

**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION ON**

**COMMUNITY CORRECTIONS
PROGRAMS**

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



HOUSE DOCUMENT NO. 31

**COMMONWEALTH OF VIRGINIA
RICHMOND
1996**



COMMONWEALTH of VIRGINIA

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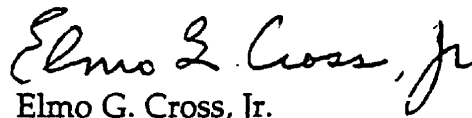
December 12, 1995

TO: The Honorable George Allen, Governor of Virginia, and Members of the
General Assembly:

House Joint Resolution 517, agreed to by the 1995 General Assembly, directed the Virginia State Crime Commission to study community corrections programs in Virginia, and to submit its findings and recommendations to the Governor and the 1996 session of the General Assembly.

In fulfilling this directive, a study was conducted by the Virginia State Crime Commission in 1995. I have the honor of submitting herewith the study report.

Respectfully submitted,


Elmo G. Cross, Jr.
Chairman

EGC/sc

MEMBERS OF THE VIRGINIA STATE CRIME COMMISSION 1995

From the Senate of Virginia:

Elmo G. Cross, Jr., Chairman
Janet D. Howell
Edgar S. Robb

From The House of Delegates:

Clifton A. Woodrum, Vice-Chairman
James F. Almand
Robert B. Ball, Sr.
Howard E. Copeland
Jean W. Cunningham
Raymond R. Guest, Jr.

Appointments by the Governor:

Robert C. Bobb
Robert F. Horan, Jr.
Rev. George F. Ricketts, Sr.

Attorney General's Office:

James S. Gilmore, III, Attorney General

Corrections Subcommittee

Crime Commission Members

George F. Ricketts, Sr., Chairman

Robert B. Ball, Sr.

Robert C. Bobb

Howard E. Copeland

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HJR 517--Study of Community Corrections Programs

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I. Authority for Study

During the 1995 legislative session, Delegate Marian Van Landingham sponsored House Joint Resolution 517 directing the Virginia State Crime Commission to study community corrections programs in Virginia.

Section 9-125 of the **Code of Virginia** establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Section 9-127 of the **Code of Virginia** provides that "the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Section 9-125, and to formulate its recommendations to the Governor and the General Assembly." Section 9-134 of the **Code of Virginia** authorizes the Commission to "conduct private and public hearings, and to designate a member of the Commission to preside over such hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of community corrections programs.

II. Members Appointed to Serve

At the April 27, 1995 meeting of the Crime Commission, Chairman Senator Elmo G. Cross, Jr. of Hanover selected Reverend George F. Ricketts, Sr. to serve as Chairman of the Corrections Subcommittee studying community corrections programs. The following members were selected to serve on the subcommittee:

Robert B. Ball, Sr.
Robert C. Bobb
Howard E. Copeland
James S. Gilmore, III
Janet D. Howell
Edgar S. Robb
Clifton A. Woodrum
Elmo G. Cross, Jr., *ex officio*

III. Executive Summary

Information for the Crime Commission's study of community corrections was gathered via surveys, site visits and interviews with state and local officials involved in the implementation of the legislation creating Virginia's new community corrections system. During the course of the study, the Commission addressed and made recommendations on issues pertaining to Community Criminal Justice Board membership, mandated programs, offender eligibility criteria and funding. The Commission made the following recommendations:

- Section 53.1-183 of the **Code** should be amended to clarify that membership on the Community Criminal Justice Boards is to include the individuals

mentioned in the statute (e.g., judges, chief magistrate) and that these individuals are not authorized to appoint representatives;

- The Crime Commission should update the 1994 study conducted by the Department of Mental Health, Mental Retardation and Substance Abuse Services on the Impact of Public Inebriates on Community and Criminal Justice Services Systems (House Document No. 46) to determine the need for public inebriate diversion in the Commonwealth and whether the program should continue to be mandated in § 53.1-182.1 of the Code;
- Section 53.1-180 of the Code should be amended to clarify that §53.1-20 (B1) (as opposed to §18.2-10) should be referenced in order to define local responsible offenders for the purposes of the Comprehensive Community Corrections Act; and
- The Commission staff should develop budget amendment proposals to provide for the full expansion of programs under the Comprehensive Community Corrections Act and Pretrial Services Act to all eligible localities in the Commonwealth. These proposals should be presented to the Crime Commission for its review prior to the 1996 legislative session.

Section VIII of this report provides a complete discussion of the Crime Commission's findings and recommendations.

IV. Study Design

A. Site visits

Programs Serving Local Responsible Offenders:

Richmond
Hampton/Newport News
Roanoke/Salem
Norfolk
Fredericksburg
Prince William/Manassas

Programs Serving State Responsible Offenders:

Norfolk Day Reporting Center
Peninsula Day Reporting Center
Southampton Detention Facility
Southampton Boot Camp

B. Crime Commission Meetings

Corrections Subcommittee Meetings:

May 23, 1995

July 11, 1995

August 29, 1995

October 3, 1995

November 14, 1995

Full Crime Commission Meetings:

April 27, 1995

December 12, 1995

C. Survey

Surveys were distributed to and returned by all directors of community corrections programs for local responsible offenders. Survey results are summarized in Section VII of this report.

V. Background

House Bill 5001, sponsored by Delegate James F. Almand and approved by the 1995 General Assembly, contained three acts which together establish a community corrections system providing local services and sentencing alternatives for non-violent offenders. The legislation was specifically designed to provide greater flexibility to localities in developing community corrections programs sensitive to localities' special needs and circumstances.

The Department of Corrections has implemented and will operate the Statewide Community-Based Corrections System for State-Responsible Offenders. The Act provides for the establishment of detention centers and diversion centers and the use of day fines and day reporting centers.

Localities, individually or in conjunction with other localities, have implemented and will operate programs under the Comprehensive Community Corrections Act for Local Responsible Offenders (CCCA) and the Pretrial Services Act (PSA). State funding will be obtained from the Department of Criminal Justice Services through an annual grants process. The CCCA replaced and expanded upon the Community Diversion Incentive (CDI) Act, whereas the PSA is new.

The CCCA mandates that local programs provide community service, public inebriate diversion, home incarceration, electronic monitoring, probation supervision, and substance abuse assessment, testing and treatment. In addition, the Act authorizes such optional programs as jail farms, pre-release facilities and work release facilities.

The CCCA requires that localities appoint a Community Criminal Justice Board (CCJB) which will be responsible for policy development and program design. The Act mandates that representatives of the judiciary, law enforcement, corrections, prosecution, defense, education and mental health be included on the CCJB.

The 1995 Budget Act provided for a one-year transition period during which localities would implement the significant changes provided for in House Bill 5001. The transition period was ongoing at the time of this study; therefore, the survey results and, to some extent, the findings and recommendations presented herein reflect an evolving system.

VI. Study Goals/Objectives

House Joint Resolution 517, sponsored by Delegate Marian Van Landingham, directs the Crime Commission to study community corrections programs in Virginia. The purpose of HJR 517 is to research and report on:

- how local community corrections programs can be improved
- the role of the newly created community criminal justice boards
- the membership of the new boards
- strategies that are available to improve coordination of services in the community to both local and state responsible offenders.

VII. Survey Results

Thirty-four survey instruments were distributed to all directors of programs serving local responsible offenders. The response rate was 31 surveys or 91 percent of those surveyed. (Note: Three additional surveys were received after the deadline, bringing the response rate to 100 percent; however, these surveys are not included in the overall tally.)

Forty-two percent of respondents indicated that their community criminal justice board (CCJB) will function as a policy board and 42% indicated that it will function as a policy and advisory board. At the time of the survey, 68% of respondents indicated that their CCJB had already been appointed. Sixty-eight percent of respondents indicated that a CCJB is necessary in their particular locality to carry out the objectives of the Comprehensive Community Corrections Act (CCCA).

Twenty-six percent of those responding indicated that additional representatives should be mandated by the Code for inclusion on the CCJB. Suggestions included clerks of court, CDI representatives, victim-witness program staff, citizens, county administrators, city managers and victims.

Twenty-three percent of respondents indicated that there were representatives mandated by the Code who should not be included on the CCJB. Sixteen percent indicated that Circuit Court judges should not be included; 13 percent indicated that General District Court judges should not be included; 13 percent indicated that Juvenile and Domestic Relations Court judges should not be included; and 10 percent indicated that Chief Magistrates should not be included. The reason provided was that mandatory membership of judges raises ethical and conflict of interest concerns for judges.

Sixty-one percent responded that the one year transition period provided for in the Budget Bill is adequate to accomplish the transition from the Community Diversion Incentive Act to the Comprehensive Community Corrections Act for Local-Responsible Offenders.

One hundred percent of respondents indicated that their programs are currently providing community service; 16 percent are providing public inebriate diversion; 39 percent are providing home incarceration; 32 percent are providing electronic monitoring; 97 percent are providing probation supervision; 94 percent are providing substance abuse assessment; 97 percent are providing substance abuse testing; and 84 percent are currently providing substance abuse treatment.

Thirty-nine percent of respondents indicated that there are programs that should not be mandated/are not necessary that are currently mandated. These respondents indicated that home incarceration is duplicative of electronic monitoring, and there is insufficient need for public inebriate diversion.

Twenty-nine percent responded that there are programs that should be mandated that are not mandated. Suggestions included job training, mental health services, support enforcement, ASAP, victims programs, day reporting centers, residential services, family violence programs and victim/offender reconciliation programs.

Seventy-four percent of respondents indicated that their local community corrections program works in concert with probation and parole to coordinate services for local and state responsible offenders.

Seventy-four percent responded that 100 percent of their program funding is provided by a Department of Criminal Justice Services grant.

When asked to comment on how local community corrections programs could be improved, respondents made suggestions focusing on offender eligibility criteria, membership of the Community Criminal Justice Boards, funding and mandated programs. See Appendix C for the survey instrument and full compilation of responses.

VIII. Findings and Recommendations

A. Membership of Community Criminal Justice Boards

Code of Virginia § 53.1-183 provides “ . . . Each board shall include representatives of the following: a judge of the general district court; a circuit court judge; a juvenile and domestic relations district court judge; a chief magistrate; one chief of police or the sheriff in a jurisdiction not served by a police department to represent law enforcement; an attorney for the Commonwealth a public defender or an attorney who is experienced in the defense of criminal matters; a sheriff or the regional jail administrator responsible for jails serving those jurisdictions involved in the community-based corrections program; a representative of local education; and a representative of the community services boards.” This language is being interpreted by some jurisdictions to mean that judges can designate a representative to serve on the Board.

- According to Legislative Services, the legislative intent was for judges and not their representatives to serve on the boards.
- Many jurisdictions have indicated that the presence of judges on the Boards is vital to the successful implementation and functioning of the community corrections programs.
- Mandated judicial representation could pose a problem in jurisdictions where the judge roams the circuit and might be subject to membership on more than one Board.
- According to the survey, some judges have voiced concern that membership on the board would pose ethical concerns.
- The Supreme Court has indicated that Boards with judges serving as members cannot collect offender fees, as it would pose ethical concerns.

Legislative Recommendations:

- A semi-colon (;) should be inserted after “Commonwealth” and before “a public defender”
- The language should be amended to clarify that membership on the Community Criminal Justice Boards is to include the individuals mentioned in the statute (e.g., judges, chief magistrate) and that these individuals are not authorized to appoint representatives.

B. Mandated Programs

Code of Virginia § 53.1-182.1 mandates the following programs and services: community service; public inebriate diversion; home incarceration; electronic monitoring; probation supervision; and substance abuse assessment, testing and treatment.

- Thirty-five percent of survey respondents (12 of 34) specifically indicated that a public inebriate diversion program was not needed in their locality.
- The Code does not define home incarceration so as to distinguish it from electronic monitoring.

Recommendations:

- The Crime Commission should update the 1994 study conducted by the Department of Mental Health, Mental Retardation and Substance Abuse Services on the Impact of Public Inebriates on Community and Criminal Justice Services Systems (House Document No. 46) to determine the need for public inebriate diversion in the Commonwealth and whether the program should continue to be mandated in § 53.1-182.1 of the Code.
- Section 53.1-182.1 of the Code should be amended to distinguish between home incarceration and electronic monitoring by specifying home incarceration "with or without electronic monitoring."

C. Offender Eligibility Criteria

According to the survey results, there has been some confusion among jurisdictions as to who exactly is eligible for community corrections programs. Some programs are interpreting the relevant statutes to mean that only misdemeanants and nonviolent felons who have been sentenced to 6 months or less in the local jail are eligible for community corrections programs. Others jurisdictions are interpreting the Code to mean that only persons convicted of misdemeanors, Class 5 and 6 felonies (pursuant to §18.2-10) and unclassified felonies are eligible for participation in the program. In other words, some local programs are linking program eligibility to §53.1-20 (B1) while other programs are linking eligibility to §18.2-10 and limiting access to the program, with respect to felons, to persons convicted of Class 5 and 6 felonies.

Recommendation:

- Section 53.1-180 of the Code should be amended to clarify that, with respect to the sentencing aspect of eligibility, §53.1-20 (B1) (as opposed to §18.2-10) should be referenced to define local responsible offenders for the purposes of the Comprehensive Community Corrections Act.

D. Funding

Comprehensive Community Corrections Act:

Approximately \$8.1 million was transferred from the Department of Corrections' budget to the Department of Criminal Justice Services for implementation of the Comprehensive Community Corrections Act.

\$11,045,974	Request for CCCA funds
<u>\$ 8,575,007</u>	CCCA funded by DCJS
\$ 2,470,967	Difference

Neither the \$8.575 million disbursed by DCJS nor the \$11 million requested by the local programs includes funding for full expansion of programs (to provide all services mandated by the § 53.1-182.1 to all eligible localities).

Pretrial Services Act:

Of the 34 jurisdictions serving as fiscal agents that applied on behalf of over 100 localities for funding for Pretrial Services, 14 existing programs received funding, and 8 new programs were funded. DCJS was unable to fund the remaining 12 programs.

\$3,181,808	Request for Pretrial funds
<u>\$2,500,478</u>	Pretrial funded by DCJS
\$ 681,330	Difference

Recommendation:

- The Commission staff should develop budget amendment proposals to provide for the full expansion of programs under the Comprehensive Community Corrections Act and Pretrial Services Act to all eligible localities in the Commonwealth. These proposals should be presented to the Crime Commission for its review prior to the 1996 legislative session.

IX. Acknowledgements

Department of Corrections
Andrew Molloy

Department of Criminal Justice Services
Bruce Morris, Director
Dan Catley
Carol Lee Raimo

Department of Mental Health, Mental Retardation and Substance Abuse Services
Ken Batten

Hampton/Newport News Community Corrections
Clyde Cristman, Director

Newport News Pretrial Services
Julie White, Deputy Director

Norfolk Day Reporting Center
Kathy Hall, Director

Norfolk Sheriff's Office
Mike O'Toole, Major

Peninsula Day Reporting Center
Brenda Collins, Director

Prince William/Manassas Community Corrections
Christina Frank, Director

Rappahannock Regional Jail
Rick Martin, Director of Programs and Community Corrections

Richmond Office of Community Corrections
Rudolph Schuster, Executive Director

Roanoke/Salem Court-Community Corrections Program
Jim Phipps, Director

Southampton Intensive Treatment Center
John Loving, Facility Manager

APPENDIX A:

LD0007825

HOUSE JOINT RESOLUTION NO. 517

Offered January 20, 1995

Directing the Virginia State Crime Commission to study expanding the community capacity for all community corrections system services and activities, to examine the role of the newly created community criminal justice boards in the development of local correctional programs and to examine the local composition of membership of the community criminal justice boards.

Patrons—Van Landingham, Almand, Copeland, Cunningham, Howell, Plum, Scott and Woodrum; Senator: Robb

Referred to Committee on Rules

WHEREAS, the 1994 General Assembly enacted legislation which restructures the current community corrections system, creating new community criminal justice boards with responsibility for locally responsible offenders; and

WHEREAS, the Department of Corrections will continue to serve state responsible offenders in the community; and

WHEREAS, the recent legislation has no representation from the Department of Corrections on the local boards; and

WHEREAS, community corrections services are presently offered by many different agencies at the state level, and localities must work with those many agencies on the issues of crime and community corrections; and

WHEREAS, the coordination of community corrections activities is essential to achieve efficiency and to assure that public safety is maintained, both at the state and local level; and

WHEREAS, there should be a mechanism to allow each locality to become as involved with the issues of crime prevention, planning, pretrial services, offender supervision and substance abuse treatment services, etc., as each locality or combination of localities is ready; and

WHEREAS, offender supervision and control must be maintained no matter what changes are made; and

WHEREAS, the public demands that government take all necessary and responsible measures to decrease the growth of crime and the criminal subculture in the Commonwealth; now, there, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study the enhancement of local community corrections programs, the role of the newly created community criminal justice boards, the membership of the new boards, and strategies to improve coordination of services in the community to both local and state responsible offenders. The Department of Corrections and the Department of Criminal Justice Services shall assist the Crime Commission in the conduct of this study.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1996 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for processing legislative documents.

LD0007825

HJ517

APPENDIX B:

Sentencing

§19.2-303.3. Sentence to community-based corrections program or facility; eligibility for participation; evaluation; sentencing; withdrawal or removal from program; payment for costs.

A. A defendant who is (i) convicted on or after July 1, 1995 of a misdemeanor or a nonviolent felony as defined in §19.2-316.1 for which the court may impose a jail sentence, (ii) no younger than eighteen years of age or is considered an adult at the time of conviction, and (iii) who meets other eligibility criteria pursuant to this section and §53.1-180 may be sentenced to a community-based corrections program established pursuant to §53.1-181 by the local governing bodies within that judicial district or circuit.

B. Prior to or at the time of sentencing, the court may order the defendant placed in the community-based corrections program pursuant to §53.1-181 upon a determination by the court that the defendant may benefit from the program and is capable of returning to society as a productive citizen with a reasonable amount of supervision and intervention including program components set forth in §53.1-182.1. All or part of any sentence imposed may be suspended conditioned upon the defendant's completion of any community-based corrections program established pursuant to §53.1-181. The court may impose such other terms and conditions of supervision as it deems appropriate.

C. Upon the defendant's removal from the program by the Comprehensive Community Corrections Act for Local Responsible Offenders Programs (§53.1-180 et seq.) for (i) intractable behavior, or (ii) refusal to comply with the terms and conditions imposed by the court, the defendant shall be brought before the court for a hearing. Upon finding that the defendant exhibited intractable behavior as defined herein, or refused to comply with terms and conditions imposed, the court may revoke all or part of the suspended sentence and supervision, and commit the defendant to serve whatever sentence was originally imposed or impose such other terms and conditions of supervision as it deems appropriate. "Intractable behavior" is that behavior which, in the determination of the court indicates a defendant's unwillingness or inability to conform his behavior to that which is necessary for successful completion of the program or that the defendant's behavior is so disruptive as to threaten the successful completion of the program by other participants.

D. The court may order a defendant sentenced pursuant to this section to pay an amount to defray the cost of the services received.

Article 5.

Pretrial Services Act

§19.2-152.2 Purpose; establishment of program. -- It is the purpose of this article to provide more effective protection of society by establishing programs which will assist judicial officers in discharging their duties pursuant to §§19.2-121 and 19.2-123. Such programs are intended to provide better information and services for use by judicial officers in determining the risk to public safety and the assurance of appearance of persons held in custody and charged with an offense, other than an offense punishable by death, who are pending trial or hearing. Any city, county or combination thereof may establish a pretrial services program and any city, county or combination thereof required to submit a community-based corrections plan pursuant to §53.1-82.1 shall establish a pretrial services program.

§19.2-152.3 Department of Criminal Justice Services to prescribe standards; biennial plan. -- The Department of Criminal Justice Services shall prescribe standards for the development, implementation, operation and evaluation of programs authorized by this article. The Department of Criminal Justice Services shall develop risk assessment and other instruments to be used by pretrial services programs in assisting judicial officers in discharging their duties pursuant to §§19.2-121 and 19.2-123. Any city, county or combination thereof which establishes a pretrial services program pursuant to this article shall submit a biennial plan to the Department of Criminal Justice Services for review and approval.

§19.2-152.4 Mandated services. -- Any city, county or combination thereof which elects or is required to establish a pretrial services program shall provide all information and services for use by judicial officers as set forth in §§19.2-121 and 19.2-123.

§19.2-152.5 Community criminal justice boards. -- Each city, county or combination thereof establishing a pretrial services program shall also establish a community criminal justice board pursuant to §53.1-183.

§19.2-152.6 Withdrawal from program. -- Any participating city county may, at the beginning of any calendar quarter, by ordinance or resolution of its governing authority, notify the Department of Criminal Justice Services of its intention to withdraw from the pretrial services program. Such withdrawal shall be effective as of the last day of the quarter in which such notice is given.

§19.2-152.7 Funding: failure to comply. — Counties and cities shall be required to establish a pretrial services program only to the extent funded by the Commonwealth through the general appropriation act. The Department of Criminal Justice Services shall periodically review each program established under this article to determine compliance with the submitted plan and operating standards. If the Department determines that a program is not in substantial compliance with the submitted plan or standards, the Department may suspend all or any portion of financial aid made available to the locality for purposes of this article until there is compliance.

Article 2.

Comprehensive Community Corrections Act for Local-Responsible Offenders. (Effective July 1, 1995)

§53.1-180. (Effective July 1, 1995) Purpose. -- It is the purpose of this article to enable any city, county or combination thereof to develop, establish and maintain community-based corrections programs to provide the judicial system with sentencing alternatives for certain misdemeanants or persons convicted of nonviolent felonies, as defined in §19.2-316.1, for whom the court may impose a jail sentence and who may require less than institutional custody.

The article shall be interpreted and construed so as to effect the following purposes:

1. To allow individual cities, counties, or combinations thereof greater flexibility and involvement responding to the problem of crime in their communities;
2. To provide more effective protection of society and to promote efficiency and economy in the delivery of correctional services;
3. To provide increased opportunities for offenders to make restitution to victims of crimes through financial reimbursement or community service;
4. To permit cities, counties or combinations thereof to operate and utilize programs and services specifically designed to meet the rehabilitative needs of selected offenders; and
5. To provide appropriate post-sentencing alternatives in localities for certain offenders with the goal of reducing the incidence of repeat offenders.

§53.1-181. (Effective July 1, 1995) Establishment of program; use of supervised probation not to be decreased. -- To facilitate local involvement and flexibility in responding to the problem of crime in their communities and to permit locally designed programs which will fit their needs, any city, county or combination thereof may, and any city, county or combination thereof which is required by §53.1-82.1 to file a community corrections plan shall, establish a system of community-based services pursuant to this article. This system is to provide alternative programs for those offenders who are convicted and sentenced by or receive services through a court and who are considered suitable candidates for programs which require less than incarceration in a local correctional facility. Such programs and services may be provided by qualified public agencies or private agencies pursuant to appropriate contracts.

§53.1-182. (Effective July 1, 1995) Board to prescribe standards; biennial plan. -- The Board shall approve standards as prescribed by the Department of Criminal Justice Services for the development, implementation, operation and evaluation of programs, services and facilities

authorized by this article. Any city, county or combination thereof which establishes programs and provide services pursuant to this article shall submit a biennial plan to the Department of Criminal Justice Services for review and approval. (Code 1950, §53-128.18; 1980, c. 300; 1982, c. 636; 1994, 2nd Sp. Sess., cc. 1, 2.)

§53.1-182.1. (Effective July 1, 1995) Mandated services; optional programs. — Any city, county or combination thereof which elects or is required to establish a community corrections program pursuant to this article shall provide to the judicial system the following programs and services: community service; public inebriate diversion; home incarceration; electronic monitoring; probation supervision; and substance abuse assessment, testing and treatment. Additional programs, facilities and services, including, but not limited to, jail farms, pre-release facilities and work release facilities, may be established by the city, county or combination thereof. (1994, 2nd Sp. Sess., cc. 1, 2.)

§53.1-183. (Effective July 1, 1995) Community criminal justice boards. — Each county or city or combination thereof developing and establishing a community corrections program pursuant to the provision of this article shall establish a community criminal justice board. Each county and city participating in a community corrections program shall be represented on the community criminal justice board. In the event that one county or city appropriates funds to the program as part of a multijurisdictional effort, any other participating county or city shall be considered to be participating in a program if such locality appropriates funds to the program. Appointments to the board shall be made by each local governing body. In cases of multijurisdictional participation, the local governing body of each participating city or county shall agree upon those appointments, and, unless otherwise agreed upon, each participating city or county shall have an equal number of appointments. Boards shall be limited to fifteen members, except in cases of multijurisdictional-jurisdictional boards which shall be limited to twenty members. Each board shall include representatives of the following: a judge of the general district court; a circuit court judge; a juvenile and domestic relations district court judge; a chief magistrate; one chief of police or the sheriff in a jurisdiction not served by a police department to represent law enforcement; an attorney for the Commonwealth a public defender or an attorney who is experienced in the defense of criminal matters; a sheriff or the regional jail administrator responsible for jails serving those jurisdictions involved in the community-based corrections program; a representative of local education; and a representative of the community services boards.

§53.1-184. (Effective July 1, 1995) Withdrawal from program. — Any participating city or county may, at the beginning of any calendar quarter, by ordinance or resolution of its governing authority, notify the Director of the Department of Criminal Justice Services of its intention to withdraw from the community corrections program. Such withdrawal shall be effective as of the last day of the quarter in which such notice is given.

§53.1-184.2. (Effective July 1, 1995) Authority of the community criminal justice board. — The community criminal justice board may contract with the Director, sheriff or administrator of a regional jail to place in such programs or facilities persons convicted of a nonviolent felony as defined in §19.2-316.1 and who are confined in a state or local correctional facility. (1990, cc. 676, 768; 1994, 2nd Sp. Sess., cc. 1,2.)

§53.1-185. (Effective July 1, 1995) Responsibilities of community criminal justice boards. — On behalf of its counties, cities, or combinations thereof which it represents, the community criminal justice boards shall have the responsibility to:

1. Provide for the purchase, development and operation of community programs, services, and facilities for use by the courts in diverting offenders from local correctional facility placements;

2. Assist community agencies and organizations in establishing and modifying programs and services for offenders on the basis of an objective assessment of the community's needs and resources;

3. Evaluate and monitor community programs, services and facilities to determine their impact on offenders;

4. Develop and amend the community corrections plan in accordance with guidelines and standards set forth by the Department of Criminal Justice Services for approval by participating local governing bodies; and

5. Do all things necessary or convenient to carry out the responsibilities expressly given in this article.

§53.1-185.1. (Effective July 1, 1995) Eligibility to participate. — Any community corrections program established pursuant to this article shall be available as a sentencing alternative for persons sentenced to incarceration in a local correctional facility or who otherwise would be sentenced to incarceration in a local correctional facility. (1992, c. 196; 1994, 2nd Sp. Sess., cc. 1, 2.)

§53.1-185.2 (Effective July 1, 1995) Funding; failure to comply; prohibited use of funds. —

A. Counties and cities shall be required to establish a community corrections program under this article only to the extent funded by the Commonwealth through the general appropriation act.

B. The Department of Criminal Justice Services shall periodically review each program established under this article to determine compliance with the submitted plan and operating standards. If the Department of Criminal Justice Services determines that a program is not in substantial compliance with the submitted plan or standards, the Department of Criminal

Justice Services may suspend all or any portion of financial aid made available to the locality for purposes of this article until there is compliance.

C. Funding shall be used for the provision of services and operation of programs and facilities but shall not be used for capital expenditures.

D. The Department of Criminal Justice Services, in conjunction with local boards, shall establish a statewide system of supervision and intervention fees to be paid by offenders participating in programs established under this article for reimbursement towards the costs of their supervision.

E. Any supervision or intervention fees collected by local programs established under this article shall be retained by the locality serving as fiscal agent and shall be utilized for program expansion and program development, or to supplant local costs of the program operation. Any program collecting such fees shall keep records of the collected fees, report the amounts to the locality serving as fiscal agency and make all records available to the community criminal justice board. Such fees shall be in addition to those imposed pursuant to §53.1-150.

§53.1-185.3. (Effective July 1, 1995) City or county to act as administrator and fiscal agent. -- Each community criminal justice board shall select a participating city or county, with its consent, to act as administrator and fiscal agent for the funds awarded for purposes for implementing the community corrections program.

Article 6.

Statewide Community-Based Corrections System for State-Responsible Offenders.

§ 53.1-67.2. Purpose.

The purposes of this article are to (i) provide effective protection of society and (ii) provide efficient and economical correctional services by establishing and maintaining appropriate sanction alternatives and by assisting state-responsible offenders who are incarcerated in returning to society as productive citizens, with the goal of reducing the incidence of repeat offenders.

§ 53.1-67.3. Establishment of system.

The Director shall establish a statewide community-based system of programs, services and residential and nonresidential facilities for (i) those state-responsible offenders convicted of felonies and sentenced to alternative forms of punishment and (ii) those state-responsible offenders who the Director has determined, after a period of incarceration in a state or local correctional facility, require less secure confinement or a lower level of supervision. Facilities established pursuant to this article may be partially or completely physically restrictive with varying levels and types of offender control.

§ 53.1-67.4. Authority of Director; purchase of services authorized.

Facilities established under this article may, in the discretion of the Director, be purchased, constructed or leased. The Director is further authorized to employ necessary personnel for these facilities. The Director, pursuant to

rules and regulations of the Board, may purchase such services as are deemed necessary in furtherance of this article. Such services may be provided by qualified public agencies or private agencies.

§ 53.1-67.5. Board to prescribe standards.

The Board shall prescribe standards for the development, implementation, operation, and evaluation of programs, services and facilities authorized by this article. The Board shall also prescribe guidelines for the transfer of offenders from a state or local correctional facility who the Director has determined should be placed in programs or facilities authorized under this article.

§ 53.1-67.6. Minimum programs.

The Statewide Community-Based Corrections System shall include, but not be limited to, the following programs, services and facilities: regular and intensive probation supervision, regular and intensive parole supervision for those state-responsible offenders sentenced for an offense committed prior to January 1, 1995, home/electronic incarceration, diversion center incarceration, boot camp incarceration, detention center incarceration, work release, pre-release centers, probation-violator and parole-violator centers, halfway houses and, for selected offenders, drug testing and treatment. The programs, facilities, and services required under this article shall be made available to each judicial circuit, but the manner in which such are provided shall be determined by the Board. Additional programs, services, and facilities may be established by the Board.

Article 7.

Diversion Center Incarceration Program.

§ 53.1-67.7. Establishment of program.

The Department is authorized to establish and maintain a system of residential diversion centers for probationers who require more security and supervision than provided by intensive probation supervision and who are committed to the Department under § 19.2-316.3. The program shall include components for ensuring compliance with terms and conditions of probation; ensuring restitution and performance of community service; payment of fines, if any, and costs of court; providing assistance in securing and maintaining employment; providing access to substance abuse testing and treatment; and providing other programs which will assist the probationer in returning to society as a productive citizen.

Probationers confined in a diversion incarceration center may be allowed to leave the facility only for purposes expressly authorized by the Director.

Article 8.

Detention Center Incarceration Program.

§ 53.1-67.8. Establishment of program.

The Department is authorized to establish and maintain a system of residential detention centers to provide a highly structured, short-term period of incarceration for individuals committed to the Department under the provisions of § 19.2-316.2. The program shall include components for military-style

management and supervision, physical labor in organized public works projects, counseling, remedial education, substance abuse testing and treatment, and community re-entry services.

§ 53.1-116. What records jailer shall keep; how time deducted or added; payment of fine and costs by person committed to jail until he pays.

A. The jailer shall keep a record describing each person committed to jail, the terms of confinement, for what offense or cause he was committed, and when received into jail. The jailer shall keep a record of each prisoner. Each prisoner not eligible for parole under §§ 53.1-151, 53.1-152 or § 53.1-153 shall earn good conduct credit at the rate of one day for each one day served, including all days served while confined in jail prior to conviction and sentencing, in which the prisoner has not violated the written rules and regulations of the jail unless a mandatory minimum sentence is imposed by law; however, any prisoner committed to jail upon a felony offense committed on or after January 1, 1995, shall not earn any good conduct credit. Prisoners eligible for parole under §§ 53.1-151, 53.1-152 or § 53.1-153 shall earn good conduct credit at a rate of fifteen days for each thirty days served with satisfactory conduct. The jailer may grant the prisoner additional credit for performance of institutional work assignments at the rate of five days for every thirty days served. The time so deducted shall be allowed to each prisoner for such time as he is confined in jail. For each violation of the rules prescribed herein, the time so deducted shall be added until it equals the full sentence imposed upon the prisoner by the court.

So much of an order of any court contrary to the provisions of this section shall be deemed null and void.

B. Notwithstanding the provisions of § 19.2-350, in the event a person who was committed to jail to be therein confined until he pays a fine imposed on him by the court in which he was tried should desire to pay such fine and costs, he may pay the same to the person in charge of the jail. The person receiving such moneys shall execute and deliver an official receipt therefor and shall promptly transmit the amount so paid to the clerk of the court which imposed the fine and costs. Such clerk shall give him an official receipt therefor and shall properly record the receipt of such moneys.

§ 53.1-145. Powers and duties of probation and parole officers.

In addition to other powers and duties prescribed by this article, each probation and parole officer shall:

1. Investigate and report on any case pending in any court or before any judge in his jurisdiction referred to him by the court or judge;
2. Except those persons placed in probation supervision programs established under §§ 53.1-181 and 53.1-182.1, supervise and assist all persons within his territory placed on probation or post-release supervision pursuant to § 19.2-295.2, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish

every such person with a written statement of the conditions of his probation or post-release supervision and instruct him therein;

3. Supervise and assist all persons within his territory released on parole, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and, in his discretion, assist any person within his territory who has completed his parole or has been mandatorily released from any correctional facility in the Commonwealth and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

4. Arrest and recommit to the place of confinement from which he was released, or in which he would have been confined but for the suspension of his sentence or of its imposition, for violation of the terms of probation, post-release supervision pursuant to § 19.2-295.2 or parole, any probationer, person subject to post-release supervision or parolee under his supervision, or as directed by the Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

5. Keep such records, make such reports, and perform other duties as may be required of him by the Director or by regulations prescribed by the Board of Corrections, and the court or judge by whom he was appointed;

6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person subject to post-release supervision pursuant to §

19.2-295.2 or parolee under his supervision who the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana or the abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations governing the officer's exercise of this authority shall be promulgated by the Board; and

7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the Board and upon certification of appropriate training and specific authorization by a judge of the circuit court to which the officer is assigned.

Nothing in this article shall require probation and parole officers to investigate or supervise cases before family courts.

§ 53.1-150. Contributions by persons on parole, probation, and work release.

A. Any person convicted of a felony, multiple felonies or a combination of felonies and misdemeanors and who is sentenced to incarceration in a local or state correctional facility, or who is granted suspension of sentence and probation by a court of competent jurisdiction, or who is participating in a community corrections program as provided in § 53.1-181, or who is participating in a home/electronic incarceration program as provided in § 53.1-131.2, shall be required to pay a fee of \$200 towards the cost of his confinement, supervision or participation as a condition of his sentence.

Any person convicted of a misdemeanor or multiple misdemeanors and who is sentenced to incarceration in a local correctional facility, or who is granted suspension of sentence and probation by a court of competent jurisdiction, or who is participating in a community corrections program as provided in § 53.1-181, or who is participating in a home/electronic incarceration program as provided in § 53.1-131.2, shall be required to pay a fee of fifty dollars towards the cost of his confinement, supervision or participation as a condition of his sentence.

In the event of multiple convictions under any of the above provisions, the fees imposed herein shall be assessed on a pro rata basis. Such fees shall be in addition to any other costs or fees provided by law.

All fees assessed pursuant to this section for the cost of confinement, supervision or participation shall be paid to the clerk of the sentencing court. All such funds collected pursuant to this section shall be deposited in the general fund of the state treasury.

B. The sentencing court may exempt a defendant from the requirements of subsection A on the grounds of unreasonable hardship.

Any defendant who is exempted from the requirements of subsection A shall be required to perform community service as an alternative to the contribution toward the cost of his confinement, supervision or participation.

C. Any person (i) who is granted parole or (ii) who participates in a work release program pursuant to the provisions of §§ 53.1-60 and 53.1-131 shall be

required to pay the fee required in subsection A as a condition of parole or work release.

§ 53.1-165.1. Limitation on the application of parole statutes.

The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after January 1, 1995. Any person sentenced to a term of incarceration for a felony offense committed on or after January 1, 1995, shall not be eligible for parole upon that offense.

APPENDIX C:

Survey--Programs Serving Local Responsible Offenders

Surveys completed = 31
Surveys distributed = 34
Response rate = 91%

1. Briefly describe how your community criminal justice board (CCJB) will function (i.e., as a policy board).

13	Policy Board	41.9%
1	Advisory Board	3.2%
13	Policy and Advisory Board	41.9%
1	Policy and Planning Board	3.2%
2	Not yet determined	6.5%
1	No response	3.2%

2. Has your CCJB been appointed?

20	Yes	64.5%
7	No	22.6%
2	Partially appointed	6.4%
2	No response	6.4%

 - (a) If so, please attach a membership list.
 - (b) If not, when do you expect the board to be appointed?

3. With respect to your particular locality, do you think that a community criminal justice board is necessary to carry out the objectives of the Comprehensive Community Corrections Act (CCCA)? Please briefly explain why or why not.

21	Yes	67.7%
9	No	29.0%
1	No response	3.2%

4. Of the appointments to the CCJB mandated by the CCCA. . .
 - (a) Is anyone not included who should be included?

8	Yes	25.8%
20	No	64.5%
3	No response	9.7%

 - (a)(1) If so, please indicate who and explain why.
 CCRB member, clerk of court, CDI representative, victim-witness program staff, citizens, county administrator, city manager and victims

 - (b) Is anyone included who should not be included?

7	Yes	22.6%
21	No	67.7%
3	No response	9.7%

 - (b)(1) If so, please indicate who and explain why.

5	Judge, Circuit Court	16.0%
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4	Judge, General District Court	12.9%
4	Judge, Juvenile and Domestic Relations Court	12.9%
3	Chief Magistrate	9.6%
1	Chief of Police/Sheriff (law enforcement)	3.2%
1	Commonwealth's Attorney	3.2%
1	Public Defender/Criminal Defense Attorney	3.2%
2	Sheriff/Regional Jail Administrator	6.5%
2	Representative, Local Education	6.5%
2	Representative, Community Services Boards	6.5%

ethical concerns and concerns about conflicts of interest for judges to serve

5. Do you think the one year transition period provided for in the Budget Bill is adequate to accomplish the transition from the Community Diversion Incentive Act to the Comprehensive Community Corrections Act for Local-Responsible Offenders programs?

19	Yes	61.3%
10	No	32.3%
1	Three month transition provided for in grant guidelines inadequate	3.2%
1	No Response	3.2%

- (a) If not, please explain why and indicate what period of time you think would be appropriate.

18 months to 2 years would have been appropriate

6. Please indicate which of the following services you are currently providing.

31	community service	100%
5	public inebriate diversion	16.1%
12	home incarceration	38.7%
10	electronic monitoring	32.3%
30	probation supervision	96.8%
29	substance abuse assessment	93.5%
30	substance abuse testing	96.8%
26	substance abuse treatment	83.9%

7. Of these services mandated by the CCCA. . .

- (a) Are there any programs that should not be mandated/are not necessary that are mandated?

12	Yes	38.7%
17	No	54.8%
1	all programs should be local option	3.2%
1	No response	3.2%

- (a)(1) If so, please indicate what and explain why.
public inebriate diversion--insufficient need
home incarceration--duplicative

- (b) Are there any programs that should be mandated that are not mandated?

9	Yes	29.0%
17	No	54.8%
1	all programs should be local option	3.2%
4	No response	12.9%

(b)(1) If so, please indicate what and explain why.
 job training, mental health services, support enforcement, ASAP, victims programs, day reporting center, residential services, family violence, victim/offender reconciliation

8. Does your local community corrections program work in concert with probation and parole to coordinate services for local and state responsible offenders? Please explain.
- | | | |
|----|------------------------------------|-------|
| 23 | Yes | 74.2% |
| 5 | Such coordination is not necessary | 16.1% |
| 3 | No | 9.7% |

9. Please identify your funding source(s).
- | Funding Source: | | Percentage of total funding: | |
|-----------------|--|------------------------------|-------|
| 23 | DCJS grant | 100% | 74.2% |
| _____ | Local funds | _____ % | |
| _____ | Federal grant | _____ % | |
| _____ | Fines paid by offenders | _____ % | |
| 8 | Other (please describe)
(some combination of the above) | _____ % | 25.8% |

combinations:
 DCJS/local
 DCJS/local/federal
 DCJS/local/offender fines
 DCJS/local/federal/DOC-CDI/private funds
 DCJS/local/bank interest

10. Please take this opportunity to comment on how you think local community corrections programs could be improved (i.e., additional funding, legislative changes, enhanced coordination of services, changes in the grants process, etc.). Please be specific.

1. Offender eligibility criteria
2. Membership of Community Criminal Justice Boards
3. Funding
4. Transition period
5. Coordination between programs for state and local responsible offenders
6. More local flexibility/fewer mandated programs
7. Computerization

11. Would you like to be placed on our mailing list to receive meeting notices and final reports?
- | | | |
|----|-----|-------|
| 30 | Yes | 96.8% |
| 1 | No | 3.2% |

Please feel free to attach additional pages as necessary. Thank you!!!

