therefore, the Virginia Department of Health (VDH) should assume responsibility for oversight of sanitation conditions in local jail facilities. In addition, VDH should permit and inspect jail kitchen facilities according to the Board of Health's rules and regulations governing food service facilities.

General Sanitation Lacking in Some Jails

Some jails appeared to lack general sanitation. These jails were typically older and experiencing significant levels of overcrowding. Yet, the impact of poor sanitation on staff and inmates can be significant in terms of both health and safety. For example:

During a visit to a local jail that was operating at almost 300 percent of its rated capacity, inmates in one cell block complained about foul odors emanating from the shower area. Inmates were also observed sleeping on the dayroom floor in the general area of the showers. One inmate pulled the mat off of the floor in front of the shower stall. A strong odor was apparent.

* * *

At the same jail, meals were served to inmates in their cell blocks. The trays were passed to the inmates through pass-through areas in the bars. Spilled drinks and food had dropped onto the bars below the pass-through over a length of time sufficient to thoroughly coat the bars.

* * *

In another jail, paint was observed to be peeling and chipping from the ceilings in the cell block areas. Condensate was dripping from overhead pipes onto the floors, into buckets on the floor, or into trash bags hanging from the pipes. Inmates complained that water and paint chips had fallen onto their food trays when meals were served to them in the cell block.

In many jails, inmates also complained about the presence of vermin in the jail. JLARC staff did not directly observe such occurrences, however. Yet, environmental health specialists noted that a trained sanitarian can detect evidence of vermin infestation that would not otherwise be obvious to an untrained individual. One sanitarian noted that one of the main causes of vermin infestation in correctional facilities is poor sanitation. Further, problems with vermin are only compounded when inmates are served meals in the cell areas, which was a common practice in most of the jails visited by JLARC staff.

Current Jail Sanitation Standards and DOC Staff Expertise Are Limited

The primary mechanisms for currently ensuring proper sanitation and cleanliness in local jails are the Board of Corrections' standards and DOC's oversight and enforcement of the standards. The current Board of Corrections' standards regulating jail sanitation and cleanliness are limited in both number and scope. Moreover, DOC staff with jail oversight responsibilities lack the necessary expertise to make assess-

ments regarding sanitation and environmental health issues that are or could be present in local jails in Virginia.

Current Jail Sanitation Standards Are Limited. The Board of Corrections has only two standards directly related to sanitation in the jail facility. The standards simply require that:

- facility floors, halls, corridors, and other walkway areas be maintained in a clean, dry, hazard-free manner; and
- the jail control insects and vermin and have quarterly service by professional pest control personnel.

In contrast, the DOC sanitation inspection report for adult institutions evaluates and grades these facilities for 16 sanitation standards that apply to the non-food service areas of the facility. Areas inspected include, among others, sleeping areas, halls and stairs, restrooms and showers, and recreation areas. Further, these inspections are conducted by environmental health specialists or sanitarians at least six times per year on an unannounced basis.

DOC Staff with Jail Responsibilities Lack Sanitation Expertise.

DOC staff responsible for auditing and monitoring local jails typically do not have a background in sanitation or environmental health. Many DOC staff indicated that their background prior to becoming a regional program manager was in probation and parole, adult institutions, or the central office certification unit. While they either had or have obtained experience in jail operations, experience in institutional environmental health and sanitation appears to be lacking. Further, many of these staff indicated that they believe there is a role for health department staff in the jail oversight process. For example:

One program manager noted that the local health department would be very helpful in assessing or providing assistance with vermin control, sewage and water issues, and general sanitation in his local jails.

* * *

Another program manager noted that the health department could have a role in helping the jail with cleanliness and general sanitation issues. The health department could provide a great deal of expertise which would help her as she currently has to use her own discretion.

Environmental health specialists from both VDH and DOC noted that an important aspect of their inspections and oversight efforts is the provision of technical assistance to facilities. Assistance can be as simple and direct as suggesting proper cleaning techniques and cleaning solutions to use in showers or toilet areas where there is often heavy traffic and use.

Health Department Involvement in Jail Oversight Is Needed

The 1994 General Assembly passed Senate Bill 542 which amended §53.1-68 of the *Code of Virginia* requiring the Board of Corrections to establish, in conjunction with the Board of Health, procedures for health inspections of any local correctional facilities. Implementation of this legislation was delayed until January 1, 1995. An additional staff position and concomitant funding was provided to the health department in order to assume this function.

There is an identifiable need for the health department to inspect local jail sanitation conditions. As noted earlier, DOC adult institutions have regular sanitation inspections that address non-food service areas. The standards used by the DOC environmental health section could serve as a framework for developing standards and prescribing functional areas for the health department's involvement in local jails.

Standards to be used by the health department should be developed by the Board of Corrections with the input and guidance of VDH officials. In addition, the powers and duties of the State Health Commissioner and the health department staff relative to this oversight function should be stipulated in the *Code of Virginia*. The Department of Corrections and the Virginia Department of Health could use the oversight model currently in place for milk processing as a guide. In this model, the Board of Agriculture has the primary responsibility for oversight of the entire milk production process. However, the State Health Commissioner has a statutorily defined role in the development, inspection, and enforcement of regulations for oversight of milk processing plants. Finally, the proposed process should enable the health department to enforce the standards regarding jail sanitation that would be promulgated by the Board of Corrections.

Recommendation (16). As provided in §53.1-68 of the *Code of Virginia* the Board of Health and the Board of Corrections should begin development of sanitation and environmental health regulations covering local jails. The regulations should address, but not be limited to, the cleaning of clothes and linen and sanitation in jail living areas, halls and stairs, restrooms and showers, and recreation areas.

Recommendation (17). The General Assembly may wish to amend §53.1-68 of the *Code of Virginia* to direct the Board of Corrections to (1) establish jail sanitation standards with the guidance and input of the State Health Commissioner, (2) stipulate the powers and duties of the State Health Commissioner and staff regarding local jail oversight, and (3) provide the State Health Commissioner with the authority to enforce the standards used by the Virginia Department of Health to regulate sanitation and environmental health in local jails.

Health Department Should Inspect and Permit All Jail Kitchen Facilities

Current Board of Corrections' standards require that local jails "have an annual state or local health food service and fire safety inspection." However, the standards do not require the facilities' kitchens to be permitted by the local health department to operate. It does not appear that all of the jails have permitted food service facilities which would initiate a health department inspection and enforcement of standards related to the operation of the kitchen.

The DOC food service specialist who visited most jails on an annual basis noted a frequent need to correspond with some local health departments in order to initiate the inspection of a jail's kitchen to meet the Board of Corrections' standard. For example:

In a letter to a local health department, the DOC food service specialist noted that "enclosed you will find the justification according to our standards under which we request a health inspection. In other jails, the health inspectors visit on an annual basis . . ." The specialist further noted that "the sheriff, or a designated staff member, will request that the health department come in and set up an inspection schedule."

Further, the DOC food service specialist noted that to her knowledge the local health department inspection function was often only a courtesy inspection.

The majority of jails visited by JLARC staff had kitchens that were visibly clean and apparently well managed. Nonetheless, there is a critical need for timely and proactive inspections of local jail kitchen facilities by the health department. Kitchens in most jails were designed to serve the jail's rated capacity. Severe overcrowding has resulted in some kitchens operating 18 or more hours per day in order to feed inmates three meals. Further, kitchens, like the jail's other physical plant components, are subject to tremendous wear and deterioration due to overcrowding. For example:

During a visit to a severely overcrowded jail, JLARC staff reviewed the jail's kitchen and food service area. The entire kitchen floor was very wet and water from a garden hose was observed to be running across the floor. The local health department inspection that had been conducted six days prior to the JLARC staff visit noted that among other deficiencies the "kitchen floor in front of [the] cook line is in poor repair [it] accumulates dirt and water run off." The inspector also noted that the facility was "not recommended for a[n] annual [health department] permit." Further, inmates in the cell block below the kitchen area complained to JLARC staff of water leaking from the ceiling.

As with general sanitation in the inmate living areas, kitchens need the periodic review and assessment using environmental health standards by sanitarians who are trained to identify particular problems. For example, another report concerning an inspection of a jail's food service area noted:

Our environmentalist found numerous rodent droppings on bread packages and trays as well as noticeable mice tail and feet markings on a container of sugar.

An individual not trained in environmental health might unknowingly allow such evidence of vermin infestation to go undetected.

Finally, systematic inspections by the local health departments are even more critical since the DOC staff position in the division of field operations responsible for food service oversight of local jails has been eliminated through an agency reorganization. This individual was primarily responsible for assessing jails' compliance with the Board of Corrections' standards regarding food service. Equally important, this individual attempted to visit and inspect every jail's kitchen and food service process on an annual basis, assessing, among other items, the visible sanitation conditions of the kitchen.

The *Code of Virginia* requires the State Board of Health to ensure that in any place food is prepared and served to the public, the food be properly prepared, handled, and preserved. To fulfill this requirement, VDH has developed standards that food service establishments are required to meet. Classifications of facilities subject to regulation by the Board of Health include public restaurants, semi-public restaurants, and temporary restaurants.

VDH staff have indicated that they believe kitchens in local jails would be classified as semi-public restaurants. As such, they should be subject to the standards and oversight requirements that have been promulgated by the Board of Health. Among the reasons provided for the apparent lack of uniform inspections of jail kitchens included the lack of clarity regarding the health department's authority to conduct inspections. The lack of clarity over this issue is evident and apparently has contributed to inconsistent oversight by local health departments. For example:

One local health department reported it does not issue the jail kitchen an operating permit. The local health department staff stated they go in yearly at the request of the sheriff and perform a courtesy inspection. Health department staff noted they would not go in unless the sheriff requested the inspection and that the sheriff wants them to use the Board of Corrections' standards to inspect the kitchen, which the health department will not do. Because of this, the health department staff said that they assume they will not be asked to come back for an inspection this year.

* * *

In contrast, another local jail's kitchen is permitted by the local health department and inspected using the Board of Health's standards. Inspections of the kitchen are unannounced and the health department staff noted that they have the enforcement authority under the Board of

Health's existing regulations to, in the worst case scenario, close the jail's kitchen.

VDH, with assistance from DOC, should identify all local jails that have operating kitchens. VDH should then determine whether the facilities currently have the required permit to operate the facilities. Any facilities that do not have the proper operating permit should be required to obtain such a permit and be subject to the rules and regulations currently enforced by VDH and the local health departments. Also, the *Code of Virginia* should be amended to clearly state that local jail kitchen facilities are subject to the rules and regulations of the Board of Health.

Recommendation (18). The General Assembly may wish to amend §35.1-1 of the *Code of Virginia* to clarify that local jails which prepare food for service to inmates are subject to the rules and regulations of the Board of Health governing restaurants. Subsequently, the Virginia Department of Health, with assistance from the Department of Corrections, should identify the permit status of all local jails which prepare food for service to inmates. The Virginia Department of Health should require all jails with unpermitted food service areas to obtain a permit as required by the rules and regulations of the Board of Health.

DEPARTMENT OF CORRECTIONS SHOULD BECOME MORE ACTIVE IN BALANCING LOCAL JAILS' INMATE POPULATIONS

As highlighted in Chapter II, local jails are directly impacted by the State's correctional system. Further, local jails, in their role as the initial intake point for the majority of inmates sentenced to DOC's prison system, are highly dependent upon DOC to plan and manage the state prison system in a manner that enables a smooth and timely transfer of State-responsible inmates from local jails.

The ability of DOC to assume State-responsible inmates from local jails in a timely manner has recently been limited. Until State-responsible inmates can be removed from local jails in a manner consistent with the *Code of Virginia*, DOC should explore other avenues for assisting jails in reducing both extraneous demands on jail staff and total local inmate populations in severely overcrowded jails. Methods DOC should consider to accomplish these goals include assisting with the transportation of inmates from local jails to State facilities and balancing, to the extent possible, the excess of State-responsible inmates in local jails.

DOC Should Take an Active Role with Transports to State Prisons

Compounding the effect of overcrowding in local jails is the need for local sheriffs' deputies and regional jail officers to transport State-responsible inmates to DOC institutions. While sheriffs and regional jail administrators noted that they obviously

conduct the transfer in order to get a State-responsible inmate out of an often overcrowded jail, it can nonetheless impose a hardship on many offices, especially smaller offices and jails. Further, the advance notice provided to local jails about an opening in a DOC institution is generally very limited, often no more than 24 hours.

The *Code of Virginia*, §19.2-310, states that DOC is responsible for transporting inmates from local jails to State institutions:

The Director or his designee shall dispatch a correctional officer to the county or city with a warrant directed to the sheriff authorizing him to deliver the prisoner to the correctional officer whose duty it shall be to take charge of the person and convey him to the appropriate receiving unit

However, some jail staff reported it had been at least 10 years since DOC systematically transported prisoners from local jails to State institutions.

For a sheriff's office or regional jail, the requirement to transport an inmate can require some difficult choices, especially when the transport may be to a facility across the State, and only one day's notice of the transfer is typically provided. For a smaller office, it may require using law enforcement deputies which could leave the county without adequate patrol coverage. Or, sheriffs reported that they may send only one deputy to complete the transport. They would often prefer to be able to assign two staff persons to conduct the transport.

Many small jails are currently staffed at the minimum number required for safe operation. Requiring them to transport inmates to State institutions limits the options a sheriff or jail administrator has for dealing with other potential needs in the jail. For example, if two deputies are on the road all day transporting an inmate to a State institution, it may be difficult to arrange transportation to the doctor for other jail inmates. Or, it may mean taking jail staff away from an overcrowded jail, leaving only the minimum number required to meet the Board of Corrections' standards.

DOC should meet the statutory requirements regarding State-responsible inmate transports. In the interim, DOC should take a more active role in coordinating transports among jails located in the same area of the State to mitigate the effect of inmate transports on local jails. For example, one jail staff member reported that it was frustrating to transport an inmate from the jail to a DOC facility and see vehicles from two or three sheriffs' offices from surrounding localities there with inmates as well.

To mitigate this, the DOC intake and information unit could notify the appropriate DOC regional office of impending transfers and the local jails involved. DOC regional office staff could then take an active role in attempting to coordinate or facilitate transportation of inmates among neighboring jails. This could reduce the number of sheriff's office or jail staff away from their duties as well as reduce the costs to both sheriffs' offices and regional jails associated with transfers of inmates to DOC institutions.

Recommendation (19). The Department of Corrections should comply with §19.2-310 of the *Code of Virginia* which requires the Department to transport State-responsible inmates from local jails to State prison. Until the Department can comply with the requirements of §19.2-310 of the *Code of Virginia*, Department of Corrections' regional offices should coordinate the transports of inmates from jails in their regions to State institutions.

DOC "Contract Bed" Program Should Be Expanded

A positive tool at DOC's disposal for encouraging more efficient use of available jail capacity is the contract bed program. Under this program, participating jails receive \$14 per inmate day from DOC for housing another jail's State-responsible inmate. This \$14 per inmate day is paid in addition to the \$14 per inmate day that is paid by the State Compensation Board for State-responsible inmates in local jails. At this time, eligibility for the contract bed program is limited to those State-responsible inmates who have sentences greater than two years, but less than three. In other words, these are the State-responsible inmates that DOC is not required to assume into the State system.

Under this program, DOC enlists local jails in the program. DOC coordinates the assignment of beds to participating jails. At the present time, DOC has 25 beds allocated among the three jails that are participating in the program. Inmate transfers between affected jails are coordinated entirely by the jails. Jails holding State-responsible inmates through this program request reimbursement directly from DOC. Further, jails requesting reimbursement under this program are not allowed to then charge the jail that is responsible for the inmate an additional per diem assessment.

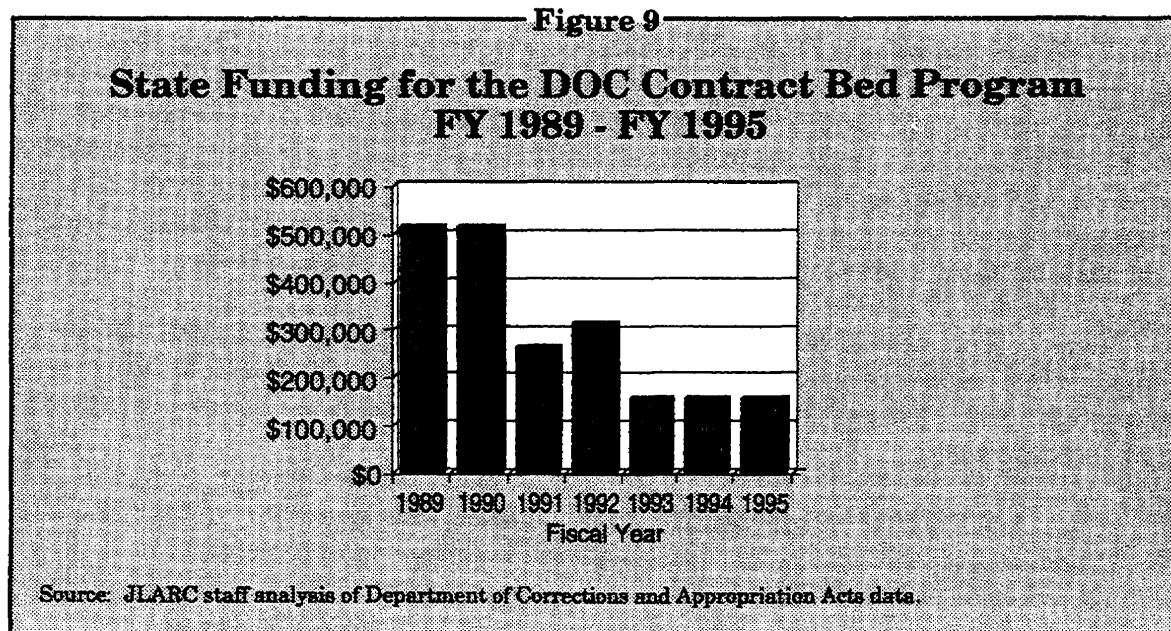
DOC staff noted that the program's goal is to "assist overcrowded jails by providing financial incentive for jails with available bedspace to accept and house prisoners for other facilities." The beneficial impact of this program is highlighted in the following example:

In 1993, the Virginia Beach City jail, which was operating at 133 percent of its rated capacity, was granted an additional allotment of 20 contract beds by DOC to use to house 20 female inmates from another nearby, overcrowded jail that was operating at 236 percent of its rated capacity. Subsequently, this jail was granted an additional allotment of ten beds for use by another jail in the region that was operating at 253 percent of its rated capacity. During a JLARC staff visit to the latter jail, jail staff stated that their ability to use these contract beds was a tremendous asset for them in managing the overcrowding in their jail.

In this example, the Virginia Beach City jail, which was overcrowded at the time, requested additional beds through the program that were of tremendous benefit to the two other jails. Obviously, the Virginia Beach City jail was able to manage its inmate population in such a manner that additional inmates from other jails could be absorbed without too severely taxing the facility or staff. And the benefits to the jails transferring

inmates were significant, especially for the jail transferring the female inmates to the Virginia Beach City jail. Finally, neither jail transferring inmates was required to pay additional per diem charges to the host jail.

Funding for this program has been reduced from \$511,000 in FY 1989 to \$153,000 in FY 1995 (Figure 9). According to DOC staff, there were two primary reasons for the program reductions. First, reductions were in part necessary to meet budgetary restrictions that resulted from the recession of the early 1990s. Second, DOC staff stated that every fiscal year since 1991, the *Code of Virginia* has required DOC to assume State-responsible inmates from local jails with a minimum sentence one year shorter than was required the previous fiscal year. Since the only State-responsible inmates who are currently eligible for the contract bed program are those that DOC is not required to transfer to the State system, there is in effect a smaller pool of eligible inmates every fiscal year. Yet, DOC's inability to assume inmates from local jails who are legally required to be in the State correctional system has resulted in a substantial pool of inmates in local jails that are also the responsibility of DOC.



Because this program provides an incentive for jails to hold additional inmates for other jails that may be extremely overcrowded without requiring local governments to pay substantial per diem rates, additional funding for this program appears appropriate. Moreover, DOC staff noted that:

the Department supports the Contract Bed Program and feels it is a[n] asset to sheriffs and jails statewide. Every effort will be made to obtain additional funding or identify existing funding sources which can be utilized for the continuation of this program in the coming fiscal year.

Also, because DOC is not transferring inmates from local jails in a manner required by the *Code of Virginia*, DOC should also consider expanding eligibility in the program for all State-responsible inmates, not simply those inmates with sentences greater than two years, but less than three years.

Recommendation (20). The General Assembly may wish to consider restoring funding for the Department of Corrections' contract bed program to provide the Department an additional resource in attempting to balance local jail inmate populations. The Department of Corrections should also consider expanding eligibility for the program to all State-responsible inmates.

DOC Should Use Its Authority to Balance Some Local Jail Populations

On a systemwide basis, jails are operating far above their rated capacities. However, analyzing data from the local jail population reports for August 1994 indicates that, despite significant jail overcrowding on a systemwide basis, there are some jails that are operating below their rated capacities. If the number of federal prisoners were subtracted from all applicable jails' population figures, some facilities would be operating significantly under capacity.

The *Code of Virginia* provides the Director of the Department of Corrections the authority to transfer inmates between local jails. Yet, despite the level of jail overcrowding, direct DOC-initiated transfers between local jails have apparently never occurred. Further, because some of these jails operating below their rated capacity have been provided staff from the State Compensation Board to serve the number of inmates the jail is rated to hold, the State may be, in effect, either subsidizing inefficient operations or subsidizing local jails' efforts to hold federal inmates. Therefore, DOC should consider using its authority to use State funded jail space and staff to relieve serious incidents of jail overcrowding.

DOC Has Authority to Balance Local Jail Populations. Section 53.1-21 of the *Code of Virginia* provides the Director of the Department of Corrections with the authority to transfer inmates between local correctional facilities. The *Code* states that:

Any person who (1) is accused or convicted of an offense (a) in violation of any county, city, or town ordinance within the Commonwealth, (b) against the laws of the Commonwealth or (c) against the laws of any other state or country . . . and who is confined in a state or local correctional facility may be transferred by the Director, subject to the provisions of §53.1-20, to any other state or local correctional facility which he may designate.

However, this authority apparently has never been fully utilized. Nonetheless, the authority to conduct transfers could be a tremendous management tool when attempting to balance the pressures on some severely overcrowded jail facilities.

DOC Informally Assists Jails in Arranging Inmate Transfers. DOC staff do, at times, informally act as a broker or facilitator in inmate transfers between local jails. For example, the contract bed program enables DOC to facilitate, to some extent, the transfer of inmates between jails. In addition, DOC regional program managers will assist jails they have responsibility for monitoring find space for inmates by calling other jails that may have space or, even if overcrowded, be willing to house additional inmates. For example:

A jail in the Tidewater region was operating at almost 300 percent of its rated capacity. This jail, with the assistance of DOC staff, was able to secure space for about 20 inmates at \$35 per inmate day in a jail more than 150 miles away. Jail staff reported it had no choice but to take inmates to this jail, despite the distance, due to the pressures imposed on the jail due to overcrowding.

Some jails will hold inmates for another jail as a courtesy and not charge an additional per diem rate in addition to the per diem paid by the State Compensation Board. On the other hand, some jails that have capacity or are otherwise willing to hold additional inmates may charge a substantial per-diem rate to house another jail's inmates. For example:

One small jail with a rated capacity of slightly more than 30 inmates reported that during a two-month period it had spent more than \$15,700 to house inmates in other jails in order to alleviate jail overcrowding. Jail staff reported that it had paid per-diem charges of up to \$55 at some jails.

* * *

One jail contacted a DOC regional office about 200 miles away and stated that they had beds available for additional inmates from jails in that area at a \$25 per inmate day charge. However, regional office staff noted that there was another jail in the region that charged only \$10 per inmate day.

In addition to having to pay other jails to house its inmates, jails transferring inmates also forfeit the inmate per-diem payments that are provided by the State Compensation Board. Therefore, in addition to paying \$10 or \$25 per inmate day to another jail, the transferring jail is losing at least \$8 per inmate day in funding from the Compensation Board. If the inmate is a State-responsible inmate, the jail will lose an additional \$6 per inmate day.

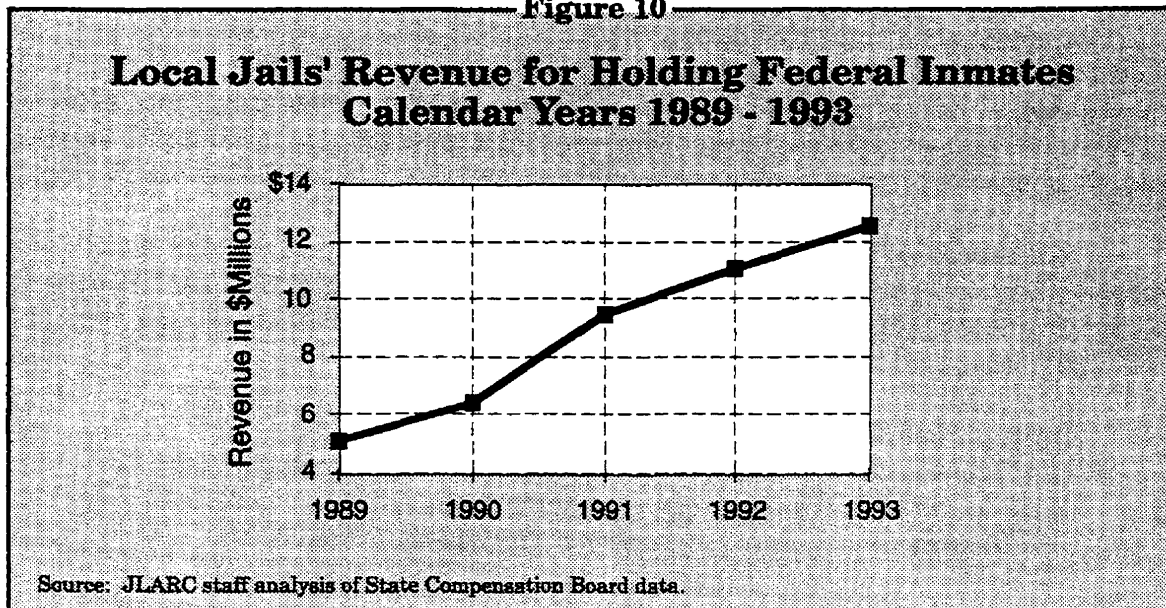
Federal Inmates in Local Jails Cloud Potential Excess Capacity. As noted earlier, on a systemwide basis, jails are operating far in excess of their rated capacities. However, on an individual basis, some jails are operating below their rated capacity. Moreover, when controlling for the number of federal inmates, some jails have a significant amount of excess capacity. For example:

In August 1994, the Clarke-Frederick-Winchester regional jail reported to DOC that it was holding 253 inmates. Seventy of these inmates were federal inmates. Not counting the federal inmates, this jail was only holding 183 State/local inmates which is only 62 percent of its rated capacity of 294 inmates. Subtracting the number of federal inmates leaves the facility operating 111 inmates below its rated capacity. Approximately 55 miles away, the Fairfax County jail was operating with more than 400 inmates above its rated capacity.

While 100 beds are not sufficient to relieve overcrowding in all local jails, they may mitigate the overcrowding situation enough in any one jail to enable sheriffs and jail administrators to significantly improve conditions in the facility for both inmates and staff.

Housing federal inmates appears to be an increasingly accepted practice. Twenty-nine local jails reported holding federal inmates in calendar year 1993. In return for housing these inmates, these jails reported to the State Compensation Board that in calendar year 1993 they received from \$8 to \$80 per inmate day, which resulted in more than \$12 million in total revenue to local jails. Statewide, since calendar year 1989, local jails reported to the State Compensation Board that they collected more than \$40 million in revenue for holding federal inmates (Figure 10).

Figure 10



State May be Funding Some of the Excess Jail Capacity Used to House Federal Inmates. For some of these jails, the State has provided a significant amount of funding to construct the facilities and is providing the majority of the funding to staff them. For example, for the Clarke-Frederick-Winchester regional jail, the State

reimbursed the participating localities more than \$8.5 million, which is almost 50 percent of the jail's construction cost.

In addition, a DOC staffing study also recommended that the Clarke-Frederick-Winchester regional jail be allocated 72 security positions and 21 positions for support and programs. In FY 1995, the State Compensation Board will fund a total of 93 full-time positions in this jail. Even including the number of federal inmates in the jail's population total, the jail was operating 44 inmates below its rated capacity. As a result, State supported staff are likely providing security, administrative, and medical and treatment services to these federal inmates. Jail staff reported that the localities participating in the local jail funded only five additional administrative positions for the jail.

However, some jails have made arrangements with the federal government to use federal funding to add capacity to their jail and to fund the staff that will serve the federal inmates. In the case of the Alexandria City jail, the federal government paid for an entire floor, or approximately 100 beds, to be added to the jail when it was originally constructed. According to DOC staff, these 100 beds are not included in the facility's rated capacity when DOC conducts a staffing analysis of the jail for purposes of allocating staff by the State Compensation Board.

Additional Jail Capacity May Soon be Available. In addition to those jails that currently have some excess capacity, other jails currently under construction will likely have some excess capacity that could be available to house inmates from other jails. For example, the new Rockingham County jail will be opening in the fall of 1994 with a total capacity of about 228 inmates. Based on the number of inmates held in the existing jail, about 100 beds may be available in the new jail after it opens. Additional capacity may also exist when the new Northern Neck regional jail opens in late 1994 or early 1995.

Conclusion. While capacity in the local jail system may not be sufficient to dramatically alter overcrowding systemwide, transferring inmates from severely overcrowded jails would likely relieve many of the pressures on both inmates and staff in selected jails such as the one noted in the following example:

During an annual inspection, DOC staff noted that "the [j]ail is currently operating at three times its rated capacity. Although the jail is handling this situation quite adequately at this time, the overcrowded conditions could cause a potentially explosive situation."

Further, DOC-initiated transfers could decrease the need for overcrowded jails to pay high per diem rates, reported to be as high as \$55 per day, to other jails to house inmates. As noted earlier, one relatively small jail reported that it had spent almost \$16,000 in two months to hold inmates in other jails in an attempt to keep the jail population at a manageable level.

Any inmates who would be transferred by DOC should be limited to State-responsible inmates as defined by §53.1-20 of the *Code of Virginia*. This would help

ensure that inmates transferred from one jail to another would have had their cases adjudicated and have no pending charges for which they would need to appear in local court. Finally, it would limit DOC's involvement to only State-responsible inmates.

DOC could also consider using funding from the contract bed program as an incentive for local jails to accept the transfer of local jail inmates by DOC. As under the voluntary contract bed program, local jails would be eligible to receive additional per-diem funding from DOC in addition to the funding received from the State Compensation Board.

Recommendation (21). The Department of Corrections should use its authority provided under §53.1-21 of the *Code of Virginia* to transfer State-responsible inmates from severely overcrowded jails to those jails that are operating under or near their rated capacity. The Department of Corrections should consider using funding from the contract bed program as a source of payment to jails housing inmates transferred by the Department of Corrections pursuant to §53.1-21 of the *Code of Virginia*.

OVERSIGHT OF JUVENILES IN JAILS SHOULD BE TRANSFERRED TO DOC

Section 16.1-249 of the *Code of Virginia* states a juvenile may be confined in a local jail provided "the facility is approved by the State Board of Youth and Family Services for detention of juveniles." Prior to February 1993, the Board of Corrections prescribed minimum standards for jails holding juveniles, and DOC inspected applicable jails for compliance with those standards. Presently, the Board of Youth and Family Services is responsible for certifying jails to hold juveniles. As a result, the Department of Youth and Family Services (DYFS) inspects and monitors jails holding juveniles for compliance with the Board of Youth and Family Services' standards.

The transfer of authority from DOC to DYFS has been characterized by an apparent lack of understanding among sheriffs, jail administrators, and DYFS staff regarding the issue of juvenile certification, and a lack of oversight by DYFS staff. The effect of these complications has apparently led to inconsistent oversight of jails incarcerating juveniles. Further, because the Board of Youth and Family Services has recently adopted the standards for juveniles used previously by the Board of Corrections, the current approach appears to be redundant with current DOC jail oversight efforts.

Oversight of Juveniles in Jails

Prior to February 1993, DOC audited jails holding juveniles for compliance with four Board of Corrections' jail standards specific to juveniles. Effective February 1, 1993, the Board of Corrections discontinued certifying jails to house juveniles. DOC and DYFS notified all local sheriffs and regional jail administrators of this change; moreover, both

agencies informed sheriffs and jail administrators of the need to acquire juvenile certification through DYFS. During the transition of the juvenile certification function, the Board of Youth and Family Services agreed to accept the Board of Corrections' juvenile certification status for jails that were at the time certified to hold juveniles. This certification would be valid until the Board of Corrections' certification expiration date, and subsequent juvenile certification would be through DYFS at the jail's request.

If a jail desired certification to hold juveniles, sheriffs and jail administrators were instructed to contact DYFS' certification unit and request a certification audit. After the formal request had been made, DYFS' certification unit would verify the jail's current DOC certification status and arrange a juvenile certification audit date for the jail. Based on the results of the audit, the Board of Youth and Family Services would decide whether to certify the jail to house juveniles. Subsequently, DYFS regional office staff would provide oversight for compliance with specific juvenile standards.

Oversight of Juveniles in Jails by DYFS Has Not Been Consistent

Since DYFS assumed the certification and oversight process for jails holding juveniles, DYFS does not appear to have thoroughly and continuously monitored jails housing juveniles. There have also been instances in which DYFS has had no regulations or standards in effect for certifications, inspections, or oversight. In addition, there have been conflicting assumptions surrounding the DYFS certification audit process and subsequent DYFS jail oversight and inspections.

Standards Have Not Always Been in Effect. Despite the fact that in February 1993, the Board of Youth and Family Services had the authority to certify local jails to house juveniles, standards addressing juveniles in jails have not been continuously in effect. Moreover, DYFS staff have not provided consistent oversight of juveniles in jails due in part to the absence of standards during extended periods of time.

For example, after DYFS had assumed responsibility for certifying and monitoring local jails holding juveniles in February 1993, DYFS had no standards with which to monitor jails holding juveniles until May 1993 when the Board of Youth and Family Services adopted emergency regulations. These emergency regulations expired in May 1994. Moreover, from May 1994 until July 1994, DYFS did not have any standards in effect for certifying or monitoring jails holding juveniles. Clearly, during two separate time periods, DYFS did not have regulations or standards in effect regarding juveniles in jails. This absence of standards does not allow for consistent and effective oversight.

The Transfer to DYFS has Caused Confusion. The Board of Youth and Family Services' acceptance of the Board of Corrections' certified jails, adoption of emergency regulations, and subsequent adoption of the four former Board of Corrections' juvenile standards has apparently resulted in many sheriffs, jail administrators, and DYFS staff being unclear about the juvenile certification process for jails. Under DYFS procedures, a jail cannot undergo a DYFS juvenile certification audit unless the jail is unconditionally certified by the Board of Corrections.

In order to track these jails, DYFS staff compiled a master list of jails unconditionally certified by the Board of Corrections to hold juveniles. These jails' certifications would be effective until the certifications expired. Yet, some jails audited by DOC and certified by the Board of Corrections before the transfer of responsibility occurred have unknowingly lost their juvenile certification due in part to DYFS' lack of accurate records or information. For example:

In one case, DYFS listed a jail's Board of Corrections' certification expiration date as December 1995. However, DOC staff conducted a scheduled certification audit for the jail in early 1994. As a result of this audit, the jail was awarded a probationary certification for adult inmates only by the Board of Corrections in May 1994. Yet, DYFS staff were neither aware of the DOC audit taking place nor cognizant of the jail's new probationary certification status. Moreover, although jail staff were aware of the probationary certification status, they believed this status did not change the jail's ability to house juveniles. However, DYFS' policy does not allow a jail with a probationary, conditional, or uncertified status to house juveniles. Nevertheless, juveniles were held in the jail and the jail had neither been audited by DYFS nor certified by the Board of Youth and Family Services.

* * *

During the transition from emergency regulations to the adoption of the Board of Corrections' juvenile standards, some DYFS regional office staff were not clear about which set of regulations the Board of Youth and Family Services had adopted. For example, some staff members from the DYFS regional offices were under the assumption that the expired emergency regulations were still in effect when actually the Board of Youth and Family Services had adopted the Board of Corrections' four former juvenile regulations.

The transfer of juvenile oversight from the Board of Corrections to the Board of Youth and Family Services has apparently led to some confusion among DYFS oversight staff. DYFS regional office staff also appear to be unsure of their duties regarding oversight of jails holding juveniles.

DYFS Jail Monitoring Has Not Consistently Occurred. Both DYFS certification staff and regional office staff reported that DYFS regional office staff are primarily responsible for visiting and monitoring jails holding juveniles. Yet, interviews with DYFS regional office staff indicate that visits and monitoring have not always been consistently implemented. For example:

The majority of DYFS regional office staff stated they had never visited or monitored jails housing juveniles. Although they assumed they were supposed to visit jails, many DYFS regional office staff said they did not have clear guidelines for jail visits. Further, one DYFS regional office

person stated he was confused about the monitoring process. He had "not seen anything clearly worked out as to how he should go in and monitor jails."

* * *

Only one DYFS regional staff member interviewed knew the jails in his region that were certified to house juveniles, but he also listed a jail as certified to hold juveniles that was not certified by either the Board of Corrections or the Board of Youth and Family Services. Furthermore, a sheriff and administrator of jails certified for juveniles in this region could not recall seeing any DYFS regional office staff in their jails.

The majority of DYFS regional office staff interviewed stated that they did not regularly visit or monitor jails holding juveniles. When DYFS regional office staff do not regularly visit and monitor jails, jail operations which negatively impact juveniles may go unnoticed. For example:

On a site visit to a local jail which was certified to hold juveniles, the JLARC study team noted some potentially poor jail conditions in which all inmates, including juveniles, were living. The jail was overcrowded, not air-conditioned, and many inmates, both adults and juveniles, were sleeping on the floor. In addition, showers in the juvenile cell block could not be operated from the inside of the cells. Inmates stated that they had to yell for trustees to come upstairs to turn the showers on. Further, physical exercise for all inmates was not available.

Regular jail monitoring helps ensure juvenile jail standards are being met and juvenile health and safety issues are being addressed. However, DYFS regional office staff are not monitoring jails holding juveniles in a manner which ensures consistent compliance with standards.

Current DYFS Oversight Efforts Are Redundant with DOC's Oversight of Jails

The current DYFS oversight process incorporates the Board of Corrections' standards for juveniles. By adopting the Board of Corrections' standards, the Board of Youth and Family Services has created a juvenile certification and monitoring process for jails that appears to be duplicative with DOC's jail certification and monitoring process. Moreover, DYFS' regional office staff are supposed to monitor jail facilities holding juveniles despite DOC's regional program managers monitoring all jails on a regular basis. This results in an inefficient use of resources and duplicative oversight efforts.

Current DYFS Standards Are the Board of Corrections' Standards. As provided in §66.10 of the *Code of Virginia*, the Board of Youth and Family Services has the power to "adopt such Board of Corrections' regulations and standards as it may deem appropriate." When DYFS' emergency regulations expired in May of 1994, the Board of Youth and Family Services subsequently adopted the four Board of Corrections' jail standards related to juveniles. These adopted standards encompass:

- juvenile certification,
- juvenile monitoring,
- juvenile isolation and segregation, and
- juvenile sight and sound separation from adults.

Prior to February 1993, the Board of Corrections also certified jails for juveniles using the same four standards. Now that DYFS will audit jails for juvenile certification purposes using Board of Corrections' standards, DYFS' certification audit process is essentially the role DOC auditors had previously in the juvenile certification process.

The DOC certification audit team currently audits jails on a triennial basis for compliance with Board of Corrections' standards. During these audits, DOC staff inspect the following areas of a jail's operation:

- management information,
- programs and services,
- administration, and
- the physical plant.

These aspects of a jail's operation clearly affect juveniles. Furthermore, DYFS staff only audit a jail for juvenile certification purposes after DOC staff have audited and the Board of Corrections has unconditionally certified the jail. Therefore, jails essentially encounter two audit and certification processes when DOC staff could efficiently audit jails for compliance with the current juvenile standards used by DYFS during the DOC certification audit.

DOC Staff Are Consistently in Jails. DOC regional program managers are frequently in the jails conducting routine inspections and providing technical assistance to jail staff. The frequency with which DOC regional program managers are in jails, at least four times each year, highlights their monitoring role. Moreover, DOC regional program managers often review jails for policies and procedures which affect juveniles. For example:

One DOC regional program manager stated that even though he does not presently have any official juvenile inspection duties, he still walks through the juvenile section and ensures correctional officers are making their security checks as required in a timely manner.

During a JLARC staff visit to a local jail, a DOC regional program manager reviewed the juvenile cell block and made inquiries about the jail and DYFS' monitoring of juveniles in the jail. The DOC regional program manager told JLARC staff that because juveniles are in the physical plant, she checks on juveniles every time she visits jails holding juveniles.

Further, DOC regional program managers stated that they still receive calls from jail staff regarding the housing of juveniles in jails. Although the oversight of juveniles in jails was transferred to DYFS in February 1993, DOC regional program managers continue to receive requests for technical advice on matters concerning juveniles in jails. In fact, one DOC regional program manager stated that he has assisted DYFS staff in resolving an issue related to juveniles in a local jail.

DYFS appears to have provided inconsistent oversight to jails housing juveniles. The lapses in standards and monitoring have not ensured that appropriate conditions to house juveniles are always in place. Moreover, DYFS' current procedures for auditing and certifying jails to hold juveniles are duplicative with DOC's procedures for auditing and certifying jails to operate.

Recommendation (22). In order to provide consistent and adequate oversight and monitoring of jails holding juveniles, the General Assembly may wish to consider amending §16.1-249, of the *Code of Virginia* to require that the State Board of Corrections certify jails for the detention of juveniles. Subsequent to the transfer, the Department of Corrections and the Department of Youth and Family Services should jointly identify and notify each jail of its status regarding juvenile certification.

REGIONAL JAILS WOULD PROMOTE IMPROVED HEALTH AND SAFETY CONDITIONS IN JAILS

As noted earlier in the report, the majority of jails in Virginia are operating in excess of their rated capacity. There were, however, 19 jails, that on average in FY 1994, operated below their rated capacity. Many of these jails were relatively small jails. (For example, four of the five jails that operated the most under their rated capacity had a combined rated capacity of 43 inmates.) Further, three of these jails had a rated capacity less than or equal to ten inmates.

Small jails, simply because they are small, are not inadequate for use as local jails. However, fixed costs associated with operating small facilities, on a per-inmate basis, can be extensive. In addition, smaller jails are often older and lack adequate program space and facilities. Finally, due to their size, the cost of having the State provide medical and treatment positions to small jails would be excessive. Consolidating some of these facilities into a regional jail would add more capacity to the local

correctional system and enable the State to provide important medical and treatment staff and subsequent services in a more cost-effective manner.

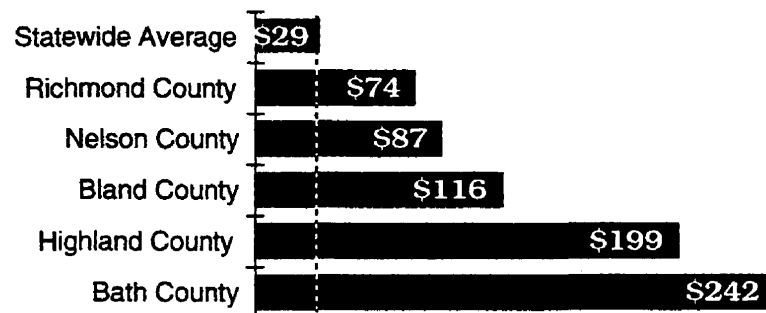
Operating Small Jails Is Not Cost Effective for the State

Due to fixed costs, there are severe diseconomies of scale associated with operating and staffing small jail facilities. For example, the jails in Highland County and Bath County had a total rated capacity in FY 1994 of 14 inmates. Because jails require two officers on duty at all times when inmates are in the facility to comply with Board of Corrections' standards, a minimum of 20 correctional officers (ten per jail) are required when inmates are present in these jails. This results in a staff-to-rated-capacity ratio of more than one officer for every inmate up to the jail's rated capacity for facilities with a rated capacity of ten or fewer inmates.

Even more to the point, on May 17, 1994, Highland County reported to the Department of Corrections that only one inmate was in the jail. The impact of these staffing diseconomies are evident in the level of State support per inmate in these facilities. The five jails with the highest level of State funding per inmate day in FY 1994 ranged from \$242 per inmate day to \$74 per inmate day (Figure 11). Each of these five jails has a rated capacity of less than 10 inmates.

Figure 11

Local Jails with the Highest Level of State Funding Per Inmate Day, FY 1994



Note: Does not include federal inmates housed in local jails.

Source: JLARC staff analysis of State Compensation Board data.

The State Compensation Board has also recognized the inefficiencies associated with operating small jail facilities. To address proposed budget reductions, the State Compensation Board had targeted several small jails which had very high per-inmate operating costs and had received emergency positions to meet Board of Corrections' standards. The State Compensation Board proposed to:

“no longer fund the [emergency] positions. If this action does occur you will have four choices” These choices included appealing the FY 1996 State Compensation Board budget, seeking local funding for the positions so the jail could remain certified by the Board of Corrections, entering into a contractual arrangement with another jail to hold inmates, or “on a long-term basis, you and your board of supervisors should give careful consideration to participating in a regional jail.”

Highland County, Bath County, Alleghany County, and Clifton Forge City all have above-average costs to the State in terms of funding staff and operating costs of their jails. Further, many of these localities are contiguous to each other, which is an essential consideration when constructing a regional jail. Some of these localities have, in the past, considered forming a regional jail. However, one locality withdrew to pursue its own jail, and, according to DOC staff, the planning process for a regional jail effectively ended at that time. Nonetheless, consolidation of some of these jails into a single jail facility could be cost effective for the State.

Providing Medical and Treatment Staff to All Small Jails Is Not Cost Effective

As with providing security staff to small jails, it would also be inefficient for the State to provide funding for medical and treatment staff to small jails. The average number of inmates in many jails do not support the expenditure of State funds for medical and treatment staff. However, these medical and treatment staff can and do provide a significant contribution to the health and welfare of inmates in local jails. Primarily, they reduce the need, and subsequent liability, for non-medical jail staff to make even minor medical decisions and can result in better use of limited local financial resources and more consistent medical care for inmates.

The State Compensation Board currently allocates medical and treatment positions on the basis of one position for every 25 inmates of average daily population. Based on FY 1994 average daily population figures, 15 jails without any medical and treatment positions in FY 1994 were also not eligible to receive them in FY 1995.

However, two jails currently without medical and treatment positions, the Richmond County and Westmoreland County jails, will be replaced by the Northern Neck regional jail. Because of their combined average daily populations, the new regional jail will be eligible for medical and treatment positions under the State Compensation Board’s medical and treatment staff allocation formula. A similar scenario could occur, as illustrated earlier, if localities such as Bath County, Highland County, Alleghany County and Clifton Forge City joined together to build and operate a regional jail.

Many Small Jails Are Older and Lack Space for Programs/Expansion

Many smaller jails are older, some having been originally constructed before 1900. As a result, many of the jails probably lack space for programs or for the provision of services. For example:

During a JLARC visit to a small jail constructed in the mid 1950's which had a rated capacity of less than ten inmates, an educational class was being conducted in the main entrance to the secure portion of the facility. Some of the inmates in the class had to leave the table in order to give the JLARC study team room to walk by into the jail.

Further, many of the small jails visited by JLARC staff did not have space available that could be dedicated to recreation or exercise, a separate medical area, or a room or office for the doctor to examine or treat inmates.

The lack of space in many small jails for programs and services is also evident when analyzing the results of the DOC audit team's jail inspections. Since 1988, the standard related to inmate participation in jail programs and services has been missed by more than 20 individual jails. This standard requires jails to have policies and procedures that:

- provide inmates access to recreational activities,
- provide inmates access to regular physical exercise,
- specify eligibility for work assignments, and
- govern the administration of local work programs.

The median rated capacity of these jails was 32 inmates. Moreover, seven of the jails had a rated capacity of fewer than 25 inmates. Finally, the average age of these jails' original structures is about 40 years, indicating that most were constructed before inmate services and programs were emphasized.

Because of their design, small, older jails are typically not good candidates for expansion. For example, some small jails visited by JLARC staff did not have kitchen facilities and were purchasing prepared meals from local restaurants. Expanding the size of these facilities would be difficult and expensive. In contrast, DOC staff when reviewing the plans for a recently opened regional jail noted that "the design of the facility was drawn to accommodate future expansion . . . 124 beds can be added with a minimal increase in staff."

State Operation of Regional Jails Is Possible

Local governments could enter into agreements with DOC to operate regional facilities. Section 53.1-81 of the *Code of Virginia* provides localities with regional jails the option to:

enter into agreements with the Department of Corrections for the Department to operate such jail or to pay the costs of maintenance, upkeep, or other operational costs of the jail.

This provision recognizes the usefulness of regional jails to the State's local correctional system and is consistent with the State's desire to consolidate small, inefficient jails. Although no localities with regional jails have entered into agreements with DOC to operate the facilities, it is an additional incentive to local governments who may not desire to operate a regional jail. Further, having DOC assume operation of a regional jail would limit local government exposure to increases in future operating or staffing costs.

Recommendation (23). The Board of Corrections may wish to consider disapproving requests from local governments for State funding for the construction of single jurisdiction jails that: (1) would have higher than average funding costs to the State for jail staff and jail operations, (2) have potential partners for a regional jail facility, and (3) would not be eligible to receive State funding for medical and treatment positions.

Appendixes

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Appendix A

Senate Joint Resolution No. 91, 1994 Session

Requesting the Joint Legislative Audit and Review Commission to evaluate the oversight of health and safety conditions in local jail facilities.

WHEREAS, the state of overcrowding in Virginia's prisons and jails has long been recognized and studied by numerous organizations and legislative groups; and

WHEREAS, this overcrowding is largely the result of policy choices made in Virginia which reflect the sentiment of citizens that the crime rate has been increasing, the court system is too lenient on criminals, and longer sentences are the appropriate manner in which to treat criminals; and

WHEREAS, this "get tough on crime" attitude has resulted in numerous recommendations and changes which have served to increase the population in our prisons and jails; and

WHEREAS, more offenders serve their sentences in jails than prisons since these facilities incarcerate not only those with sentences of less than 12 months but also state-responsible inmates whose sentences are less than two years; and

WHEREAS, aside from the obvious problem of bedspace, the Supreme Court of the United States has determined that the "totality of conditions" within an institution determine whether those conditions are constitutionally acceptable, and idleness, the population density, and finite limits to program and work opportunities compound the problem of inmate population management; and

WHEREAS, based on these concerns, the 1989 Commission on Prison and Jail Overcrowding made a number of recommendations, many of which have since been implemented, on improvements in the system itself, alternative sanctions and reducing recidivism; and

WHEREAS, even with these changes, the prisons and jails in our Commonwealth are overcrowded and there are insufficient funds to build enough prisons and fund enough programs to adequately care for the number of inmates entering the correctional system each year; and

WHEREAS, as a result, conditions in our local jails with regard to the health and safety of the inmates incarcerated therein are questionable and it is incumbent upon the state to guarantee that these inmates receive adequate care and supervision while providing the punishment demanded by the courts on behalf of the populace; and

WHEREAS, the Board of Corrections is responsible for setting minimum standards for local facility operation and personnel; and

WHEREAS, recent Joint Audit and Review Commission (JLARC) studies have examined the health and mental health treatment programs in the state correctional system and found numerous avenues for improvement in those systems; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That JLARC evaluate the oversight of health and safety conditions in local jail facilities.

The Joint Legislative Audit and Review Commission shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the commission, upon request.

The Joint Legislative Audit and Review Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1995 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Appendix C

Local Jail Capacity and Inmate Population, August 1994

Jail	Rated Capacity	Total Inmate Population	Occupancy as a Percent of Capacity	Local- Responsible Inmates	State- Responsible Inmates	Federal Inmates	Inmates Sleeping on Floors
ACCOMACK COUNTY	46	78	170%	58	20	0	0
ALLEGHANY COUNTY	19	10	53%	6	4	0	0
AMHERST COUNTY	50	53	106%	39	14	0	0
APPOMATTOX COUNTY	12	22	183%	15	7	0	2
ARLINGTON COUNTY	474	516	109%	359	157	0	0
AUGUSTA COUNTY	90	141	157%	94	47	0	13
BATH COUNTY	6	3	50%	3	0	0	0
BEDFORD COUNTY*	126	138	110%	66	72	0	7
BLAND COUNTY	6	7	117%	7	0	0	0
BOTETOURT COUNTY	38	34	89%	25	9	0	0
BRUNSWICK COUNTY	24	28	117%	21	7	0	0
BUCHANAN COUNTY	34	34	100%	23	11	0	0
CAMPBELL COUNTY	32	74	231%	55	19	0	10
CAROLINE COUNTY	24	43	179%	32	11	0	15
CARROLL COUNTY	21	41	195%	22	19	0	0
CHARLOTTE COUNTY	13	20	154%	15	5	0	0
CHESTERFIELD COUNTY	250	449	180%	348	101	0	0
CULPEPER COUNTY	31	57	184%	27	30	0	23
DICKENSON COUNTY	32	30	94%	17	13	0	1
DINWIDDIE COUNTY	32	58	181%	44	14	0	0
FAIRFAX COUNTY	589	1,018	173%	752	241	25	424
FAUQUIER COUNTY	56	89	159%	55	34	0	0
FLOYD COUNTY	10	8	80%	5	3	0	0
FRANKLIN COUNTY	49	67	137%	45	22	0	3
GILES COUNTY	14	25	179%	19	6	0	0
GLOUCESTER COUNTY	42	69	164%	40	3	26	20
GRAYSON COUNTY	10	20	200%	15	5	0	8
GREENSVILLE COUNTY	32	40	125%	28	12	0	9
HALIFAX COUNTY	36	69	192%	57	12	0	32
HANOVER COUNTY	59	125	212%	104	21	0	28
HENRICO COUNTY**	268	657	245%	452	205	0	290
HENRY COUNTY	52	99	190%	72	27	0	24
HIGHLAND COUNTY	8	6	75%	2	4	0	0
LANCASTER COUNTY	26	40	154%	28	12	0	0
LEE COUNTY	32	28	88%	27	1	0	0
LOUDOUN COUNTY	86	99	115%	64	28	7	0
MECKLENBURG COUNTY	68	108	159%	83	25	0	47
MONTGOMERY COUNTY	60	102	170%	79	23	0	0
NELSON COUNTY	7	8	114%	5	3	0	0
NORTHAMPTON COUNTY	37	50	135%	37	13	0	0
NORTHUMBERLAND COUNTY	16	22	138%	17	5	0	0
PAGE COUNTY	26	31	119%	22	9	0	5
PATRICK COUNTY	8	22	275%	19	3	0	5
PITTSYLVANIA COUNTY	36	102	283%	67	35	0	25
PULASKI COUNTY	47	75	160%	52	23	0	0

Appendix C (continued)

Jail	<u>Rated Capacity</u>	<u>Total Inmate Population</u>	<u>Occupancy as a Percent of Capacity</u>	<u>Local- Responsible Inmates</u>	<u>State- Responsible Inmates</u>	<u>Federal Inmates</u>	<u>Inmates Sleeping on Floors</u>
RAPPAHANNOCK COUNTY	7	17	243%	15	2	0	0
RICHMOND COUNTY	6	14	233%	5	9	0	8
ROANOKE COUNTY	108	173	160%	117	53	3	24
ROCKINGHAM COUNTY	61	103	169%	72	31	0	0
RUSSELL COUNTY	36	32	89%	20	12	0	0
SCOTT COUNTY	32	18	56%	10	8	0	0
SHENANDOAH COUNTY	55	46	84%	31	15	0	0
SMYTH COUNTY	40	45	113%	32	13	0	0
SOUTHAMPTON COUNTY	32	65	203%	47	18	0	33
STAFFORD COUNTY	40	65	163%	55	10	0	0
SUSSEX COUNTY	28	50	179%	43	7	0	0
TAZEWELL COUNTY	40	52	130%	36	16	0	10
WARREN COUNTY	67	40	60%	29	11	0	0
WASHINGTON COUNTY	54	61	113%	41	13	7	9
WESTMORELAND COUNTY	8	27	338%	24	3	0	19
WISE COUNTY	43	65	151%	56	9	0	4
WYTHE COUNTY	14	37	264%	29	8	0	12
YORK COUNTY	25	65	260%	50	15	0	22
ALEXANDRIA CITY***	240	421	175%	217	95	109	95
BRISTOL CITY	67	66	99%	40	25	1	0
CHESAPEAKE CITY	211	505	239%	335	170	0	190
CLIFTON FORGE	10	5	50%	5	0	0	0
DANVILLE CITY	92	176	191%	110	63	3	0
HAMPTON CITY	160	466	291%	291	175	0	257
HOPEWELL CITY	24	86	358%	60	26	0	0
LYNCHBURG CITY	84	153	182%	126	27	0	17
MARTINSVILLE CITY	18	51	283%	38	13	0	15
NEWPORT NEWS CITY	248	522	210%	337	185	0	128
NORFOLK CITY	578	1373	238%	930	443	0	410
PETERSBURG CITY****	195	263	135%	188	75	0	40
PORTSMOUTH CITY	248	542	219%	418	99	25	0
RADFORD CITY	11	12	109%	6	6	0	0
RICHMOND CITY	882	1424	161%	923	489	12	105
ROANOKE CITY	238	534	224%	283	185	66	65
VIRGINIA BEACH CITY	563	853	152%	665	163	25	203
WILLIAMSBURG CITY	64	104	163%	74	30	0	0
REGIONAL JAILS							
ALBEMARLE-CHARLOTTESVILLE	209	251	120%	159	77	15	25
CENTRAL VIRGINIA CLARKE-FREDERICK- WINCHESTER	96	186	194%	80	37	69	0
MIDDLE PENINSULA	294	251	85%	126	63	62	0
PIEDMONT	32	69	216%	48	21	0	10
	103	218	212%	139	79	0	13

Appendix C (Continued)

Jail	Rated Capacity	Total Inmate Population	Occupancy as a Percent of Capacity	Local- Responsible Inmates	State- Responsible Inmates	Federal Inmates	Inmates Sleeping on Floors
PRINCE WILLIAM-MANASSAS RAPPAHANNOCK SECURITY CENTER	467	543	116%	355	157	31	0
ROCKBRIDGE	114	247	217%	149	68	30	0
WESTERN TIDEWATER	56	70	125%	25	26	19	0
JAIL FARMS							
DANVILLE CITY FARM	372	438	118%	260	137	41	0
DANVILLE CITY FARM	120	85	71%	68	17	0	0
MARTINSVILLE CITY FARM	31	52	168%	23	29	0	0
NEWPORT NEWS CITY FARM	120	199	166%	66	133	0	0
OTHER*****	23	31	135%	23	8	0	0
TOTAL	9,700	15,986	165%	10,701	4,709	576	2,705

* Bedford County data include Bedford jail annex

** Henrico County data include Henrico jail farm

*** Alexandria City's rated capacity does not include federal inmate beds funded by federal government

**** Petersburg City data include Petersburg City jail farm

***** These facilities, the James River Correctional Center, the Powatan Correctional Center, and the Virginia Correctional Center for Women, serve as local jails for Powatan and Goochland Counties.

Source: Department of Corrections' data from the August 2, 1994 "Tuesday Report."

Appendix D

Agency Responses

As part of an extensive data validation process, State agencies involved in a JLARC assessment effort are given the opportunity to comment on an exposure draft of the report. Appropriate technical corrections resulting from the written comments have been made in this final version of the report. Page references in the agency responses relate to an earlier exposure draft and may not correspond to page numbers in this version.

This appendix contains the responses of the Department of Corrections, the Department of Youth and Family Services, and the Department of Health.



007 4 6 1994

COMMONWEALTH of VIRGINIA

on Angelone
~~XXXXXXXXXXXX~~
DIRECTOR

Department of Corrections

P. O. BOX 26963
RICHMOND, VIRGINIA 23261
(804) 674-3000

October 17, 1994

Mr. Philip A. Leone
Director, Joint Legislative Audit
and Review Commission
Suite 1100, General Assembly Building
Capitol Square
Richmond, Virginia 23219

Dear Mr. Leone:

The exposure draft of the JLARC report Review of Health and Safety Condition in Local Jails, October 4, 1994 has undergone Departmental review and report recommendations have been provided members of the Board of Corrections. General and specific comments on the study are as follows:

General Comments

The JLARC study presents a comprehensive review of local jail conditions relative to health and safety issues. Accordingly, many of the recommendations in the study call for the revision and strengthening of current Board Standards. Additionally, the report recommends that the Department and Board should work closely with the Board of Pharmacy and Board of Health to implement specific recommendations.

The Department concurs with the overall findings and recommendations of the study relative to health and safety conditions. Board Minimum Standards for Local Jails and Lockups are currently undergoing revision and existing Board committees will incorporate study recommendations in the near future.

The Department does not concur, however, with all recommendations of the study. Many recommendations appear to be outside the scope of health or safety related areas and are beyond the capacity of the Department to implement without additional resources. Specific comments on these recommendations are as follows:

Recommendation #1

The Department cannot immediately comply with the removal of all state responsible inmates from local jails. Although new prisons are scheduled for opening over the next few years additional bedspace is necessary in light of recent legislation on Parole Abolition.

Recommendation #19

The recommendation for the Department to transport prisoners from jails to the prison system does not strongly relate to health and safety conditions. While it is granted that smaller jails of some distance from DOC facilities may

Mr. Philip A. Leone
October 17, 1994
Page Two

have difficulty transporting, the number of prisoners actually transported is small. Additionally, larger jails and in particular regional facilities, are staffed with transportation posts by the Compensation Board.

Recommendation #21

Restored funding, as called for in recommendation #20, is necessary to implement this recommendation.

Recommendation #22

The general impetus of most recommendations in the study is stronger monitoring of local jails. Furthermore, recommendations call for the Department and Board to work with other agencies to strengthen existing monitoring mechanisms. This recommendation, however, would preclude the state agency responsible for oversight of juvenile matters from monitoring local jails.

The DYFS is the state agency responsible for juveniles in the criminal justice system. The DYFS and its Board should set Standards and certify local jails. Inadequate or inconsistent oversight should be addressed to that agency.

Recommendation #23

The Board of Corrections approves state reimbursement for local jail construction projects based upon need as demonstrated in submitted Community-Based Corrections Plans. Currently, Sections 53.1-80 through 82 of the Code of Virginia allow reimbursement for single jurisdiction jails if need has been recognized. This recommendation could be more effectively implemented through Code amendment.

Departmental concerns with the select recommendations noted above are not indicative of resistance to overall study findings and recommendations. Moreover, the quality of the report is recognized and the need for stronger oversight agreed to. Please do not hesitate to contact me if you require additional information.

Sincerely,



Ron Angelone

RA/JMH/jp

cc: Mr. Andrew J. Winston
Mr. Carl Knickman
Mr. Gene Johnson
Mr. Mike Howerton
Mr. John Britton



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Patricia L. West
DIRECTOR

COMMONWEALTH of VIRGINIA

Department of Youth & Family Services

October 24, 1994

Philip A. Leone, Director
Joint Legislative Audit and Review Commission
Suite 1100, General Assembly Building
Richmond, VA 23219

Dear Mr. Leone:

I have reviewed the JLARC Exposure Draft: Review of Health and Safety Conditions in Local Jails and offer the following comments:

1. I fully support the JLARC recommendation that the Department of Corrections should be responsible for monitoring juveniles in jails. Monitoring by our agency is time consuming, not cost effective and duplicates DOC efforts.
2. The Department of Youth and Family Services also informed jail administrators statewide in writing, of changes in monitoring responsibilities and regulations. (You only mention that DOC informed Sheriffs on page 99.)
3. The request for an audit by DYFS as referenced on page 99 did not have to be formal. Sheriffs and jail administrators were asked to simply call and inform us that they had been certified by the Department of Corrections. Inspection dates were set up at the time of the call.
4. Regional office monitoring was not consistently implemented in part because many, including sheriffs and jail administrators, questioned the authority of DYFS to enter jails and take action if violations of code and regulations were identified.

In closing I would like to add that I am also concerned about the conditions of confinement in jails and lockups. DYFS staff requested assistance from health officials two years ago to assist sanitation conditions in local juvenile detention facilities. Health officials were unable to render assistance as they had no guidelines to objectively assess health conditions. Hopefully your study will also impact juvenile facilities.

Thank you for the opportunity to review and comment.

Sincerely,

P. L. West
Patricia L. West

c: Walt Smiley
Ron Batliner

"To Reduce Juvenile Delinquency and Protect the People of the Commonwealth"

OCT 26 1994



COMMONWEALTH of VIRGINIA

Department of Health

DONALD R. STERN, MD, MPH
ACTING STATE HEALTH COMMISSIONER

P. O. BOX 2448
RICHMOND, VA 23218

October 26, 1994

Philip A. Leone, Director
Joint Legislative Audit and Review Commission
Suite 1100, General Assembly Building
Capitol Square
Richmond, Virginia 23219

Dear Mr. Leone:

Thank you for the opportunity to review the exposure draft of your report, Oversight of Health and Safety Conditions in Local Jails. I wish to commend your staff for preparing a thorough and comprehensive report.

I would like to comment on the four recommendations which involve the Virginia Department of Health (VDH). Two of the recommendations address the role of the Board of Health as a consultant to the Board of Corrections in the promulgation of health standards for jails. Recommendation (7) affirms the need for a communicable disease control standard for jails. Recommendation (16) addresses the lack of sanitation and environmental health standards for jails. The Board of Health and my staff are available to advise the Board of Corrections in the promulgation of such standards as provided by SB 542, which amended § 53.1-68 of the Code of Virginia.

Two recommendations address the need to amend the Code of Virginia. The objective of recommendation (17) is to assign responsibility for oversight of sanitation conditions in local jail facilities to VDH. The objective of recommendation (18) is to clarify that food service operations in jails are subject to the Rules and Regulations of the Board of Health, Commonwealth of Virginia, Governing Restaurants (VR 355-35-01). If it is decided that VDH is to assume the responsibility for sanitation and food service oversight, then I agree it is necessary to stipulate that function in the Code of Virginia.

Philip A. Leone, Director
October 26, 1994
Page Two

Thank you for the opportunity to respond to this report and the Commission. Mr. Robert W. Hicks from VDH will attend the Commission's October 27th meeting. He will respond to questions concerning VDH's role and responsibilities.

Sincerely,

Donald R. Stern, M.D. /cwr

Donald R. Stern, M.D., M.P.H.
Acting State Health Commissioner

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