

Comprehensive Community Corrections Act and Pretrial Services Act

ANNUAL REPORT TO THE LEGISLATURE

July 2004–June 2005



Prepared December 2005



DEPARTMENT OF CRIMINAL JUSTICE SERVICES

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Comprehensive Community Corrections Act and Pretrial Services Act

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As required by Item 430, paragraph C3 of the 2005 Appropriations Act, this report summarizes the efforts of the Department of Criminal Justice Services (DCJS) to continue the implementation and development of the Comprehensive Community Corrections Act for Local Responsible Offenders (CCCA) and the Pretrial Services Act (PSA) for the period of July 1, 2004 to June 30, 2005. FY2005 year-end summary data is also included.



Prepared by

**Virginia Department of Criminal Justice Services
Correctional Services Section of the Division of Programs and Services**

Leonard G. Cooke, Director

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FY05 LOCAL COMMUNITY-BASED PROBATION AND PRETRIAL SERVICES

Local community-based probation and pretrial service populations experienced significant growth during FY05. With no additions to community corrections or pretrial services programming in FY05 and a decline in many crimes, the continued use and growth can be attributed to the increase in demand and judicial utilization within localities and the sustained increase in length of supervision. For this fiscal year, the total appropriation for CCCA and PSA agencies increased by \$819,000 with the stipulation to award funding for additional local probation officers and a required increase to already high caseloads. These additional funds and probation officers have allowed growth in programs that had been artificially “capped” by excessively large caseloads.

Many localities find it necessary to contribute funding in support of these efforts. In addition, almost 57% of the local community-based probation agencies¹ have begun collecting intervention fees to maintain their agency’s operations (21 of 37 agencies collected intervention fees in FY05). It is apparent that these localities and the judiciary recognize the important role that pretrial services and local community-based probation play in ensuring public safety. Unfortunately, local agencies in some areas still experienced difficulty meeting increased demands. The average daily caseloads (ADC) of most agencies significantly exceeded the minimum staff to defendant/offender ratio of 1:40 for pretrial supervision and the case

management ratio of 1:60 for local community-based probation supervision. Several local community-based probation agencies continue to carry caseloads that exceed a ratio of 1:100.²

Despite their best efforts, the persistent strain of excessive caseloads and funding restrictions continue to have a negative impact in some localities. The agencies are linked constructively and collaboratively through the Virginia Community Criminal Justice Association (VCCJA) and they work closely and positively with the Department of Criminal Justice Services (DCJS). With only a slight increase in funding for FY05, most localities were unable to offset the budget strain exerted by increased caseloads, overhead, personnel related costs (such as merit/cost of living raises and increased retirement and health insurance contributions), and the drug screening and assessment requirements in the *Code of Virginia* §19.2-299.2. Some agencies have had to reduce staffing, limit drug testing, cut back on needed staff training, and choose other strategies to cope with funding that has not kept up with the increasing costs. Notwithstanding these pressures, the directors and staff of these local agencies continue to maintain highly professional services and to provide for public safety in their communities.

¹ Pretrial services agencies may not collect intervention fees.

² Ratios are based on active cases only. Inactive and monitoring cases, which also consume agency resources, are not included in the calculations of active cases. The minimum ratio is a staffing benchmark set by DCJS for state funding.

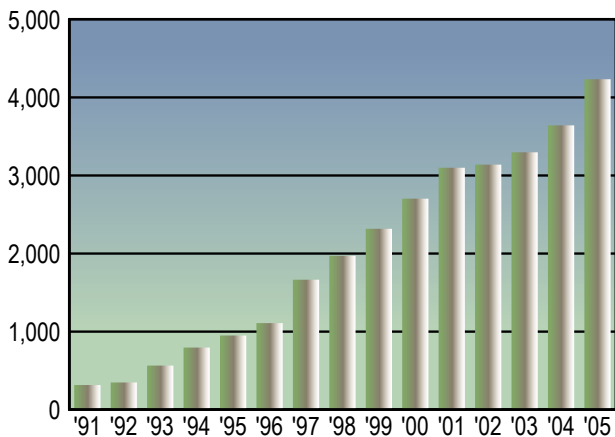


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PRETRIAL SERVICES

The average daily statewide caseload of pretrial defendants under supervision has increased by over 282% since the passage of the PSA. This increase is due, in part, to the fact that the number of agencies providing pretrial services has more than doubled since 1996. However, pretrial services agencies continue to experience growth in all areas. The ADC increased by 16.2% since last year, from 3,642 in FY04 to 4,233 in FY05.

Pretrial Services Average Daily Caseload

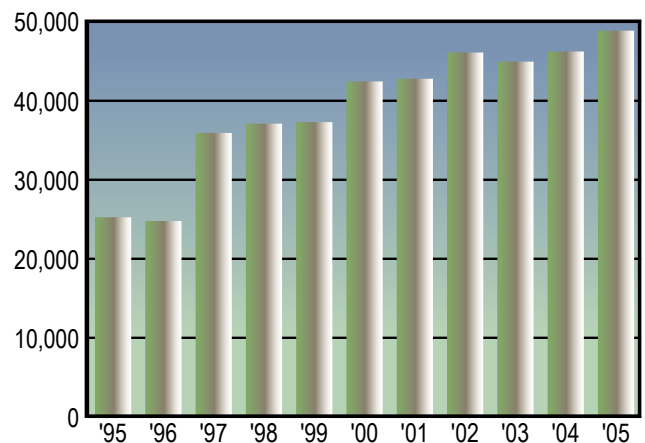


Placements on pretrial supervision increased by 6.1% (n=16,944 placements in FY05 and n=15,969 in FY04). During FY05, 25.6% of misdemeanor and 34.2% of felon placements had to meet a condition of a secure bond before being released to pretrial supervision. While combinations of terms and conditions of bail are permitted by statute, since 1989 the intent and purpose of pretrial services in Virginia has been to provide information to judicial officers to encourage the use of pretrial release

(supervision) as a term of bail that is an alternative to the reliance on and use of secured bond. This historic and continued practice (secure bond plus pretrial supervision) by judicial officers not only results in a duplication of effort by holding defendants responsible to two custodial agents but also by making pretrial officers responsible (via supervision) for providing the assurances for defendant appearance in court and for public safety instead of the bondsmen who are required to do this as the surety on a secured bond. This continuing practice therefore undermines the intent of pretrial services to reduce the need for secure bond.

In terms of pretrial investigations, the largest growth period was between FY96 and FY97 when most of the newly established pretrial services agencies became fully operational. Pretrial investigations are once again increasing with 48,872 investigations conducted in FY05, an increase of 5.7% over the previous year.³ This expansion of services is also a reflection of the new positions added using the additional funding provided for FY05.

Pretrial Services Investigations



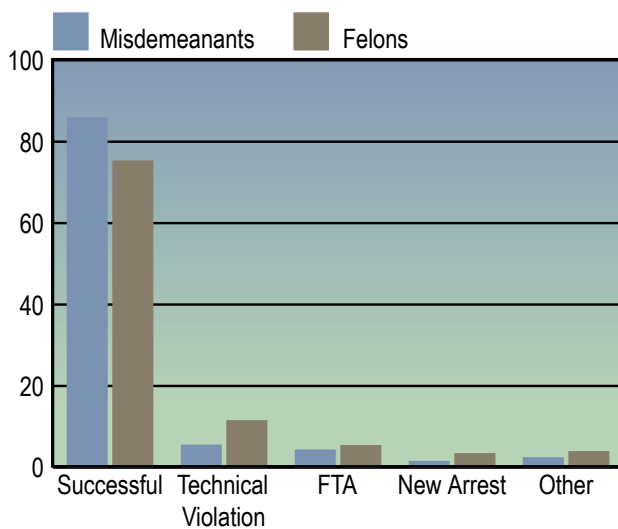
³ Data are from automated Pretrial Services Monthly Reports submitted to DCJS.



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Defendants placed on pretrial services supervision continue to have an excellent success rate. Of the 7,164 misdemeanor placements closed during FY05, 86.0% (n=6,158) were successful, up slightly from FY04. About 1.6% of the placements were closed due to a new arrest, the same as in FY04. The remaining closures were due to technical violations (5.6%), failure to appear for court (FTA; 4.4%) and other (2.5%); all but the other category reflects a slight reduction from FY04. Of the 8,537 felony placements closed during FY05, 75.4% (n=6,437) were successful. This is up slightly from the FY04 success rate. About 3.5% placements were closed due to a new arrest; also up slightly from FY04. The remaining closures were due to technical violations (11.6%), FTA (5.5%), and other (4.0%) which reflects reductions in all categories from FY04 figures.

Pretrial Services Closure Types⁴



⁴ Other pretrial services closures not depicted include those closed as returned to sending jurisdictions. The number of these cases is considered to be too low to have any impact on overall closure calculations. Cases reinstated to supervision after a previous closure are backed out of the calculations.

⁵ Data are from automated Community Corrections Monthly Reports submitted to DCJS by Local Community-based Probation Agencies. The caseloads reported here are based on point in time figures.

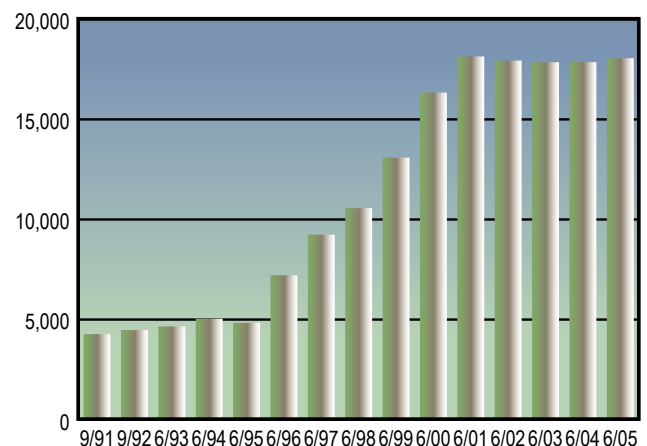
⁶ Utilizing the beginning and ending figures reported on the Community Corrections Monthly Reports submitted to DCJS by Community Corrections Agencies.

LOCAL COMMUNITY-BASED PROBATION SUPERVISION

Subsequent to the establishment of the CCCA, the number of offenders under local community-based probation supervision has increased dramatically. Since the passage of the CCCA in late 1994, caseloads have increased approximately 258%.⁵

Although the growth rate did not increase as dramatically this year relative to that experienced between FY96 and FY01, supervision cases gained in number over the previous year. On June 30, 2005, there were 18,057 offenders under active supervision whereas there were 17,862 offenders under active supervision just one year earlier.⁶ Local probation agencies experienced almost a 1,000 offender increase in the ADC between FY04 and FY05. The ADC for FY05 was 18,419 compared to 17,441 for FY04. Again, this growth in diversions is a reflection of the impact of the resources added during FY05.

Community-based Probation Caseloads (Point in Time)

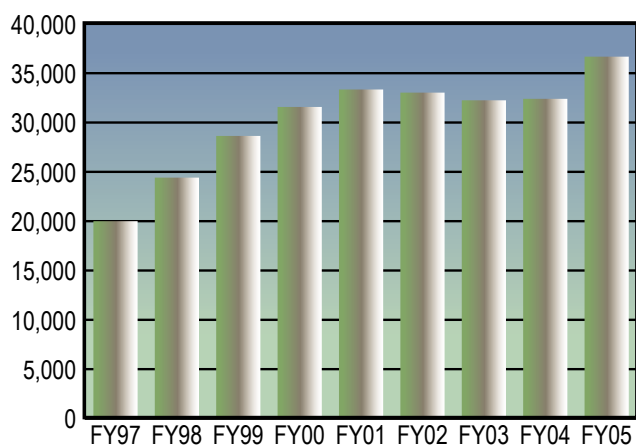


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In addition to the average caseload of offenders under active supervision, there was an average of 725 offenders per month reported in a “monitoring only” status.⁷ Monitoring offenders is done as a courtesy to the judiciary as they do not meet the criteria for CCCA supervision placement. There was also an average of 3,560 offenders per month reported in an “inactive” status.⁸ While there are fewer responsibilities associated with inactive and monitoring cases when compared to active cases, they still have certain responsibilities which require staff resources. However, neither monitoring nor inactive cases are included in determining minimum case manager to offender ratios or eligible for state funding.

FY05 statistics demonstrate continued strong judicial support for the CCCA through the volume of placements and program service utilization. In FY05, the courts placed 36,677 offenders to local probation supervision.⁹ This is a significant increase (13.2%) in placements to supervision relative to placements made in FY04 (n= 32,402).

Community-Based Probation Court Placements



The average length of supervision continues to increase. However, the average length of time under supervision for both misdemeanants and felons remains within the DCJS recommendation of six (6) and twelve (12) months, respectively. As recently as FY00, misdemeanants averaged only 4.8 months under supervision and felons averaged 8.3 months. In contrast, the average length of supervision for misdemeanants increased to 6 months and for felons to 8.7 months in FY05. The increase in time under supervision is due to the increase in domestic violence cases, longer treatment requirements, waiting lists for treatment, and increases in mandatory community service time, all requiring longer periods under supervision, resulting in higher caseloads.

The local community-based probation agencies continue to experience a very good success rate with offender supervision. As with pretrial services, failures under supervision are **offender** failures and should not be considered failures of the agency. Defendants and offenders are accountable for their behavior under supervision. Failure to comply with the conditions of supervision results in removal from supervision, as the behavior is considered indicative of a potential for new criminality (this accounts for the rate of failure due to technical violations).

Of the 32,564 total misdemeanor placements closed during FY05, almost 70% (n=22,761) were successful. Of the 1,291 total felon placements closed in FY05, about 60.1% (n=784) were successful. The most common “unsuccessful” closure for both

⁷ “Monitoring only” cases are those cases that do not meet the criteria for CCCA, including those required to do community service in lieu of fines and costs. These cases are not held to the same supervision criteria as active cases nor are they included in caseload calculations. This is a service provided as a courtesy to the judiciary but it is not statutorily required nor funded with state funds.

⁸ The “inactive status” includes, but is not limited to, cases that are transferred out and reported active by another locality. These cases are not double counted as active or included in supervision day or average daily caseload calculations.

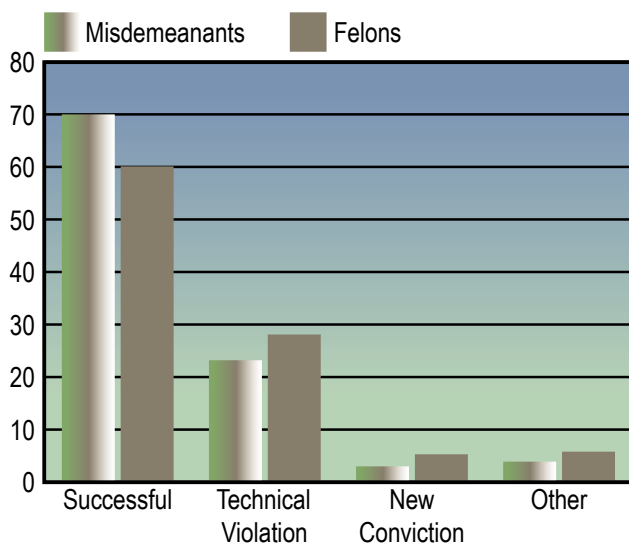
⁹ This is the actual number of offenders placed under supervision not the court placements which was 39,252 in FY05.



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the misdemeanor and felon placements continue to be those due to technical violations of supervision; 23.2% (n=7,546) for misdemeanor and 28.1% (n=363) for felons. In FY05, 3.0% (n=974) of the misdemeanants and 5.3% (n=69) of the felon placements were closed due to a conviction for a new offense. Closures for “other” reasons were 3.7% (n=1,281) for misdemeanants and 5.8% (n=75) for felons.

Local Community-based Probation Closure Types ¹⁰



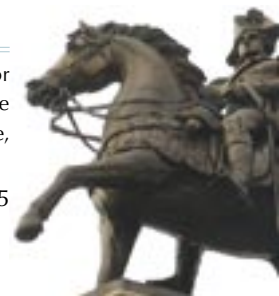
Local community-based probation agencies also tested offenders for substance use and placed offenders in a variety of treatment programs throughout the year. Substance abuse services utilized included short-term detoxification, outpatient treatment, education, and other substance abuse counseling programs. Figures reported for FY05 indicate:

- 15,740 Offenders were assigned community service work

- 9,348 Offenders were drug tested (does not include multiple tests)
- 3,713 Offenders were ordered into anger management counseling
- 3,580 Offenders were placed in substance abuse counseling
- 3,071 Offenders were placed in substance abuse education
- 2,756 Offenders were ordered into domestic violence counseling
- 1,084 Offenders were ordered to attend shoplifting prevention sessions
- 116 Offenders were ordered into sex offender treatment
- 108 Offenders were ordered to attend financial responsibility sessions
- 103 Offenders were placed in long term inpatient treatment
- 31 Offenders were placed in short term detoxification
- 18 Offenders were placed on electronic monitoring
- 17 Offenders were placed in home detention
- 2,922 Offenders were required to participate in some other service or program

The “other” services ordered were quite varied. The most common services in the other category were substance abuse assessments, mental health evaluations, mental health counseling, family counseling, enrollment into a 12-step program, and domestic violence assessment.

¹⁰ Community Corrections closures are based on those closed successfully, due to a technical violation, due to a new conviction, and for “other” reasons. Cases closed that are returned to sending jurisdictions are not included with “other” closures and are only counted once in the originating jurisdiction. However, cases reinstated to supervision after a previous closure have not been backed out. Therefore, closures due to technical violations and other reasons may be modestly over reported.



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All agencies placed offenders in work sites to complete community service. For FY05, local community-based probation agencies reported that offenders performed 679,261 hours of community service work. At the minimum wage of \$5.15/per hour, this translates into a little over \$3.498 million dollars worth of community service work. However, this can be considered a very conservative figure as local government pay scales would pay more than the minimum wage for the type of community services provided by the offenders. In addition to their required duties and responsibilities, most local community-based probation agencies also **assist** the courts and Commonwealth's Attorneys by facilitating payments of fines, costs, and restitution owed by the offenders under their supervision. In FY05, agencies facilitated over \$1.86 million in restitution payments and almost \$1.47 million in owed fines and costs. In total, **local community-based probation agencies generated over \$6.8 million in services and payments to communities.**¹¹

LEGISLATIVE ACTIVITY

Legislation

There were several minor legislative changes that occurred during the 2004 General Assembly session that affected local community-based probation and pretrial services agencies during FY05. The VCCJA did not present a legislative agenda on behalf of local community-based probation and pretrial services agencies with the exception of a budget request to the Assembly. Proposals were introduced amending the statute permitting judges to place offenders convicted of underage possession of alcohol on probation

with alcohol safety action programs or local community-based probation services agencies. In addition, amendments were made to the statute permitting deferred proceedings for first offense assault and battery against a family or household member. The technical amendment specified that offenders so placed were required to be of "good behavior" during the period of supervised probation and for a minimum of two years following the completion of probation. The Drug Treatment Court Act was also introduced giving legitimacy to programs that had been operating over the past two to three years. There were also amendments to the statute providing for admission to bail, the two major ones being additional offenses for which a defendant could be denied bail subject to rebuttal.

Funding

The General Assembly appropriated a little over \$19.4 million for FY05 operations for CCCA and PSA during the 2004 session. This includes an additional \$819,000 for 25 new probation positions which were awarded to 20 different local probation agencies in October 2004 on a competitive basis.

While funding continues to be needed for treatment, it is more urgently needed for the expansion of supervision capacity/reduction of caseloads (in fact, action of the General Assembly in 2004 increased funding for new positions for local probation agencies, but incorporated a requirement for increased caseloads). Continuing increases in the number of cases in the previous six years (reflecting expanded utilization and trust by the courts), increasing length of stay (reflective of the

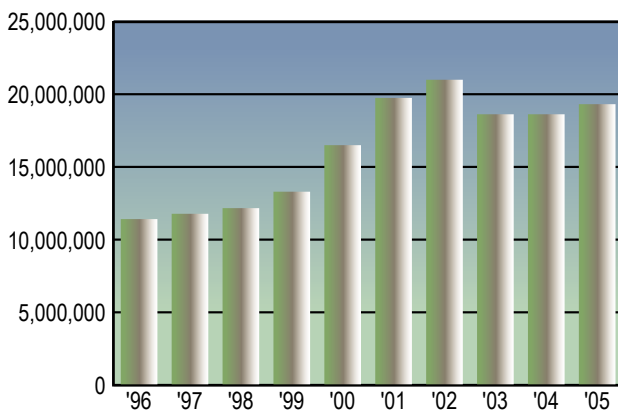
¹¹ Actual figures: 679,261 hours of community service work (\$3,498,194), \$1,863,789 in restitution, \$1,465,249 in fines and costs, totaling \$6,827,232.



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treatment time required for substance abuse and domestic violence cases, and increased requirements for community service), and additional demands on the available supervision time of local agency staff (screening and assessment work; training on issues of substance abuse, domestic violence, MIS use), **substantiate the need for additional resources in support of expanding current supervision capacity.** As mentioned earlier, some agencies continue to have staff-to-caseload ratios of over 100:1 and many agency caseloads continue to grow. Additional and ongoing supervision capacity is necessary to ensure community safety and the continued effective operations of the agencies.

Comprehensive Community Corrections and Pretrial Services Act Appropriations History



EVIDENCE BASED PRACTICES: PLANNING, DEVELOPMENT, AND IMPLEMENTATION

A sizable body of research conducted in the last 30 years has determined that corrections can be effective in reducing recidivism if the strategies employed are based on the principles

of Evidence-Based Practices (EBP). EBP is the application of science into operational practice. Local community corrections can improve the effectiveness of their services by utilizing programs, services, and practices that have been empirically tested and proven to reduce offender recidivism. To that end, four local community-based probation agencies have assumed the task of implementing EBP in their individual localities. Those four sites are: Colonial Community Corrections (Williamsburg); Lynchburg Community Corrections and Pretrial Services; OAR-Jefferson Area Community Corrections Program (Charlottesville); and, Old Dominion Community Corrections (Winchester).

During FY05, the primary focus was on the development of a strategic plan and timeline within each locality to implement EBP. The local probation and pretrial agencies formed partnerships with local service providers and the Department of Corrections (DOC) Probation & Parole district office. Each pilot site has held meetings to identify the primary issues concerning implementation of EBP, including agreement between involved agencies about the goals of their EBP plan and the necessary steps toward achieving these goals. Each site began an evaluation of the capabilities of their current organizational systems to support change and program implementation.

The pilot sites also developed procedures to incorporate the EBP principles into their supervision strategy. The pilot sites, in collaboration with the Department of Corrections, identified the key components of their supervision strategy on which to concentrate change efforts. Those are:



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- Department
- Assessment and Case Planning
- Case Plans/Monitoring
- Incentives/Sanctions

Additionally, the sites rewrote job descriptions and performance evaluations to reflect the change in expectations and office values. Lastly, to meet the EBP risk principle that supervision and treatment programming be commensurate with the risk level, or probability of recidivism, of the offender, local community corrections agencies have identified and begun to establish mechanisms to improve distribution of services. Other action plans will get underway in the next fiscal year to continue the implementation of EBP.

PTCC SOFTWARE AND COMMUNICATIONS INFRASTRUCTURE

The Pretrial and Community Corrections Case Management System (PTCC) was in support mode during the FY05 fiscal year. Currently, PTCC has over 450 users and each user has direct access to the PTCC Help Desk either by telephone or email. During FY05, the PTCC Help Desk processed over 1,229 requests for help and technical assistance. Most requests to the Help Desk were related to technical issues regarding the PTCC software application. Other requests included networking, hardware, printing, and other software related issues.

During FY05, our support team implemented a VPN connectivity solution to a satellite office. This solution allows for faster, more reliable, and cost effective connectivity to PTCC when compared to ISDN, which is the current method of connectivity. This

connectivity solution proved successful and we will begin the process of converting ISDN connections to VPN throughout the Commonwealth in FY06. This effort will significantly reduce or eliminate connectivity costs and increase efficiency for all PTCC users and DCJS.

In an effort to address training needs for new CCCA/PSA staff, a PTCC training curriculum has been created to train staff during their orientation. Each locality will be set up with a training database and instructional guide to be used for onsite training. Each agency will have selected staff trained to be trainers, using the material created by DCJS. When implemented, this training effort will be cost effective and will empower local agencies to better train their new staff on the operation and functionality of PTCC.

VIRGINIA PRETRIAL SERVICES RISK ASSESSMENT INSTRUMENT (VPRAI)

The Virginia Pretrial Risk Assessment Instrument (VPRAI) was developed by DCJS in 2003 for use by pretrial services agencies throughout Virginia. The VPRAI is an objective, research-based instrument that assists pretrial services officers in the performance of their duties by identifying a defendant's level of risk of failure (i.e., failure to appear and/or new arrest) if released pending trial. Virginia has the only statewide research-based pretrial risk assessment instrument in the nation. The VPRAI has drawn significant national attention because it is:

- (1) research based
- (2) devised for statewide (not jurisdictional-specific) use



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- (3) designed specifically for pretrial risk measurement, and
- (4) focused on non-discriminatory factors

It has been “presented” at a number of national criminal justice conferences and meetings (e.g., American Probation and Parole Association, International Community Corrections Association, and the National Association of Pretrial Services Agencies).

By mid-second quarter of FY05, DCJS successfully implemented the VPRAI in each of the 30 pretrial services agencies in Virginia. The implementation strategy targeted two groups:

- (1) pretrial officers and
- (2) local criminal justice stakeholders, comprised generally of judges, magistrates, the local defense bar, and Commonwealth’s Attorneys

Pretrial officers received onsite training and formal presentations were made to each local or regional Community Criminal Justice Board (CCJB).

Other observations made by DCJS during the VPRAI implementation phase have resulted in additional projects targeted to enhance pretrial services. It was identified that training resources were sorely needed and it became apparent that the accuracy of the client risk assessment using VPRAI was dependent on the quality of the pretrial officer’s investigation. In FY05 DCJS completed the development of a Pretrial Services Manual to improve training and the quality of investigations. This manual included a Pretrial Resource Training Guide including all statutes in Virginia relevant to bail and pretrial

services, state and national standards for pretrial services, a Pretrial Investigation Guide, and the VPRAI Training Manual. Pretrial officers and judges in the catchment area of each pretrial agency were provided a copy and training will be offered.

EDUCATION & TRAINING

Local Community-based Probation and Pretrial Services Agencies

In July and November of 2004 and March and June of 2005, a total of 107 new local community-based probation and pretrial services employees successfully completed the weeklong Basic Skills course offered by DCJS. Once again these classes were held at the Roslyn Center in Henrico County. Topics included:

- an Overview of the Criminal Justice System
- Substance Abuse Issues
- Self-defense
- Street Smart (Officer Safety)
- Supervision Theory
- Standards of Supervision
- Criminal History Investigation
- Overview of Pretrial Services
- Pretrial Screening/Interviewing
- Liability Issues
- Community Service & Restitution
- Domestic Violence
- Mental Health Issues
- Ethics and Professionalism

In the spring of 2005, DCJS sponsored an in-service training on Gangs for local probation



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and pretrial personnel and other criminal justice professionals in Dublin, Warrenton, and Chesterfield. Speakers from the Virginia Gang Investigators Association included:

- Mindy Grizzard
Probation & Parole Officer, City of Richmond
- Issac Anderson
Police Officer, City of Roanoke
- Keith Applewhite
Detective, Chesterfield County Police Department

These speakers presented such sub-topics as:

- Gang Facts
- Gangs of Virginia
- History of Gangs
- Gang Mentality
- Membership
- Tattoos and Hand Signs
- Office Safety
- Warning Signs
- Occult
- Female Gang Members
- Gang Names and Genus

Evaluations collected at the individual venues indicated that the trainers were knowledgeable and the information was interesting, helpful, and well-delivered.

Judicial Training

DCJS participated in the annual Pre-Bench Orientation Course conducted by the Supreme Court during March 21 through March 23, 2005. Training on the principle elements of local pretrial and community-based probation services was

provided to 12 new or recently appointed juvenile and domestic relations, 13 general district, and 11 circuit court judges for a total of 37 judges.

Although not training, the District Court Forms Advisory Committee of the Committee on District Courts holds two, one-to-two-day work sessions annually. The Spring Session generates or amends forms required by changes in the law while the Fall Session focuses on system improvements and recommended changes. DCJS is the only standing member of this committee from the criminal justice arena. There are 6 judges, three magistrates, and 6 clerks of district courts on this Committee. The sessions on developing new court forms present an excellent venue for discourse with judicial officers on the operations, requirements, and needs of pretrial and local probation services.

OTHER ACTIVITIES

Virginia Community Criminal Justice Association (VCCJA)

A record number of participants attended the 8th Annual Virginia Community Criminal Justice Association (VCCJA) Training Conference, Working Smarter for Safer Communities, held on November 4th - 5th, 2004 in Wintergreen, VA.

DCJS and VCCJA sponsored this conference together with corporate sponsor, Bank of America. The conference contained workshops on:

- Evidence-Based Practices
- Drug Courts
- Diversion of the Mentally Ill Offender
- Virginia Pretrial Risk Assessment Tool
- Safety and Awareness on the Job



