

**FINAL REPORT OF THE DEPARTMENT OF
CRIMINAL JUSTICE SERVICES**

**FINAL EVALUATION OF THE
ITEM 74 INCENTIVE PROGRAM:
GRANTING REVENUE TO
ENCOURAGE THE DIVERSION OF
OFFENDERS FROM JAILS**

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



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EXECUTIVE SUMMARY

This evaluation was conducted by the Department of Criminal Justice Services (DCJS) pursuant to Item 74 of the 1993 Appropriations Act, and Item 87 of the 1994 and 1995 Appropriations Acts. Item 74 established a monetary incentive program to encourage sheriffs and jail administrators to divert certain offenders from jail in an attempt to reduce crowding.

The Item 74 program granted localities a per diem payment of \$8.00 for each qualified offender diverted from jail. Offenders targeted for diversion were prisoners incarcerated in local jails, regional jails and jail farms who were arrested on state warrants. Diverted offenders had to be prisoners who otherwise would be housed in one of these facilities, and who would not otherwise be sentenced to community service or placed on probation. Local programs intended to be eligible for participation included supervised work experience, treatment and electronic monitoring programs. Twelve localities and five regional jails applied and were approved to participate in the program by the Department of Corrections (DOC).

Implementation and monitoring of the Item 74 program experienced problems due to several factors. First, DOC's program efforts were restricted because no additional funds were appropriated to DOC for implementation, maintenance or monitoring of the Item 74 program. Second, DOC had only three months in which to implement the program. Third, the legislative language for the Item 74 program was vague about certain aspects of the program.

The Item 74 program implementation and evaluation also was hampered by the fact that DOC implementation and DCJS evaluation efforts began at different times. Ideally, both efforts should have started simultaneously, allowing DOC program staff and DCJS evaluation staff to jointly develop program reporting requirements, and allowing input from DCJS staff familiar with jail diversion programs and assessing eligibility for program participation. However, DOC had only three months to implement the program, and program implementation began before DCJS became involved. DOC issued criteria for programs and offenders eligible to participate which differed from the criteria established by the Item 74 legislation. Furthermore, DOC approved some programs not in accord with the intent of the Item 74 legislation because the initial approval process did not require localities to provide information on their diversion policy and procedures. Had the approval process required submission of this data, DOC would have been able to avoid approving some of these programs not eligible to participate.

Several issues concerning program eligibility were not raised until after some programs were approved for Item 74 participation. To deal with and resolve these issues, an "Ad Hoc Implementation Committee" was formed consisting of staff from DOC, DCJS, Department of Planning and Budget, the Compensation Board, and House Appropriations and Senate Finance Committee staff. This committee added an additional program eligibility criterion, that approved programs not be receiving other state revenue.

The Commonwealth's DC-J7 system for reporting local jail inmate population data to DOC did not provide reliable information for issuing and monitoring payments for the local confinement or diversion of local responsible offenders. There is no adequate auditing system to ensure the reliability or validity of the DC-J7 data, and the system is heavily dependent on inefficient manual processes to identify and resolve problems. As a result, DOC, the Compensation Board, and localities are unable to reliably track the operations or impacts of programs designed to encourage diversions from local jails. These problems contributed to several ineligible programs being approved for Item 74 program revenue, and in at least one case to a program receiving revenue far in excess of what it was authorized to receive.

Although inmates were diverted from jails under the Item 74 program, available data indicated that the program did little to increase the overall diversion of inmates from jails participating in the program. An examination of average monthly population data for the six months prior to the program and during a six month period following program participation showed virtually no change in offender populations. It appears that the major reason the Item 74 program did not increase jail diversions is that most of the programs eligible under the program criteria were home electronic monitoring (HEM)* programs. Although HEM programs were the most suited to the Item 74 language, these programs have several characteristics which limited their ability to increase diversions. Diversion to HEM programs is constrained by statute-based criteria that limits participation to non-violent sentenced offenders. Additionally, some jail managers reported that the revenues they received under the Item 74 program did not provide enough of a financial incentive to expand HEM programs.

The question of whether or not the Item 74 program should be expanded has been overtaken by recent, broader legislation encompassing many issues addressed by Item 74. The Comprehensive Community Corrections Act and the Pretrial Services Act, passed by the 1994 General Assembly Special Session, requires localities which accept state financial assistance for constructing correctional facilities to establish programs which serve as alternatives to incarceration. The Governor also amended Item 87 of the 1994-1996 budget so localities will be apportioned shares of a block grant that local officials may use to either incarcerate certain offenders or to divert them to pre-trial or "alternative to incarceration" programs. Additionally, the amended Item 87 provides that certain offenders targeted under the Item 74 program will remain eligible for a per diem payment from the Compensation Board, but makes no distinction between payments for confined offenders and offenders diverted from jail.

This evaluation identified problems and issues encountered during the implementation and monitoring of the state-funded Item 74 local jail diversion program. By identifying these problems and issues and making involved parties aware of them, it may help them avoid similar problems with future programs. However, because the above legislative and budgetary actions supplanted the Item 74 program with broader community corrections initiatives, no recommendations are made concerning the Item 74 program.

* In this report, Home Electronic Monitoring (HEM) refers to electronic monitoring programs in general, and includes home electronic/incarceration, electronic incarceration, and electronic surveillance.

AUTHORITY FOR STUDY

The 1993 Appropriations Act language which established the Item 74 program directed the Department of Corrections (DOC) to administer the program and the Department of Criminal Justice Services (DCJS) to evaluate the effectiveness of the program and to present a preliminary report to the 1994 General Assembly. The preliminary report (State Incentive Payment for Local Prisoners in Alternative Punishment Programs, DCJS, January 6, 1994) was submitted to the Subcommittee on Public Safety, Senate Finance Committee, in January, 1994. The preliminary report stated that the evaluation would be conducted in 1994 and a final evaluation report submitted to the 1995 General Assembly.

Language concerning the Item 74 program was carried over intact in the Appropriations Acts of 1994 and 1995, although the Item number was changed to Item 87 in these Acts. DCJS was again directed to evaluate the program and to present a report to the 1995 General Assembly. Due to difficulties encountered obtaining and analyzing data on the Item 74 program, completion and delivery of the evaluation report was delayed until June of 1996.

BACKGROUND

The need to divert state and local-responsible offenders from local jail facilities has been a concern of state lawmakers for more than a decade. During the 10-year period from 1985 to 1995, the number of inmates in Virginia's jails increased from 6,380 to 13,981, an increase of 119%. The 1990 report of the Commission on Prison and Jail Overcrowding (COPJO) recommended, among other measures, the development and expansion of jail diversion programs such as Home Electronic Monitoring, Intensive Supervision, and Pre-Trial Services Programs to encourage the diversion from jail of misdemeanants and nonviolent offenders.

One response to the need to divert nonviolent offenders from jails and reduce overcrowding was Item 74 of the 1993 Appropriations Act, which authorized funds previously used only to support the confinement of offenders arrested on state warrants to be used as a means of encouraging their diversion from local jails. Item 74 authorized localities or jail boards to receive an \$8 per diem from the Compensation Board for each day that certain types of offenders were diverted from, rather than confined in, a local jail. The payment was to come from the budget used to pay localities for the confinement of state responsible offenders. This budget ("Financial Assistance for Confinement in Local Facilities (3560000)") was \$53,704,565 for FY 1993-94.

PROGRAM DESCRIPTION

Offenders Targeted for Diversion

The Item 74 program (hereafter referred to as I74P) language directed that the \$8.00 per diem be paid only for the diversion of “prisoners arrested on state warrant in local jails, regional jails and jail farms.” Additionally, payment was limited to certain types of offenders. Qualified I74P diversions:

- must involve “prisoners that would otherwise be housed in a local correctional facility;”
- must not involve prisoners who would be otherwise sentenced to community service; and,
- must not involve prisoners who would be otherwise placed on probation.

Programs Eligible for Item 74 Participation

I74P language stated that “no payment shall be made unless the (diversion) program has been approved by the Department of Corrections.” It also stated that these programs:

- “be operated by, or under the authority of, the sheriff or jail board;” and,
- “may include supervised work experience, treatment, and electronic monitoring programs.”

EVALUATION GOALS AND METHODOLOGY

The goals of the I74P evaluation were to assess the following:

- The process and procedures used to implement the I74P;
- I74P costs in relation to any savings it produced;
- The impact of the I74P per diem payments on jail diversion rates and jail crowding; and,
- Whether the I74P should be modified or expanded.

Due to difficulties encountered obtaining and interpreting data on I74P, the evaluation focused mainly on the implementation of the program, with limited data collected and presented on program expenditures and impact on jail diversions. Because recent legislation supplanted the I74P (see page 15), I74P modification or expansion was not addressed.

The evaluation was conducted by interviewing DOC officials who implemented the I74P procedures and local jail officials who participated in the program. Additionally, the following data and sources were used:

- Locality “alternative day” data obtained from DOC financial assistance analysts responsible for validity of local inmate population data reported to DOC;
- Case-specific data on I74P diversions completed between July 1, 1993 and December 31, 1994 obtained from DOC Management Information Systems staff;
- I74P payment data obtained from the Virginia Compensation Board;
- Population data on local responsible offenders in jails obtained from DC-J7 data; and,
- Daily population and monthly diversions data obtained from I74P approved programs.

EVALUATION FINDINGS

ITEM 74 PROGRAM IMPLEMENTATION

Introduction

DOC officials faced several factors which restricted their efforts to implement I74P. First, no additional funds were appropriated to DOC to implement, maintain, or monitor the I74P. Second, DOC was given only two to three months to implement the program. Third, I74P language, especially that describing program and offender eligibility requirements, was vague in terms of operational definition.

DOC Implementation

The I74P legislation directed DOC to implement, and DCJS to evaluate, I74P. Ideally, both efforts should have started simultaneously, allowing DOC program staff and DCJS evaluation staff to jointly develop program reporting requirements, and allowing input from DCJS staff familiar with jail diversion programs and assessing eligibility for program participation. However, DOC was given only three months to implement I74P, and implementation began before DCJS became involved. Prior to the July 1, 1993, implementation date, DOC issued memos describing the program and program application/approval forms to sheriffs, jail administrators, and DOC regional administrators. Jail officials were encouraged to submit programs to DOC for I74P participation approval.

For the most part, the DOC implementation memos described I74P offender/program eligibility criteria using language in the Item 74 legislation. However, in some instances the DOC implementation memos described the Item 74 program differently from the description in the I74P legislative language. For example, the DC-J7 report is used by local jail officials to report their facilities' monthly population to DOC, and is the basis for state reimbursements to local jails. DOC's definition of “alternative to incarceration program” in the post-1992 glossary of the DC-J7 Procedures Manual described such programs as intended exclusively for the diversion of local responsible offenders. I74P language does not restrict participating offenders to local responsible inmates. It is unclear why DOC's descriptions differed from the legislative description.

DOC officials implemented I74P reporting by expanding the DC-J7 procedures used to report and calculate a locality's "total" (also referred to as "prisoner") days - the days that accrue to a locality, and for which a per diem is paid, when state responsible offenders are confined in the locality's jail. DOC developed and added to the DC-J7 instruction manual fifteen special codes for reporting I74P offenders to DOC. Among these are seven "reason for release" codes to indicate when an offender is released from jail confinement and placed in an approved alternative program; seven "reason for confinement" codes to record the number of days an offender remains in diversion status; and one "reason for release" code to indicate the date the divertee is released from diversion (i.e. has fulfilled the conditions of his or her sentence). The DOC DC-J7 codes also indicated DOC's belief about which types of jail operated alternative programs were eligible for I74P participation. Descriptors for these codes referred to the following programs: Home Electronic Monitoring, Pretrial, CDI, Pre-Release, Day Reporting, Supervised Work Experience, and Treatment.

The form DOC provided to sheriffs and jail administrators to use to apply for participation in the I74P required the applicants to indicate the type of alternative programs operated by their facility by choosing from the following list: supervised work experience, treatment, electronic monitoring, pre-trial supervision, community diversion incentive, community custody (pre-release/day reporting center), and "other." However, the form did not require applicants to submit a description of their standard operating procedures for placing offenders in the programs. Furthermore, the application process did not recognize that courts can establish programs to provide community services and can place offenders on probation for community service.

DOC indicated that it did require applicants to submit policy and procedures information necessary to identify programs eligible for I74P, and that many programs were not approved based on this information. Although program data was requested by DOC at a later date to obtain information needed to establish caseload baselines, the evaluation staff found no record that such information was requested or used by DOC during the initial process of selecting and approving programs for participation in the I74P. Because the initial program approval process apparently did not require submission of this information, DOC approved several programs for I74P even though the programs did not conform to requirements of the I74P authorization language (see pages 8 - 10 for a description of these programs).

Following DOC's announcement of the I74P, 12 localities and five regional jail authorities applied and were approved for I74P participation. DOC declared nineteen alternative programs qualified to earn I74P revenue, including 16 HEM programs, one modified work release program, one work release/community placement program, and one pretrial diversion program. Table 1 presents basic information on programs approved for I74P participation, including approval date, program population, and amount of I74P revenue earned through December, 1994.

Table 1 Programs Approved for I74P Participation			
Program	Date Approved for I74P	Average Daily Population (CY94)	I74P Revenue Earned Through 12/94
Alexandria City MWR	07/93	12.5	\$42,466
Alexandria City HEM	07/93	2.0	\$4,006
Arlington Co. HEM	09/93	23.5	\$3,456
Central VA Regional Jail HEM	07/93	1.0	\$12,216
Chesapeake City HEM	09/93	4.2	\$7,032
Chesterfield Co. HEM	07/93	13.0	\$58,504
Fairfax Co. HEM	08/93	15.0	\$0
Hampton City HEM	07/94	N/A*	N/A*
Henrico Co. HEM	07/93	8.0	\$28,552
Hopewell City HEM	07/93	N/A*	N/A*
Loudoun Co. HEM	07/93	6.2	\$6,984
Middle Penn. Regional Jail HEM	07/93	9.0	\$19,312
Newport News City HEM	08/93	9.2	\$3,528
Norfolk City HEM	08/93	22.5	\$23,088
Prince William Regional Jail HEM	11/93	5.6	\$0**
Rapp. Security Center Pretrial	07/93	74.7	\$251,372
Rapp. Security Center HEM	07/93	8.4	\$34,148
Rock/Harris Reg. Jail WR-CP	07/93	1.1	\$0***
Scott Co. HEM	11/94	0.2	\$472

HEM: Home Electronic Monitoring
MWR: Modified Work Release
WR-CP: Work Release/Community Placement

* Programs were initially approved for I74P, but programs then decided not to participate (see page 9).

** Program was approved for I74P, but reimbursement funding data not available at time of evaluation data collection due to delay in jail's request for reimbursement (see page 10).

*** Program inadvertently approved but then discovered to be ineligible (see page 10).

Soon after the I74P was announced by DOC, uncertainties about the program arose. There were questions about the eligibility of various programs already approved, and about DOC implementing the program without consulting other parties with interests in the program and with more experience screening such programs.

To address these and other concerns about I74P implementation, an "Ad Hoc Implementation Committee" was convened in August, 1993. The committee consisted of representatives from DOC, DCJS, Department of Planning and Budget, the Compensation Board, and House Appropriations and Senate Finance committee staff. The Committee considered whether I74P revenue should be granted for all offenders in approved diversion programs beginning July 1, 1993, or be granted only for diversions beyond a baseline number of offenders typical for each of these programs. Based on the lack of data needed to construct program baseline rates, the Committee decided that I74P per diem revenue should be granted for every offender assigned to an approved diversion program on or after July 1, 1993.

The Ad Hoc Implementation Committee also discussed concerns about which diversion programs were eligible for I74P participation, including some programs already approved for program eligibility. In addition to the existing statutory criteria for I74P eligibility, the Committee added the criterion that the alternative program not be receiving operating revenue from any other state budget. This criterion was added because of concern that managers of some state-assisted programs would object if some programs already receiving state assistance were also eligible to receive state assistance through I74P.

The Ad Hoc committee's concerns about the eligibility of programs already approved for I74P participation by DOC centered on several specific programs. These programs included the following:

Alexandria Modified Work Release Program (ALEX-MWR)

The Alexandria Modified Work Release Program appeared to violate the criteria for I74P eligibility for several reasons. First, offenders assigned to ALEX-MWR are sentenced to community service by local judges as punishment or as a means of exacting restitution, which appeared to violate the I74P language which excludes offenders who would otherwise be sentenced to community service. Second, offender assignment to ALEX-MWR did not appear to constitute a true diversion (i.e., without the diversion, the offender would have remained in jail). These offenders usually came to court on bond, and after sentencing are detained in jail only for the time it takes to register them in the community service program. They are then released to reside at home and work at a community service job for four to eight days a month under the supervision of the jail's work release staff. Third, the ALEX-MWR program is administered by jail "work release" staff whose salaries are partially paid for by another state funding source.

Rappahannock Security Center Pretrial Program (RSC-PT)

The Ad-Hoc committee determined that pretrial programs were not appropriate for I74P participation because offenders are placed in these programs by judicial officers rather than local jails. Because the RSC pretrial program had already been approved by DOC for I74P participation, the Ad-Hoc Implementation Committee approved its continued participation subject to two conditions: 1) its participation was to constitute a one-year long pilot project, 2) the amount of I74P per diem revenue the RSC-PT could generate was to be limited to the amount of its local cash match for pretrial and electronic monitoring programs.

Home Electronic Monitoring (HEM) Programs

There are at least two ways offenders may be placed in jail-operated HEM programs. First, the offender may be sentenced to probation and assigned to HEM as a condition of probation. Second, an offender confined to jail may be selected by jail officials as being qualified for HEM placement based on criteria in the Code of Virginia, Section 53.1-131.2. Jail authorities notify the Commonwealth Attorney and the court, after which the offender serves the remainder of his/her sentence on HEM.

An offender placed on HEM under the first scenario would not qualify as an I74P diveree because they would violate the eligibility criterion prohibiting persons who would otherwise be placed on probation. Offenders placed on HEM under the first scenario may also constitute a “judicial-initiated” rather than a “jail authority initiated” diversion. These HEM offenders may also violate the criterion requiring a true diversion because the offender was never confined in jail in the first place.

Nonparticipation by Some I74P Approved Programs

Of the 19 programs authorized for I74P participation by DOC, five experienced implementation problems that either prevented their participation (three programs) or delayed their participation (two programs). One other program was inadvertently approved, and one locality opened and closed an approved HEM program within five months because the program’s staff were disappointed with the equipment and frustrated by the demands of the program.

Officials of two of the three programs approved but which did not participate (Hampton and Hopewell) said the primary reason for their nonparticipation was the reluctance of their local judges to use HEM for jail diversion. In Hampton, use of HEM also was hampered by a dispute over which local public safety agency was to provide program staffing. An official of the third approved program which did not participate (Fairfax) stated that its’ jail’s DC-J7/J8 personnel were never informed of their HEM program’s approval nor of the procedures for seeking I74P reimbursement.

Officials of the two programs whose participation was delayed (Prince William and Alexandria HEM) did not request I74P reimbursement until nine and ten months following their programs' approval. These delays were caused, in part, because the local court continued to refer offenders eligible for HEM programs to the local work release programs. The Rockingham/Harrisonburg work-release/community placement program was inadvertently approved for I74P during the first round of program applications, but actually did not qualify because its participants were mainly persons sentenced to community service.

Reporting of I74P Diversions

A major reason for difficulties implementing and monitoring the I74P is limitations and inefficiencies in the DC-J7 system which is used to report monthly jail inmate population data to DOC. The manual spreadsheet now used by jails to report this data to DOC has space limitations which do not allow a separate reporting of the number of "alternative days" claimed for reimbursement. DC-J7 jail reporting staff told evaluators that when reporting DC-J7 data to DOC, they combine the reported number of "alternative days" for reimbursement with the reported number of "total days" for reimbursement, which includes both local responsible inmates and state responsible felons. This practice is further encouraged because both the alternative days and total days reported each yield the same \$8.00 per day reimbursement amount (i.e., there is no financial reason for distinguishing the two, since the total amount reported for reimbursement is the same regardless of whether or not the two types of inmates are distinguished).

After receiving the DC-J7 data reported by jails, DOC automates it and performs a computerized edit-check of the data. As previously noted (see page 6), DOC provided localities with "reason for release" and "reason for confinement" codes to designate I74P inmates in their DC-J7 reports. The edit-check program reads these codes and at this point is able to calculate a total number of "alternative days" reported by each jail. However, the program's ability to correctly determine alternative days is limited. For example, the DOC MIS staff acknowledged that the edit-check program cannot determine if jail officials are applying the DC-J7 reporting codes correctly, and that the edit-check has only a limited ability to identify incorrectly keyed data. Finally, when errors are revealed by the edit-check program, they must be checked and resolved by a laborious manual process. A printed output listing of error messages produced by the program is reviewed by two DOC editors who examine, on a page-by-page basis, error messages produced from data submitted by 95 jails, four of which maintain a population of more than one thousand inmates. It is not uncommon for a single jail to have as many as 100 error messages listed on edit-check output.

Examination of the manual edit procedure and discussions with the DOC DC-J7 editing staff revealed that, although ideally the edit-check process should correct errors in I74P reporting, in practice the laborious manual process can introduce additional errors.

Members of the editing staff stated that the size and layout of the printed edit-check output sometimes leads the edit staff to resolve discrepancies in a jail's count of "alternative" days by adjusting the count of "total" days rather than correcting the count of "alternative" days (again, this has no effect on the final reimbursement amount since the total is the same whether inmates are counted as alternative or total). But the process does produce errors in the calculation of I74P diversion days, despite the edit-check procedure. (Discussions with the DOC edit staff during the evaluation indicated that in most cases the edit staff was unaware of the need to accurately distinguish alternative and total days. These discussions helped to clarify for the edit staff the importance of keeping these counts separate).

Each month, DOC sends its count of each approved locality's alternative days and total days to the Compensation Board. The accuracy of these counts is uncertain due to the factors mentioned above, and because DOC's DC-J7 data is continually being updated. Although DOC notifies the jails of edit-check errors involving their reports and performs an end-of-year balancing to adjust for corrections made during the year, there is no time limitation on the resolution of these errors. Jail DC-J7 report data from the current or a previous year may be corrected any time an error is discovered by local or DOC staff. However, the Compensation Board is required to send out quarterly reimbursement checks on certain dates and, therefore, must use DOC's best estimate of total day and alternative day counts at the time the checks are produced. Due to DOC's open-ended DC-J7 edit-check process, the counts used by the Compensation Board as the basis of locality reimbursement amounts are most likely inaccurate. These amounts do not reflect the future changes in these counts made when the edit-check errors are resolved and/or local officials find other problems in their reported data.

Because "total days" and I74P "alternative days" yield the same \$8.00 per diem for a locality, the Compensation Board combines these two counts and then multiplies the resulting figure by \$8.00. This reimbursement amount is then added to the "felon days" reimbursement amount (number of felon days times the \$6.00 per diem) and a check or wire for the resulting total is sent to the jail's fiscal agent, usually the local treasurer. There is no indication on the check or wire that part of the money sent consists of that earned because of the locality's participation in I74P. The only differentiation made on the wire or check stub is an accounting of the number of "total days" and "felon days" that served as the basis of the check's total. The fact that a locality's count of I74P alternative days has been included in their count of total days is not noted. The treasurer deposits the money in his or her locality's general fund account, or in the case of the three regional jails, into a special income account that supports the basic operation of the regional jail.

Due to these limitations and inefficiencies in the DC-J7 data reporting and editing, one of the approved programs (the Rappahannock Security Center Pretrial Program) received at least \$162,508 more in I74P revenue than was allowed under the cap established by the Ad Hoc Implementation Committee.

Summary of I74P Implementation Problems

As noted earlier, staff, monetary, and time limitations, plus the lack of clear operational definitions in the language of I74P, restricted DOC's capacity to implement I74P in a clear, forthright manner. Additionally, DOC program implementation efforts began prior to DCJS evaluation and assistance efforts. DOC officials tasked with I74P implementation may not have been aware of the many procedures and conditions under which offenders are diverted from jail. Had DCJS been consulted earlier, DOC would have been aware of the need for requiring I74P program applicants to provide data on diversion procedures and on other sources of program funding. Without this information, DOC approved programs whose practices were not in accord with the intent of Item 74.

No specific, detailed I74P guidelines, rules, or regulations were issued by DOC. Except for a paragraph reminding jailers that \$8.00 would be paid for each day a local-responsible offender was diverted to an approved alternative program, there was no language in the DC-J7 instruction manual that identified the new codes as I74P codes and no instructions or examples on how to use them. Nor was there any operational definition of "alternative days," the unit of reimbursement that is critical to a locality's receipt of I74P revenue. These omissions eventually created problems for the jail staff which reported DC-J7 data, the DOC central office staff that had to interpret the DC-J7 data, and for the staff evaluating the Item 74 program. These problems were compounded by the inefficiencies and inaccuracies in the DC-J7 reporting and edit-error resolution process.

The evaluators found that most jail officials and program managers knew little about I74P. They often knew that a per diem was being paid for most offenders in their HEM programs, but were not sure about how or what amount of revenue was being produced. I74P was not perceived as a program separate from the traditional jail assistance program for confinement of state responsible offenders.

Contacts with the local officials also revealed differences in their understanding of how the program operated. For example, one locality approved for I74P failed to use the special DC-J7 codes needed to report their I74P diversions and did not receive its I74P revenue. Another locality also failed to use the special DC-J7 codes, but received revenue because the records of diverted offenders were coded as if they were still being confined.

It appears that DOC did little to promote the I74 program or educate local jail officials about its operation. No regular reports on program problems, or program generated revenue, were sent to the officials of participating localities. Without such feedback, the localities had little motivation to improve or enhance their diversion efforts.

ITEM 74 PROGRAM IMPACT ON JAIL DIVERSIONS

Tables 2A and 2B present data on misdemeanants and felons with I74P diversions from local jails initiated and completed between 7/1/93 and 9/30/94. The tables include only localities with I74P programs which reported at least one person released from the diversion program due to sentence completion. For comparison purposes, the average number of days the diverted offenders spent in jail prior to I74P diversion is also presented for each program.

Program Location and Type	Total Offenders Diverted	Total Days Diverted	Average Length of Diversion (Days)	Average Time Spent in Jail Prior to Diversion (Days)
Alexandria HEM	4	137	34	59
Alexandria MWR	227	2468	11	N/A*
Central VA Regional Jail HEM	7	342	49	8
Chesterfield Co. HEM	22	1181	54	37
Henrico Co. HEM	7	216	31	14
Middle Penn. Regional Jail HEM	21	567	27	10
Norfolk City HEM	8	1033	129	49
Rappahannock Sec. Center HEM	28	1078	39	7
Rappahannock Sec. Center Pretrial	105	6014	57	N/A*
Total	429	13,036		

Program Location and Type	Total Offenders Diverted	Total Days Diverted	Average Length of Diversion (Days)	Average Time Spent in Jail Prior to Diversion (Days)
Alexandria HEM	1	36	36	51
Alexandria MWR	78	1456	19	N/A*
Central VA Regional Jail HEM	11	837	18	50
Chesapeake City HEM	1	157	157	49
Chesterfield Co. HEM	17	1971	116	59
Henrico Co. HEM	1	28	28	145
Loudoun Co. HEM	2	22	11	14
Middle Penn. Regional Jail HEM	6	317	53	9
Norfolk City HEM	11	1076	98	58
Rappahannock Sec. Center HEM	24	1883	78	45
Rappahannock Sec. Center Pretrial	108	9349	87	N/A*
Total	260	17,132		

* These programs did not technically divert offenders because offenders in these programs typically spent little or no time in jail even prior to the I74P. Therefore, no pre-diversion average jail time days are presented.

Tables 2A and 2B show that a total of 429 misdemeanants and 260 felons were diverted from jails under I74P. The number of offenders diverted from jails under I74P ranged from one felony offender each in the Alexandria and Chesapeake City HEM programs to 227 misdemeanant offenders in the Alexandria MWR program. The average length of offender diversions ranged from 11 days for misdemeanants in the Alexandria MWR and felons in the Loudoun County HEM to 157 days for felons in the Chesapeake City HEM.

Table 3 presents a comparison of the average monthly offender populations for all local responsible offenders and offenders in I74P approved HEM programs during the six month period prior to I74P participation and during a six month period commencing nine months after I74P approval. Totals before and after the implementation of I74P are virtually unchanged, indicating that I74P did not increase local rates of diverting offenders from jails.

Table 3 Average Monthly Number of Offenders In I74P Approved Jails Before and After I74P Implementation		
	6 Months Prior to I74P Approval 1/93 - 6/93	6 Months I74P Participation 4/94 - 9/94
Total Local Responsible Population *	1863	1888
HEM Program Average Daily Population **	55	53

* Based on total number of local responsible offenders housed in six jails with I74P approved HEM programs on 7/1/93: Central Virginia Regional, Chesterfield Co., Henrico Co., Loudoun Co., Middle Peninsula Regional, Norfolk City.

** Based on total average HEM daily population in five jails with I74P approved HEM programs on 7/1/93: Central Virginia Regional, Chesterfield Co., Henrico Co., Norfolk City, Rappahannock Security Center.

It appears that a major reason I74P did not increase diversions from jails is that HEM programs, the programs which best fit the I74P language, have several characteristics which limited their ability to increase diversions.

One factor is that the offender eligibility criteria for HEM programs is very restrictive. In 1993, criteria established by the General Assembly allowed sheriffs and jail administrators to assign to HEM any offenders with less than two months to serve on their sentence. The 1993 General Assembly narrowed this criteria by denying eligibility to offenders convicted of a felony violent crime, felony sexual offense, burglary, or certain drug offenses. This reduced the number of HEM-eligible offenders in jail populations and therefore reduced I74P's potential to increase diversions.

Another factor which several jail managers cited as limiting I74P's ability to increase diversions was the cost of HEM programs relative to I74P revenue received. Although it was hoped that I74P revenue would provide an incentive to expand diversion programs, jail managers reported that the \$8.00 per day reimbursement was not a sufficient financial incentive to expand HEM programs. These managers cited costs associated with obtaining the HEM equipment (which in some cases must be done in blocks of 10 or more units at a time) and with providing staff to monitor the equipment. This concern was more of an issue with managers of small jails than with managers of larger jails.

STATUS OF ITEM 74 PROGRAM

During the September, 1994 special session, the General Assembly passed House Bill 5001 which abolished parole, established truth-in-sentencing, lengthened the sentences of violent offenders, and dramatically changed the Commonwealth's policy on community corrections.

This legislation, which supplanted the Item 74 Program, greatly increased the operational authority, responsibility, and accountability of the local corrections officials who manage and maintain locally responsible offenders (see Section 53.1-180: Comprehensive Community Corrections Act for Local-Responsible Offenders). If a city, county or combination thereof accepts financial assistance from the Commonwealth for the renovation or construction of correctional facilities, it obligates itself to create a community correctional system that conforms to standards set by the Department of Criminal Justice Services. Such systems require the creation of a Community Corrections Board and the establishment of six mandated programs which serve as alternatives to incarceration. Three other types of "alternative" programs are optional. The bill also requires these localities to establish pre-trial services programs (Article 5: Section 19.2-152.2. to 152.7).

Governor Allen also amended Item 87 of the 1994-96 Biennium Budget (Item 74 in the previous budget) to end the use of per diem payments to confine persons who are unsentenced awaiting trial or persons confined as sentenced misdemeanants. Beginning July 1, 1995, localities are apportioned shares of a new block grant that local officials may use either to incarcerate these populations or to divert certain of their members to pre-trial or "alternative to incarceration" programs.

Offenders in the three felon categories of a locality's local and state-responsible offender population will still be maintained by per-diem payments distributed by the Compensation Board. However, the amended version of Item 87 makes no distinction between a per diem earned for the confinement of felons and one earned for their diversion. By removing the special distinction of I74P diversions, I74P was effectively eliminated.

This evaluation identified problems and issues encountered during the implementation and monitoring of the state-funded Item 74 local jail diversion program. By identifying these problems and issues and making involved parties aware of them, it may help them avoid similar problems with future programs. However, because the above legislative and budgetary actions supplanted the Item 74 program with broader community corrections initiatives, no recommendations are made concerning the Item 74 program.

ACKNOWLEDGMENTS

The evaluation staff wish to thank the following individuals for providing information about the Item 74 Program during this evaluation.

Department of Criminal Justice Services
Correctional Services Unit

Mr. Anthony Casale
Mr. Dan Catley
Ms. Tracey Jenkins

Department of Corrections
Division of Field Operations

Mr. Mike Howerton
Ms. Alice Coe
Ms. Linda Griggs

Department of Corrections
Management Information Systems Unit

Mr. Benjamin Dorsey
Mr. Steven Sachs

Virginia Compensation Board

Mr. James Matthews
Ms. Charlotte Luck

Also, thanks are extended to the many Sheriffs, Jail Administrators, programs staff, locality fiscal agents and DC-J7 report coordinators in the participating localities who provided information on the Item 74 Program.

Appendix A:

Item 74 of the 1993 Appropriations Act

Item	Item Details(I)		Appropriations(II)	
	First Year	Second Year	First Year	Second Year
<p>derived from the performance of any office, function or duty described or authorized by the Code of Virginia whether directly or indirectly related to the office of circuit court clerk, including, by way of description and not limitation, services performed as a commissioner of accounts, receiver, or licensed agent, but excluding private services performed on a personal basis which are completely unrelated to the office. The Compensation Board may suspend the allowance for office expenses for any clerk who fails to file such reports within the time prescribed by law, or when the Board determines that such report does not comply with the provisions of this paragraph.</p> <p>D. Each clerk of the circuit court shall submit to the Compensation Board a copy of the report required pursuant to § 19.2-349 of the Code of Virginia at the same time that it is submitted to the Commonwealth's Attorney.</p>				
74.	Financial Assistance for Confinement in Local Facilities (3560000).....		\$61,954,988	\$63,465,716
			\$53,704,565	\$56,731,640
	Financial Assistance for Adult Confinement in Local Facilities (3560100).....	\$61,954,988	\$63,465,716	
		\$53,704,565	\$56,731,640	
	Fund Sources: General.....	\$61,954,988	\$63,465,716	
		\$53,704,565	\$56,731,640	

Authority: §§ 53.1-83.1, 53.1-84 and 53.1-85, Code of Virginia.

A. The following amounts shall be paid out of this appropriation to compensate localities for the cost of maintaining prisoners arrested on state warrants in local jails, regional jails and jail farms, as defined by § 53.1-1 of the Code of Virginia, or if the prisoner is not housed in a local correctional facility, in an alternative to incarceration program operated by, or under the authority of, the sheriff or jail board:

1. \$8.00 per prisoner day; and
2. an additional \$14.00 per prisoner day if the prisoner is housed and maintained in a jail farm not under the control of the sheriff.

A1. For the payment specified in paragraph A. of this item for prisoners in alternative punishment or alternative to incarceration programs:

1. Such payment is intended to be made for prisoners that would otherwise be housed in a local correctional facility. It is not intended for prisoners that would otherwise be sentenced to community service or placed on probation.
2. No such payment shall be made unless the program has been approved by the Department of Corrections. Alternative punishment or alternative to incarceration programs, however, may include supervised work experience, treatment, and electronic monitoring programs.
3. The Department of Criminal Justice Services shall evaluate the effectiveness of this incentive in achieving its intent, with a preliminary report to be presented to the 1994 General Assembly.

B. In addition to the amounts specified in Paragraph A. of

Item	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
<p>this Item, \$6.00 per prisoner day shall be paid out of this appropriation to maintain any felon sentenced to the Department of Corrections in local correctional facilities pursuant to § 53.1-20.1 of the Code of Virginia.</p>				
<p>1. In the first year, such payment shall be made on and after:</p>				
<p>a) the date of sentencing for felons sentenced for a total of more than two years but no more than five years; and</p>				
<p>b) the sixty-first day after the date of sentencing order for felons sentenced for a total of more than five years.</p>				
<p>2. In the second year, such payment shall be made on and after:</p>				
<p>a) the date of sentencing for felons sentenced for a total of more than two years but no more than four years; and,</p>				
<p>b) the sixty-first day after the date of sentencing order for felons sentenced for a total of more than four years.</p>				
<p>C.1. Where a convicted felon is held awaiting trial for additional felony charges, the payment specified in Paragraph B.1. or B.2. of this Item shall not be made until all such charges are adjudicated.</p>				
<p>a) The payment specified in Paragraph B.1. or B.2. of this Item shall be made as follows, whichever is later: (i) beginning on the date that the final outstanding felony charge is adjudicated; or, (ii) as specified in Paragraph B.1. or B.2. of this Item.</p>				
<p>2. The payment specified in Paragraph B.1. or B.2. of this Item shall not be made for any convicted felon who remains incarcerated in a local correctional facility at the request of the locality.</p>				
<p>D.1. Two-thirds of the salaries of medical and treatment personnel approved by the Compensation Board for local correctional facilities shall be paid out of this appropriation.</p>				
<p>2. Out of the amounts for Financial Assistance for Adult Confinement in Local Facilities \$167,456 \$94,123 in the first year and \$224,940 \$479,340 in the second year shall be held in reserve to provide staff required by the construction of additional jail beds. The Director of the Department of Planning and Budget shall allot these funds at the request of the Compensation Board only if the contracted completion date for the new beds is within the 1992-04 biennium and only for the purpose prescribed herein.</p>				
<p>E. The individual or entity responsible for operation of any facility which receives funds from this Item may, if requested by the Department of Corrections, enter into an agreement with the Department to accept the transfer of convicted felons, specified in Paragraph B. of this Item, from other local facilities. In entering into any such agreements, or in effecting the transfer of offenders, the Department of Corrections shall consider the security requirements of transferred offenders and the capability of the local facility to maintain such offenders. For purposes of calculating the amount due each locality, all funds earned by the locality as a result of an agreement with the Department of Corrections shall be included as receipts from these appropriations.</p>				

Item	Item Details(S)		Appropriation(S)	
	First Year	Second Year	First Year	Second Year
<p>F. The appropriation in this Item also includes an amount not to exceed \$377,010 in each year, which shall be held in reserve for unbudgeted medical expenses incurred by local correctional facilities in the care of state responsible felons as defined by § 53.1-20, Code of Virginia.</p> <p>G. Should this appropriation prove to be insufficient to fund all of the above provisions, any amount remaining in the reserve as of June 1, 1993 and June 1, 1994 may be reallocated among localities on a pro rata basis according to such deficiency.</p> <p>H. Included within this appropriation is an amount not to exceed \$375,000 for a pilot alternative punishment program to be developed in the City of Richmond during fiscal year 1994. The Department of Corrections shall operate this program through the District Probation and Parole Office, either by the district office or under contract, pursuant to regulations adopted by the Board of Corrections.</p> <p>1. This program shall provide supervised work experience, treatment, and electronic monitoring for up to 100 low-risk, non-violent state responsible offenders who can be supervised in a highly structured, disciplined, and intensive program outside of jail.</p> <p>2. A plan to implement this program shall be presented jointly by the Department of Corrections and the Compensation Board by September 1, 1993, to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees. Upon approval of this plan by the Governor, the required funds shall be transferred to the Department of Corrections, Item 459 of this act. The required funding shall be based on an expenditure of not more than \$14 per diem per state responsible offender diverted from jail, beginning on or after October 1, 1993. If it is determined that the operating cost of the program is less than \$14 per diem, the report shall address the disposition of the balance of funds.</p> <p>3. An evaluation of this pilot program shall be conducted by the Department of Criminal Justice Services, with a preliminary report to be presented to the 1994 General Assembly.</p>				
			\$296,070,017	\$296,054,145
Total for Compensation Board.....			\$297,115,826	\$309,249,240
Maximum Employment Level.....	10.00	10.00		
Fund Sources: General.....	\$296,070,017	\$296,054,145		
	\$297,115,826	\$309,249,240		
§ 1-27. COMMISSION ON LOCAL GOVERNMENT (068)				
75. Governmental Affairs Services (7010000).....			\$490,065	\$490,065
			\$490,428	\$490,428
Local Affairs (7010400).....	\$490,065	\$490,065		
	\$490,428	\$490,428		
Fund Sources: General.....	\$490,065	\$490,065		
	\$490,428	\$490,428		
<p>Authority: Title 15.1, Chapter 18.1, § 15.1-1031.4, §§ 15.1-1058.1 through 15.1-1058.5, §15.1-1167.1 and §30-19.03, Code of Virginia.</p>				

Appendix B:

Item 87 of the 1994 Appropriations Act

Item

Item Detail(s)		Appropriation(s)	
First Year	Second Year	First Year	Second Year

Supreme Court shall provide the Chairman of the Compensation Board with a report showing the Circuit Court Clerks' offices which have a case management system and financial management system acceptable to the Supreme Court, or have such systems scheduled for installation prior to June 30, 1996.

2. The Compensation Board shall not allocate the pay increases provided for in this act effective December 1, 1994, for Circuit Court Clerks, their deputies and employees to any Clerk's office that does not have a financial management and case management system acceptable to the Supreme Court, or have such systems scheduled for installation prior to June 30, 1996.

E.1. Clerks of Circuit Courts shall develop procedures for use in their court to improve the collection of fines, costs, penalties, forfeitures and restitutions by October 1, 1994. These procedures shall not conflict with those developed by the Department of Taxation and the State Compensation Board. The Compensation Board shall review and approve these procedures. Salary increases effective December 1, 1994 as set forth in this act shall take into consideration the development and approval of procedures in accordance with this paragraph.

2. Clerks of Circuit Courts shall report by October 1, 1995, the rate of collection for all fines, costs, penalties, forfeitures and restitutions assessed in their court for the year ended June 30, 1995 to the Compensation Board. Such rate shall be computed as the total collected fines, costs, penalties, forfeitures and restitutions during the year relating to cases adjudicated in their court divided by the total fines, costs, penalties, forfeitures and restitutions assessed during the year in their court. This rate must include all persons with installment payment agreements in accordance with §19.2-354, but may not include those assessments or payments related to individuals incarcerated at June 30, 1995. The Executive Secretary of the Supreme Court shall provide the Clerks of Circuit Court using the automated accounting system administered by him the information necessary to compute these rates.

3. In considering salary increases allocated to Clerks of Circuit Courts, effective December 1, 1995, the Compensation Board shall consider the performance of such officers in collecting outstanding fines, costs, penalties, forfeitures, and restitutions, comparing the rate of such collections for the year ending June 30, 1995 to the rate for the year ending June 30, 1994, and to the rate of collections for all such officers statewide. The Compensation Board and the Auditor of Public Accounts shall provide each Clerk with the average rate of collection for the years ended June 30, 1993 and 1994 and will review, and where appropriate, audit the collection data provided by the Clerk.

87.	Financial Assistance for Confinement in Local Facilities (3560000).....			\$44,443,683	\$44,513,595
	Financial Assistance for Adult Confinement in Local Facilities (3560100).....	\$44,443,683	\$44,513,595		
	Fund Sources: General.....	\$44,443,683	\$44,513,595		

Authority: §§ 53.1-83.1, 53.1-84 and 53.1-85, Code of Virginia.

A. The following amounts shall be paid out of this appropriation to compensate localities for the cost of

Item	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
maintaining prisoners arrested on state warrants in local correctional facilities, as defined by § 53.1-1, Code of Virginia, or if the prisoner is not housed in a local correctional facility, in an alternative to incarceration program operated by, or under the authority of, the sheriff or jail board:				
1. \$8.00 per prisoner day; and				
2. an additional \$14.00 per prisoner day if the prisoner is housed and maintained in a jail farm not under the control of the sheriff.				
B. For the payment specified in Paragraph A. of this Item for prisoners in alternative punishment or alternative to incarceration programs:				
1. Such payment is intended to be made for prisoners that would otherwise be housed in a local correctional facility. It is not intended for prisoners that would otherwise be sentenced to community service or placed on probation.				
2. No such payment shall be made unless the program has been approved by the Department of Corrections. Alternative punishment or alternative to incarceration programs, however, may include supervised work experience, treatment, and electronic monitoring programs.				
3. The Department of Criminal Justice Services shall evaluate the effectiveness of this incentive in achieving its intent, with a report to be presented to the 1995 General Assembly.				
C. In addition to the amounts specified in Paragraph A. of this Item, \$6.00 per prisoner day shall be paid out of this appropriation to maintain any felon sentenced to the Department of Corrections in local correctional facilities pursuant to § 53.1-20.1, Code of Virginia. Such payment shall be made on and after:				
1. the date of sentencing for felons sentenced for a total of more than two years but no more than three years; and				
2. the sixty-first day after the date of sentencing order for felons sentenced for a total of more than three years.				
D.1. Where a convicted felon is held awaiting trial for additional felony charges, the payment specified in Paragraph C. of this Item shall not be made until all such charges are adjudicated.				
2. The payment specified in Paragraph C. of this Item shall be made as follows, whichever is later: a. beginning on the date that the final outstanding felony charge is adjudicated; or, b. as specified in Paragraph C. of this Item.				
3. The payment specified in Paragraph C. of this Item shall not be made for any convicted felon who remains incarcerated in a local correctional facility at the request of the locality.				
E. The individual or entity responsible for operating any facility which receives funds from this Item may, if requested by the Department of Corrections, enter into an agreement with the Department to accept the transfer of convicted felons, specified in Paragraph C. of this Item, from other local facilities. In entering into any such agreements, or in effecting the transfer of offenders, the Department of Corrections shall				

Item	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
<p>consider the security requirements of transferred offenders and the capability of the local facility to maintain such offenders. For purposes of calculating the amount due each locality, all funds earned by the locality as a result of an agreement with the Department of Corrections shall be included as receipts from these appropriations.</p> <p>F. The appropriation in this Item also includes an amount not to exceed \$377,010 in each year, which shall be held in reserve for unbudgeted medical expenses incurred by local correctional facilities in the care of state responsible felons as defined by § 53.1-20, Code of Virginia.</p> <p>G. Should this appropriation prove to be insufficient to fund all of the above provisions, any amount remaining in the reserve as of June 1, 1995, and June 1, 1996, may be reallocated among localities on a pro rata basis according to such deficiency.</p>				
88.	Executive Management (7130000).....		\$0	(\$24,940,663)
	Savings from Management Actions (7130100)	\$0	(\$24,940,663)	
	Fund Sources: General.....	\$0	(\$24,940,663)	
	Authority: Discretionary Inclusion.			
	Total for Compensation Board.....		\$329,474,279	\$311,209,846
	General Fund Positions	13.00	13.00	
	Position Level.....	13.00	13.00	
	Fund Sources: General.....	\$329,474,279	\$311,209,846	
§ 1-38. COMMISSION ON LOCAL GOVERNMENT (968)				
89.	Governmental Affairs Services (7010000).....		\$561,171	\$562,966
	Local Affairs (7010400).....	\$561,171	\$562,966	
	Fund Sources: General.....	\$561,171	\$562,966	
	Authority: Title 15.1, Chapter 19.1, § 15.1-1031.4, §§ 15.1-1058.1 through 15.1-1058.5, §15.1-1167.1 and §30-19.03, Code of Virginia.			
	Total for Commission on Local Government.....		\$561,171	\$562,966
	General Fund Positions	6.00	6.00	
	Position Level.....	6.00	6.00	
	Fund Sources: General.....	\$561,171	\$562,966	
§ 1-31. DEPARTMENT OF INFORMATION TECHNOLOGY (138)				
90.	Administrative and Support Services (8490000)			
	Authority: Title 2.1, Chapter 35.2, Articles 1 through 6, Code of Virginia.			
	Operational costs for this program shall be paid solely from charges to agency programs.			
91.	Information Systems Management and Direction (7110000).....		\$1,579,309	\$0
	Automated Data Processing Equipment and Services Procurement (7110200).....	\$1,579,309	\$0	

Appendix C:

Item 87 of the 1995 Appropriations Act

Item	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year

The Compensation Board shall review and approve these procedures. Salary increases effective December 1, 1994 as set forth in this act shall take into consideration the development and approval of procedures in accordance with this paragraph.

2. Clerks of Circuit Courts shall report by October 1, 1995, the rate of collection for all fines, costs, penalties, forfeitures and restitutions assessed in their court for the year ended June 30, 1995 to the Compensation Board. Such rate shall be computed as the total collected fines, costs, penalties, forfeitures and restitutions during the year relating to cases adjudicated in their court divided by the total fines, costs, penalties, forfeitures and restitutions assessed during the year in their court. This rate must include all persons with installment payment agreements in accordance with §19.2-354, but may not include those assessments or payments related to individuals incarcerated at June 30, 1995. The Executive Secretary of the Supreme Court shall provide the Clerks of Circuit Court using the automated accounting system administered by him the information necessary to compute these rates.

3. In considering salary increases allocated to Clerks of Circuit Courts, effective December 1, 1995, the Compensation Board shall consider the performance of such officers in collecting outstanding fines, costs, penalties, forfeitures, and restitutions; comparing the rate of such collections for the year ending June 30, 1995 to the rate for the year ending June 30, 1994; and to the rate of collections for all such officers statewide. The Compensation Board and the Auditor of Public Accounts shall provide each Clerk with the average rate of collection for the years ended June 30, 1993 and 1994 and will review, and where appropriate, audit the collection data provided by the Clerk.

4. In considering salary increases allocated to Clerks of the Circuit Courts, effective December 1, 1995, the Compensation Board, with assistance from the Auditor of Public Accounts and the Office of the Executive Secretary of the Supreme Court, if necessary, shall determine: 1) if each clerk has complied with paragraph E.1. and developed an approved criminal collection plan, and 2) if the clerk is making a good faith effort to follow the adopted plan. If the answer to both of the above questions is in the affirmative, regardless of the collection results, the Clerk shall be deemed to be in compliance. In any instance where the rate of collection is not improving, despite the efforts being made, the Compensation Board and the Auditor of Public Accounts shall offer their combined assistance to the Clerk.

87.	Financial Assistance for Confinement in Local Facilities (3580000).....			\$44,443,983	\$44,513,595
				\$53,001,404	\$49,432,810
	Financial Assistance for Adult Confinement in Local Facilities (3560100).....	\$44,443,983	\$44,513,595		
		\$53,001,404	\$49,432,810		
	Fund Sources: General.....	\$44,443,983	\$44,513,595		
		\$53,001,404	\$49,432,810		

Authority: §§ 53.1-83.1, 53.1-84 and 53.1-85, Code of Virginia.

* The following amounts shall be paid out of this appropriation to compensate localities for the cost of maintaining prisoners arrested on state warrants in local correctional facilities, as defined by §-53-1-1, Code of Virginia:

Item	Item Details(S)		Appropriation(S)	
	First Year	Second Year	First Year	Second Year

or if the prisoner is not housed in a local correctional facility in an alternative to incarceration program operated by, or under the authority of, the sheriff or jail board:

1: \$6:00 per prisoner day; and

2: an additional \$14:00 per prisoner day if the prisoner is housed and maintained in a jail farm not under the control of the sheriff;

B: For the payment specified in Paragraph A: of this item for prisoners in alternative punishment or alternative to incarceration programs:

1: Such payment is intended to be made for prisoners that would otherwise be housed in a local correctional facility; it is not intended for prisoners that would otherwise be sentenced to community service or placed on probation;

2: No such payment shall be made unless the program has been approved by the Department of Corrections; Alternative punishment or alternative to incarceration programs; however, may include supervised work experience; treatment; and electronic monitoring programs;

3: The Department of Criminal Justice Services shall evaluate the effectiveness of this incentive in achieving its intent; with a report to be presented to the 1996 General Assembly;

C: In addition to the amounts specified in Paragraph A: of this item; \$6:00 per prisoner day shall be paid out of this appropriation to maintain any felon sentenced to the Department of Corrections in local correctional facilities pursuant to §-59:1-20:1; Code of Virginia; Such payment shall be made on and after:

1: the date of sentencing for felons sentenced for a total of more than two years but no more than three years; and

2: the sixty-first day after the date of sentencing order for felons sentenced for a total of more than three years;

D-1: Where a convicted felon is held awaiting trial for additional felony charges; the payment specified in Paragraph C: of this item shall not be made until all such charges are adjudicated;

2: The payment specified in Paragraph C: of this item shall be made as follows; whichever is later: a: beginning on the date that the final outstanding felony charge is adjudicated; or, b: as specified in Paragraph C: of this item;

3: The payment specified in Paragraph C: of this item shall not be made for any convicted felon who remains incarcerated in a local correctional facility at the request of the locality;

E. The individual or entity responsible for operating any facility which receives funds from this Item may, if requested by the Department of Corrections, enter into an agreement with the Department to accept the transfer of convicted felons, specified in Paragraph E: K. or L. of this Item, from other local facilities. In entering into any such agreements, or in effecting the transfer of offenders, the Department of Corrections shall consider the security requirements of transferred offenders and the capability of the local facility to

Item	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year

maintain such offenders. For purposes of calculating the amount due each locality, all funds earned by the locality as a result of an agreement with the Department of Corrections shall be included as receipts from these appropriations.

F. The appropriation in this Item also includes an amount not to exceed \$377,010 in each year, which shall be held in reserve for unbudgeted medical expenses incurred by local correctional facilities in the care of state responsible felons as defined by § 53.1-20, Code of Virginia.

G. Should this appropriation prove to be insufficient to fund all of the above provisions, any amount remaining in the reserve as of June 1, 1995, and June 1, 1996, may be reallocated among localities on a pro rata basis according to such deficiency.

H. In the first year, the following amounts shall be paid out of this appropriation to compensate localities for the cost of maintaining prisoners arrested on state warrants in local correctional facilities, as defined by § 53.1-1, Code of Virginia, or if the prisoner is not housed in a local correctional facility, in an alternative to incarceration program operated by, or under the authority of, the sheriff or jail board:

1. \$8.00 per prisoner day; and

2. an additional \$14.00 per prisoner day if the prisoner is housed and maintained in a jail farm not under the control of the sheriff.

I. In the second year, the following amount shall be paid out of this appropriation for persons arrested on state warrants.

1. For unsentenced persons held awaiting trial and convicted misdemeanants:

a. For these offenders held during the months of March through June 1995, payment shall be made as provided in Paragraph H.

b. For these offenders held, or that would otherwise have been held, during July 1995 and thereafter, localities will be provided quarterly block grants in lieu of the per prisoner, per day payment specified in Paragraph H. The amounts of the block grants to be paid in the second year shall be determined by the following calculations, performed in the sequence in which they appear:

(1) calculate the average daily population of unsentenced persons awaiting trial and sentenced misdemeanants for the period of July 1, 1994 through June 30, 1995 using the 'Tuesday Report';

(2) calculate the percent change between the average daily local responsible offender population projected by the 1994 official forecast for the period of July 1, 1995 through June 30, 1996 and the actual average daily local responsible offender population for the period of July 1, 1994 through June 30, 1995, as reported on the 'Tuesday Report';

(3) multiply the figure derived in step (1) by the percentage derived in step (2);

(4) multiply the resulting figure by \$8.00;

Item	Item Details(5)		Appropriations(5)	
	First Year	Second Year	First Year	Second Year

(5) multiply the resulting figure by the number of days in the period of July 1, 1995 through February 29, 1996; and,

(6) multiply the resulting dollar amount by 92.6%.

c. Notwithstanding § 53.1-84 of the Code of Virginia, localities may use the funds provided pursuant to Paragraph I.1.b. of this Item to maintain unsentenced persons held awaiting trial or convicted misdemeanants in local correctional facilities as defined by § 53.1-1, Code of Virginia, or to operate pre-trial or alternative to incarceration programs that accommodate this population.

2. For offenders other than those specified in Paragraph I.1. of this Item, \$8.00 per prisoner day shall be paid to compensate localities for the cost of maintaining prisoners arrested on state warrants in local correctional facilities as defined by § 53.1-1, Code of Virginia, or if the prisoner is not housed in a local correctional facility, in an alternative to incarceration program operated by, or under the authority of, the sheriff or jail board.

An additional \$14.00 per prisoner day shall be paid if the prisoner is housed and maintained in a jail farm not under the control of the sheriff.

J. For the payment specified in Paragraph H. or I.2. of this Item for prisoners in alternative punishment or alternative to incarceration programs:

1. Such payment is intended to be made for prisoners that would otherwise be housed in a local correctional facility. It is not intended for prisoners that would otherwise be sentenced to community service or placed on probation.

2. No such payment shall be made unless the program has been approved by the Department of Corrections. Alternative punishment or alternative to incarceration programs, however, may include supervised work experience, treatment, and electronic monitoring programs.

3. The Department of Criminal Justice Services shall evaluate the effectiveness of this incentive in achieving its intent, with a report to be presented to the 1995 General Assembly.

K. In addition to the amounts specified in Paragraph H. or I.2. of this Item, \$6.00 per prisoner day shall be paid out of this appropriation to maintain any felon sentenced to the Department of Corrections for a felony committed before January 1, 1995, in local correctional facilities pursuant to § 53.1-20.1, Code of Virginia. Such payment shall be made on and after:

1. the date of sentencing for felons sentenced for a total of more than two years but no more than three years; and,

2. the sixty-first day after the sentencing order for felons sentenced for a total of more than three years.

L. In addition to the amounts specified in Paragraph H. or I.2. of this Item, \$6.00 per prisoner day shall be paid out of the appropriation to maintain any person convicted of a felony committed on or after January 1, 1995, in local correctional facilities pursuant to § 53.1-20.1, Code of Virginia. Such payment shall be made on and after:

Item	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
<p>1. the date of sentencing for felons sentenced for a total of more than six months but less than one year; and</p> <p>2. the sixty-first day after the date of sentencing order for felons sentenced for a total of one year or more.</p> <p>M.1. Where a convicted felon is held awaiting trial for additional felony charges, the payment specified in Paragraph K. or L. of this Item shall not be made until all such charges are adjudicated.</p> <p>2. The payment specified in Paragraph K. or L. of this Item shall be made as follows, whichever is later: a. beginning on the date that the final outstanding felony charge is adjudicated; or, b. as specified in Paragraph K. or L. of this Item.</p> <p>3. The payment specified in Paragraph K. or L. of this Item shall not be made for any convicted felon who remains incarcerated in a local correctional facility at the request of the locality.</p> <p>N. Effective July 1, 1995, in addition to the amounts specified in paragraphs I., K. and L. of this section, the Comptroller shall transfer to the Compensation Board, from funds appropriated in this act to the Department of Corrections, an amount to compensate the localities for the full cost of confining convicted felons pursuant to § 53.1-20.1 of the Code of Virginia. The Compensation Board shall pay to the localities such sums as follows:</p> <p>1. In the case of felons convicted of offenses committed prior to January 1, 1995, who have been sentenced to more than three years, \$1.00 per prisoner day from the sixty-first to the ninetieth day from sentencing, \$3.00 per prisoner day from the ninety-first to the one hundred twentieth day from the day of sentencing, and \$6.00 per prisoner day thereafter.</p> <p>2. In the case of felons convicted of offenses committed after January 1, 1995 who have been sentenced to more than one year, \$1.00 per prisoner day from the sixty-first to the ninetieth day from sentencing, \$3.00 per prisoner day from the ninety-first to the one hundred twentieth day from the day of sentencing, and \$6.00 per prisoner day thereafter.</p>				
88. Executive Management (7130000).....			\$0	(\$24,940,663) (\$1,708,805)
Savings from Management Actions (7130100).....	\$0	(\$24,940,663)		
Adjustments for Resizing Actions (7130200).....	\$0	(\$1,708,805)		
Fund Sources: General.....	\$0	(\$24,940,663) (\$1,708,805)		
<p>Authority: Discretionary Inclusion.</p> <p>The appropriation in this item is subject to § 4-1.09 of this act.</p>				
Total for Compensation Board.....			\$0 \$335,515,559	\$0 \$338,873,453
General Fund Positions.....	13.00	13.00		
Position Level.....	13.00	13.00		
Fund Sources: General.....	\$329,474,279 \$335,515,559	\$311,209,848 \$338,873,453		

