



# COMMONWEALTH of VIRGINIA

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## **MEMORANDUM**

**TO:** The Honorable John Marshall  
Secretary of Public Safety

**FROM:** Gene M. Johnson

**SUBJECT:** Progress Report in Response to Item 420B, 2005 Budget Bill

The 2005 Budget Bill, Item 420B, requires the Department to submit annual reports to the General Assembly on its progress to provide a structured program for Youthful Offenders.

If you have any questions, please contact me.

# Progress Report on the Youthful Offender Program

October 2005

Item 420B of the 2005 Appropriations Act requires the Department of Corrections to submit an annual report on the status of the Youthful Offender Program.

## Background:

The Youthful Offender Program, codified as Indeterminate Commitment, is established by two Codes described below.

As specified by Code of Virginia Section 19.2-311, offenders eligible for commitment to the Department of Corrections for an indeterminate sentence in the Youthful Offender program are defined by the following:

- The offense(s) must be the first felony conviction;
- All offenses except murder or sex crimes are eligible for consideration;
- Offenders must be younger than twenty-one years of age at commission of the offense, and no less than fourteen years old;
- The sentencing judge, after considering an evaluation of the offender's suitability for the program from the Department of Corrections, must believe the offender to be capable of returning to society as a productive citizen following reasonable rehabilitation efforts;
- Commitment to the Youthful Offender program is for four years, and the Court must also impose an additional suspended sentence;
- Once accepted into the program, offenders are eligible for continuous evaluation and parole by the Virginia Parole Board; and,
- Following release, offenders must receive mandatory intensive parole supervision for at least one and one-half years, conditioned on good behavior.

Related Code of Virginia Section, 53.1-63, specifies programming components for the Youthful Offender program. This Section was amended during the 2000 General Assembly to provide for more structured programming.

## Current Status

At the time the Youthful Offender Program was created, it was one of the few sentencing alternatives to divert young offenders from long prison sentences. Since then, a range of sentencing options and Community Corrections programs have been implemented and are frequently used by the Courts to provide young offenders with programming, structure, and diversion from long prison sentences. Some of the contemporary sentencing alternatives include Diversion Centers, Detention Centers, Home Electronic Monitoring Programs, Day Reporting Centers and community residential treatment.

Because the Courts are sentencing more non-violent offenders to the contemporary diversion programs mentioned above, the Youthful Offender Program population has become a repository for more violent offenses. One of the few crimes allowed in the Youthful Offender Program that is not allowed in the diversion programs is Armed Robbery. Armed Robbery, during the decades the Youthful Offender Statute has been in effect, has become an increasingly more violent crime now often associated with drugs and/or gangs. Therefore, over time, the Youthful Offender Program has become filled with mostly violent, harder offenders than the statute originally intended. No less than 43% of the current Youthful Offender participants have been convicted of robbery. Fully 62% of this population has been convicted of violent crimes.

Youthful Offenders are now more violent, and it has been progressively more difficult to house them together in large numbers for programming. Impulsive young violent offenders when housed with other impulsive young violent offenders tend to influence each other in negative ways. In response, the Department implemented very structured and intensive programming efforts as directed by the Appropriations Act and the Code. Although these efforts looked promising, the Youthful Offenders have continued to create management problems. The most significant problem occurred in late December 2004, when the Youthful Offenders caused a disturbance in their housing unit at St. Brides Correctional Center. Although the disturbance was quickly quelled by Corrections officials, the Youthful Offenders extensively damaged the housing unit and adjacent staff offices. As a result of this incident 20 program participants were returned to the sentencing court with recommendations for re-sentencing.

Currently, the remaining Youthful Offenders have been relocated to Indian Creek Correctional Center to be mainstreamed with a more settled and mature prison population. They continue to receive the services required by Code.

The Youthful Offender Program has been in effect for decades now and has outlived its usefulness. With the establishment of a wide range of sentencing alternatives, the Youthful Offender Program is no longer necessary. This program has become non-beneficial with proven alternatives now available in its place, and it is recommended the Youthful Offender program statutes be repealed.