

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

**REVIEW OF JAIL OVERSIGHT  
AND REPORTING ACTIVITIES**

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



**HOUSE DOCUMENT NO. 8**

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1996**

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## Preface


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Item 15F of the 1995 Appropriation Act directed the Joint Legislative Audit and Review Commission (JLARC) to study the local and regional jail oversight and reporting activities of the Department of Corrections. The study mandate also required that JLARC evaluate the most appropriate organizational placement for these activities. In addition, a follow-up of selected recommendations from the 1994 JLARC review of jail health and safety conditions was also conducted. This report presents the JLARC staff findings and recommendations regarding the Department of Corrections' jail oversight and reporting activities and the issue of proper organizational placement.

This study found that, due to actions taken by the General Assembly and the Department of Corrections to increase the number of inmates in the State prison system, the subsequent reduction in jail overcrowding has benefited the operating environment in many jails. In addition, this review determined that both the Board and Department of Corrections have made a number of improvements to the jail standards and oversight process recommended in the 1994 JLARC review. However, additional attention by the Board of Corrections, as required by the *Code of Virginia*, is necessary regarding the development of jail sanitation standards. In addition, both the Department of Corrections' and the State and local health departments' annual jail inspection processes should be formalized by the Board of Corrections.

Primary responsibility for local jail oversight should remain with the Department of Corrections. Local jails are secure and restrictive facilities, and the Department of Corrections' mission and infrastructure support jail oversight and technical assistance activities. In addition, altering the current process could negatively impact the development of the jail oversight function of the State and local health departments. However, the jail per diem funding program should be transferred entirely from the Department of Corrections to the Compensation Board. Transferring this function to the Compensation Board will reduce the current fragmentation experienced by the program and strengthen its administration and oversight.

On behalf of JLARC staff, I would like to thank the Department of Corrections, the Compensation Board, sheriffs and jail administrators, and the Virginia Sheriffs' Association for their assistance in preparation of this report.

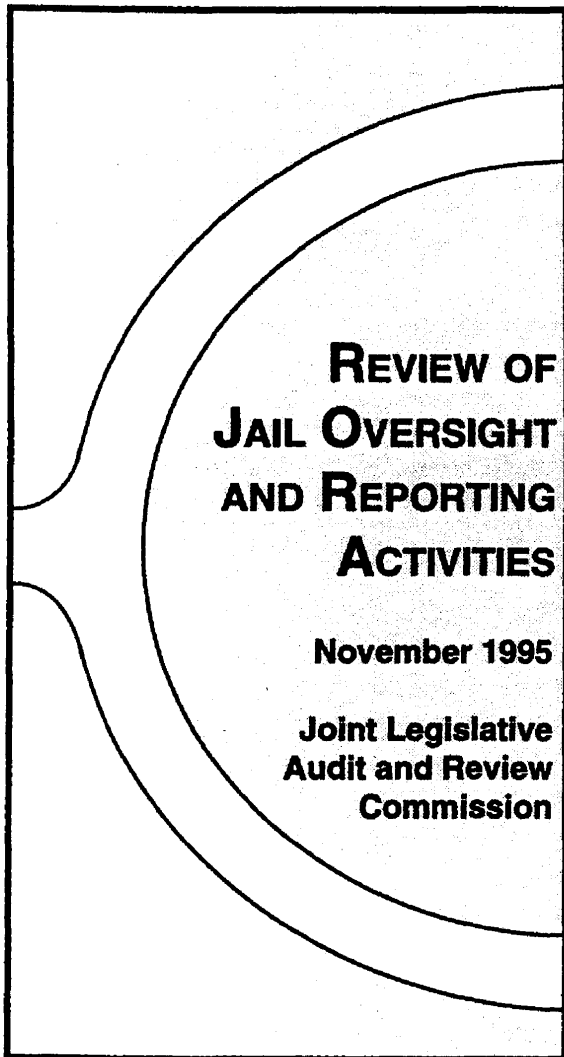


Philip A. Leone  
Director

November 13, 1995



# JLARC Report Summary



**T**here are 96 individual local jail correctional facilities in Virginia subject to oversight by the Department of Corrections (DOC). The majority of these facilities are under the control of a local sheriff. Regional jails and jail farms are typically operated by jail administrators. On August 15, 1995, there were 14,120 inmates in these facilities, which had a total rated capacity of 10,163 inmates. As a result, the typical local jail facility was operating at about 139 percent of its rated capacity.

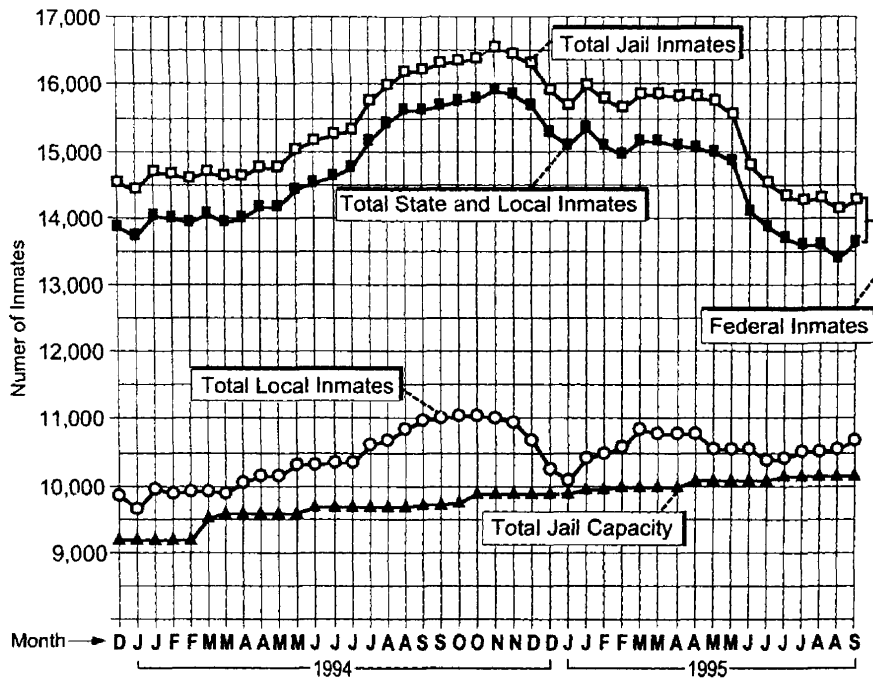
Despite the extent to which the number of inmates currently exceeds the total capacity of the local jail system, it is nonetheless a significant reduction compared to the overcrowding experienced by local jails in 1994. On October 4, 1994, more than 16,300 local, State, and federal inmates were housed in these facilities, which had an operational capacity of almost 9,750 inmates. At that time, the typical local jail was operating at about 167 percent of its rated capacity.

In 1994, JLARC conducted a review of DOC's jail oversight process. The study reported that jail overcrowding was a factor that contributed significantly to inappropriate conditions in local jails. In addition, some of DOC's processes for providing jail oversight were ineffective, and the active involvement of the State health department was necessary. More than 20 recommendations were issued to address specific problems with the existing jail oversight process.

The 1995 General Assembly directed JLARC to evaluate both the jail oversight and reporting activities of the DOC. In addition, the mandate required an assessment of the appropriate organizational placement for these activities.

Many of the recommendations from the 1994 JLARC report were implemented by the 1995 General Assembly through revisions to the *Code of Virginia*. These include requiring DOC to conduct unannounced inspections, clarifying the role of the State and local health departments in the oversight process, and transferring responsibility for oversight of juveniles in jails from the Department of Youth and Family Services to DOC. In addition, this review found that both the Board and Department of Corrections have made significant progress in revising both jail standards and the oversight pro-

## Change in Local Jail Capacity and Number of Inmates Bimonthly Counts, December 1993 - September 1995



cess to implement both the requirements of the *Code of Virginia* and other JLARC recommendations.

However, additional actions are necessary to ensure that the important progress made by both the Board of Corrections and DOC continues and jail conditions remain appropriate. Furthermore, although the location of the oversight process should remain at DOC, completely transferring particular portions of the jail reporting process should be considered to reduce program fragmentation and improve administration and oversight. Significant findings of this report include:

- The operating environment in many jails has benefited from the reduction in jail overcrowding. Actions by the General Assembly and DOC to increase the number of inmates in the State system, which has helped reduce the number of inmates in local

jails, has apparently enabled jail officials to begin to perform needed routine maintenance and reduced the stress on jails' physical plants.

- Although the Board of Corrections has made significant improvements to the jail standards, further attention is needed in the area of jail sanitation standards. The *Code of Virginia* was amended by the 1995 General Assembly to require that the Board of Corrections develop sanitation standards with the advice and guidance of the State Health Commissioner.
- The revised DOC annual inspection process should be formalized by the Board of Corrections. Unlike the certification audit process, it is not clear how the results of a jail's DOC annual inspection can be used in certification decisions. Moreover, the current DOC

annual inspection process is new and, as a result, jail administrators and staff cannot project with certainty what the results of annual inspections may mean for their facilities as they can with a certification audit.

- The jail oversight process should continue to be located at DOC. Local jails are secure and restrictive facilities, and DOC's mission and infrastructure supports oversight of and the provision of technical assistance to local jails. In addition, altering the current process could negatively impact the development of the jail oversight efforts of the State and local health departments.
- Finally, although responsibility for producing and disseminating the "Tuesday Report" should remain with DOC, the jail per diem funding program should be transferred entirely to the Compensation Board. A transfer of this function to the Compensation Board would reduce the current fragmentation of the program and strengthen its administration and oversight.

### **Reduction in Jail Overcrowding Has Benefited Jail Operating Environments**

The 1994 JLARC report concluded that one of the major factors driving overcrowding in local jails was the number of State-responsible inmates being held in these facilities. At that time, local jails were operating at almost 170 percent of rated capacity. The level of overcrowding present in some jails at that time made it difficult for sheriffs and jail administrators to continually maintain appropriate conditions for both inmates and staff.

As noted earlier, jail overcrowding has been reduced substantially since the 1994

JLARC study. Moreover, as reported by DOC, the number of inmates held in local jails in violation of the *Code of Virginia* has decreased from about 1,700 inmates in September 1994 to no inmates held in violation of the *Code* on September 5, 1995. However, it must be noted that DOC has recently contracted with a number of jails to house State inmates who should be in DOC institutions. More importantly, the number of inmates sleeping on jail floors declined from almost 2,800 in January 1995 to about 1,400 in August 1995.

As a result, the reduction in the number of inmates has apparently enabled jail officials to perform much needed maintenance and repairs. The extreme stress on the physical plants of jails has likely been reduced as well. Finally, sheriffs and jail administrators are reporting that due to reductions in overcrowding, the morale of jail staff has improved.

### **Enhanced Sanitation Standards are Still Necessary**

Although the Board of Corrections' recent revisions to the jail standards are important in ensuring that appropriate conditions exist in local jails for both staff and inmates, further attention is still needed in the area of jail sanitation standards. In JLARC's 1994 report, it was determined that inmate overcrowding often increased the rate of deterioration of jail facilities and subsequently led to inappropriate health and safety conditions.

During the 1994 JLARC study, it was apparent that the two Board of Corrections' standards directly addressing sanitation were inadequate to address the overcrowding in many facilities. In order to address this issue, JLARC staff recommended that the Board of Corrections and the Board of Health develop additional sanitation and environmental health standards for local jails. The *Code of Virginia* was amended by the 1995 General Assembly to require that the Board

of Corrections promulgate sanitation standards with advice and guidance from the State Health Commissioner.

Staff from the State health department report that they will be collecting information from its annual jail inspections to better assess the effectiveness of the current jail sanitation standards. As soon as the State health department has collected sufficient information to accurately evaluate the effectiveness of the existing sanitation standards, the Board of Corrections should, as required by the *Code*, revise the existing sanitation standards in consultation with the State Health Commissioner.

### **DOC Annual Inspection Process Should be Formalized**

Both DOC and the Board of Corrections have made significant enhancements to the annual inspection process. These enhancements include addressing life, health, and safety standards during the inspection and reporting the results of the inspections to the Board of Corrections. However, unlike the certification audit, the annual inspection process has not been formalized, and as a result, it is not clear how the results of the annual inspection will be used by the Board of Corrections.

Because the current DOC annual inspection process is relatively new, the administrative structure similar to that of the certification audit process has not been developed. For example, it is not clear how the results of the annual inspection process can impact a jail's certification. In the past, sheriffs and jail administrators did not have the results of DOC annual inspections reported to the Board of Corrections. Therefore, the Board of Corrections should formalize the process so that jail administrators and staff can be aware of the consequences that may accompany deficiencies identified through an annual inspection.

### **Jail Oversight Function Should Remain at DOC**

The results of this study indicate that primary responsibility for jail oversight should remain with DOC. Both DOC and the Board of Corrections have made significant progress in improving, strengthening, and more proactively administering the portions of the jail oversight process under their purview. In addition, the focus and mission of DOC are consistent with the secure focus of jails.

The infrastructure in place at DOC for operating adult institutions also supports jail oversight and technical assistance activities. Moreover, some staff involved with the jail oversight process have had operational experience at DOC adult institutions or facilities. These factors enable jail oversight staff to address issues that affect the entire correctional system — communication, research, classification, and inmate intake. DOC also has four regional offices located in different geographic areas of the State that support staff actively involved with providing jail technical assistance and jail monitoring.

Finally, removing the process from DOC could hamper the progress that has recently been made in developing the jail sanitation oversight function to be administered by the State and local health departments. Health department involvement is intended to complement the focus of DOC jail oversight, and mitigate DOC staff's lack of expertise in the sanitation and environmental health area.

### **Jail Per Diem Reporting Should Be Transferred to the Compensation Board**

While the mission and focus of DOC supports the administration of the jail oversight process, it does not support the collection and processing of the data used to calculate the amount of State reimbursement for the financial assistance for adult confinement program or the jail per diem



funding program. This program currently allocates a significant amount of State funding to local governments — more than \$50 million in FY 1995. Therefore, an agency with a focus on fiscal oversight and administration would be a more appropriate location for this financial-related function than DOC.

At DOC, the data collection process for this program lacks the fiscal oversight that is necessary for such a large State funding program. At one time, DOC apparently recognized this need and requested and received an additional position from the General Assembly to perform audits of the

inmate data. However, the position was never filled due to recent agency reorganizations.

Finally, despite DOC's responsibility for data collection and calculation of total inmate days for each jail, the actual payment is processed by the Compensation Board based on data provided by DOC. As a result, this fragmentation of responsibility may act to limit "ownership" of the program as well as limit the amount of oversight the program receives. To mitigate this effect, the process should be administered entirely by the Compensation Board.



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## I. Introduction

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Item 15F of the 1995 Appropriation Act directed the Joint Legislative Audit and Review Commission (JLARC) to evaluate both the oversight and reporting activities of the Department of Corrections (DOC) related to local and regional jails (Appendix A). The General Assembly's continuing interest in both State and local corrections is documented in part by recent studies, many conducted by JLARC, of both the State prison system and local jails. In 1994, JLARC completed a comprehensive review of the oversight of health and safety conditions in local jails.

The 1994 JLARC staff review of the jail oversight process identified some significant weaknesses. Important jail standards required substantive revisions, the DOC annual inspection process needed additional structure and consistency, and sanitation conditions in local jails required review by the State and local health departments. In response to recommendations in the report, the 1995 General Assembly made significant statutory changes designed to enhance the jail oversight process.

Several factors — continued jail overcrowding, the limitations in the jail oversight process identified in the 1994 JLARC report, and concerns regarding the appropriate placement for the jail oversight and reporting activities — provided the impetus for the 1995 JLARC study. Moreover, the U.S. Department of Justice in the spring of 1995 conducted investigations into conditions of confinement and possible violations of inmates' constitutional rights in four large Virginia jails. These investigations are in addition to the U.S. Justice Department's 1993 investigation of the Norfolk City jail that resulted in a critical report and required the jail to take immediate action to correct a number of disturbing deficiencies. Clearly, consistent and proactive oversight of local jails is still necessary.

Local jails, as a system, are still overcrowded. However, the rate of overcrowding has decreased significantly since October 1994. 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. In other words, the typical jail was operating at about 167 percent of its rated capacity. However, on August 15, 1995, the total number of inmates system wide had decreased to fewer than 14,150 inmates, meaning the typical jail was operating at approximately 139 percent of its rated capacity. Although lower than in 1994, this magnitude of overcrowding is still the most direct impediment to proper health and safety conditions in local jails. Again, consistent oversight is a mechanism that can assist both sheriffs and jail administrators in maintaining a safe and secure environment despite overcrowded facilities.

This chapter briefly provides an overview of local jails in Virginia. In addition, the current role of the Board of Corrections, DOC, and the State and local health departments in the jail oversight process is discussed. Actions taken in response to the recommendations in the 1994 JLARC report are also presented. Finally, an overview of the current JLARC review is discussed with a brief description of the research activities

conducted by JLARC staff. The final section of this chapter briefly outlines how the report is organized.

## **OVERVIEW OF LOCAL JAILS**

In August 1995, there were 96 separate local correctional facilities across Virginia subject to the standards and oversight of the Board and Department of Corrections. The majority of these facilities are under the direct control of a locally-elected sheriff. Some of the facilities are annexes to jails and are physically separate from the main or original jail, but still under the control of the sheriff.

Regional jails and jail farms are currently 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 facilities in August 1995 was 10,163 inmates. 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.

### **Local Jails in Virginia**

As noted earlier, there are 96 local correctional facilities — 83 local jails or jail annexes, 10 regional jails, and three jail farms — in Virginia. As depicted in Figure 1, 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 also 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.

Most local jails serve a single city or county and are operated by locally-elected sheriffs. 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 and are operated by an administrator or superintendent. Jail farms are typically locally-operated facilities that house inmates who are often assigned to work on various locality-specific projects.

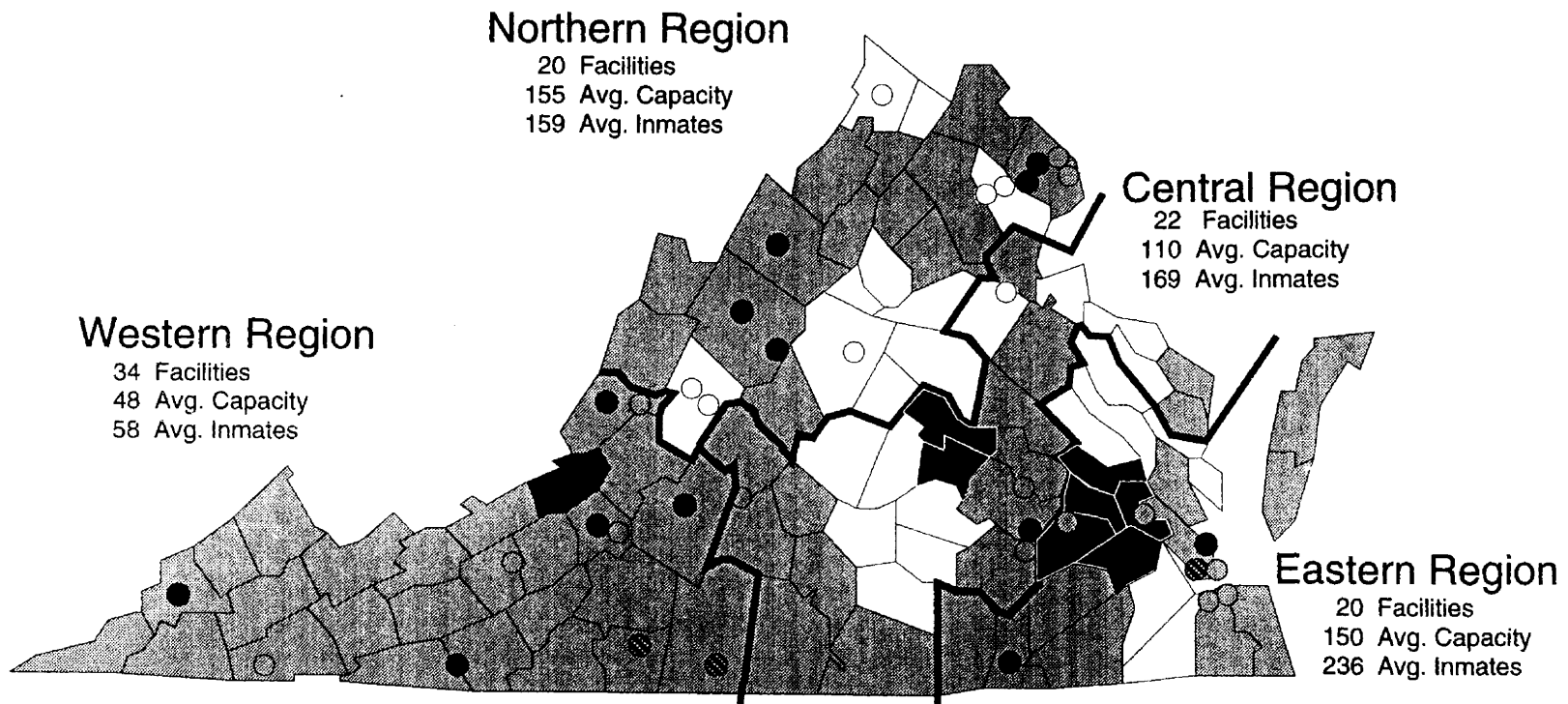
### **State Funding for Local Jails Is Extensive**

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. The majority of State funding for local jail operations is provided through the Compensation Board. Compensation Board funding for local jails is primarily for jail staff and other operating expenses. Although the preponderance of State funding for local jails is provided through the

Figure 1

### Local Jails in Virginia, August 1995

KEY:  Localities With a Local Jail     Localities Served by a Regional Jail     Localities With a Local Jail and Jail Farm     Localities Without a Local Jail

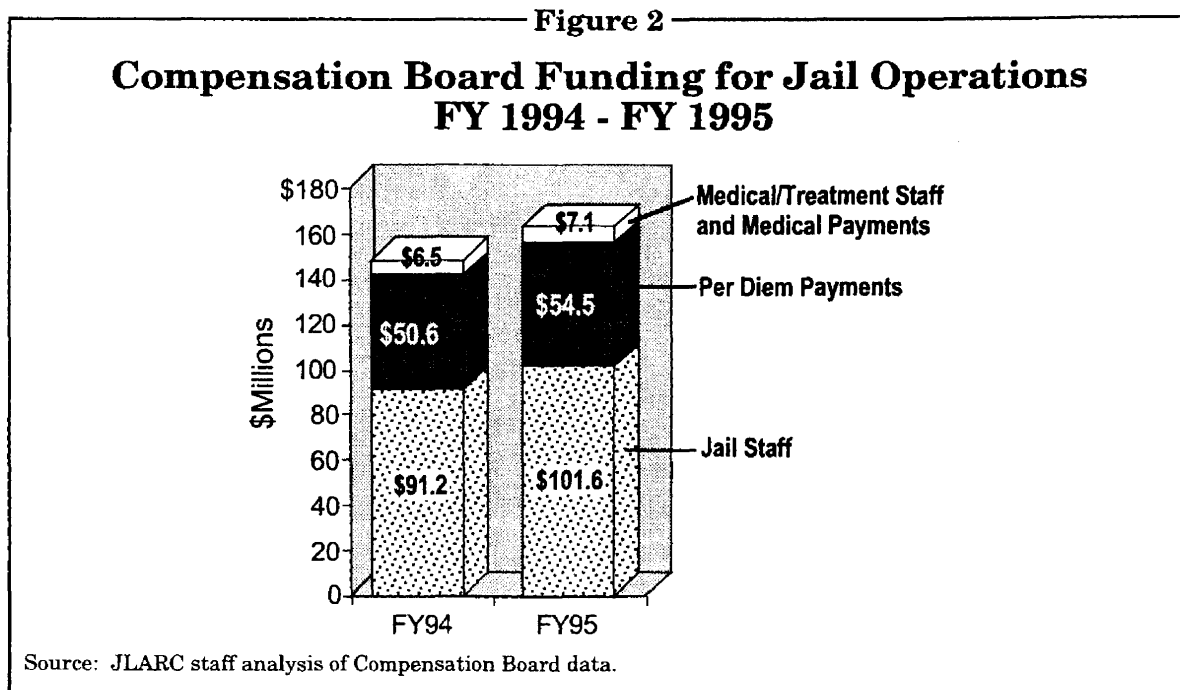


Note: Data do not include federal inmates or DOC facilities used by Powhatan and Goochland Counties.

Source: JLARC staff analysis of Department of Corrections data from the August 1, 1995 "Tuesday Report."

Compensation Board, State funding for jail construction is provided through DOC or the Treasury Board for jail renovations or construction projects approved by the Board of Corrections.

**Compensation Board Funding for Local Jails.** State financial support for local and regional jails' staff salaries is provided through the Compensation Board. Jail farms do not, however, receive State funding for jail staff positions. In addition to the State-support for jail staff, significant levels of State financial aid for local and regional jails' and jail farms' 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." The Compensation Board reported that for FY 1994 and FY 1995, the State provided more than \$310 million in direct funding for the operation of local and regional jails and jail farms (Figure 2).



**State Funding for Jail Construction.** For FY 1994 and FY 1995, the State provided local governments more than \$11 million to aid in the construction or renovation of local jails. Under current provisions of law, 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 limit on the State's contribution. Localities can also receive the State funding during the construction process as expenses are incurred instead of at the project's completion.



## OVERVIEW OF LOCAL JAIL OVERSIGHT

Jail oversight has become a particularly visible issue recently as courts at all levels of government have become more proactive in defining and establishing standards and issuing sanctions to remedy deficient conditions in both State and local correctional systems. Adequate and proper jail oversight should help mitigate the need for courts to become actively involved in the oversight or operation of correctional systems.

Currently, the Board of Corrections and DOC have the primary roles in the jail oversight process. This oversight consists of three major activities: development and promulgation of standards; routine monitoring and regular inspections; and the 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. Finally, effective July 1, 1995, the State health department is required to assume an active and important role in local jail oversight.

### Legal Issues Emphasize the Need for Jail Standards and Oversight

Court rulings at the federal, state, and local level have a continuing impact on the operations and conditions of 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 have declared 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.

Standards that reinforce proper jail management and conditions and a proactive oversight process should better ensure that the conditions faced by both inmates and staff are both legally adequate and appropriate. This is especially important when considering that the U.S. Department of Justice has recently initiated investigations of conditions in the Hampton City, Virginia Beach City, Chesapeake City, and Newport News City jails. According to the Department of Justice:

The investigation will focus on, but not be limited to, allegations that inmates confined at [Hampton City jail] are being subjected to unsafe

and life-threatening living conditions as a result of overcrowding, inadequate staffing, lack of protection from harm, inadequate medical care and access to courts, lack of recreation, inadequate physical plant, inadequate food service and inadequate fire safety.

Again, adequate standards and proactive, diagnostic oversight should help ensure jails continually meet constitutional and legal dictates.

### **Board of Corrections' Standards Address Jail Operations and Conditions**

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. 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 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. In addition, approximately 25 percent of the standards 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 took effect in August 1995. As a result of this most recent revision, a number of standards were added and others were strengthened to better reflect current jail operating environments.

### **DOC Compliance Monitoring and Jail Inspections**

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 uses a three-tiered system of oversight for monitoring compliance with the standards: monitoring visits, annual inspections, and triennial certification audits. Staff from the four DOC regional offices also visit the jails for purposes of conducting routine monitoring visits, providing follow-up of deficiencies cited on the certification audits, and providing technical assistance. DOC staff from the certification unit and local facilities unit conduct all certification audits of the jails. Local facilities unit staff currently conduct the annual jail inspections. DOC central office staff review and

approve the 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, typically 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 offer assistance on technical or procedural matters.

***Annual Jail Inspections.*** Staff from the local facilities unit in DOC's central office formally inspect jails annually. Unlike monitoring visits, annual inspections are more formalized and involve documenting each jail's compliance with selected standards involving administration and management procedures, security, medical, and the physical plant. Effective July 1, 1995, annual jail inspections are required to be conducted on an unannounced basis by DOC staff.

***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 staff from the local facilities unit in the DOC central office.

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 and the appropriate DOC regional office. The sheriff or jail administrator, often with the assistance of DOC regional office staff, develops 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 the Board of Corrections and a certification status is awarded.

### **Board of Corrections Jail Certification**

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 or identified deficiencies are not corrected as required by the Board of Corrections, 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 scheduled for a formal certification audit for another three years.

**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 certification except 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.

When jails receive a probationary or conditional certification, DOC regional office staff provide periodic reports to the DOC central office 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 any decertified jail's 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 require that the responsible local government repair the facility.

### **State and Local Health Departments' Jail Oversight**

Prior to 1995, the only formal role in the jail oversight process for the State and local health departments was to, at the request of the sheriff or jail administrator, conduct inspections of the local jail's kitchen facility. This was also required by the Board of Corrections' jail standards. However, in some instances, they appeared to be only courtesy inspections.

In response to concerns over local jail conditions, the 1994 General Assembly amended the *Code of Virginia* to require that the Board of Corrections, in conjunction with the Board of Health, establish a procedure for health inspections of local correctional facilities. This requirement became effective January 1, 1995.

The 1995 General Assembly, in response to recommendations in the 1994 JLARC report, amended the *Code of Virginia* to further clarify the role of both the State health department and the Board of Corrections. The Board of Corrections is now required to consult with State Health Commissioner when promulgating standards related to local jail sanitation. In addition, the State or local health departments must conduct an unannounced health inspection of each local jail annually. Finally, for oversight purposes, kitchen facilities in local jails are required to be inspected by the State or local health departments using the standards promulgated by the Board of Health.

## 1994 JLARC REVIEW OF OVERSIGHT OF JAIL CONDITIONS

The 1994 JLARC review of oversight of local jails found that the level of inmate overcrowding was the most significant obstacle to maintaining appropriate health and safety conditions in local jails. Additional shortcomings were also identified in selected Board of Corrections' standards and DOC oversight. In addition, the need for a formal and proactive oversight role for the State and local health departments of sanitation conditions in local jails was also evident. The 1994 JLARC report contained more than 20 recommendations for improving oversight of local jails.

Many of the recommendations have been implemented through amendments to the *Code of Virginia* by the 1995 General Assembly. In addition, both the Board and Department of Corrections have made significant progress in revising both jail standards and the oversight process to implement procedures required by the *Code* and consistent with recommendations from the 1994 JLARC report. However, additional actions, discussed later in the report, are necessary to ensure that the important progress made by the General Assembly and the Board and Department of Corrections continues and jail conditions remain appropriate.

### 1994 Study Findings and Actions Taken to Implement Recommendations

As noted earlier, the 1994 JLARC study resulted in more than 20 recommendations issued to improve the jail oversight process and subsequently ensure proper jail conditions. Most of the major recommendations have been implemented through revisions to the *Code of Virginia* and from the actions taken by both the Board and Department of Corrections.

**1994 Study Findings.** The 1994 JLARC study found that the significant level of inmate overcrowding was the single most important factor contributing to poor safety and health conditions in local jails. In October 1994, local jails as a system were operating at about 167 percent of rated capacity. Compounding the local jail overcrowding situation was the large number of State-responsible inmates — many being held in local jails in violation of the *Code of Virginia* — awaiting transfer to DOC institutions.

In addition, the DOC annual inspection process needed to be strengthened. At that time, the annual inspection process did not ensure jails maintained adequate compliance with many of the Board of Corrections' standards. Moreover, the process lacked policy and procedures for DOC staff to use in conducting the inspection. As a result, there appeared to be a great deal of variability in how the inspection was actually conducted by different staff. Finally, the annual inspection process lacked a mechanism for ensuring that the Board of Corrections was routinely apprised of jail conditions that are not in compliance with promulgated standards.

The 1994 study also determined that active involvement by the State and local health departments in a more structured fashion was also necessary. As noted earlier,

overcrowding made it difficult for some jails to maintain appropriate sanitary conditions. DOC staff involved in jail oversight also lacked the expertise to adequately address environmental health issues in local jails. Finally, there was substantial variation across the State in how local health departments inspected local jail kitchens.

***Actions Taken in Response to the 1994 Study.*** Follow-up of the major recommendations issued in the 1994 report revealed that significant progress has been made in improving the jail oversight framework and process. For example, unannounced annual inspections are now required by both DOC and the State and local health departments, the DOC annual inspection process has been expanded, and a number of significant revisions have been made to the jail standards promulgated by the Board of Corrections. Finally, DOC, with the support of the additional space in adult facilities funded by the General Assembly during the September 1994 Special Session, has dramatically reduced the number of State-responsible inmates in local jail. As a result, jail overcrowding has declined significantly systemwide since the 1994 JLARC study.

Clearly, as indicated by Exhibit 1 and the remainder of the report, substantial progress has been made in implementing the 1994 study's recommendations. However, additional actions are still necessary to ensure both adequate health and safety conditions in local jails and to ensure that the process has the necessary framework in place and functioning to promote consistent oversight into the future.

## **1995 JLARC REVIEW OF JAIL OVERSIGHT**

Item 15F of the 1995 Appropriation Act directed JLARC to "conduct a study of the oversight and reporting activities of the Department of Corrections related to local and regional jails." In addition, the study mandate required that JLARC assess the most appropriate organizational placement for these activities. The study team also used this study to conduct a follow-up review of selected recommendations from the 1994 JLARC review of health and safety conditions in local jails.

### **Study Issues**

JLARC staff developed four major issues to evaluate the oversight of health and safety conditions in local jail facilities and the appropriate organizational placement for jail oversight and reporting activities. These issues address:

- the current process for providing oversight of safety and health conditions in local jails,
- the status of recommendations from the 1994 JLARC report on jail safety and health conditions,

<b>Exhibit 1</b>		
<b>Status of Selected Recommendations from the 1994 JLARC Review of Jail Safety and Health Conditions</b>		
<b>KEY: ✓ Significant Process    ◐ Some Progress    ✗ No Progress</b>		
<u>Recommendations</u>	<u>Progress Since 1994</u>	<u>Further Action Needed</u>
DOC should meet the requirements in the <i>Code of Virginia</i> regarding the removal of State-responsible inmates from local jails.	✓	Yes
The <i>Code of Virginia</i> should be amended to clarify who may enter the interior of local correctional facilities.	✓	No
The Board of Corrections should revise standards addressing food service and fire safety inspections.	✓	No
The Board of Corrections should revise the standard regarding inmate supervision to state that no obstructions should be placed in the bars or windows which would interfere with the ability of jail staff to view inmates.	✓	No
The Board of Corrections should revise the standard concerning the medical screening of inmates to increase the scope of the initial health assessment of new inmates.	✓	No
The Board of Corrections should revise the standard governing the administration and management of pharmaceuticals in jails to ensure the proper management of pharmaceuticals in local jails.	✓	No
The Board of Corrections should adopt a standard for communicable disease control in local jails.	✓	No
The Board of Corrections should adopt a standard requiring each jail to prepare a suicide prevention plan.	✓	No
The Board of Corrections should reclassify selected standards as life, health, and safety standards.	✓	No
The Department of Corrections' certification unit should conduct periodic training for all DOC staff with jail oversight or technical assistance responsibilities.	◐	Yes

## Exhibit 1 (continued)

KEY: ✓ Significant Process    ◐ Some Progress    ✗ No Progress		
<u>Recommendations</u>	<u>Progress Since 1994</u>	<u>Further Action Needed</u>
The <i>Code of Virginia</i> should be amended to require that the Department of Corrections conduct all annual inspections of local jails on an unannounced basis.	✓	No
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.	✓	No
The Department of Corrections should develop policies, procedures, and standards to guide Department staff in conducting annual inspections of local jails. Policies for reporting the results of these inspections to the Board of Corrections should be developed.	✓	Yes
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 and for jails that have undergone renovation or additions.	◐	Yes
The Board of Corrections should develop sanitation and environmental health standards governing local jails.	◐	Yes
The <i>Code of Virginia</i> should be amended to revise the role of the State health department in the jail oversight process.	✓	No
The <i>Code of Virginia</i> should be amended to clarify that local jails which prepare food for service to inmates are subject to the rules and regulations of the State Board of Health.	✓	No
The <i>Code of Virginia</i> should be amended to require that the State Board of Corrections certify jails for the detention of juveniles.	✓	No

Source: JLARC staff analysis.



- whether the current jail oversight and reporting process facilitates adequate health and safety conditions in local jails, and
- whether an alternative organizational placement for the jail oversight and reporting process will facilitate appropriate health and safety conditions in local jails.

## Research Activities

Several research activities were undertaken to address the study issues. These activities included site visits to selected local jails, structured interviews, file reviews, document reviews, and telephone interviews with selected sheriffs and jail administrators.

**Site Visits to Local Jails.** JLARC staff conducted site visits at three local jails and two regional jails. Jails were selected to enable JLARC staff to observe a certification audit and at least one annual inspection conducted by each of the DOC staff responsible for conducting these inspections. During site visits to most of the jails, JLARC staff conducted interviews with sheriffs, jail administrators, or jail staff; toured the jail facilities; and observed the administration of both a DOC certification audit and annual jail inspections.

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

- DOC community services regional administrators, community services regional program managers with jail responsibilities, DOC certification unit staff, and other DOC staff with jail oversight or reporting responsibilities.
- Department of Criminal Justice Services' staff;
- State health department staff;
- Compensation Board staff; and
- a member of the State Board of Corrections.

**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 assess jails' compliance with the standards and to evaluate the effectiveness of the current standards and oversight process.

In addition, the study team reviewed DOC audit files for every jail that received a certification audit in FY 1994 and FY 1995. Both FY 1994 and FY 1995 were selected

to enable analysis of the audit findings and certification decisions of two different Boards of Corrections. The study team used data from these reviews to evaluate the consistency and appropriateness of DOC staff certification recommendations and the Board of Corrections' certification decisions.

***Document Reviews.*** Team members reviewed DOC reports and documents related to local jail oversight, such as the results of annual jail inspections and jail plans of action, in order to examine compliance with standards. In addition, team members reviewed pertinent sections of the *Code of Virginia*. Further, the team reviewed reports and standards related to jails from the American Jail Association and the National Institute of Corrections.

***Telephone Interviews with Selected Sheriffs and Jail Administrators.*** The study team conducted 12 telephone interviews with selected sheriffs and regional jail administrators to gather information regarding their impressions of the jail oversight process and the responsiveness of DOC in addressing problems with their jails or inmates. Sheriffs contacted represented a mix of large and small jails and various regions of the State. In addition, two regional jail administrators were interviewed. Results of these interviews were used by the study team to evaluate substantive issues related to jail standards, DOC oversight, and the need for relocating the oversight and reporting process to other State agencies.

## **Report Organization**

This chapter has provided an overview of the local jails in Virginia, the current DOC jail oversight and reporting structure, and an overview of the status of recommendations from the 1994 JLARC report. Chapter II more closely examines the extent to which recommendations directed at improving jail oversight of health and safety conditions from the 1994 JLARC report have been implemented, and identifies some additional mechanisms for improving the process. Chapter III examines the issue of organizational placements for the oversight and reporting activities of both the Board and Department of Corrections.

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## II. Jail Health and Safety Conditions

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In 1994, JLARC staff concluded that one of the major factors driving overcrowding in local jails was the number of State-responsible inmates being held in local jail facilities. At that time, local jails, as a system, were operating at about 167 percent of their designed operating capacity. The level of overcrowding present in some jails created an atmosphere that made it difficult for sheriffs and jail administrators to continually maintain appropriate conditions for both inmates and staff.

Since the 1994 study, jail overcrowding has been reduced substantially. On August 15, 1995, jails were operating at about 139 percent of their designed operating capacity. Moreover, changes required by the General Assembly and initiated by the Board of Corrections and the Department of Corrections (DOC) should greatly improve the jail oversight process and ensure that appropriate conditions more consistently exist in local jails. For example, jail standards have been revised to incorporate the majority of the recommendations from the 1994 JLARC report. The DOC annual inspection process has been enhanced and the inspections are now being conducted unannounced.

Despite these positive and important changes, additional steps should be taken to formalize processes recently established and improve existing functions. For example, enhanced sanitation standards for use by the State and local health departments should be a priority of the Board of Corrections. Moreover, both DOC and the State and local health departments annual inspections should be addressed by the rules and regulations governing the certification process. Finally, efforts are necessary by DOC to further strengthen the consistency of DOC regional office staff's monitoring and technical assistance efforts.

### JAIL OVERCROWDING

Overcrowding can place significant demands and stresses on jail facilities, staff, and inmates, and negatively impact health and safety conditions. During JLARC's 1994 jail study, JLARC staff noted the negative effect overcrowding had on local jail operations in Virginia. In October 1994, local jails in Virginia were operating at about 167 percent of their capacity, and overcrowding resulted in a number of inappropriate conditions in these facilities.

However, recent actions by both the General Assembly and DOC have assisted jails in reducing inmate populations. Funding was appropriated by the General Assembly during the September 1994 Special Session to construct a number of work camps and detention centers at existing DOC institutions. DOC has also increased the number of inmates housed in existing adult institutions through double bunking. Finally, a number of State inmates are being confined in a correctional facility in Texas.

Reflective of these efforts, on August 15, 1995, local jails, as a system, were operating at about 139 percent of capacity. This is a reduction of almost 17 percent since October 1994. Although overcrowding is still a problem in Virginia's jails, the reduction in inmate populations has assisted sheriffs and jail administrators in better managing their facilities. As a result, conditions are likely to improve if for no other reason than there are fewer inmates sleeping on floors, which should enable jail staff to more consistently maintain appropriate jail conditions.

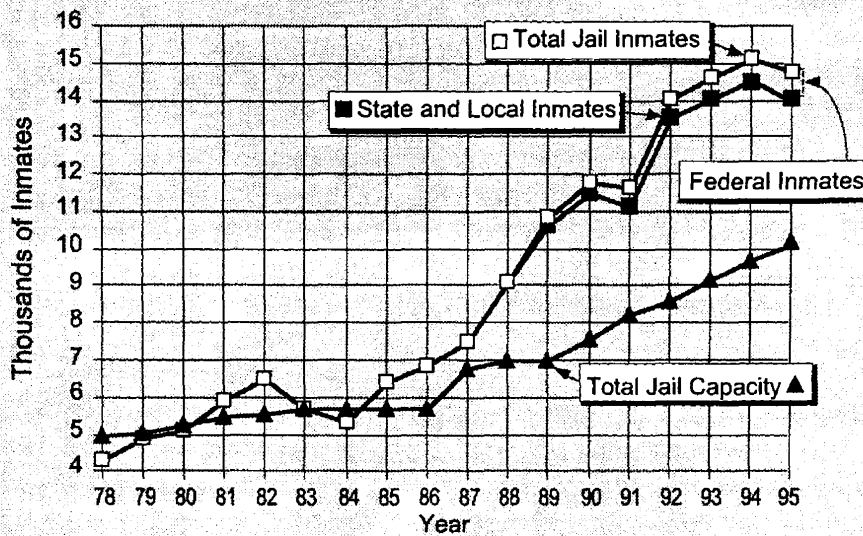
### Overcrowding Can Negatively Impact Jail Operations and Health and Safety Conditions

As noted in the 1994 JLARC report, jail overcrowding is not a recent occurrence. Over the past decade, the total number of inmates in local jails has steadily remained greater than total local jail capacity (Figure 3). Furthermore, this inmate overcapacity in the local jail system has negatively impacted the operating environment and conditions in local jails.

Overcrowding has forced sheriffs and jail administrators to reduce or eliminate programs, postpone or forego routine maintenance and repairs, and convert jail space formerly used for programs into inmate housing areas. Moreover, overcrowding has limited the ability of sheriffs and jail administrators to effectively manage their facilities. For example:

Figure 3

### Increase in Local Jail Capacity and Number of Inmates 1978 - 1995, June of Each Year



Source: JLARC staff analysis of Department of Corrections data.

*A sheriff in a large, overcrowded jail reported that excessive overcrowding had prevented jail staff from instituting routine maintenance projects in the facility. In addition, the continual overcrowding had resulted in the need to constantly perform a substantial amount of maintenance and repairs in order to provide workable facilities for inmates. For instance, in calendar year 1994, the jail's maintenance department reported 3856 toilet repairs, 790 sink repairs, and 48 toilets ordered to replace inoperative toilets. Despite these efforts, the jail's 1995 certification audit report noted that "many toilets/washbasins observed to be inoperative in inmate cell areas." The impact of jail overcrowding had apparently stressed the jail's physical plant almost to the limit.*

\* \* \*

*One sheriff noted that overcrowding had reached such a level in 1994 that inmates occupying cellblocks were refusing to allow new arrivals to enter their cell spaces. Only after DOC took steps to remove State-responsible inmates from the jail did the situation improve.*

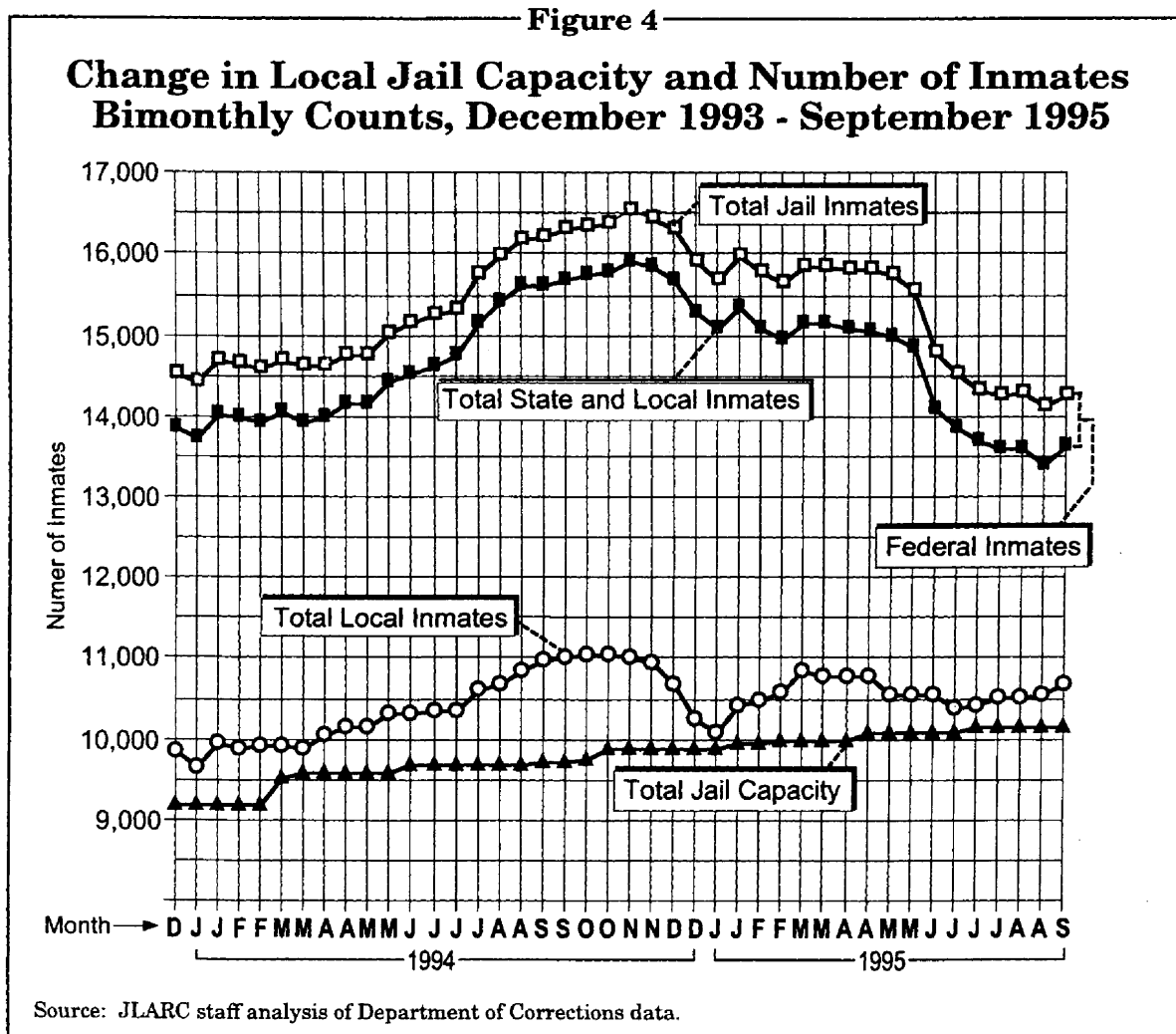
\* \* \*

*One sheriff who operated a large jail noted how severe overcrowding prevents jail staff from using one of the most effective disciplinary tools available – lockdowns. However, when inmates are sleeping on floors in cell block day areas due to severe overcrowding, lockdowns are ineffective if not impossible. Additionally, cell reassignments for positive behavior are also limited, if not nonexistent, during periods of severe overcrowding.*

Furthermore, in 1994 JLARC staff determined that health and safety conditions in local jails can deteriorate under long-term conditions of overcrowding. Finally, JLARC staff also determined that overcrowding may result in more incidents of assaults and suicides.

### **Jail Overcrowding Has Declined Significantly**

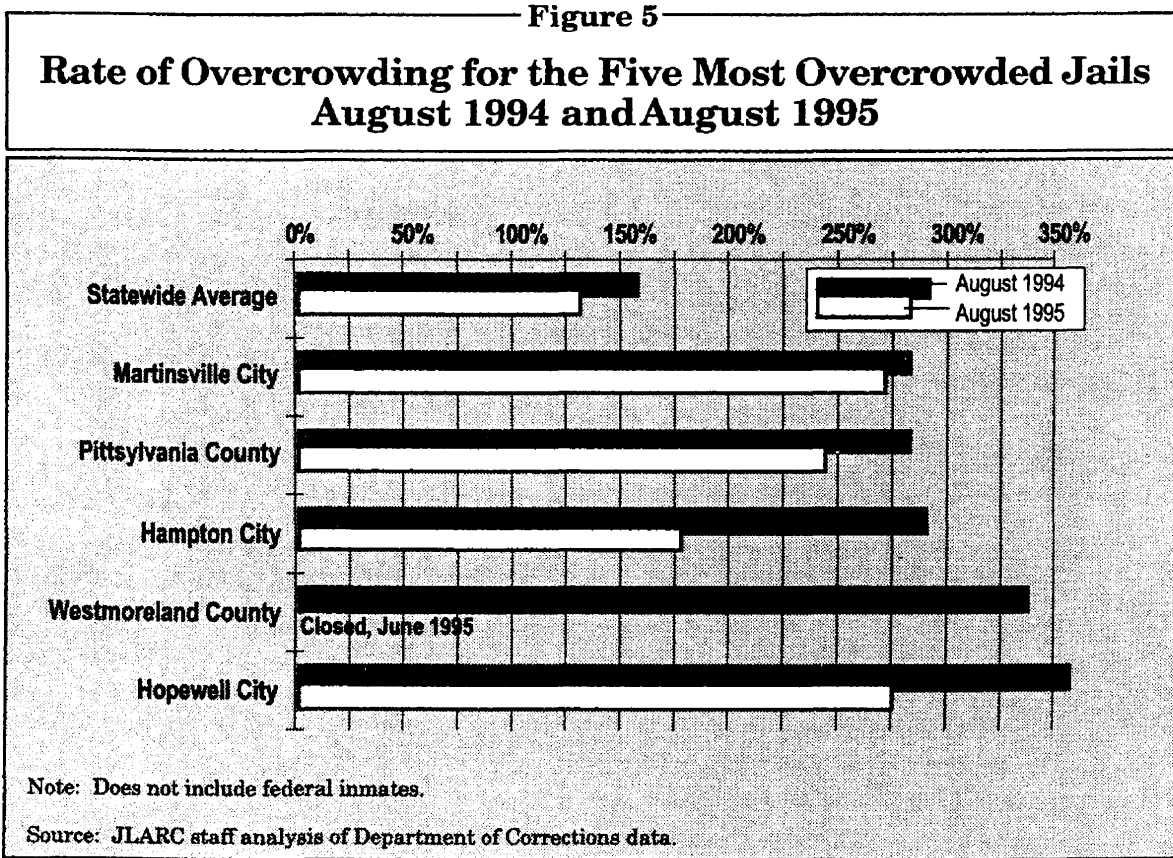
Although jail overcrowding remains a problem in many local jail facilities, recent actions taken by the General Assembly and DOC have resulted in substantial decreases in jail populations. Since January 1995, the total number of inmates in local jails has steadily decreased (Figure 4). In August 1995, local jails were operating at 139 percent of their rated capacity as compared to the October 1994 operating rate of 167 percent of rated capacity. In August 1994, 21 jails were operating at more than 200 percent of their rated capacity. However, in August 1995, the number of jails operating at more than 200 percent of their rated had been reduced to 10.



Decreases in total inmate populations in some facilities has been significant. For example, the five jails highlighted in the 1994 JLARC report that experienced the highest rates of jail overcrowding in August 1994 have all witnessed a decrease in the overcrowding rate by August 1995 (Figure 5). In the case of Hampton City, the decrease in the rate of overcrowding has been substantial.

**State-Responsible Inmates Are Being Taken into the State System**

One of the primary factors in the reduction of jail overcrowding has been DOC’s removal of State-responsible inmates from local jails. During the 1994 jail study, JLARC staff found that DOC’s failure to meet the statutory requirements of §53.1-20 of the *Code of Virginia*, dealing with the removal of State-responsible inmates from local jail facilities, was a major factor in jail overcrowding. The 1994 JLARC report also noted that although State-responsible inmates were not the entire cause of jail overcrowding, these inmates significantly compounded the overcrowding problem for many jails.

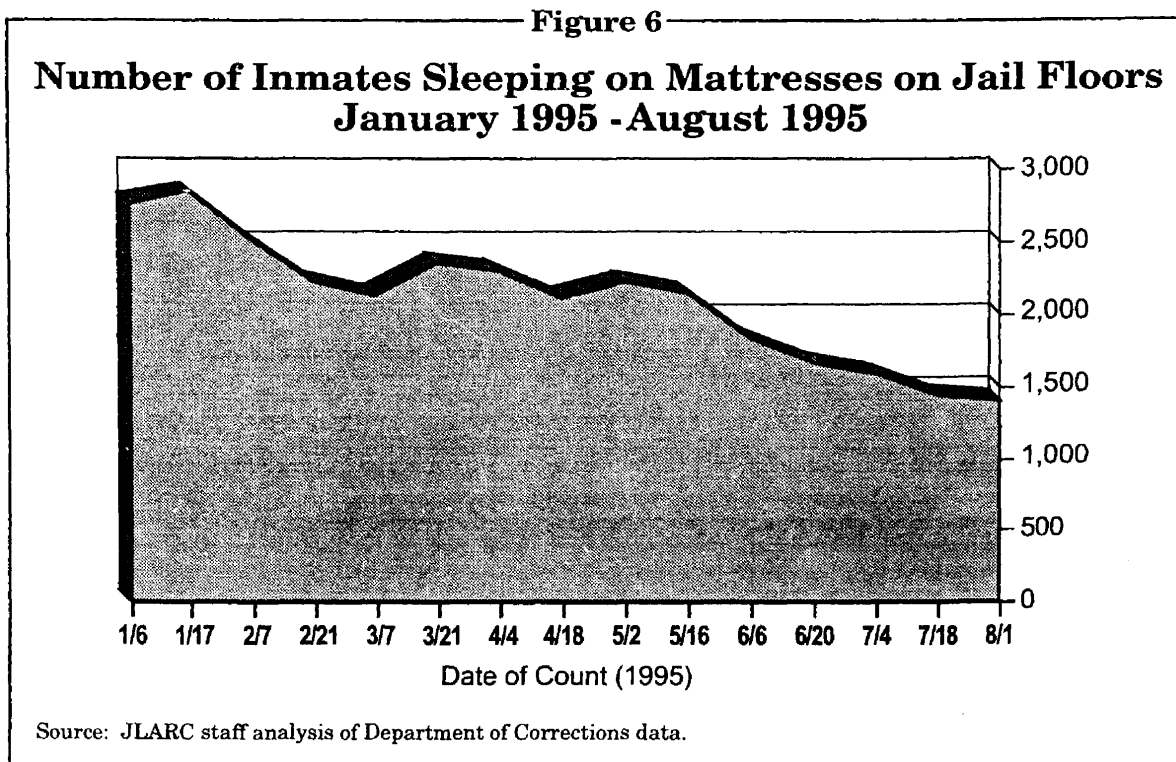


Due to funding appropriated by the General Assembly for additional bed space in State facilities, DOC has reduced the number of State-responsible inmates held in local jails in violation of the *Code of Virginia*. In the summer of 1994, more than 1,700 inmates who should have been in DOC institutions were being held in local jails in violation of the *Code of Virginia*. On September 5, 1995, DOC reported that there were no State-responsible inmates held in local jails in violation of the *Code of Virginia*. However, DOC has contracted with a number of local jails to house State inmates who should be in DOC facilities.

**Jail Operating Environment Has Benefited from the Reduction in Inmates**

The removal of State-responsible inmates and the overall reduction in jail inmate populations has been beneficial to both jail staff and inmates. One of the most measurable factors regarding the improvement in the jail operating environment is the number of inmates sleeping on the jail floor. In January 1995, almost 2,800 inmates were sleeping on mattresses on jail floors. By August 1, 1995, this number had decreased to about 1,400 (Figure 6). Clearly, having fewer inmates sleeping on the floor should enhance the jail operating environment.

Further, the reduction in overcrowding has provided jail officials with the ability to perform routine maintenance and repairs, much of which could not be



accomplished at the previous levels of overcrowding. Declines in jail overcrowding have reduced the stress placed on many jails' physical plants. Finally, the effect of reductions in jail overcrowding has positively impacted the morale of jail staff. For example:

*A DOC regional program manager noted that the removal of State-responsible inmates has had a positive impact on one of the most severely overcrowded jails in the region. The morale of staff is better and DOC receives fewer inmate complaints. In addition, jail staff are better able to manage the inmate population and the jail is noticeably cleaner.*

One of the most visibly overcrowded jails visited by JLARC staff in 1994 has also benefited from DOC's removal of State-responsible inmates.

*In 1994, overcrowding had prevented jail staff from providing recreation for inmates or engaging in much needed facility maintenance. A jail official noted that last year over 250 inmates were sleeping on floors and the jail was almost stressed to its limit. However, after the reduction in the inmate population, almost every inmate has a bed, staff are less stressed, and the facility is receiving much needed maintenance and repair.*

The combination of these outcomes should positively impact the overall jail environment and jail health and safety conditions.



## **JAIL STANDARDS**

Since the completion of JLARC's 1994 jail study, the Board of Corrections has revised its standards governing local jails. The revisions have resulted in a more comprehensive set of jail operating standards that better reflect the jail operating environments. Moreover, jail standards that previously lacked clarity have been revised, and jail policies and procedures are now being gauged against actual jail practices.

In addition, a number of these revisions incorporate recommendations from JLARC's 1994 study. Although there have been several positive changes in jail standards, additional action in this area is needed. For example, additional sanitation standards were not developed during the most recent revision to the Board of Corrections' jail standards. Therefore, development of additional sanitation standards, with input from the State Health Commissioner, is still necessary.

### **The Board of Corrections Has Strengthened Selected Standards**

Section 53.1-68 of the *Code of Virginia* requires the Board of Corrections to prescribe minimum requirements for the administration and operation of local jails. To effect this mandate, the Board of Corrections has promulgated minimum standards addressing the operation of local jails. Further, a number of standards have been designated life, health, and safety standards in part to ensure that conditions in jails meet constitutional criteria.

During the 1994 study, JLARC staff found that some Board of Corrections' standards lacked clarity or clear directives for jail staff. Some of these standards directly impacted the health and safety of jail inmates and jail staff. However, recent revisions to Board standards have incorporated most of the JLARC recommendations designed to strengthen existing standards (Table 1).

For example, in 1994 JLARC staff determined that medical standards, covering areas such as medical screenings, the administration of pharmaceuticals, and communicable disease control, were either vague or nonexistent. Subsequently, JLARC staff recommended that existing standards be improved or new standards be developed to ensure consistency of service and to facilitate DOC oversight and the Board of Corrections' enforcement.

### **Enhanced Jail Sanitation Standards Are Still Necessary**

Although the Board of Corrections' recent revisions to jails standards are important in ensuring that safe conditions exist in local jails for jail staff and jail inmates, further attention is still needed in the area of jail sanitation standards. In general, jails

Table 1

**JLARC Recommendations  
Regarding Major Jail Standards and  
Subsequent Board of Corrections Actions**

JLARC Finding	Board of Corrections Actions
Standard concerning medical screening of inmates should be revised.	The standard now requires that specific information recommended by JLARC be included on the jail's medical screening form.
Standard governing the administration and management of pharmaceuticals in jails should be revised.	The standard now requires that policy and procedure address the receipt, storage, dispensing, and distribution of drugs.
Standards for communicable disease control in local jails should be developed.	A standard now requires jails to follow guidelines for communicable disease control.
Standard should be developed requiring jails to prepare a suicide prevention plan.	A standard now requires jails to have a written suicide prevention and intervention plan.

Source: JLARC staff analysis of the Board of Corrections' jail standards adopted June 14, 1995.

visited by JLARC staff in 1994 were visibly clean in spite of inmate overcrowding levels. However, conditions in some jails were inadequate, in part due to inmate overcrowding and deteriorating facilities. Under these conditions, the general sanitation of a jail facility may be inappropriate.

During the 1994 jail study, it was apparent that the two Board of Corrections' standards directly related to sanitation and environmental health were inadequate to address the inmate overcrowding facing many jails. In order to address this issue, JLARC staff recommended that the Board of Corrections and the Board of Health develop additional sanitation and environmental health standards governing local jails. Section 53.1-68 of the *Code of Virginia* was amended by the 1995 General Assembly to require that the Board of Corrections, with input from the State Health Commissioner, promulgate sanitation standards.

Although the Board of Corrections has begun to address the issue of enhanced sanitation standards, additional focus is required on the issue of sanitation standards. A memorandum of understanding was agreed to by the State Health Commissioner and the Board of Corrections regarding the role of the State health department in jail oversight. The issue of enhanced standards was not addressed in the memorandum. However, it must be noted that the most recent revisions to the jail standards were almost

through the State's regulatory process by the time the agreement between the State Health Commissioner and the Board of Corrections was adopted.

Because the regulatory process had been interrupted once before in 1994 to accommodate the new Board of Corrections, the Board of Corrections and DOC staff reported that they were hesitant to interrupt the process again to address the issue of sanitation standards. In their view, this was an especially important consideration because they believed many positive revisions to the standards were about to be accomplished. While this decision not to interrupt the process appears appropriate, additional revisions to sanitation standards for use by the State health department in fulfilling its oversight responsibilities are still necessary.

The State health department staff will review jail inspection reports from local health departments in order to "better assess the effectiveness of adopted standards in protecting the public health." In addition, the State health department has collected a great deal of information through a survey of all local jails regarding the need for and concerns about potential sanitation standards.

As soon as the State health department can collect information on the results of local health department jail oversight, it should be used by the Board of Corrections to begin to revise the existing sanitation standards as required by §53.1-68 of the *Code of Virginia*. The revisions should, to the extent possible, address the concerns of the State health department and enable the State health department to effectively and efficiently meet its statutory role in the jail oversight process while minimizing the burden on local jails.

***Recommendation (1).* After the State Health Department collects data on the need for additional sanitation standards, the Board of Corrections should, as required by §53.1-68 of the Code of Virginia, revise the standards focused on sanitation in local jails. The goal of the revised standards should be to enable the State Health Department to meet its statutory oversight responsibilities while minimizing the impact on local jails.**

## JAIL AUDIT AND MONITORING PROCESS

In order to ensure ongoing compliance with Board of Corrections standards, DOC monitors jails through annual inspections, triennial certification audits, and routine monitoring visits. Staff in DOC's central and regional offices take part in monitoring jails for compliance with standards, and these staff directly or indirectly report findings to the Board of Corrections. The combination of the three oversight functions is designed to assist jails in remaining in compliance with Board of Corrections standards, thereby ensuring that appropriate conditions exist in jails.

Since the completion of JLARC's 1994 jail study, DOC's audit and monitoring process has undergone significant changes. Broadly, these changes have resulted in

improvements to the processes. However, to continue this improvement, DOC should ensure that the annual inspection addresses some of the new medical co-pay standards. In addition, a formalization of the annual inspection process and the health department's role in the oversight process is also necessary to provide important continuity to the process.

### **Overview of Recent Changes to Jail Oversight Process**

Since JLARC's 1994 jail study, DOC and the Board of Corrections have initiated several changes in the areas of annual inspections and triennial certification audits. While some of these changes are in response to JLARC recommendations, others have been initiated by the Board of Corrections and DOC. In total, the changes have been undertaken to promote higher quality jail oversight and technical assistance and appear to have benefited DOC, the Board of Corrections, and local jails.

***DOC Annual Inspection Process Has Been Strengthened.*** Currently, DOC's annual jail inspection process is centralized, inspection criteria have been enhanced, and inspections are now conducted on an unannounced basis. The current annual inspection process is conducted out of the DOC's local facilities unit by two DOC jail managers. The process appears to provide for greater consistency and objectivity among DOC's four administrative regions than existed in 1994. In addition, unlike the previous annual inspection process, the results of current annual inspections are reported to the Board of Corrections on a monthly basis.

DOC staff in the central and regional offices also believe the current annual inspection process will provide DOC and the Board of Corrections with a better assessment of jail conditions. For example:

*One DOC regional administrator noted that he had been a proponent of unannounced inspections over the years. He added that this type of inspection will help keep jails more attuned to standards and jail conditions, and that changing the annual inspection to more closely mirror the certification audit is a positive step.*

\* \* \*

*A jail manager noted that DOC's centralization of the annual inspection function would improve the oversight of conditions in local jails because it would make the process consistent. Instead of the jails in the four DOC administrative regions dealing with numerous regional program managers operating under different processes and procedures, jails would deal with one or two jail managers and these managers should be more consistent in their interpretations and applications of standards.*

Moreover, the current annual inspection process is structured so that the Board of Corrections receives monthly updates on the results of annual inspections. Under the previous system, the results of annual inspections were not presented to the Board of Corrections. The current process provides the Board of Corrections an opportunity to remain abreast of problems or issues related to local jails on an ongoing and routine basis.

***Annual Inspections Guide Has Also Been Improved.*** Previously, the annual inspection form did not include all life, health, and safety standards or any method for identifying compliance with deficiencies cited during the jails' previous certification audits (Appendix B). However, the current annual inspection guide is designed to document a jail's compliance with the Board of Corrections' life, health, and safety standards (Appendix C). The revised annual inspection guide covers all of the life, health, and safety standards in effect prior to August 1995. Further, the annual inspection guide notes where duplicate deficiencies from a jail's previous certification audit exist.

In addition, the current DOC annual inspection guide addresses standards that have been frequently unmet on certification audits. The 1994 JLARC report identified a number of frequently unmet standards on certification audits that were not reviewed during annual inspections. As depicted in Table 2, the current annual inspection guide also addresses the majority of the most frequently unmet standards in certification audits identified in the 1994 JLARC report. Because the Board of Corrections on August 10, 1995 designated the standard addressing the distribution of clean linen as a life, health, and safety standard, DOC staff, according to policy, will review this standard during annual inspections beginning January 1996.

### **DOC Annual Inspection Should Also Address Selected Medical Co-Pay Standards**

The 1995 revisions to the Board of Corrections' jail standards provide guidelines to local jails that require inmates to pay a portion of their costs for medical care. Standards addressing the jail medical co-pay process require that any such program be governed by written policies and procedures. Moreover, selected standards require that the jail's actual practice in this area conform to the written policy and procedure.

The intent of the medical co-pay standards appears directed at addressing potential problems that could stem from inconsistent implementation in local jails that require inmates to pay for some portion of their medical care. However, failure to provide appropriate medical access or treatment to inmates can violate the *U.S. Constitution's* Eighth Amendment prohibition against cruel and unusual punishment. Given the scrutiny some jails in Virginia have recently received from the U.S. Department of Justice, it is important that medical co-pay programs be administered effectively and function as designed.

According to DOC staff, local jails will be audited and inspected against the new standards effective January 1, 1996. All standards are reviewed for compliance during

Table 2

**Frequently Unmet Standards  
Identified in 1994 JLARC Study and Current  
Status of Review During DOC Annual Inspections**

Standard	Number of Times Unmet January 1988 - May 1994	Currently Reviewed in Annual Inspection
Non-Toxic Mattresses, Pillows and Trash Receptacles	53	Yes
Distribution of Clean Linen, Towels, and Clothing	39	No
Written Fire Prevention Practices and Staff Review	37	Yes
Daily Examination of Security Devices	34	Yes
Control and Use of Tools, Culinary Items, and Cleaning Equipment	28	Yes
Manning of Post to Control Activities and Flow of People In and Out of Secure Area of Jail	25	Yes

Source: JLARC staff analysis.

the triennial certification audit. However, only life, health, and safety standards and other selected standards are reviewed for compliance during the DOC annual inspection. However, none of the new regulations addressing inmate medical co-pay have been designated life, health, and safety requirements.

DOC staff noted that they are in the process of revising the annual inspection guide for use with the revised Board of Corrections' standards. They also noted that, at a minimum, all of the life, health, and safety standards will be reviewed for compliance. However, because the medical co-pay standards are not life, health, and safety standards, they are not required to be reviewed during DOC annual inspections. Nonetheless, these standards are important mechanisms in ensuring that inmates have necessary and consistent access to jail health care services.

Therefore, DOC should review selected medical co-pay standards for compliance during annual inspections. However, to mitigate the burden on local jails, only the

most consequential standards should be reviewed. Standards that should be considered by DOC for review during annual inspections include, but are not limited to the:

- requirement for written policy and procedure (§4.34);
- requirement regarding the content of the policy and procedure (§4.36); and
- requirement regarding written policy, procedure, and practice regarding inmate ability to pay for services (§4.38).

Consistent review of these standards should help ensure that the medical co-pay programs in applicable local jails function as intended while providing inmates appropriate access to medical services.

***Recommendation (2).*** The Department of Corrections should ensure that the annual inspection guide developed for use with the revised Board of Corrections standards addresses selected standards covering jail medical treatment programs in which inmates pay a portion of the costs. At a minimum, the DOC annual inspection should include standards 4.34, 4.36, and 4.38.

### **DOC Annual Inspection Process Should Be Formalized by the Board of Corrections**

Both DOC and the Board of Corrections have made significant enhancements to the annual inspection process. These enhancements include addressing life, health, and safety standards during the annual inspection and reporting the results of the inspections to the Board of Corrections. However unlike the triennial certification audit and certification process, the annual inspection process has not been formalized and, as a result, it is not clear about how results of the annual inspection can or will be used by the Board of Corrections.

The framework guiding the certification audit are the rules and regulations governing the certification process. These regulations have been developed through the regulatory process and clearly cover every aspect of the certification audit and the subsequent action by the Board of Corrections. The regulations address the development of the audit schedule, the development of a plan of action, the appeal and variance request process, and the process by which the jail is notified of the of Board's action. At every stage in the process, DOC staff, sheriffs, jail administrators, and jail staff know what actions will occur, and what must be completed when. This structure may in part help explain why the process is generally accepted and well developed.

Because the current DOC annual inspection process is relatively new, this structure has not yet been developed. In addition, there is some question about whether deficiencies noted on the annual inspection but not related to the certification audit could impact a jail's certification. For example:

*Based on the results of a summer 1994 DOC certification audit, a jail was placed on probation by the Board of Corrections. Seven months later while still on probation, a DOC annual inspection was conducted that identified two deficiencies that were not cited during the certification audit. Although the deficiencies identified in the certification audit have been corrected, the jail's probation has been extended due to an uncorrected deficiency from the annual inspection.*

*However, according to the rules and regulations governing the certification process, the Board of Corrections can only award a probationary certification for a maximum of one year. According to recent correspondence from the Board of Corrections to the sheriff: "[a]s probationary certification cannot be extended beyond a period of 12 months, the . . . jail will face decertification . . . if the required training has not been completed."*

This particular jail could be decertified due to an inspection that was conducted seven months after the initial probationary certification was awarded by the Board of Corrections. A jail can be granted a probationary certification for up to one year to remedy deficiencies from a certification audit. However, there are no procedures available like those established for the certification audit that state how the results of annual inspections, such as in the previous example, could lead to decertification.

While results of annual inspections should be a factor in a jail's certification, the rules and regulations governing the certification process should address this issue. In the past, sheriffs and jail administrators did not have the results of annual inspections affect their jails' certification status. However, because jail certifications will be impacted by the new annual inspection process, the Board of Corrections should formalize the process so that jail staff may be better able to avoid the negative consequences which may accompany poor annual inspection results. As the process now stands, it appears that sheriffs and jail administrators cannot project with certainty what the results of an annual inspection may mean for their facilities. In addition, some DOC staff have noted that annual inspection guidelines would be helpful in carrying out their duties.

Finally, without formalizing the new annual inspection process, some of the consistency that DOC staff stated the new process brings may not be continued in the future. For example, as DOC staff change duties and responsibilities, there will be no guidelines to ensure that the process is conducted as it is now. Moreover, although the current Board supports the annual inspection process, formal guidelines should help ensure that future Boards continue the important progress made in this area.

**Recommendation (3).** The Board of Corrections should amend the rules and regulations governing the jail certification process to clarify how the results of annual inspections will be used by the Board in establishing or continuing a jail's certification.



### **Health Departments' Role Should Also Be Formalized by the Board of Corrections**

As with the annual inspection process, guidelines addressing the State and local health departments' role in the jail oversight process are necessary. Section 53.1-68 of the *Code of Virginia* requires that the Board of Corrections, in conjunction with the Board of Health, establish a procedure for an annual health inspection of each local jail.

At the present time, the Board of Corrections and the State Health Commissioner have an agreement stipulating that the State Health Department will inspect the jail kitchen facilities and the jail facility's sanitation and environmental health conditions. The agreement stipulates that the State health department will inform the DOC certification unit of its findings or of problems that require immediate attention.

Once the report has been provided to DOC, it is not clear how the report will then be used. Even DOC staff noted that it is not clear what is to occur upon receipt of the health department's inspection report. Clearly, the report can be included in the jail's certification audit report. However, that event occurs only once every three years. Therefore, some mechanism will be necessary for handling the health department's reports and reporting to the Board of Corrections in the intervening two years.

As with the DOC annual inspection, the rules and regulations governing the certification process should address this issue. Outside of the kitchen areas, local jails have never been subject to health department sanitation oversight. Because the status of a jail's certification should be impacted by the new health department inspection process, the Board of Corrections should formalize the process so that jail staff may be better able to avoid the negative consequences which may accompany a poor annual health department inspection. Moreover, health department staff involved in the process should be aware of the potential consequences associated with their oversight activities.

***Recommendation (4).* The Board of Corrections should amend the rules and regulations governing the jail certification process to clarify the process for using the results of the State and local health departments' annual inspections in establishing or continuing a jail's certification.**

### **Routine DOC Annual Inspections Could Be Limited to Non-Audit Years to Ensure Effective Use of Staff Resources**

It appears that DOC's revisions to the annual inspection process have exhibited positive results. Nonetheless, some additional changes should be considered to ensure that DOC staff are used in the most efficient and effective manner and that jails are not overburdened by oversight activities.

For example, DOC is currently required by the *Code of Virginia* to conduct unannounced inspections every year, including the year that jails undergo certification

audits. However, since the 1994 JLARC study, DOC's annual inspection process and certification audit process have become centralized. Currently, two DOC central office staff conduct all annual inspections and participate in all local jail certification audits. Prior to 1995, these activities were the responsibility of several DOC regional program managers in the four DOC regional offices.

As noted earlier, many of the DOC staff interviewed for this study believe that this centralization has been an improvement to the DOC jail oversight function. Yet, it will be difficult for these two staff to inspect more than 90 jails and participate in more than 30 certification audits on an annual basis. The annual inspections reviewed by JLARC staff were both extensive as noted in the following examples.

*JLARC staff accompanied a DOC local facilities manager on an unannounced inspection of a small jail in Southwest Virginia. This inspection required almost seven hours to conduct and identified 16 deficiencies. Moreover, the DOC manager noted that he would have to return to the jail at a later date to verify information that jail staff had been unable to locate.*

\* \* \*

*JLARC staff accompanied another DOC local facilities manager on an unannounced annual inspection of a large regional jail. This jail was also accredited by the American Correctional Association. Nonetheless, the inspection still required the DOC manager to remain on-site for more than five hours.*

After the inspections, the DOC jail managers must also prepare a report for the jail as well as conduct necessary follow-up. Clearly, the ability of two staff to adequately address annual inspections each year is questionable.

As a result of the changes to the DOC jail oversight structure, the need for an annual inspection in the same year as the certification audit is not as critical as it was in 1994. The annual inspection is currently more thorough and is conducted unannounced. In addition, the certification audit is a very comprehensive assessment of jail conditions. More importantly, the Board of Corrections has required DOC staff to return to inspect jails that have had problems on the certification audit. Finally, the State and local health department are required by the *Code of Virginia* to conduct unannounced annual inspections of local jails.

DOC staff stated that they support conducting unannounced inspections. However, they questioned their ability to continue to provide a thorough annual inspection every year given their current staff allocation. Although this task was reasonable when DOC regional program managers were conducting the annual inspections and the number of annual inspections were spread between several managers within the four regions, under the revised framework, this task appears unduly burden-

some. Moreover, the centralization of the process appears to have improved the consistency of both the annual inspections and certification audits. To continue to require unannounced inspections every year may not be the most efficient use of DOC staff and may not ensure thorough annual inspections.

**Recommendation (5).** The General Assembly may wish to amend §53.1-68 of the *Code of Virginia* to permit but not require the Department of Corrections to conduct unannounced annual jail inspections in the years that jails are subject to a Board of Corrections' certification audit.

### **Audit Report Should Be Expanded to Ensure Clarity Regarding Problems**

Although the certification audit appears to be well developed and thorough, improvements to the audit report provided to the jail and to the DOC regional office are necessary to ensure all deficiencies are corrected in a timely and efficient manner. Although DOC regional program managers are no longer participants on the jail certification audit team, they are still responsible for assisting jail staff in preparing plans of action in response to deficiencies cited during certification audits. Moreover, regional program managers are still charged with performing follow-up reviews to ensure actions proposed by jails to correct the deficiencies are in fact completed.

Given these responsibilities, some DOC staff are concerned that the lack of detailed information regarding deficiencies may not enable them to adequately perform these duties. Because they are no longer active participants on the certification audit team, regional program managers must rely on the information and instructions from audit team members when assisting jails in developing the plans of action. In addition, DOC and jail staff must know exactly what problems exist in order to ensure they are properly corrected and comply with existing standards. However, in some cases, information provided is insufficient to enable jail staff to efficiently use staff resources in identifying and correcting deficiencies and for DOC regional office staff to verify compliance.

In a small jail, it may not be a significant burden for jail staff to identify all of the inoperable toilets or sinks cited by DOC audit staff. However, in a large multi-story facility, the lack of a clear inventory or itemized list of where the inoperable units are located or specifics about other deficiencies or problems could be a significant burden for both jail staff and DOC regional office staff. This also applies for other standards like staff training, lighting, and inmate records. For example:

*After the certification audit of a large jail, a DOC regional program manager, who had not been a part of the audit team, was required to ensure that the toilets cited as inoperable during the audit had been repaired, that lighting over many grooming areas and in a number of cell blocks was sufficient to meet standards, and that staff had received the proper training. In the report to the jail concerning the audit, DOC*

*staff simply noted that “all security staff are not current in first aid training, . . . lighting not appropriate at the personal grooming areas in a number of inmate cell areas. Many fixtures painted over or covered with paper. No mirrors at many personal grooming areas . . . . Many toilets / washbasins observed to be inoperative in inmate cell areas.”*

*The DOC regional program manager questioned why the report did not directly identify in which cells the toilets were not functioning properly, which cell blocks had improper lighting, and which staff did not have required training. He noted that he would have to test every toilet in the facility, every light, and all staff training records. This facility had eight floors and more than 230 assigned staff. The regional program manager noted that “it is hard to go back and honestly say that the problem has been resolved if I do not know specifically which ones were not working.”*

Clearly, in a jail this size, specifics about problems would enable jail staff to make more efficient use of their time. It would also better enable DOC regional office staff to verify that all of the deficiencies cited in the audit have in fact been corrected.

It must be noted that some DOC auditors currently have at times provided an itemized list of deficiencies in areas like plumbing, lighting, and staff training. For example:

*JLARC staff reviewed the DOC certification audit file from another large local jail. In instances where deficiencies were cited regarding plumbing and lighting, this audit team provided detailed attachments that itemized, by individual cell block, what specific problems were identified. Moreover, it itemized, by individual staff member, whether the training requirements were complete and whether the staff had completed their quarterly review of the jail’s evacuation plan.*

In this case, the jail would have been able to use the documents to ensure the problems were corrected and to enable DOC regional office staff to conduct a thorough and timely review. Clearly, consistency among audit staff is necessary and more detail regarding audit findings should be routinely provided to both the local jails and DOC regional office staff.

**Recommendation (6).** The Department of Corrections should revise the certification audit report to ensure that it provides sufficient detail about deficiencies identified during the certification audits. Where deficiencies are cited, the report should provide sufficient detail to enable jail staff to directly address any problems and for Department of Corrections staff to directly verify resolution.

## **DOC Technical Assistance Function Should Be More Consistent**

Revisions to DOC's jail monitoring and audit processes have resulted in changes in the duties of DOC staff. With these changes, some regional office staff believe that their roles have not been clearly defined. In order to better assist staff in performing their duties as they pertain to the oversight of local jails, DOC should continue to work to formalize the roles of staff in DOC regional offices. Moreover, DOC should ensure additional consistency in jail monitoring and the provision of technical assistance.

***Changes in the Process Have Resulted in Some Uncertainty.*** Since changes in the annual inspection and certification audit processes have taken effect, staff in DOC regional offices have voiced their concerns surrounding their new roles. While some regional office staff believe that the recent changes to the oversight process have not altered their duties in any way, others disagree. For example:

*A regional program manager said that recent changes in DOC's jail oversight process have not altered his role in jails. Although he no longer conducts annual inspections, he still conducts informal inspections, performs monitoring visits, and provides follow-up assistance after central office inspections.*

\* \* \*

*Program managers in another DOC region said that recent changes in the oversight process have lead to ambiguity in their roles regarding local jails. They feel that their role in the area of follow-ups to annual inspections is not well defined. This has led to confusion both in this regional office and in jails covered by this regional office.*

DOC has had meetings with regional staff to explain the expectations of all concerned. In addition, the process is relatively new and many of these issues may be resolved as staff become more experienced with their roles. However, DOC should continue to ensure that regional office staff are kept informed regarding their role and responsibilities in the jail oversight process.

***Technical Assistance May Lack Consistency.*** DOC regional office staff provide technical assistance to jails through monitoring visits, follow-up visits to inspections and audits, and informal contacts. Because these staff work out of offices in different regions of the State, it is important that their technical assistance be characterized by consistent interpretation and implementation of standards across different regions. Despite the recent changes in DOC's audit and monitoring process, the need for the facilitation of timely and consistent information from DOC's central office to the four DOC regions and ultimately local jails is still important.

As mentioned earlier, staff in DOC regional offices no longer conduct annual inspections or assist in certification audits. Yet, staff in these offices provide very

important technical assistance and act as liaisons between local jails, DOC central office, and the Board of Corrections. Therefore, it is critical that audit and other oversight staff in DOC's central office interpret standards the same as a DOC regional program manager does for a jail located 300 miles from Richmond. For example:

*During a DOC certification audit, a jail was cited for noncompliance with the jail standard related to staff review of the jail's master plan for safe and orderly evacuations. A DOC official who audited the facility cited the jail for noncompliance because the jail's administrative staff had not reviewed the plan. However, the jail administrator interpreted the standard to apply only to jail security staff and not administrative staff. Moreover, the jail administrator explained to DOC that the jail had been inspected each year that it had been in operation for 12 years. He noted, "After 5 audits and 12 annual inspections, he brought this deficiency to my attention."*

*Subsequently, a DOC regional program manager responsible for the jail and who assisted the jail with its plan of action, agreed with the jail administrator's position and stated that he believed the jail was cited in error. After reviewing the situation, DOC central office staff noted that audits of local jails needed to be consistent statewide.*

Moreover, this inconsistency can be confusing for jails and cause undue burden in attempting to meet different interpretations of standards. For example:

*A jail was audited by the DOC certification unit in late 1994. The regional program manager noted in reviewing the jail's efforts to correct the deficiencies, "I have visited the jail on numerous occasions, and have verified the corrections necessary to comply with the standards." One of the standards the regional program manager determined that the jail was in compliance with was the medical protocol approved by the jail's physician.*

*A subsequent status review of the jail's actions to correct the deficiencies by DOC central office staff, made at the request of the Board of Corrections, noted that "the medical protocol does not adequately address the dispensing of over the counter medications. As these are the most common types of medication to be given to inmates, the facility is not in compliance with this standard."*

As a result, the jail had to have the physician revise the protocol to include over the counter medications. This should have been appropriately addressed by the DOC regional program manager the first time.

During the 1994 jail study, JLARC staff also noted that there appeared to be inconsistencies among DOC regional office staff concerning the intent or requirements

of selected jail standards. At that time, JLARC staff recommended periodic training by DOC certification unit staff for all DOC staff with jail oversight or technical assistance responsibilities.

Even though DOC centralized the annual inspection function and reorganized certification audit teams in an attempt to provide consistency within the oversight process, some inconsistencies still exist. Consistency is especially important across the four DOC regions. DOC staff noted that training regarding the revised jail standards has been provided to jail staff and DOC regional office staff. However, DOC should provide periodic training specific to all jail oversight and technical assistance staff to ensure that these staff are providing accurate interpretations of standards and consistent technical assistance.

***Recommendation (7).*** The Department of Corrections should conduct periodic training for all Department of Corrections staff with jail oversight or technical assistance responsibilities to facilitate consistency in local jail monitoring and technical assistance activities. The Department of Corrections should report to the Board of Corrections actions taken to improve the consistency of oversight and technical assistance activities.





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### **III. Placement of Jail-Related Oversight and Reporting Functions**

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The study mandate, Item 15F of the 1995 Appropriation Act, required JLARC to include an assessment of the proper organizational placement for both the jail oversight and reporting functions as part of its current review of the jail oversight process. This was in response to a proposed amendment to the 1995 Budget Bill that would have relocated significant portions of the jail oversight activities from the Department of Corrections (DOC) to the Compensation Board.

The results of this review indicate that primary responsibility for jail oversight should remain with DOC. As noted earlier in the report, analysis completed for the follow-up portion of this review indicates that both the Board and Department of Corrections have made significant progress in improving, strengthening, and more proactively administering the portions of the jail oversight process under their purview. Transferring the process to another agency could negatively impact the important changes that have been initiated at DOC. In addition, the progress made to date in developing the role of the State and local health departments could also be mitigated if the oversight process were to be transferred.

However, segments of the jail reporting process currently administered by DOC should be assigned to other agencies. Specifically, the jail inmate data collection and reporting function for the jail per diem funding program should be placed entirely within the Compensation Board. Locating this function entirely within the purview of the Compensation Board would more appropriately match the function with the appropriate agency mission. In addition, as the scope and complexity of the inmate per diem reimbursement process changes, the Compensation Board could likely develop and administer it in a more comprehensive manner in conjunction with its existing process for approving and reimbursing approved expenses of local and regional jails.

Finally, other local jail reporting functions, primarily the "Tuesday Report" should continue to be administered by DOC at this time. Language in the 1995 Appropriation Act that requires DOC to report on additional local jail inmate classifications will require data compiled and maintained by DOC. Moreover, data from this report have been routinely used as a research and reporting tool by DOC staff as well as staff in other State agencies.

#### **JAIL OVERSIGHT SHOULD REMAIN WITH THE DEPARTMENT OF CORRECTIONS**

As identified in the 1994 JLARC review of jail health and safety conditions, proactive oversight is necessary to ensure that conditions in local jails across the State remain acceptable and appropriate. However, jails are facilities that are designed to

securely and safely confine individuals who have committed crimes or who have been accused of committing crimes.

While jails may hold individuals convicted of less serious crimes or who are eventually acquitted or determined to be not guilty of a crime, jails do confine individuals accused and charged with committing dangerous crimes. The primary objective of DOC — secure confinement of individuals committed to its custody — is consistent with the primary objective of a local jail facility. Proper facility administration, operation, and security is one of the major focuses of jail oversight. Moreover, DOC appears to have the appropriate agency infrastructure to properly support jail oversight activities and the provision of appropriate technical assistance.

Finally, removing the process from DOC could hamper the progress that has recently been made in developing the jail sanitation oversight function to be administered by the State and local health departments. Health department involvement is intended to compliment the focus of DOC jail oversight and mitigate DOC staff's lack of expertise in the sanitation and environmental health area.

### **Local Jails Are Secure and Restrictive Facilities**

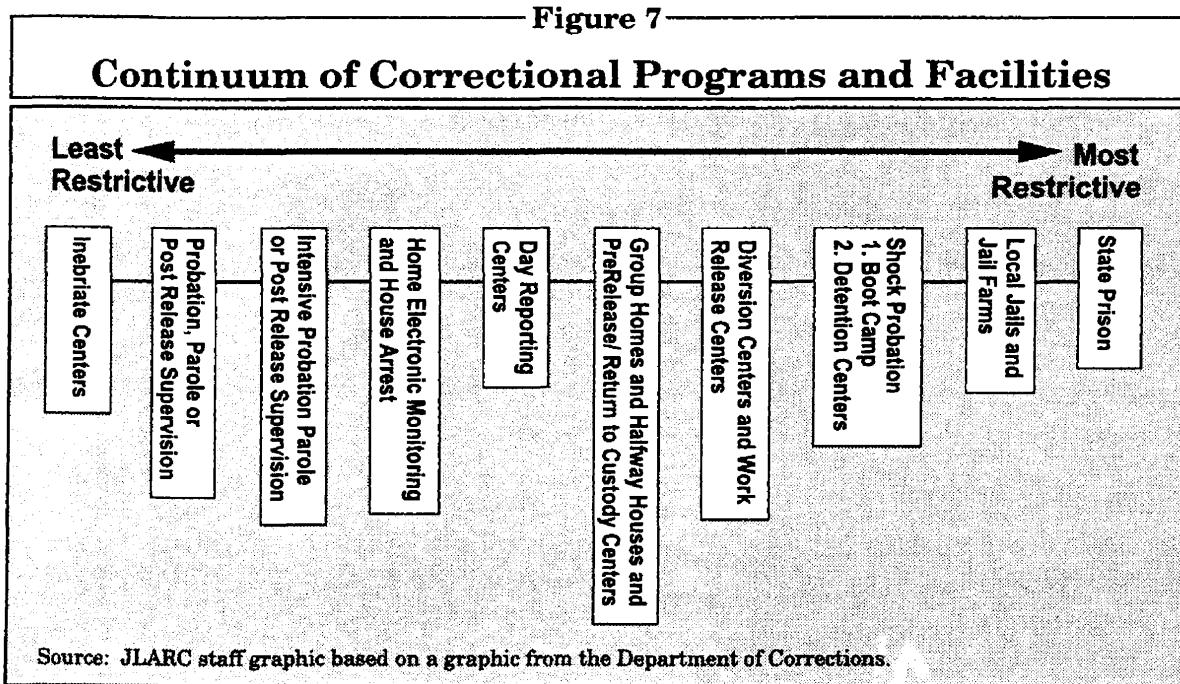
While many local jails house individuals convicted of local ordinance violations and individuals convicted of misdemeanor offenses, jails also confine individuals accused or convicted of more serious crimes. In addition, jails have recently been used as an extension of the State's prison system as, at one time, convicted felons with sentences up to and including six years would likely serve their entire sentence in a local jail.

In terms of a continuum of correctional programs ranked according to the restrictiveness of the program or facility, local jails are located at the most restrictive end, exceeded only by State prisons (Figure 7). Moreover, the need for local jails to be operated in a secure manner is further highlighted by the number of commitments to local jails for offenses of a violent nature. In calendar year 1994, more than 46,000 adults were arrested statewide for index crimes, which include homicide, rape, and larceny. Many of these individuals were likely held in local jails for all or some portion of their cases' processing through the criminal justice system.

In addition, local jails are the point from which individuals sentenced to the custody of DOC transition into the State prison system. In calendar year 1994, more than 6,000 inmates were released from local jails into the custody of DOC. It is likely that a portion of these individuals were convicted of crimes of a violent nature where secure confinement in jail as well as in prison was necessary.

### **DOC's Focus Facilitates Oversight and Support of Local Jail Facilities**

As noted earlier, one necessary and very important function of a local jail is to provide secure confinement. It therefore appears appropriate that the agency or



organization primarily responsible for administering and implementing the jail oversight process also have a focus or background consistent with the entity subject to oversight. DOC appears to have the necessary focus or mission for providing local jail oversight.

A review of the missions of potential locations for the jail oversight process indicates that the agency with a clear mission related to the operation and administration of secure confinement facilities is DOC (Table 3). Moreover, DOC has significant experience operating various classifications of secure confinement facilities ranging from maximum security to numerous field units.

In contrast, the focus of the Compensation Board appears to be primarily fiscal in nature. The Compensation Board primarily administers the development of the local constitutional officers' budgets. In addition, the Compensation Board administers the subsequent reimbursement of the State's share of the local constitutional officers' budgets.

Finally, another agency evaluated for the placement of the jail oversight function was the Department of Criminal Justice Services (DCJS). DCJS is more active in the administration of justice functional area than the Compensation Board. For example, it has responsibility for regulating and providing oversight of correctional officers' training and producing jail inmate population forecasts. Moreover, DCJS has recently been assigned responsibility for administering the Comprehensive Community Corrections Act for locally responsible offenders. However, its primary focus still appears to be directed towards activities like planning, evaluation, research, and technical assistance.

Table 3

### Focus of Selected Agencies' Missions and Operations

Agency	Agency Focus
Department of Corrections	"The Department of Corrections provides secure confinement and a variety of community-based placements and services . . . . The principal activity of the Department is to ensure that adult criminal offenders are removed from society and housed in a secure environment."
Compensation Board	"The mission of the Compensation Board is to determine and fix what constitutes a fair and reasonable budget for the participation of the Commonwealth toward the total cost of office operations for Constitutional Officers."
Department of Criminal Justice Services	"The Department's major activities include providing planning, coordination, evaluation, program development and technical assistance to local, state and private criminal justice and related agencies; promulgating and administering regulations . . . coordinating criminal justice information systems; and providing financial support to local and state criminal justice agencies."

Sources: JLARC staff analysis of the FY 1995 - FY 1996 Compensation Board Operating Manual and the 1990 - 1992 Executive Budget of the Commonwealth.

### DOC Infrastructure Supports Jail Oversight and Technical Assistance Activities

One benefit of having the jail oversight process located within DOC is the administrative and technical support structure that is available to the DOC staff who interact with local jails. The majority of staff who have local jail oversight and technical assistance responsibilities emphasized that there are a number of resources available within DOC that they routinely use to support local jails that might not be readily accessible in other agencies.

Staff directly involved in jail oversight and technical assistance activities noted that DOC has the resources available to solve issues that affect the entire correctional system — communication, research, classification and inmate intake. All of these form a network that are available to DOC staff to help local jails operate more effectively. For example:

*DOC regional office staff noted that they used staff from DOC's central office architectural and engineering unit to assist a very overcrowded*

*jail in converting administrative space to secure jail inmate housing. In addition, these staff reported that they have routinely used resources in the DOC central office to facilitate the use of the DOC security wing at MCV hospital by local jails in his region. This enables local jails to have secure housing at the hospital without having to allocate jail staff to provide continuous security for the inmate.*

\* \* \*

*Staff from DOC's certification unit noted that they have relied upon the expertise of staff from DOC's architectural and engineering unit and health services unit to assist in resolving jail standards issues related to heating, cooling, and ventilation; lighting; diet; and physical plant structural problems.*

\* \* \*

*Staff in another agency noted that the infrastructure that DOC has available to the jail oversight staff to meet the needs of jails and jail staff cannot be overlooked. Even if every piece of equipment and staff persons directly associated with local jail oversight in DOC were placed in another agency, the new location would still lack the infrastructure at DOC routinely used by staff involved with local jails. That same infrastructure could not be easily and totally replicated at another agency.*

DOC's four regional offices (located in Roanoke, Suffolk, Richmond, and Charlottesville) and the activities conducted from these regional offices also comprise the infrastructure that supports timely jail oversight and technical assistance. Both the Compensation Board and DCJS lack regional offices.

While the lack of regional offices could likely be addressed by any agency assigned jail oversight responsibilities, support from other DOC offices and the periodic presence of DOC staff in local jails could probably not easily be replicated. For example:

*DOC regional office staff noted a recent incident in which an inmate from a small rural jail was claiming to observe and practice an unfamiliar religious denomination. Jail staff were apparently unsure of how to honor his request for a special religious diet, as required by existing Board of Corrections' jail standards. The DOC regional program manager noted that he was able to walk upstairs in the same building to the adult institution section who had staff who routinely deal with these issues in DOC adult institutions and who provided assistance with proper procedures for this type of situation.*

\* \* \*

*Many DOC regional office staff with jail oversight and technical assistance responsibilities are also in local jails, often on a routine basis in larger jails, to conduct preliminary hearings for parole violators. These staff stated that this enables them to have a continuous presence in the jail and be available to jail staff to help with more routine issues on an informal, ongoing basis.*

\* \* \*

*Both DOC regional office staff and local jail staff have noted that DOC regional offices have provided timely support in helping local jails get sick or problem inmates into the State prison system. Regional office staff have the ability to work directly with the DOC central office intake staff. Local jail staff have noted that because DOC gets these inmates out in a timely fashion, it enables the jail and the local government to avoid paying for often expensive health care.*

These are the types of activities and support that are only somewhat obvious but potentially difficult to replicate in another agency. For example, staff in other agencies questioned whether they would be able to get as quick a response from DOC central office staff regarding issues such as case-by-case inmate intake requests.

In addition, as currently structured, DOC staff who conduct certification audits of the department's adult institutions also conduct some certification audits of local jails. Other staff in the jail oversight process also have had operational experience in adult institutions. This expertise enables these staff to be able to administer effective audits as well as provide valuable technical assistance. For example:

*During the certification audit of a large jail, the facility was found out of compliance with the standard for the control and use of tools, culinary items, and cleaning equipment. The DOC auditor who identified the problem had recently transferred to his current position from a DOC adult institution. The DOC auditor discussed this situation with the facility's food service manager during the audit and provided the jail's food service manager with the name and telephone number of the food service manager at a nearby DOC adult institution who could assist the jail in developing a workable system for maintaining proper control of the culinary items in the kitchen of a jail that size.*

Finally, the availability of services and expertise in the central corrections agencies may be the reason that the majority of states which have a jail oversight process have it located in the State's corrections' agency. For example, the American Jail Association in a report on jail oversight noted that "in most instances, the parent agency is the Department of Corrections . . . ."

***Local Jail Staff Are Generally Supportive of DOC Oversight Efforts.***  
During both the 1994 JLARC review of jail oversight and the current study effort, JLARC

staff interviewed more than 25 sheriffs or regional administrators or their staff on their opinions of the DOC oversight process. Their responses indicate that DOC's focus and mission is consistent with the role of jail oversight. Nineteen respondents rated the DOC process as good or very good and seven rated the process as at least satisfactory. No respondents rated the process as poor or very poor. For example:

*One sheriff's jail had recently been subject to a great deal of scrutiny by the Board of Corrections as well as a number of inspections and monitoring visits by DOC staff in a short period of time. He stated that he felt the process DOC had was very good.*

\* \* \*

*A regional jail administrator noted that he thought DOC had done a good job in providing oversight and technical assistance this year. He noted that this was in contrast to years past when the process had been somewhat superficial.*

Another regional jail administrator noted that he considered the DOC audit and inspection process to be a good one. He also noted that if the process were relocated, continuity might suffer. More specifically, he questioned whether staff from another agency involved in the process in the future would know jails and the entire correctional system as well as DOC staff do now.

### **Altering the Current Process Could Negatively Impact the Health Department's Oversight Efforts**

One potential side effect of removing the jail oversight process from DOC is the potential for negatively impacting the health department's implementation of its jail oversight responsibilities. Revisions to the *Code of Virginia* by the 1995 General Assembly formalized the role of the State and local health departments in providing jail oversight. These revisions became effective July 1, 1995.

As currently structured, the Board of Corrections is responsible for promulgating standards for the health department to use in its oversight functions. The health department is to conduct an unannounced inspection of each local jail annually. Moreover, results of the health department jail inspections will be used by DOC and the Board of Corrections in jail certification decisions.

Staff from the health department noted that mechanisms have been developed to report to DOC and subsequently the Board of Corrections the results of the health department inspections. However, the health department is just now in the beginning stages of introducing jails to the new process, how the inspections will be implemented, and what areas of the jails will be observed. Staff from the health department involved in the process noted that altering the current oversight structure could potentially

mitigate some of the health department's progress during this important initial phase of the process.

The 1994 JLARC report determined that the lack of active and consistent involvement by trained sanitarians or environmental health specialists was one of the most important factors lacking in the jail oversight process. Because a mechanism for this involvement has now been established and initiated, altering that mechanism and structure should be avoided.

***Recommendation (8).* At the present time, responsibility for the oversight and certification of local jails should remain with the Department and Board of Corrections. Both the Department of Corrections and the Board of Corrections should continue to facilitate, and where necessary strengthen, the involvement of the State Health Department in the jail oversight process as required by §53.1-68 of the Code of Virginia.**

#### **JAIL PER DIEM REPORTING PROCESS SHOULD BE TRANSFERRED ENTIRELY TO THE COMPENSATION BOARD**

While the mission and focus of DOC supports the administration of the jail oversight process, it does not support the collection and processing of the data used to calculate the amount of State reimbursement for the financial assistance for adult confinement program. This program is commonly referred to as the jail per diem funding program. Moreover, this program currently allocates a significant amount of State funding to local governments — more than \$50 million in FY 1995. Therefore, an agency with a focus on fiscal oversight and administration would be a more desirable location for this function than DOC.

At DOC, the data collection process for this program lacks the fiscal oversight that is necessary for such a large State funding program. At one time, DOC apparently recognized this need and requested and received an additional position from the General Assembly to perform audits of the data collected to develop the specific payment amounts. However, the position was never filled with a fiscal auditor or analyst due to recent agency reorganizations.

Finally, despite DOC's responsibility for data collection and calculation of total inmate days for each jail, the actual payment is processed by the Compensation Board based on data provided by DOC. As a result, this fragmentation of responsibility may act to limit "ownership" of the program as well as limit the amount of oversight the program needs and receives. To mitigate this effect, the process should be administered entirely by the Compensation Board.



## Overview of the Jail Per Diem Reporting and Funding Program

Significant levels of State financial aid for jail operating expenses are provided through the financial assistance for confinement in local facilities program. This program is often referred to as the jail per diem funding program. 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.”

Effective July 1, 1995, jails receive \$8 per day for each sentenced felon held in the facility. If the inmate is a convicted State-responsible felon, 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 felons. Funding for inmates who are unsentenced and awaiting trial or sentenced misdemeanants is, effective July 1, 1995, provided through a formula-based block grant.

Another significant funding change that was implemented by the 1995 General Assembly is the additional payments that will be provided to localities for State-responsible inmates that are confined in local jails in violation of the *Code of Virginia*. These payments are intended to compensate localities for the full cost of housing convicted felons. The 1995 Appropriation Act requires that the additional payments be made according to the following schedule:

- \$1 per prisoner day from the sixty-first to the 90th day after sentencing,
- \$3 per prisoner day from the ninety-first day to the 120th day after sentencing, and
- \$6 per prisoner day thereafter.

Funding has been appropriated to DOC for these additional payments. The Comptroller is to transfer the necessary funds from DOC to the Compensation Board so any necessary payments can be made.

Funding for this program, because it is based on the number of inmates in local jails, has grown significantly since FY 1985. Total funding appropriated for this program increased by more than 100 percent by FY 1995 when more than \$53 million was appropriated. Reflective of recent changes to the funding methodology for unsentenced inmates and inmates convicted of misdemeanors, as well as decreases in the number of inmates in local jails, funding appropriated for FY 1996 has decreased to slightly more than \$49 million.

## **Jail Per Diem Reporting and Funding Process is Fragmented**

Prior to FY 1985, the jail per diem reporting and funding process was administered entirely by DOC. However, effective FY 1985, DOC retained responsibility for collecting and processing data related to inmates in local jails. The actual processing of payments reimbursing localities for the approved number of inmate days was assigned to the Compensation Board. This has resulted in substantial fragmentation between two agencies of a program responsible for allocating approximately \$50 million annually in State general funds for local jails.

***DOC's Role in the Funding and Reporting Process.*** As currently structured, DOC is responsible for collecting and processing the inmate information from each local correctional facility. Information is reported monthly to DOC on the DC-J7 (adults) or DC-J8 (juveniles) forms which are the record of all prisoners confined in local jails. Ten jails submit the data on diskette or magnetic tape, while the remainder are on paper forms. Jails are required to report specific data for each inmate including:

- social security number;
- name, race, sex, and age;
- type of offense and date sentenced;
- date committed to and released from the jail; and
- number of days certified for payment.

This information is to be submitted to DOC within 10 days after the last day of the reporting month. The sheriff, chief jailer, or superintendent of the regional jail is required to certify that all of the information reported is, to the best of their knowledge, correct. The volume of DC-J7 reports for large jails can be immense. For example, for the July 1995 reporting period, the Richmond City jail's DC-J7 report totaled more than 130 pages.

After receipt, DOC staff conduct a desk review of the forms and submit them to their management information system (MIS) department. Staff in the MIS department key the data for each inmate into DOC's computer system. The data in the system are then processed against a number of edit programs that are coded into the system and designed to highlight records that do not meet requirements. For example, a record would be highlighted if no release date was given or if the number of days eligible for State reimbursement was improperly calculated. Errors from this automated edit are reviewed by DOC staff and, as necessary, returned to the appropriate local jail for resolution.

***Compensation Board's Role in the Reporting and Funding Process.*** DOC provides the necessary data and payment vouchers to the Compensation Board each quarter. Compensation Board staff review the vouchers for identifiable errors and process the vouchers for payment to the applicable localities. The Compensation Board staff also use the inmate days data from the DC-J7 and DC-J8 reports calculated by DOC as one factor in allocating State-supported staff to local jails.

## **DOC Does Not Provide Adequate Program Oversight**

Despite the magnitude of State funding allocated through this program, the amount of active State oversight is quite limited. As noted earlier, the reports submitted by local jails are subject to fairly extensive edits during the automated portion of the processing. However, there is no validation or control over the quality or appropriateness of the actual data reported on the DC-J7 and DC-J8 forms to DOC.

At the present time, one full-time and two part-time staff administer the DOC jail per diem data collection and reporting process. The full-time staff person has an accounting and budgeting background. Due to the workload related to DC-J7 and DC-J8 processing and other divisional duties, this staff person is unable to verify that the information submitted by local jails to DOC is either correct or accurate. However, DOC staff noted that “someone would only need to see some of the information that is reported on the forms to realize that an on-site audit would be worthwhile doing.” They noted that was the reason why DOC had requested positions specifically to help audit the local jail inmate data.

In 1994, DOC requested that additional positions be approved to increase the oversight supplied to this program. The analysis of the request by the Department of Planning and Budget (DPB) noted that:

The J-7/J-8 reports are sent to the Compensation Board quarterly. Given the policy and funding decisions that are made based on the . . . J-7/J-8 reports, it is extremely important that they be accurate. DOC has two positions which audit the reports internally, but the workload involved does not allow them to go to the source — local jails — and verify that the information submitted to DOC matches the jails’ internal records.

DPB recommended that one position be approved for funding specifically to improve the oversight provided to this particular program. The 1994 General Assembly approved funding for the position. However, the position was never filled due to subsequent agency reorganizations.

## **Increasing Complexity of Program Requires Greater Coordination Among Agencies**

In the FY 1987 Appropriation Act, the funding methodology for the jail per diem funding program was relatively concise and totaled approximately three paragraphs. In the FY 1995 Appropriation Act, however, the funding methodology for this program is more complex with various criteria for determining the reimbursement amounts and eligibility dates. The methodology for determining reimbursement now totals more than two pages. Moreover, selected alternatives to incarceration programs are now eligible for funding through this program.

These additional programs eligible for funding and the accompanying methodologies add to the complexity of the reimbursement process. No longer is reimbursement simply limited to individuals confined in local jails. Moreover, there is no longer one single reimbursement rate for each eligible inmate. This points to the need for active coordination among agencies and even more proactive and continuous involvement by the program's administering agency, especially in the area of data collection.

As a result, the agency administering the program and agencies administering other facets of the correctional system that could be impacted by decisions of the administering agency should be in active consultation regarding the funding and data collection process. This should help ensure State funding is allocated appropriately and that alternatives to incarceration are funded as intended.

Yet, it appears that this coordination may not always exist. For example, staff from the Department of Criminal Justice Services (DCJS) reported during an evaluation of Item 74 of the FY 1994 Appropriation Act and Item 87 of the FY 1995 Appropriation Act that:

DOC transmitted a new Procedures Manual for the Records of Prisoner (DC-J7) and Juveniles (DC-J8) in jail. This manual contains Reason Confined Codes for: CCA offenders sentenced to jail as misdemeanants or local responsible felons . . . . While it is uncertain as to whether these are intended for use with Item 87 alternative day payments, the point is that these **were not developed** in conjunction with DCJS which has the statutory responsibility for administering this program.

As additional alternatives to incarceration are implemented or changes to the methodology for the jail per diem funding program are effected, the need for additional coordination will be crucial.

### **Compensation Board Should Be Assigned Responsibility for Administering the Entire Program**

To reduce the fragmentation of the program and increase the consistency of program oversight, the Compensation Board should be assigned responsibility for administering the entire jail per diem funding program. These responsibilities include, but are not limited to, data collection and processing, reporting, and maintaining the data for use by other State agencies.

The focus or mission of the Compensation Board is consistent with the fiscal nature of the program. In addition, assigning responsibility for administration of this program to the Compensation Board would also consolidate the program with other constitutional officers' funding programs currently administered by the Compensation Board. Finally, the Compensation Board could be assigned as the lead agency in further developing and automating the program for which a draft review has been developed by the Department of Information Technology (DIT).

**Focus of Compensation Board Supports Assignment.** As noted earlier in the chapter, the focus or mission of the Compensation Board is to:

... determine and fix what constitutes a fair and reasonable budget for the participation of the Commonwealth toward the total cost of the office operations for Constitutional Officers.

Information from the jail per diem reporting and funding program is used by the Compensation Board for a number of activities related to local jails (Table 4). This program also constitutes a significant portion of the State support for local jails. In FY 1995, jail per diem payments constituted more than 30 percent of the total State financial support for local jails. Also, the Compensation Board uses the data on total inmate days as a factor in allocating State supported staff to local jails. Consolidating the data collection and fiscal portion of the jail per diem funding program with other constitutional officers' funding programs would centralize the majority of State funding for constitutional officers under a single State agency whose primary focus is fiscal-related.

As a result, both constitutional officers and local governments could have almost all jail funding-related issues addressed through one State administrative location. In addition, the Compensation Board, because of its mission and other fiscal responsibilities, would be in a position to provide more consistent administration and oversight of the program. For example, Compensation Board staff noted that they hold periodic training

Table 4

### Compensation Board and Department of Corrections Use of Inmate Data Collected from Local Jails

Activity	Compensation Board	Department of Corrections
Use data to allocate funding for sheriffs and regional jail administrators	✓	○
Use jail inmate data for allocating State-supported jail staff	✓	○
Use jail inmate data for research or reporting	✓	✓
Use jail inmate data for direct jail oversight activities or responsibilities	○	○

Sources: JLARC staff analysis of interviews with staff from the Department of Corrections, Compensation Board, and the Department of Criminal Justice Services, summer 1994.

for constitutional officers and their staff. DOC staff also provide training and documentation for the jail per diem reporting and reimbursement program.

However, the Compensation Board staff have reported that they are providing more systematic training than had been provided in the past for constitutional officers and consider this to be an increasingly important function in the efficient administration of constitutional offices. Moreover, staff noted that training focuses on all areas of office administration, much of which is fiscal in nature. If the Compensation Board were assigned responsibility for the entire jail per diem funding program, training specific to the collection and reporting of data could be systematized with the other training provided to constitutional officers. Compensation Board staff noted they would consider this type of training to be "training cost avoidance."

Finally, any changes to the funding methodology could be more easily administered and analyzed by a single agency. The Compensation Board currently has both a budget and management analyst on staff. These staff could likely provide both routine and ad-hoc reporting of jail inmate data that would be of interest to local jails, local governments, other State agency staff, and State and local policy makers. While DOC has analytical staff, they are in a separate division from the unit that administers the jail inmate data. Moreover, the data contained in the files are apparently not used routinely for local jail oversight purposes.

***Compensation Board Is Also Involved in Automation of the Inmate Data Reporting Process.*** A task group has been involved, with support from DIT, in beginning a process to eventually automate the submission of the DC-J7 and DC-J8 reports. Although DOC staff are involved in the project, the necessary funding for this initial automation assessment was provided through the Compensation Board.

Development of a system of this type would eliminate the need for the paper DC-J7 and DC-J8 reports currently submitted by local jails. The objectives of this system are to:

Support the reporting process and provide an interface to the jails for automated data submission of J7/J8 records to DOC . . . . To require the entry and validation of the data at the source level (local jail), insure that the required fields have been edited and are accurate when available to DOC for processing, which will eliminate the delays in the approval process and place the responsibility for the content of the data at the proper level of accountability, and to eliminate the need to batch, edit and key the information at the State level . . . . To reduce the personnel resources required to receive and process the information.

Clearly, such a system should streamline the reporting process for local jails and ensure the processing for payment is completed in a more timely manner.

The Compensation Board has also had experience automating the offices of constitutional officers. Within the past five years, the Compensation Board has

progressed from hard copy submissions of reimbursement requests to automated submissions of these requests by constitutional offices. The Compensation Board's on-line system, the State Network Interface Project (SNIP), enables local constitutional officers to request State reimbursement for salaries and expenses electronically with no need to submit hardcopies to the Compensation Board. According to the Compensation Board staff, each constitutional office now has access to this automated capability.

If the Compensation Board were responsible for the entire jail per diem reporting and funding program, it could also assume the lead role in developing an automated data submission system for this program. This automated interface could compliment the SNIP system currently used by sheriffs' offices and regional jails and reduce the burdensome nature of the current inmate reporting process on local jails. Moreover, the Compensation Board could take steps to ensure the quality of the data and make it available in a format more amenable to analytical review than its current monthly transaction format.

#### **Additional Issues Will Also Need to Be Considered**

Although assigning responsibility for administration of this program to the Compensation Board would more closely match the program to the agency with the appropriate focus or mission, there are a number of issues that would need to be addressed to ensure a relatively smooth transition. For example, the computer system currently supporting this program is maintained and operated by DOC and development of an alternative location for the automated data would be necessary. Second, staffing issues will need to be resolved including the number of staff, and the necessary skills and abilities needed by staff to effectively administer the program.

Finally, the data collected from the local jails contains a great deal of information such as type of offense, inmate age, and sentence length. Therefore, the ability of staff from DOC and DCJS to have timely access to the data would be very important. These are the types of issues that will need to be addressed to ensure that the reassignment of this responsibility does not create an additional burden for local jails, interfere with timely payments to localities, or cause staff in other agencies or policy makers to have limited access to the data.

***Recommendation (9).*** The General Assembly may wish to consider assigning responsibility for administration of the entire financial assistance for confinement in local facilities program to the Compensation Board. If responsibility for this program is reassigned to the Compensation Board, the General Assembly may wish to amend §53.1-121 of the *Code of Virginia* to specify that the Compensation Board is responsible for collecting the necessary information from local jails.

***Recommendation (10).*** The General Assembly may wish to transfer one full-time and two part-time positions from the Department of Corrections to

**the Compensation Board to administer the entire financial assistance for confinement in local facilities program.**

### **DOC SHOULD CONTINUE TO BE RESPONSIBLE FOR THE "TUESDAY REPORT" FUNCTION**

On the first and third Tuesday of each month, each local jail facility in Virginia submits to DOC data regarding the facility's inmate population. The data collected from each local jail are compiled into a report titled the *Population Survey of Local Correctional Facilities* — more commonly referred to as the "Tuesday Report." The Tuesday Report is the most comprehensive information available on a routine basis regarding local jail inmate populations.

The Tuesday Report is a multi-purpose reporting and analysis tool. For example, State agency staff, legislative staff, and policy makers use the report to monitor the extent of jail overcrowding. DOC staff use the data for various research activities related to local jails and to assist in local jail inmate population management. Finally, DCJS staff use the data collected for the "Tuesday Reports" in part to develop local jail inmate population forecasts.

Because data collected for the Tuesday Report are used by a number of participants in the administration of the criminal justice system, responsibility for administering this activity should remain with DOC. DOC appears to have a reasonable process for collecting and compiling the necessary information from local jails. Moreover, the 1995 Appropriation Act requires DOC to include information related to inmates who should be in DOC facilities but are being held in local jails in violation of the *Code of Virginia*. The most timely and accurate source of that information is DOC.

#### **Overview of the DOC Tuesday Report**

According to DOC, the first Tuesday Report was issued in January 1976. It was developed to report on overcrowding in local jails. At that time, local jails, with a total capacity of about 4,875 inmates, were housing slightly more than 4,920 inmates.

Since the inception of the report, there have been revisions to both the frequency of distribution and the data reported. For example, at one time, data was collected and reported weekly and the total number of inmates for the preceding Sunday was also reported. Finally, data on the number of federal inmates in each jail has been added to the report.

Currently, data for the report is collected from local jails on the first and third Tuesday of each month. Jails are required to report inmate population totals for the required categories to the appropriate DOC regional office. The data provided on the current Tuesday Report includes, but is not limited to the:



- facility's operating capacity,
- number of federal inmates,
- number of inmates awaiting trial and sentenced misdemeanants,
- number of felons by offense date and sentence length, and
- number of inmates held by agreement.

DOC regional office staff compile the data and transmit it to the planning, evaluation, and certification unit in DOC's central office which is responsible for producing the final report. The completed report is distributed to staff of various State agencies, staff of various local correctional programs, legislative staff, and to other interested individuals.

### **Tuesday Report Use Is Primarily Analytical and Reporting Oriented**

Although the 1995 Appropriation Act requires that data regarding the number of jail inmates awaiting trial and sentenced misdemeanants be used in calculating a block grant for reimbursing local jails, the data collected and maintained for the Tuesday Report is also used extensively for research and reporting. As noted by staff from the Department of Planning and Budget:

The Tuesday report is distributed semi-monthly to a number of agencies interested in jail data. This includes the Department of Planning and Budget which uses the report when considering Compensation Board requests for jail staff funding, and to follow the status of jail overcrowding. The Tuesday report is also used in developing the annual state prison and jail population forecast.

DCJS staff reported that data from the Tuesday Report is the primary source of information used to develop the local jail inmate population forecasts.

DOC staff have also used the report to identify jails that have the capacity to potentially house inmates from other severely overcrowded jails. In addition, DOC staff who compile the data noted that staff from other DOC units have asked for an analysis of the database to identify jails that have held juvenile or female inmates in the past so other jails which cannot house these classifications of inmates will know which jails have that capacity.

### **Tuesday Report Required to Contain Data Supplied by DOC**

In addition to the inmate data collected from the local jails, DOC is required by Item 551 of the 1995 Appropriation Act to report monthly on the number of inmates held in local jails in violation of the *Code of Virginia*. Specifically DOC is required to:

... identify on the Population Survey of Local Correctional Facilities (Tuesday Report) the number of inmates held in each local and regional jail in violation of §53.1-20, *Code of Virginia*. The report shall also identify the rate of crowding in each local and regional jail as a result of such non-compliance and the efforts undertaken by the Department to comply with of §53.1-20, *Code of Virginia*.

DOC issued the first required report in August 1995 and reported that on August 1, 1995, the number of inmates in local jails in violation of §53.1-20 of the *Code* was 317.

Data regarding the number of inmates currently in local jails who are being held in violation of the *Code* are not reported by local jails. These data are currently maintained and supplied for the report by DOC. Section 53.1-20 of the *Code* requires DOC to take the required inmates into custody within 60 days of receipt of the final order from the clerk of the committing court. Although the jail would likely know the date the inmate was sentenced, it is less likely to know with certainty the date DOC receives the final court order.

Data on the number of out of compliance inmates in local jails are currently compiled from DOC's automated files. As noted earlier, the date of receipt for the final court order is the basis for determining when DOC is in violation of the *Code of Virginia*. Therefore, the most accurate and timely data for this issue should be DOC.

Although DOC, with funding appropriated by the General Assembly, has effectively addressed the removal of State-responsible inmates from local jails, the ability of DOC to continue to meet the demand into the future is not clear. As a result, data on the number of inmates held in local jails out of compliance with the *Code of Virginia* should continue to be provided by DOC for each jail on the Tuesday Report as a routine reporting field. This would enable policy makers to be informed on a routine and more timely basis about the number of inmates in local jails held in violation of the *Code of Virginia*.

***Recommendation (11).*** At the present time, responsibility for collecting and reporting data for the *Population Survey of Local Correctional Facilities* (Tuesday Report) should remain with the Department of Corrections.

***Recommendation (12).*** The Department of Corrections should report the number of inmates held in each local jail in violation of the *Code of Virginia* as a standard reporting element on the *Population Survey of Local Correctional Facilities* (Tuesday Report).

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## Appendixes

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**Appendix A**

**Item 15F - 1995 Appropriation Act**

The Joint Legislative Audit and Review Commission shall conduct a study of the oversight and reporting activities of the Department of Corrections related to local and regional jails. This study shall include, but not necessarily be limited to, an assessment of the most appropriate organizational placement for such oversight and reporting activities. The Commission shall report its findings no later than November 1, 1995.

Appendix B

Virginia Department of Corrections Local Correctional Facility (Jail)  
Inspection Report (Used Prior to January 1995)

DOC/CC/6-92

VIRGINIA DEPARTMENT OF CORRECTIONS  
LOCAL CORRECTIONAL FACILITY (JAIL) INSPECTION REPORT

FACILITY NAME:

DATE:

SHERIFF/ADMINISTRATOR:

RATED CAPACITY:

POPULATION TODAY:

Does the facility To Hold:	Males	Yes	[ ]	No	[ ]
	Females	Yes	[ ]	No	[ ]
	Juveniles	Yes	[ ]	No	[ ]

ADMINISTRATION AND MANAGEMENT:

- |  | YES | NO  |
|--|-----|-----|
| 1. Is a staff member on duty within the building 24 hours a day who can respond to prisoner needs?   | [ ] | [ ] |
| 2. Does the facility have one or more persons on duty at all times responsible for auditory and visual contact with each juvenile at least every 30 minutes?     | [ ] | [ ] |
| 3. Is there one trained officer on duty per shift?   | [ ] | [ ] |
| 4. Is food prepared and served under sanitary conditions?  | [ ] | [ ] |
| 5. Is food served under direct supervision of a staff member?  | [ ] | [ ] |
| 6. Is there one person per shift with an active CPR card?  | [ ] | [ ] |
| 7. Are written policies and procedures available to personnel 24 hours a day?  | [ ] | [ ] |
| 8. Are all new admissions permitted at least two telephone calls?  | [ ] | [ ] |
| 9. Is a medical screening done on all new admissions?  | [ ] | [ ] |
| 10. Upon reception, are all inmates given a copy of the jail rules and regulations?  | [ ] | [ ] |
| 11. Do rules cover: Access to medical services:  | [ ] | [ ] |
| 12. Do male and female inmates have access to all programs and activities through separate scheduling or the utilization of combined programs under supervision? | [ ] | [ ] |

PROCEDURES:

Has the jail reviewed as required written policies and procedures governing the following (Standard 5.38):

- |                                      |     |     |
|--------------------------------------|-----|-----|
| 1. Emergency situation (Date: _____) | [ ] | [ ] |
| 2. Mass arrest (Date: _____)         | [ ] | [ ] |
| 3. Fire plans (Date: _____)          | [ ] | [ ] |
| 4. Taking hostages (Date: _____)     | [ ] | [ ] |



**Appendix C**

DOC/DFO/1-95 Virginia Department of Corrections Local Correctional Facility (Jail)  
 Inspection Report (Used Since January 1995)



Virginia Department of Corrections  
 Division of Field Operations  
 Inspected by:  
 804-674-3272

Local Facilities Manager

**Local Correctional Facility  
 (Jail) Inspection Report**

Facility Name _____	Inspected on _____
---------------------	--------------------

LIFE, HEALTH, SAFETY STANDARD INSPECTED	COMPLIANCE		OBSERVATIONS/DOCUMENTATION OF COMPLIANCE
	Yes	No	
<b>4.2 Written policy and procedure shall:</b> A. Provide inmates access to recreational activities consistent with health and security regulations.			
B. Provide all inmates access to regular physical exercise.			
<b>4.10 A licensed physician shall supervise the facility's medical and health care services.</b>			
<b>4.12 Health care personnel shall meet appropriate and current licensing or certification requirements.</b>			
<b>4.14 Written policy shall provide 24 hour emergency medical care availability.</b>			
<b>4.15 Written policy and procedure shall provide that receiving and medical screening be performed on all inmates upon admission to the facility.</b>			
<b>4.17 All staff involved in security shall be trained and competent in rendering basic first aid equivalent to that defined by the American Red Cross in its use in emergency care procedures. Further, there shall be at least one person per shift who is competent in administering basic life support cardio-pulmonary resuscitation (CPR).</b>			
<b>4.18 Written standard operating procedure shall provide that receiving and medical screening be performed on all inmates upon admission to the facility.</b>			
<b>4.21 Written policy shall prohibit medical or pharmaceutical testing for experimental or research purposes.</b>			
<b>4.22 Medical care performed by personnel other than a physician shall be pursuant to a written protocol or order.</b>			

LIFE, HEALTH, SAFETY STANDARD INSPECTED	COMPLIANCE		OBSERVATIONS/DOCUMENTATION OF COMPLIANCE
	Yes	No	
4.23 -4.28 Food Service (Review DOC Food Service Report and State Health Inspector's report for deficiencies) If DOC not current (within 12 months), notify Chief of Operations, Field Services. Also see 6.1 for local reports.			
5.14 The facility shall maintain a designated post manned 24 hours a day, that controls activities and flow of people in and out of the secure area of the jail.			
5.4 Written policy and procedure shall provide that a record be kept to show that clean linen and towel be supplied once a week, and inmates shall be held accountable for their use.			
5.17 Written policy and procedures shall govern the security, storage and use of firearms, ammunition, chemical agents and related security devices to ensure that: A. Personnel who carry firearms are assigned positions that are inaccessible to inmates (with the exception of emergencies).			
B. Personnel who discharge firearms or use chemical agents submit written reports to the administrator or designated subordinate no later than the conclusion of the shift during which same are discharged or used.			
5.20 Written policy and procedures shall specify that, at least once daily, a careful examination be made of all security devices and that maintenance be routinely performed to ensure their proper operation.			
5.24 Written policy and procedures shall govern the control and use of tools, culinary items and cleansing equipment.			
5.25 Written policy and procedures shall specify the control, storage and use of all flammable, toxic and caustic materials.			
5.27 Written policy and procedures shall specify and restrict the use of physical force which is necessary for instances of self-protection, protection of others, protection of property and prevention of escapes. Such physical force shall be restricted to that necessary only to overcome such force as being exerted. A written report shall be prepared following all such incidents described above and shall be submitted to the administrator for review and justification.			



LIFE, HEALTH, SAFETY STANDARD INSPECTED	COMPLIANCE		OBSERVATIONS/DOCUMENTATION OF COMPLIANCE
	Yes	No	
5.31 Written policy and procedure shall specify the handling of mental health inmates to include an agreement to utilize mental health services from either a private contractor or the community services board.			
5.33 Written policy and procedure shall review that an assessment, including a personal interview and medical evaluation, is conducted when an inmate remains in administrative segregation or disciplinary detention beyond 15 days and every 15 days thereafter.			
5.34 The facility shall provide for around-the-clock supervision of all inmates by trained personnel. All inmate housing areas shall be inspected a minimum of twice per hour. All inspections and unusual incidents shall be documented.			
5.38 Written policy and procedures shall specify the process to be followed in emergency situations, mass arrest, fire, disturbance, taking of hostages, escapes, attempted suicides, loss of utilities and natural disasters. All personnel shall be trained in the implementation of emergency plans. Plans shall be reviewed annually.			
6.1 The facility shall have an annual state or local health food service and fire inspection. Localities that do not enforce the Virginia Statewide Fire Prevention Code (VSFPC) shall have the inspections performed by the Office of the Fire Marshal. Written reports of the fire safety and health food service inspection shall be on file with the facility administrator.			
6.2 Written policy and procedures shall specify the facility's fire prevention practices to ensure the safety of staff, inmates, and the public. They shall be reviewed annually.			
6.3 Mattresses, pillows and trash receptacles present in the secured housing shall be of non-toxic and fire retardant materials.			
6.4 The facility shall have a written master plan for the safe and orderly evacuation of all persons in the event of a fire or emergency. Such a plan shall be reviewed by all staff quarterly. The quarterly review shall be documented.			
6.5 Facility floors, halls, corridors, and other walkways areas shall be maintained in a clean, dry, and hazard free manner.			
6.6 The facility shall control vermin and pests and shall be serviced at least quarterly by professional pest control personnel.			
6.7 All housing and activity areas shall provide for appropriate lighting and heating.			



*Additional Comments*

Exit Interview with: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Local Facilities Manager

Date: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

## **Appendix D**

### **Agency Responses**

As part of an extensive data validation process, State agencies involved in a JLARC assessment effort are given an 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.

This appendix contains the responses of the Department of Corrections and the Compensation Board.



100695

## COMMONWEALTH of VIRGINIA

Department of Corrections

RON ANGELONE  
DIRECTORP. O. BOX 26963  
RICHMOND, VIRGINIA 23261  
(804) 674-3000

October 4, 1995

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

Dear Mr. Leone:

The Department and Board of Corrections have reviewed the September 25, 1995 exposure draft of the Joint Legislative Audit and Review Commission (JLARC) study, Review of Jail Oversight and Reporting Activities. We are pleased to note the recognition of Department and Board efforts to reduce jail overcrowding and strengthen jail health and safety conditions monitoring. Today, as in no other time over many years, there are no state prisoners out of compliance in local jails. Further, in concert with the Virginia Department of Health, local jails undergo unannounced life, health, safety and sanitation inspections.

As this study follows the 1994 Oversight of Health and Safety Conditions in Local Jails, it is in many ways a measure of how effectively the Department and Board have implemented past recommendations and culminates a thorough examination of this agency's oversight responsibilities related to local jails. We feel that JLARC staff have seen and experienced all facets of this Departmental mission. Accordingly, study recommendations present an objective assessment of further fine-tuning needed. Recommendations within Department and Board scope will be addressed and implemented as soon as possible.

In addition to the above, our review calls for comment on select study recommendations as follows:

Recommendation #2

**Recommendation to audit/inspect compliance with Standards on medical treatment programs wherein prisoners pay a portion of costs.**

Section 53.1-133.01 of the Code of Virginia authorizes the discretion of local jails to establish medical co-pay programs. Standards pertaining to these programs are administrative versus life, health or safety in nature and previously existing medical care Standards are already audited for compliance. The addition of medical treatment program Standards will lengthen the

Mr. Philip A. Leone  
October 4, 1995  
Page Two

Inspection process, impacting the workload of the two (2) Manager positions assigned this function.

Recommendation #3

**Amendment of the rules and regulations governing the Certification process on the results of annual jail Inspections.**

Certification policy will be amended to reference annual Inspections and results which may require Board action. Currently, Inspection findings are provided jails at the time of the Inspection through a copy of the Inspection report. In addition, Sheriffs or jail administrators are written to notify that cited deficiencies are reported to the Board of Corrections and must be corrected within 30 days at risk of Certification status change.

Regional Standards training recently completed informed jail staff statewide of this policy and the revised Inspection report to be employed January 1, 1996 contains this information.

Recommendation #5

**Amendment of Section 53.1-68 of the Code of Virginia to permit but not require jail Inspections in Certification Audit years.**

The Department and Board fully agree with this recommendation, which as the study notes, will allow a more efficient use of manpower and ensure thorough Inspections.

Recommendation #8

**Responsibility for jail oversight and Certification to remain with the Department and Board of Corrections.**

As detailed in the study, the mission and operational needs of local jails are closely tied to that of the Department which has the necessary support infrastructure. Both the Department and Board concur with this recommendation.

Recommendation #9

**Assign responsibility for the entire financial assistance for confinement in local facilities program to the State Compensation Board with amendment of Section 53.1-121, Code of Virginia.**

Mr. Philip A. Leone  
October 4, 1995  
Page Three

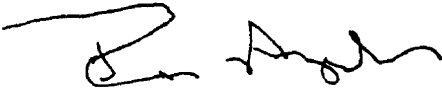
Study rationale for this recommendation is agreed with and the Department supports any effort which would provide stronger oversight of this function through it's vest to one agency. Clarification of manpower assigned this function is required, however, in relation to position transfers.

The transfer of one (1) full time and two (2) part time positions is recommended. While during the study, JLARC staff observed this function being carried out by a full time position and wage personnel, it should be noted that these staff were assigned due to the abolishment of two (2) full time Statistical Analyst, Grade 9 positions. These positions were lost in the August, 1994 agency reorganization and to May 1995 early retirement through the Work Transition Act.

The absence of these positions has forced reassignment of other staff not previously employed in this function, with wage employee assistance as available. The recent past abolishment of these positions does not enable the Department to transfer the equivalent of two (2) full time positions to the Compensation Board as recommended.

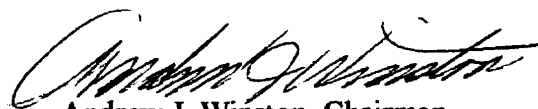
Thank you for the opportunity to review this study draft and do not hesitate to contact us if you require clarification of this response.

Sincerely,



Ron Angelone, Director  
Department of Corrections

Sincerely,



Andrew J. Winston, Chairman  
Board of Corrections

cc: Mr. Gene M. Johnson  
Mr. James R. Camache  
Mr. J. Michael Howerton



JUNE R. FUNKHOUSER  
CHAIRMAN

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ASSISTANT EXECUTIVE SECRETARY

# COMMONWEALTH of VIRGINIA

## COMPENSATION BOARD

P. O. BOX 710  
RICHMOND, VIRGINIA 23206-0710

September 28, 1995

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

Dear Mr. Leone:

Thank you for providing us with an Exposure Draft of your report Review of Jail Oversight and Reporting Activities.

Should your recommendations regarding the transfer of jail reporting responsibility from the Department of Corrections (DOC) to the Compensation Board be implemented, the Compensation Board would welcome the opportunity to be of further service to our Sheriffs and Regional Jail Superintendents. The Compensation Board is concerned, however, that current resources committed to this activity by DOC (one full-time position and two part-time positions) may be insufficient. As noted in the Exposure Draft, DOC requested and the General Assembly approved a position to increase the oversight of this activity. The Compensation Board suggests that you consider recommending the transfer of two full-time positions and two part-time positions from DOC to the Compensation Board so that appropriate oversight may be provided.

Again, thank you for the opportunity to review the Exposure Draft.

Sincerely,

June R. Funkhouser, Chairman

A handwritten signature in cursive script, appearing to read "Bruce W. Haynes".

Bruce W. Haynes  
Executive Secretary

Copy to: Danny M. Payne, Compensation Board Member  
Walter J. Kucharski, Compensation Board Member  
James W. Matthews, Assistant Executive Secretary

c:\wpdocs\jlarc  
kml\September 29, 1995



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## JLARC Staff

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### RESEARCH STAFF

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#### Director

Philip A. Leone

#### Deputy Director

R. Kirk Jonas

#### Division Chiefs

- Glen S. Tittermary
- Robert B. Rotz

#### Section Managers

John W. Long, Publications & Graphics  
Gregory J. Rest, Research Methods

#### Project Team Leaders

- Craig M. Burns
- Linda Bacon Ford
- Susan E. Massart
- William L. Murray
- Wayne M. Turnage

#### Project Team Staff

- Beth A. Bortz
- Barbara J. Ettner
- Steven E. Ford
- Deborah Moore Gardner
- Harold E. Greer, III
- Joseph J. Hilbert
- Jack M. Jones
- Marcus D. Jones
- Melissa L. King
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- Desmond Saunders-Newton
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- E. Kim Snead
- Paul Van Lenten

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---

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& Office Services

#### Associate Office Manager

Charlotte A. Mary

#### Administrative Services

Becky C. Torrence

### SUPPORT STAFF

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#### Technical Services

Desiree L. Asche, Computer Resources  
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