

**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION**

CORRECTIONAL OFFICER ISSUES

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



HOUSE DOCUMENT NO. 39

**COMMONWEALTH OF VIRGINIA
RICHMOND
1997**



COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

John R. Isom
Executive Director

General Assembly Building

December 10, 1996

MEMBERS:
FROM THE SENATE OF VIRGINIA:
Janet D. Howell, Vice-Chair
Mark L. Earley
Kenneth W. Stolle

FROM THE HOUSE OF DELEGATES:
Clifton A. Woodrum, Chairman
James F. Almand
Jean W. Cunningham
John J. Davies, III
Raymond R. Guest, Jr.
William S. Moore, Jr.

APPOINTMENTS BY THE GOVERNOR:
Robert C. Bobb
Terry W. Hawkins
Robert J. Humphreys

ATTORNEY GENERAL'S OFFICE
James S. Gilmore, III

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

House Joint Resolution 113, agreed to by the 1996 General Assembly, directed the Virginia State Crime Commission to conduct a study of the retirement benefits of correctional and parole officers, the development of a differential pay system for correctional officers, and the establishment of drug testing policies for employees of the Department of Corrections, and to submit its findings and recommendations to the Governor and the 1997 session of the General Assembly.

In fulfilling this directive, a study was conducted by the Virginia State Crime Commission in 1996. I have the honor of submitting herewith the study report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Clifton A. Woodrum".

Clifton A. Woodrum
Chairman

CAW/jdw

**MEMBERS OF THE VIRGINIA STATE CRIME COMMISSION
1996**

From the Senate of Virginia:

Janet D. Howell, Vice Chair
Mark L. Earley
Kenneth W. Stolle

From the House of Delegates:

Clifton A. Woodrum, Chairman
James F. Almand
Jean W. Cunningham
John W. Davies, III
Raymond R. Guest, Jr.
William S. Moore, Jr.

Appointments by the Governor:

Robert C. Bobb
Sheriff Terry W. Hawkins
Robert J. Humphreys

Attorney General:

James S. Gilmore, III

Corrections Subcommittee studying the retirement benefits of correctional and parole officers, the development of a differential pay system for correctional officers, and the establishment of drug testing policies for employees of the Department of Corrections

Corrections Subcommittee Members

Delegate Raymond R. Guest, Jr., Front Royal, Subcommittee Chairman
Delegate James F. Almand, Arlington
Delegate Jean W. Cunningham, Richmond
Delegate John J. Davies, III, Culpepper
Sheriff Terry W. Hawkins, Albemarle County
Senator Kenneth W. Stolle, Virginia Beach
Delegate Clifton A. Woodrum, Roanoke

Staff

John R. Isom, Executive Director

John D. Webb, Policy Analyst

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HJR 113

Study of the retirement benefits of correctional and parole officers, the development of a differential pay system for correctional officers, and the establishment of drug testing policies for employees of the Department of Corrections

I. Authority for the Study

The 1996 General Assembly approved House Joint Resolution 113 sponsored by Delegates Clifton Woodrum, James Almand and Senator Janet Howell, directing the Virginia State Crime Commission, in cooperation with certain state agencies, to conduct a study of the retirement benefits of correctional and parole officers, the development of a differential pay system for correctional officers, and the establishment of drug testing policies for employees of the Department of Corrections. Further, the Commission was directed to submit its findings and recommendations to the Governor and the 1997 General Assembly.

Section 9-125 of the Code of Virginia establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Section 9-127 of the Code of Virginia provides that "the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Section 9-125, and to formulate recommendations to the Governor and the General Assembly." Section 9-134 authorizes the Commission to "conduct private and public hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of correctional officer/probation and parole officer issues within the Commonwealth of Virginia.

II. Members Appointed to Serve

At the May 15, 1996 meeting of the Virginia State Crime Commission, Chairman Clifton A. Woodrum selected Delegate Raymond R. Guest, Jr., to serve as Chairman of the Corrections Subcommittee, which was directed to conduct a study of correctional officer/probation and parole officer issues within the Commonwealth of Virginia. The following members of the Crime Commission were selected to serve on the Corrections Subcommittee:

Delegate Raymond R. Guest, Jr., Front Royal, Subcommittee Chairman
Delegate James F. Almand, Arlington
Delegate Jean W. Cunningham, Richmond
Delegate John J. Davies, III, Culpepper
Sheriff Terry W. Hawkins, Albemarle County
Senator Kenneth W. Stolle, Virginia Beach
Delegate Clifton A. Woodrum, Roanoke

III. Executive Summary

House Joint Resolution 113 grew out of a 1995 study conducted by the Virginia State Crime Commission to look at the Staffing Needs of Virginia's Prisons. In that report, a number of issues surfaced that were not specific to staffing needs, but it was felt, were important enough to be addressed separately. These issues were:

- A study needed to be conducted on the retirement benefits of correctional and probation and parole officers. In addition, other benefits were to be reviewed in an effort to increase recruitment and retention within the Department of Corrections.
- The Crime Commission requested that the Department of Corrections develop a differential pay system to increase compensation for officers assigned to maximum security facilities.
- The Crime Commission recommended that the Department of Corrections develop and adopt personnel policies which required drug screening of all applicants for DOC employment and implemented random drug screens for employees having contact with inmates, or are in sensitive positions.

These three items later became the essence of 1996 House Joint Resolution No. 113, and are the basic sections of this study.

Differential Pay System

There was a concern that there were significant numbers of correctional personnel transferring from higher level of custody institutions to lower level institutions and that this was creating instability within the DOC workforce. A study of all lateral transfers for the period January 1, 1993 and December 31, 1995 was conducted to determine if this premise was true. Of the 590 transfers for all reasons during this time period, only about 90 transfers could be attributed to lower custody level institutions. This number represents something less than 1.5% of the Department of Corrections total workforce.

Recommendation: A pay differential system for correctional officers working at closer custody facilities should not be implemented at this time. The Department of Corrections should implement a differential pay system based on education and continue to explore other differential systems, such as, shift differential, to aid in the recruitment and retention effort.

Drug Testing Policy for Employees and Applicants.

The Virginia State Crime Commission in 1996 House Document No. 26 recommended that the Department of Corrections develop and implement a drug

testing policy for all applicants for DOC employment and a random drug screening policy for all existing DOC employees who have direct contact with inmates or are in sensitive positions. The Department has developed such a policy¹. It is subject to final revisions by the Attorney General's Office. The annual cost for this program is estimated to be \$260,000.

Recommendation: The Department of Corrections should implement the Applicant/Employee Drug Testing Policy as soon as is practical.

Retirement/Benefits for Correctional and Probation/Parole Officers.

This section was divided into two areas, correctional officers, and probation/parole officers. The correctional officers concerns centered around basic issues such as pay and safety/staffing. Correctional officer salaries are below the median when compared to adjoining states and are at the bottom when compared to local and regional jails. Since one of the prime concerns of this study was to stem the loss of trained personnel to other jurisdictions, it would appear prudent to make correctional officers positions more competitive with that of local law enforcement. In addition, other problems would develop if the salaries were raised for only entry level positions. This practice would "compress" the salary scale and may allow for lower level personnel to make more than their supervisors. If correctional officer salaries were raised to the Compensation Board base salary for that of a deputy sheriff it would bring their salaries, at entry level, to the approximate median for bordering states.

There are 6,810 uniformed security staff within the Department of Corrections. Based on salaries effective Dec.1, 1996, the cost to implement this would be \$902 per person annually, for a total cost of \$6,142,620, annually, at current staffing levels.

The correctional officers retirement system is competitive with bordering states but is less than a significant portion of Virginia law enforcement. Of the correctional officers surveyed in conjunction with this study, retirement benefits were important but ranked behind other issues of pay and safety.

Turnover within the Department of Corrections is a problem. While the turnover rate is not necessarily out of line with bordering states, it does represent a significant financial loss to the Commonwealth. Staff believes that taking a multi-level approach to solving recruitment and retention issues, starting with the most serious concerns first, addressing them, gauging success or failure, and then moving to the next phase, is the most logical and cost efficient method of remedying these issues. Staffing was a significant concern for almost all officers surveyed. The ratio of officers to inmates, particularly at medium security dormitories, mandated

¹ For draft Drug Testing Policy of the Department of Corrections, see Appendix B.

overtime, and vacant positions, all have contributed to a general uneasiness within the correctional officer ranks.

The final issue addressed concerning correctional officers was incentive/bonus pay. There is widespread desire for educational incentive pay. This would assist in getting more qualified applicants and help encourage current employees to stay. Another consideration is other differential pay, such as, shift differential and hazardous duty pay. Lastly, a plan for bonus pay for continued employment should be considered. This would aid in the retention of trained officers. The bonuses would be a one-time, lump sum payment.

Probation and parole officers concerns were somewhat different with respect to priority than the correctional officers. Salaries for probation/parole officers are competitive with bordering states. The turnover rate is low by comparison with both correctional officers and the statewide rate. Retirement and staffing were the two major concerns that did surface. Staffing may become more of an issue if sentencing guidelines are changed in the future, but at present the general consensus is that the impact of current sentencing guidelines needs to be closely monitored. Retirement was the number one concern. The probation and parole employee at present has been on the job longer, and considers the job a "career", more so than do the correctional officers.

Recommendation 1: A new staffing study for the Department of Corrections should be made as soon as possible. Particular emphasis should be placed on security staff and probation/parole officers.

Recommendation 2: The salary for entry level correctional officers should be raised to the same amount as the Compensation Board base amount for that of a deputy sheriff. In addition, the funding levels for all uniformed security personnel, through Major, should be increased by a like amount to prevent "compressing" the salary scale.

Recommendation 3: The existing VRS retirement plan for correctional officers should not be changed at this time. To assist in the efforts in recruitment and retention within the Department of Corrections, this issue should be revisited within the next two years, as a part of a follow-up assessment on the impact of actions taken this year.

Recommendation 4: Retirement benefits for probation/parole officers should be reevaluated next year, based on changing job requirements, that make their work more related to enforcement than it has been in the past.

Juvenile Justice Issues

During the course of this study, the Corrections Subcommittee of the Virginia State Crime Commission became aware of a number of issues concerning juvenile corrections. These included training and compensation of security staff, and the availability of teaching materials at juvenile correctional centers. As a result of information received, the following recommendations are being made:

Recommendation 1: The training for the Department of Juvenile Justice security staff should be made comparable with Department of Corrections security staff. The Department of Criminal Justice Services should develop these training guidelines as soon as possible.

Recommendation 2: The salary for Department of Juvenile Justice security staff should be made the same as their counterparts at the Department of Corrections. This salary increase should be made through the senior uniformed security staff level to prevent "compressing" the salary scale. This salary increase should become effective when the training program is implemented.

Recommendation 3: The Department of Correctional Education should ensure that sufficient textbooks and other teaching materials are available at juvenile correctional center teaching facilities.

Recommendation 4: This Subcommittee should continue its oversight of these issues.

IV. Background

The 1995 General Assembly adopted a study resolution, HJR 490, which directed the Virginia State Crime Commission to examine the staffing needs of Virginia's adult correctional institutions. As a result of that study the Commission published its final report, House Document No. 26, 1996. In that report, a number of issues surfaced that were not specific to staffing needs, but it was felt, were important enough to be addressed separately. These issues were:

- A study needed to be conducted on the retirement benefits of correctional officers and probation and parole officers in the Department of Corrections and develop recommendations which provide a means of competitive benefits for correctional officers and probation and parole officers to those provided to regional and local jail personnel and local law enforcement as a means of enhancing recruitment and staff retention efforts for the Department of Corrections.
- The Crime Commission requested that the Department of Corrections develop a differential pay system for correctional officers which provides higher salaries to those officers serving in the maximum security facilities. The proposed system should also include provisions for career ladder promotions within and between institutions.
- The Crime Commission recommended that the Department of Corrections develop and adopt personnel policies which require drug screening of all applicants for DOC employment and the implementation of random drug screens of all corrections institutional and contract employees who have direct contact with inmates or are in sensitive positions.

These three items later became the essence of 1996 House Joint Resolution No. 113.

V. Study Results and Recommendations

This study has been divided into three main areas. First, the development of a differential pay system for correctional officers; second, the establishment of a drug testing policy for employees of the Department of Corrections; and lastly, study of the retirement benefits of correctional and probation and parole officers.

A. Differential Pay System

The initial premise of this portion of the study was that there was a significant number of transfers to lower custody institutions, and resignations to go to other state agencies or leave state service altogether and that the effect of this was creating instability in the DOC workforce. The Department of Corrections reviewed all lateral transfers of corrections officers for the period January 1, 1993 through December 31, 1995. During this period there were 590 transfers for all reasons. This averages 197 per year, or about 4% of the workforce. The opening of five new facilities during the same period accounted for 55% of the total officers transferring. After factoring out the new facility transfers, there is an average of about 90 transfers per year or something less than 1.5% of the total workforce. The data would seem to not support the original premise. Staff conducted interviews of nearly 200 correctional officers at all types of facilities. We found that safety concerns were more prevalent among those assigned to the medium security dormitory environment than in the maximum security areas. The Department of Corrections position on this matter is that they feel other types of pay differential would be more successful and easier to implement. In conjunction with this, they are in the process of developing pay differentials for education and studying the feasibility of implementing a bonus program to improve retention.

Recommendation: A pay differential system for correctional officers working at closer custody facilities should not be implemented at this time. The Department of Corrections should implement a differential pay system based on education and continue to explore other differential systems, such as, shift differential, to aid in the recruitment and retention effort.

B. Drug Testing Policy for Employees and Applicants.

The Department of Corrections has developed a drug testing policy² for both applicants and employees. This policy is in the final stage of approval with the Attorney General. The Department of Corrections widely supports the implementation of this policy. The Attorney General is expected to make some minor revisions to the policy based on a Ninth District Court of Appeals challenge

² For Department of Corrections draft Drug Testing Policy see Appendix B.

to the existing Federal Bureau of Prisons drug testing policy. The Department of Corrections proposed policy institutes the drug testing of all applicants for employment with the department. In addition, it implements a random drug testing policy for all existing employees. The policy provides for a phase-in period where those employees with a drug problem can come forward for assistance prior to the start of testing. It also provides for "zero tolerance", once the program has begun. The departments goal for random testing is to approach 50% per year. The estimated cost per test for primary and confirmation testing is approximately \$29. This would make the estimated total cost for all testing, both applicant and random, \$260,000 per year.

Recommendation: The Department of Corrections should implement this policy as soon as is practical.

C Retirement/Benefits for Correctional and Parole Officers

This section, while looking at retirement benefits, looks at the overall issues of recruitment and retention for correctional officers and probation/parole officers. To that end an in-depth review was made of salaries, retirement, turnover, staffing issues, and incentive pay for both groups. In conjunction with the correctional officer issues, nearly 200 officers were interviewed at various facilities around the state.

Correctional Officers

Salaries: This issue was number one for virtually all of the individuals surveyed. It was however not a serious consideration for leaving employment for the majority of officers interviewed.

The starting salary for correctional officers in bordering states (see Figure 1), ranges from \$13,055 in Kentucky, to \$22,004 in Maryland. Private corrections companies range from \$16,000 to \$18,000. The current starting salary for a correctional officer in Virginia is \$19,188. This is however scheduled to increase to \$19,528 on Dec. 1, 1996. At the same time, the Compensation Board base for a deputy sheriff will go up to \$20,430. County and city jails (see Figure 2), are funded at the deputy sheriff's rate. In addition, a number of jurisdictions supplement the deputies salary.

Since the prime thrust of this portion of the study is to reduce the loss of trained personnel to other jurisdictions, it would appear prudent to consider making correctional officer positions more competitive with that of local law enforcement. At the same time, the problem would be exacerbated if salaries were only raised for entry level positions. This tends to "compress" the pay scale and allow for lower level personnel to make more than their

supervisors. There are 6,810 uniformed security staff within the Department of Corrections. Based on salaries effective Dec. 1, 1996, the cost to implement this would be \$902 per person for an annual cost of \$6,142,620 at current staffing levels.

State and Federal Salary Comparison

Jurisdiction	Start	Top
Federal Bureau of Prisons	\$24,571	\$30,547
District of Columbia	\$22,378	\$38,950
Maryland	\$22,004	\$30,848
North Carolina	\$19,645	\$31,052
Virginia Department of Corrections	\$19,188	\$32,027
West Virginia	\$18,116	\$32,072
Kentucky	\$16,260	Not Reported

Figure 1

Comparison of Local Jail Salary Data

Jurisdiction	Start	Top
Chesterfield	\$24,628	\$37,997
Roanoke	\$24,164	\$33,832
Riverside Regional Jail	\$23,455	Not Reported
Henrico	\$22,902	\$36,800
Richmond	\$21,921	\$32,720
Compensation Board Base	\$20,020	\$30,554
Virginia DOC	\$19,188	\$32,027

Figure 2

Retirement: Virginia currently provides a 30-year retirement with a minimum age of 55. Only Maryland and Kentucky offered some form of 20-year retirement. West Virginia requires age 55 plus a minimum of 25 years service. North Carolina and the City of Richmond are the same as currently provided to correctional officers. Other major jurisdictions in Virginia provide VRS benefits plus the Law Enforcement Officers Supplement.

Turnover: For FY 95, the turnover rate³ for Virginia correctional officers was 18.17%. For the same period, the statewide turnover rate was 15.06%. For the last year comparison figures for turnover rates in bordering states that were available, 1993, West Virginia was at 10%, Maryland was at 16%, North Carolina was 10.57%, South Carolina was 18.3%, and Tennessee was 14.4%.

During 1993, Virginia's turnover rate for correctional officers was 13.69%. The increasing rate in Virginia is from a number of different causes. Suggestions and recommendations contained in this document are designed to assist in reducing the turnover rate for correctional officers.

Staffing Issues: This issue ranked number two, in importance, by the correctional officers interviewed. Their concerns surrounded issues of safety (ratio of officers to inmates), and mandated overtime. There is resentment at being required to work double shifts for many of the correctional officers. They cite safety concerns with overtired, in-attentive officers. While mandated overtime increased their pay, or increased compensatory time, most felt it wasn't worth it. Given current staffing levels and management concerns about security at institutions, the department should however continue this practice until a new staffing study can be completed.

Incentive/Bonus pay: There is widespread desire for increased pay for higher education. As mentioned earlier, it is recommended that the Department of Corrections implement a differential pay system to compensate officers for completing various levels of education. There should also be a mechanism to allow for higher starting pay for more educated applicants. This would aid in the recruiting effort. Other differential pay systems that should be given consideration are shift differentials, and hazardous duty pay. Bonus pay for continuing employment, such as, completion of 18 months, two years, etc., would aid in the retention of trained officers. The bonuses would be a one-time, lump sum payment.

Probation/Parole Officers

Salaries: In 1994, the salary range for entry level probation/parole officers in Virginia was \$23,975 to \$36,607. The national median range was \$21,864 to \$32,369. Within the bordering states that reported, North Carolina's range was \$20,656 to \$32,369, Tennessee's was \$15,300 to \$22,716, West Virginia's was \$16,000 to \$21,000. Maryland did not report.

³ For turnover data summary, see Appendix C.

Retirement: This area does represent concern for the probation/parole officers. Generally speaking, individuals performing these services are more career oriented, than most entry level correctional officers. The Virginia Probation and Parole Association is actively seeking inclusion into the definition of "police officer", with respect to inclusion in either SPORS or some program similar to the Law Enforcement Officers Supplement based on a changing job description, which includes, in their view, the carrying of weapons, and substantially more field work involving more risk. More changes are scheduled to take place at the first of the year.

Turnover: In 1995, the turnover rate for Probation Officer & Probation Officer Senior was 6.41%⁴. The statewide turnover rate for all positions was 15.06%. In 1994 the rate was roughly equivalent to the statewide rate. This reinforces the finding that persons in these positions tend to be more career oriented.

Staffing issues: At the present time there are 35,000 active parolees in the system. If the present parole guidelines remain in-place, the number of persons on parole will begin to reduce. However, the number of persons on probation is increasing. If the guidelines are changed, staffing may become an issue and should be revisited at that time.

Recommendation 1: A new staffing study for the Department of Corrections should be made as soon as possible. Particular emphasis should be placed on security staff and probation/parole officers.

Recommendation 2: The salary for entry level correctional officer should be raised to the same amount as the Compensation Board base amount for that of a deputy sheriff. In addition the funding levels for all uniformed security personnel, through major, should be increased by a like amount to prevent "compressing" the salary scale.

Recommendation 3: The existing VRS retirement plan for correctional officers should not be changed at this time. To assist in the efforts in recruitment and retention within the Department of Corrections, this issue should be revisited within the next two years, as part of a follow-up assessment on the impact of actions taken this year.

Recommendation 4: Retirement benefits for probation/parole officers should be reevaluated next year, based on changing job requirements, that makes their work more related to enforcement than it has been in the past.

⁴ For turnover rate data see Appendix C.

D. Juvenile Justice Issues

In the course of this study, the Corrections Subcommittee of the Virginia State Crime Commission became aware of a number of issues concerning juvenile corrections. These included training and compensation of security staff and the availability of teaching materials at juvenile correctional centers. The subcommittee visited the Beaumont Juvenile Corrections Facility and received a briefing from the Director of the Department of Juvenile Justice on a number of concerns that the subcommittee had. As a result of that information, the following recommendations are being made:

Recommendation 1: The training for the Department of Juvenile Justice security staff should be made comparable with Department of Corrections security staff. The Department of Criminal Justice Services should develop these training guidelines as soon as possible.

Recommendation 2: The salary for Department of Juvenile Justice security staff should be made the same as their counterparts at the Department of Corrections. This salary increase should be made through the senior uniformed security staff level to prevent "compressing" the scale. This salary increase should become effective when the training program is implemented.

Recommendation 3: The Department of Correctional Education should ensure that sufficient textbooks and other teaching materials are available at juvenile correctional center teaching facilities.

Recommendation 4: This Subcommittee should continue its oversight of these issues.

VI Resources

Staffing Needs in Virginia's Prisons, House Document No. 26 Crime Commission, 1996

Vital Statistics, American Correctional Association, 1994

Perspectives, American Probation and Parole Association, 1996

VII. Acknowledgements

The Crime Commission staff wishes to thank the Department of Corrections and others for their cooperation and assistance to the Commission in conducting this study.

Ron Angelone, Department of Corrections
Paul Broughton, Department of Corrections
Virginia Probation and Parole Association
Suzanne Tarr, Probation/Parole Officer, District #1

A special thanks is extended to the wardens and staff of the following:

Coffeewood Correctional Center
Dillwyn Correctional Center
Greensville Correctional Center
Powhatan Correctional Center
Chesterfield Community Corrections Unit
Botetourt Correctional Unit

Appendix A

House Joint Resolution 113

1996 SESSION

963347825

HOUSE JOINT RESOLUTION NO. 113

Offered January 22, 1996

Requesting that the Virginia State Crime Commission, in cooperation with certain state agencies, study the retirement benefits of correctional and parole officers, the development of a differential pay system for correctional officers, and the establishment of drug testing policies for employees of the Department of Corrections.

Patrons—Woodrum and Almand; Senator: Howell

Referred to Committee on Rules

WHEREAS, with the increasing number of inmates both correctional officers and probation and parole officers face greater challenges, increased job stresses, and potential personal safety risks; and

WHEREAS, salaries and retirement benefits for correctional officers and probation and parole officers are not on parity with many of the local law-enforcement officials, particularly jail personnel; and

WHEREAS, correctional officers in the more secure facilities face a greater potential for physical injury and severe emotional stress; and

WHEREAS, as a consequence of the increased risk, there are a significant number of transfers to lower custody institutions, other state agencies, and resignations from state service, creating instability in the workforce; and

WHEREAS, probation and parole officers face almost daily contact with ex-offenders with histories of violence; and

WHEREAS, probation and parole officers have increasing caseloads which make it difficult to adequately serve their clients and create serious emotional stress and public safety risks; and

WHEREAS, there is a significant turnover rate for both correctional officers and probation and parole officers; and

WHEREAS, staff retention is critical to public safety issues relating to the responsibility of the Department of Corrections; and

WHEREAS, employees of the Department of Corrections have a responsibility to protect the public safety; and

WHEREAS, questions have arisen as to the potential for substance abuse in some corrections personnel; and

WHEREAS, the Department is dependent upon employees who are free of illicit drugs; and

WHEREAS, employees involved in illegal drug use are susceptible to corruption; and

WHEREAS, illegal drug use poses an unacceptable risk to the Department due to security issues; and

WHEREAS, there are currently no routine or random drug testing policies for corrections personnel; and

WHEREAS, such policies may have a significant fiscal impact on the budget of the Department; and

WHEREAS, the Virginia State Crime Commission, in a study on staffing issues in Virginia's adult correctional institutions, recommended that a study be conducted to develop recommendations which provide a means for the development of competitive benefits to enhance recruitment and retention of correctional officers and probation and parole officers, the development of a differential pay system for institutional personnel, and the development of drug testing policies for corrections personnel; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to conduct a study on retirement benefits for correctional officers and probation and parole officers to determine strategies to improve recruitment efforts and retention of correctional officers and probation and parole officers; develop a differential pay system for institutional personnel; and propose drug testing policies for corrections personnel for consideration by the 1997 General Assembly. The Department of Corrections, the Department of Personnel and Training, and the Department of Planning and Budget shall provide technical assistance. The Crime

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- 1 Commission staff will also work with the staffs of the House Appropriations and Senate Finance
- 2 Committees to determine the fiscal impact of the recommendations.
- 3 The State Crime Commission shall complete its work in time to submit its findings and
- 4 recommendations to the Governor and the 1997 Session of the General Assembly as provided in the
- 5 procedures of the Division of Legislative Automated Systems for the processing of legislative
- 6 documents.

Official Use By Clerks			
Passed By		Passed By The Senate	
The House of Delegates			
without amendment	<input type="checkbox"/>	without amendment	<input type="checkbox"/>
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_____ Clerk of the House of Delegates		_____ Clerk of the Senate	

Appendix B

Virginia Department of Corrections Draft Drug Testing Policy

PURPOSE. To establish procedures for the urinalysis testing for illegal drug use by Department of Corrections employees, applicants and volunteers and procedures for alcohol testing for reasonable suspicion and post accident.

AUTHORITY. Department of Personnel and Training Policy 1.01 and 1.05.

EFFECTIVE DATE. To be determined.

APPLICABILITY. a. The procedures for random urinalysis drug testing apply to all full and part-time salaried employees, wage employees and contract employees of the Department of Corrections who work in correctional facilities, detention facilities, boot camps, Probation and Parole Offices, central or regional offices if they can access and modify inmate, employee or payroll records or data bases, or if they routinely enter correctional facilities or Probation and Parole Offices, and management employees in the central and regional offices to include the executive staff, regional directors, regional administrators, regional managers .

b. The procedures for urinalysis drug testing and alcohol testing when reasonable suspicion exists or post accident apply to all full and part-time salaried employees, wage employees, contract

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employees, and volunteers.

c. Employees of other state agencies (such as the Departments of Correctional Education, Transportation and Motor Vehicles) who work within the perimeter of adult institutions or who provide supervision to inmates or probates are subject to random testing, testing for reasonable suspicion and post accident testing.

d. Applicants for all positions (salaried, wage and contract) with the Department of Corrections are subject to pre-employment drug testing. Applicants of other state agencies for positions which work within the perimeter of adult institutions or provide inmate or probate supervision are subject to pre-employment drug testing. Applicants who test positive will be excluded from employment consideration with the Department for one year.

DISCUSSION. Employees of the Department of Corrections have a responsibility to protect the public safety. Additionally, employees have the right to work in an environment where the internal security is not jeopardized by fellow employees who are engaging in illicit drug usage. The safe and efficient operation of the Department is dependent upon employees who are free of illicit drugs. Therefore, employees and volunteers of the Department must be free of illicit drugs at all times. The use of illegal drugs by employees undermines Department's ability to perform its mission of inmate/probate supervision and control and the public's perception of the Department to fulfill its mission. Employees involved in illegal drug use are susceptible to

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corruption and pose an unacceptable risk to the Department based on issues of security and civil liability.

DEFINITIONS.

Applicants - A person seeking employment with the Department of Corrections in an hourly (wage) or salaried position, on a contract, or seeking a position in another state agency that works within the perimeter of an adult institution or supervises inmates or probates.

Employee - A person who is paid by the Department of Corrections on an hourly, salaried, or contractual basis; or who is paid by another state agency for working in a position within the perimeter of an adult institution or a position which supervises inmates or probates.

Drug and Alcohol Testing for Reasonable Suspicion - The testing of the employees when management has a reasonable suspicion to believe that the employee may have used illegal drugs or is under the influence of alcohol.

False Sample - Any specimen submitted for analysis which has not been voided by the individual at the time and place ordered. Or any sample to which an adulterant has been added.

Illegal Drugs - Any drug or substance found in 54.1-3401 and

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Schedules I through VI of 54.1-3446 through 3456 of the Code of Virginia, as amended, and Section 202 of the Controlled Substances Act (21 U.S.C. 812). This also includes illegal or unprescribed use of controlled substances (prescription drugs).

Post Accident Drug Testing - The testing for illegal drug use or for being under the influence of alcohol following an employee accident that results in the following:

1. death, or personal injury requiring immediate medical treatment or loss time,
2. or property damage in excess of \$1,000.

Random Drug Testing - is a process for selection of individual employees to be tested which (a) results in an equal probability that any employee from a group of employees subject to the process will be selected, and (b) does not allow the unit head or any other component of management the discretion to waive the testing of any employee selected under the process.

Reasonable Suspicion - Reasonable Suspicion exists when management has knowledge which is sufficient to lead an ordinarily prudent and cautious person to suspect illicit drug use and possession under the circumstances. Reasonable Suspicion must be directed at a specific person; be based on specific facts which can be articulated; and be based on the logical inferences

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and deductions that can be drawn from those facts. Reasonable Suspicion may be based upon, among other matters: observable phenomena, (such as direct observation or the physical symptoms of using or being under the influence of illegal drugs, controlled substances or alcohol such as, but not limited to slurred speech, disorientation, a pattern of abnormal conduct or erratic behavior); information provided either by reliable and credible sources; or information which is independently corroborated.

Regularly Scheduled Drug Testing - The supervision and monitoring of employees who have voluntarily admitted that they have a substance-abuse problem, have been through a treatment program, and have returned to work.

Voluntary Identification - The process by which employees make known to management their substance abuse problems and seek treatment. Employees may inform their supervisor, unit head or Human Resource Officer. Employees who do not voluntarily identify themselves to management prior to being ordered to report for drug testing may not exercise this option.

PROCEDURES

VOLUNTARY IDENTIFICATION. A. There will be a 90 day period between the effective date of this policy and the implementation

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of random, reasonable suspicion and post accident drug testing.

B. Either during the 90 day initial period or later, employees identifying themselves as having an illegal substance abuse problem will be referred to an Employees Assistance Service for evaluation and referral for treatment. Such identification may be made to the supervisor, organizational unit head, or Human Resource Officer. Employees may use appropriate leave to participate in treatment programs.

Employees must successfully complete a treatment program (successful completion as defined by the treatment program) before being allowed to return to work and will be subject to regularly-scheduled testing for a period of two years. Employees who do not satisfactorily complete the prescribed treatment program within the time prescribed by the program will have their employment terminated. An employee may only voluntarily identify himself once. On the second occasion, his employment will be automatically terminated for, "Illegal conduct which endangers the public safety, internal security, or affects the safe and efficient operation of the Department".

An employee shall be allowed the option of resigning in lieu of termination on the occasion of an attempted second Voluntary Identification. A notation will be made in the employee's personnel file that, "He/she resigned after admitting to illegal conduct which endangers the public safety, internal security, or affects the safe and efficient operation of the Department".

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After the initial 90 day period of voluntary identification, probationary employees who voluntarily identify themselves will be separated for "unsatisfactory performance during the probationary period."

SUBSTANCES TO BE INCLUDED IN THE DRUG SCREENING TEST. Specimens will be tested for the following substances:

Marijuana

Cocaine

Opiates

RANDOM TESTING. a. All employees subject to random testing will be informed in writing (see Appendix A) of the requirement that they submit to random drug testing. The organizational unit head is responsible for this notification. A copy of the notification form will be signed by the employee and will be retained in the employee's official personnel file.

b. The random drug testing program will begin 90 days after the effective date of this policy.

c. The Management Information Systems Unit (MIS) or the drug testing contractor will be responsible for the development of and implementation of a computerized system that randomly selects employees for drug testing under the random testing program.

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d. Employees will be required to provide a urine sample to the contractor or designated Department sample collector. The contractor will divide the sample so that any retest can be done from the second half of the sample. Employees taking prescription medication are required to inform the collector of the medication they have taken (not the reason for taking the medication) on the day they provide the sample. The Department reserves the right to verify this information with the prescribing physician.

e. Employees who test positive for illegal drug use on the initial screen will have their test results verified by the contractor through a second confirmation test using an alternate testing methodology with a greater sensitivity than the initial test.

f. A medical review officer will make a final review of all drug tests reported as positive by the contract laboratory. The medical review officer will contact the employee and will review any information provided at the time of collection as to medications taken. If the medical review officer determines there is a legitimate medical explanation for the positive test result, the tests results will be reported as negative.

g. Employees who are confirmed to be positive will be dismissed from the Department of Corrections for, "Illegal conduct which endangers the public safety, internal security, or affects the

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safe and efficient operation of the Department".

h. Employees who are confirmed positive for illegal drug use on the second test may request within 15 days that their original specimen be submitted to re-testing by a Department approved laboratory at the employee's expense. (The contractor is required to maintain enough of the specimen for an additional test.) Employees will be reimbursed the cost for re-testing which results in a confirmed negative report. Employee re-testing which results in a confirmed negative report shall be considered to be negative for illegal drugs and the results of the first test shall be expunged.

i. Employees who submit false samples will be dismissed for, "Willful violation of a direct order which could endanger the public safety, internal security, or affect the safe and efficient operation of the Department".

j. Employees who refuse to submit to random drug testing will be dismissed for, "Failure to follow a direct order which could endanger the public safety, internal security, or affect the safe and efficient operation of the Department".

j. Employees who fail to provide a sample after inducements (such as drinking water, running water over hands, etc.) will be treated as if they refused to submit to random drug testing. Employees will be given four hours to provide such a sample if needed.

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k. The personnel records of employees who resign when ordered to report for random drug testing will reflect the notation, "Employee resigned when selected for random drug testing".

REASONABLE SUSPICION TESTING. a. If reasonable suspicion exists as defined on page __, any employee may be required to submit to drug testing. Whenever possible, the facts will be discussed with the human resource officer before ordering the drug test. The organizational unit head, or in his absence the officer in charge, must agree that reasonable suspicion exists and approve the ordering of the drug test. Samples taken for such test may be taken at the unit under the witness of a same sex employee. The chain of evidence for such samples must be carefully followed to ensure that the sample is submitted properly to the drug test contractor. An employee may be placed on a 10 day suspension for disciplinary investigation pending the results of the test for illegal drug usage. The employee will also be required to submit to alcohol testing.

b. Refusal to submit to drug and alcohol testing will result in employment being terminated for, "Failure to follow a direct order which could endanger the public safety, internal security, or affects the safe and efficient operation of the Department."

c. An employee who fails to provide a sample after inducements (such as drinking water, running water over hands, etc.) will be

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treated as if he had refused to submit to reasonable suspicion drug testing. Employees will be given four hours to provide such a sample if needed.

d. Any volunteer who appears under the effects of a controlled substance, thereby creating reasonable suspicion will be requested to submit to drug testing. Samples taken for such test may be taken at the unit under the witness of a same sex employee. The chain of evidence for such samples must be carefully followed to ensure that the sample is submitted properly to the drug test contractor. Failure to submit will result in the volunteer being removed from the unit and not allowed to continue as a volunteer in the Department. The volunteer will also be required to submit to alcohol testing.

REGULARLY SCHEDULED TESTING. a. Employees who have voluntarily identified themselves as illegal drug users and have then successfully completed a treatment program, will be tested on a regular basis. This testing will be at least bimonthly and may be at any time during working hours for a two year period following the employee's return to work.

b. Refusal to submit to drug testing will result in employment being terminated for, "Failure to follow a direct order which could result in a weakening of security".

c. An employee who fails to provide a sample after inducements

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(such as drinking water, running water over hands, etc.) will be treated as he refused to submit to regularly scheduled drug testing. Employees will be given four hours to provide such a sample if needed.

POST ACCIDENT DRUG TESTING. a. After an accident that results in more than \$1,000 in property damage, death, or personal injury to an employee, inmate or offender or lost time of an employee, the supervisor will require the employee to submit to drug testing if physically able to do so. Samples taken for such test may be taken at the unit under the witness of a same sex employee. The chain of evidence for such samples must be carefully followed to ensure that the sample is submitted properly to the drug test contractor. The employee will also be required to submit to alcohol testing.

If an accident results in hospitalization or death and if blood specimens are taken for the drug and alcohol tests, they must be taken by medical personnel.

b. Refusal to submit to drug and alcohol testing will result in employment being terminated for, "Failure to follow a direct order".

c. An employee who fails to provide a sample after inducements (such as drinking water, running water over hands, etc.) will be treated as he refused to submit to accident drug testing.

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Employees will be given four hours to provide such a sample if needed.

APPLICANT TESTING. Prior to a final offer of employment, an applicant will be tested for illegal drug use, and if positive, the proposed offer of employment will be rescinded. The Director may waive the requirement that the drug test results are received prior to the offer being made, in which case, the offer is contingent on negative results being received.

Applicant illegal drug testing will be done using an on-site testing capability, such as On Track, by Department employees. Samples taken for such tests will be taken by a witness of the same sex or medical personnel. The applicant will be provided with the opportunity to provide information concerning medications taken but not the reason for the medication. The chain of evidence for such samples must be carefully followed to ensure that all positive samples are sent to the contractor for confirmation test.

A medical review officer will make a final review of all drug tests reported as positive by the contract laboratory. The medical review officer will contact the applicant and will review any information provided at the time of collection as to medications taken. If the medical review officer determines there is a legitimate medical explanation for the positive test result, the tests results will be reported as negative.

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Any applicant who tests positive for illegal drug use is ineligible for employment with the Department for a period of one year from the date of the tests.

CONFIDENTIALITY AND RETENTION OF DRUG TEST RESULTS. The results of any drug testing will be confidential. The results will be reported to the Department's drug testing coordinator. The drug testing coordinator will only release the information to the organizational unit head, supervisor (only on a need to know basis to take action), and the Human Resource Officer. At the employee's request, a copy of his drug test results will be provided. The Drug Testing Coordinator will maintain a separate locked confidential file for drug test results. All drug test results will be retained for a period of three years after which they will be destroyed by burning, shredding or some other method which ensures confidentiality.

TRAINING FOR MANAGERS AND SUPERVISORS. Managers and supervisors will receive training and information on areas such as:

- employee referral to an EAP
- procedures and requirements for drug testing
- signs of possible drug use
- confidentiality

Appendix C

Virginia Department of Corrections Turnover Rate Data
(1988 - 1995)

TURNOVER DATA

<u>Fiscal Year</u>	<u>Statewide</u>	<u>Probation Officer</u>	<u>Probation Officer Senior</u>	<u>Combined Probation Officer & Probation Officer Senior</u>	<u>Combined Corrections Officer and Corrections Officer Senior</u>
'95	15.06%	6.33%	7.32%	6.41%	18.17%
'94	9.28	9.70	2.86	9.23	14.27
'93	9.47	9.22	0	8.73	13.69
'92	12.33	8.97	9.09	8.97	13.73
'91	10.13	6.70			13.30
'90	11.55	13.46			17.91
'89	11.01	9.42			15.93
'88	11.49				16.06

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