

Office of the  
**Secretary of Public Safety**

REPORT ON THE STATUS AND EFFECTIVENESS  
OF OFFENDER DRUG SCREENING, ASSESSMENT  
AND TREATMENT

**To the General Assembly of Virginia**



**Commonwealth of Virginia**

**2008**

December 31, 2008

To the Honorable Members of the General Assembly:

This report on the Status and Effectiveness of Offender Drug Screening, Assessment and Treatment for fiscal year 2008 is submitted pursuant to requirements of §2.2-223 of the *Code of Virginia*.

Through legislation adopted in 1998 and 1999, the General Assembly outlined specific provisions for screening and assessing offenders for substance abuse. Known as the Drug Offender Screening, Assessment, and Treatment (DSAT) Initiative, the goal of this legislation was to reduce substance abuse and criminal behavior among offenders through coordinated identification and treatment within the criminal justice system. The provisions became effective for crimes committed on or after January 1, 2000. The Office of the Secretary of Public Safety prepares and issues this report to provide data and information on these activities for the most recent fiscal year.

Within the Commonwealth, the state agencies with primary responsibility for offender screening, assessment and treatment are the Departments of Corrections, Criminal Justice Services, Juvenile Justice, and Mental Health, Mental Retardation and Substance Abuse Services. Significant, but required, budget and staff reductions have affected each of the principal agencies involved in these activities. Despite the elimination of a substantial number of staff positions formerly devoted to this task, these agencies have continued efforts to address offenders' substance abuse needs by maximizing the use of remaining resources. Nonetheless, cuts in funding since 2001 have resulted in the curtailment of this initiative from its original design.

If you have any questions regarding information in this report, please feel free to contact my office.

Sincerely,

John W. Marshall

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## Executive Summary

In 1998, Virginia's General Assembly passed House Bill 664 and Senate Bill 317 (HB664/SB317) enacting the Drug Offender Screening, Assessment, and Treatment (DSAT) Initiative. The DSAT legislation, subsequently amended in 1999, outlined specific substance abuse screening and assessment provisions that became effective for offenses committed on or after January 1, 2000. These provisions, contained in §§ 16.1-273, 18.2-251.01, 19.2-299, 19.2-299.2 and 19.2-123(B) [effective 07/01/2000], of the *Code of Virginia*\*, target three offender groups: juveniles, adult felons, and adult misdemeanants. Because several different types of offenders are subject to the *Code* mandates, the initiative affects staff and clients of numerous agencies, including the Department of Juvenile Justice (DJJ), the Department of Corrections (DOC), local community-based probation and pretrial services agencies administered by the Department of Criminal Justice Services (DCJS), the Commission on Virginia Alcohol Safety Action Program (VASAP), and the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS).

The Interagency Drug Offender Screening and Assessment Committee was created by § 2.2-223 (formerly § 2.1-51.18:3) to oversee the screening and assessment provisions contained in the *Code of Virginia*. The Interagency Committee, with representation from all affected agencies and the Virginia Criminal Sentencing Commission, is charged with ensuring the quality and consistency of the screening and assessment process across the Commonwealth. The Secretary of Public Safety serves as chairperson. The Interagency Committee serves to promote interagency coordination and cooperation. The Interagency Committee is required by § 2.2-223 to submit a report each year to the General Assembly.

Significant, but required, budget and staff reductions have affected each of the principal agencies. In response to cuts in funding since 2001, particularly the elimination of Substance Abuse Reduction Effort (SABRE) funds, agencies involved in screening and assessment activities have re-examined protocols and developed alternative strategies to maximize the use of remaining resources. Despite the elimination of a substantial number of staff positions formerly devoted to this task, the agencies have continued their efforts to address offender's substance abuse needs by streamlining the process in some instances, utilizing other screening instruments and otherwise attempting to make this task more manageable for the fewer number of staff involved. The number and type of services available have decreased significantly.

The grievous effect of the lack of resources on the number and type of services offered has also greatly limited the need and ability to coordinate services across agency. Thus, the Interagency Drug Offender Screening and Assessment Committee, or the workgroup associated with this committee, did not meet in FY 2008. It is recommended that, unless funding, and thus services, are increased legislation surrounding the Drug Offender Screening, Assessment, and Treatment (DSAT) initiative [§§ 16.1-273, 18.2-251.01, 19.2-123(B), 19.2-299, and 19.2-299.2 of the *Code of Virginia*] should be revisited.

\* NOTE: §§ 18.2-251, 252 and 254 were also amended to support screening and assessment in drug offense cases or where substance abuse was indicated.

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## Authority

The Interagency Drug Offender Screening and Assessment Committee was created by § 2.2-223 (formerly § 2.1-51.18:3) of the *Code of Virginia* to oversee the drug screening, assessment and treatment provisions of §§ 16.1-273, 18.2-251.01, 19.2-299 and 19.2-299.2. The Interagency Committee is composed of representatives of the Directors or Commissioners of the Department of Corrections, Criminal Justice Services, Juvenile Justice, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Virginia Alcohol Safety Action Program and the Virginia Criminal Sentencing Commission. The Secretary of Public Safety serves as chairperson.

The Interagency Committee is required by § 2.2-223 to report on the status and effectiveness of offender screening, assessment, and treatment to the Virginia State Crime Commission and the House Courts of Justice, Senate Courts of Justice, House Appropriations, and Senate Finance Committees of the Virginia General Assembly by January 1 of each year. This document represents the Interagency Committee's report for the year 2008.

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## Background

During its 1998 and 1999 sessions, the General Assembly adopted legislation to require many offenders, both adult and juvenile, to undergo screening and assessment for substance abuse problems related to drugs or alcohol. The goal of this legislation was to reduce substance abuse and criminal behavior among offenders by enhancing the identification of substance-abusing offenders and their treatment needs and by improving the delivery of substance abuse treatment services within the criminal and juvenile justice systems. Cuts in funding since 2001, however, have curtailed the implementation of the drug screening, assessment and treatment (DSAT) Initiative.

The framework of this broad initiative is outlined in §§ 16.1-273, 18.2-251.01, 19.2-299 and 19.2-299.2 of the *Code of Virginia*. These statutes target all felons convicted in circuit court as well as those offenders convicted in general district court of a Class 1 misdemeanor drug offense who receive a sentence that includes probation supervision or participation in a local Alcohol Safety Action Program. In addition, a judge, at his or her discretion, may order screening and assessment for any other Class 1 misdemeanant if the court has reason to believe the defendant has a substance abuse or dependence problem. Juvenile offenders adjudicated for a felony or any Class 1 or 2 misdemeanor drug offense, as well as any juvenile for whom a social history is ordered, also fall under the screening and assessment requirements. As originally designed, specified offenders are to undergo a substance abuse screening. If the screening reveals key characteristics or behaviors likely related to drug use or alcohol abuse, the provisions call for a full assessment to be administered. Assessment is a thorough evaluation that provides a complete picture of the offender's substance abuse pattern and history, social and psychological functioning, and general treatment needs.

Within the Commonwealth, the agencies with primary responsibility for offender screening, assessment and treatment are DOC, DJJ, local community-based probation and pretrial services agencies under the administration of the DCJS and DMHMRSAS. The latter agency accomplishes this objective via the regional Community Services Boards (CSBs). For adult felons, screening, assessment and treatment falls under the purview of the DOC's probation and parole offices. By statute, local offices of VASAP may screen and assess adult misdemeanants, unless the offender is ordered to local community-based probation. Experience to date has shown that local Alcohol Safety Action Programs have received few screening orders or referrals for misdemeanant offenders sentenced in Virginia's general district courts. In such cases, the local community-based probation agency is designated to perform the screening and assessment, rather than the local ASAP. Local community-based probation agencies have handled the bulk of adult misdemeanants who have been screened and assessed. Screening, assessment and treatment of juvenile offenders is performed by court service units serving the juvenile and domestic relations court system or by DJJ institutional personnel.

In 1999, the General Assembly authorized a six-month period (July through December 1999) to test pilot the implementation of the screening and assessment provisions. Nine DOC probation and parole districts, nine local ASAP agencies, nine local community-based probation

agencies and seven DJJ court service units participated in the pilot project. A variety of implementation models were piloted and the most effective methods were chosen to implement statewide. Statewide implementation began January 1, 2000, and offenders who committed their crimes on or after this date were subject to screening and assessment provisions.

The Interagency Drug Offender Screening and Assessment Committee was created by the 1999 General Assembly to oversee the implementation and subsequent administration of this program. Chaired by the Secretary of Public Safety, the Interagency Committee is composed of representatives of DOC, DCJS, DJJ, the Commission on VASAP, DMHMRSAS, and the Virginia Criminal Sentencing Commission. Under § 2.2-223, the Interagency Committee is charged with (i) assisting and monitoring agencies in implementing the drug screening, assessment and treatment provisions of §§ 16.1-273, 18.2-251.01, 19.2-299 and 19.2-299.2, (ii) ensuring quality and consistency in the screening and assessment process, (iii) promoting interagency coordination and cooperation in the identification and treatment of drug abusing or drug dependent offenders, (iv) implementing an evaluation process and conducting periodic program evaluations, and (v) making recommendations to the Governor and General Assembly regarding proposed expenditures from the Drug Offender Assessment Fund.

Before required budget cuts in 2001, the Interagency Committee has provided assistance to and has monitored agencies involved in screening and assessment activities. The Interagency Committee collaborated with agencies to develop screening and assessment policies and procedures, as well as protocols related to confidentiality. The Interagency Committee approved the use of certain instruments for screening and assessing offenders for substance abuse problems. This was done to promote consistency in the screening and assessment process and to enhance the coordination among the various agencies involved in the identification and treatment of substance-abusing offenders. In 1999 and 2000, members of the Interagency Committee conducted numerous informational presentations for judges, prosecutors, public defenders and defense attorneys. The Interagency Committee organized and facilitated seminars to train more than 1,500 staff across agencies on the utilization of selected screening and assessment instruments. DMHMRSAS, in conjunction with the Interagency Committee, arranged for the Legal Action Center (a nationally recognized nonprofit organization specializing in confidentiality issues) to conduct training seminars that focused specifically on issues related to the new roles of criminal justice workers in screening and assessing offenders for substance abuse.

To enhance interagency communication and cooperation, the Interagency Committee developed a protocol outlining specific procedures for the exchange of information among agencies and service providers. The protocol also included the creation of a one-page "Consent" form, which provides authorization for the exchange of information regarding an offender. The Interagency Committee guided the development and enhancement of interagency Memorandums of Agreement (MOAs) and Memorandums of Understanding (MOUs) to promote the referral of offenders for treatment and to improve the delivery of treatment services for offenders.

Per its legislative charge, the Interagency Committee implemented an evaluation process to examine DSAT activities across the Commonwealth. The Secretary of Public Safety's Office directed the DCJS Criminal Justice Research Center to conduct the evaluation of this initiative.

The Criminal Justice Research Center developed a two-phase evaluation plan. Phase 1, an assessment of program implementation during the first 2½ years of operation, began in 2001. DCJS reviewed the development of state and local protocols guiding DSAT implementation, examined the utility of the screening and assessment tools, described variations in operations across state agencies and localities, assessed adherence to *Code of Virginia* directives, and identified obstacles faced by agencies charged with screening, assessing and treating offenders. This evaluation of DSAT implementation was completed in 2002. The findings are contained in the report *Implementation Evaluation of the Drug Offender, Screening, and Treatment Initiative* (2002). Copies of the report are available from the DCJS Criminal Justice Research Center. Phase 2 of the evaluation plan was designed to examine program outcomes and the success of DSAT in achieving its objectives. However, due to subsequent budget cuts and uncertain legislative action, this evaluation was not carried out.

During its 1998 and 1999 sessions, the General Assembly established specialized staff positions within DOC and DJJ to support screening and assessment activities in those agencies. The newly-created full-time positions, known as “certified substance abuse counselors,” or CSACs, require specialized training and education in the field of substance abuse, and individuals in those positions receive certification from the state’s Board of Professional Counselors. These specialized CSAC personnel were to provide a level of “quality assurance” for the screening and assessment process. In addition, prior to 2002, both DOC and DJJ established regional supervisor positions charged with the responsibilities of overseeing the screening and assessment program in their respective regions. In 2002, reductions in funding forced DJJ to cut all of their CSAC positions. Due to the constraints on personnel, CSACs at DOC have had to assume a variety of offender supervision and caseload management duties.

The screening and assessment legislation also established the Drug Offender Assessment Fund, now the Drug Offender Assessment and Treatment Fund (§ 18.2-251.02). Offender fees are collected and deposited into the fund. Offenders convicted of drug crimes are assessed \$150 for felonies and \$75 for misdemeanors. Prior to 2002, these funds were used, in part, to support the training of staff to administer the screening and assessment instruments. Previously, monies from the fund also paid for six CSAC positions within DOC. DJJ has used a portion of the Drug Offender Assessment fund to purchase its screening and assessing tools, which are proprietary; and monitor offenders through drug testing and other operational services that support screening and assessment activities. In 2003, the General Assembly authorized another agency, the DCJS, to receive proceeds from this fund to support screening and assessment efforts of community-based probation and local pretrial services programs; however, DCJS has never been approved to access these funds. The following year, legislation provided that this fund could be used by the Supreme Court of Virginia for the support of drug treatment court programs [vid. § 18.2-251.4, *Code of Virginia*] in the Commonwealth.

Many of the screening and assessment protocols described here were developed prior to the budget reductions experienced in 2002. In response to cuts in funding, agencies involved in screening and assessment activities have re-examined protocols and developed alternative strategies to maximize the use of remaining resources. Despite the elimination of a substantial number of staff positions formerly devoted to this task, the agencies have continued their efforts to address offender’s substance abuse needs by streamlining the process in some instances,



utilizing other screening instruments and otherwise attempting to make this task more manageable for the fewer number of staff involved.

The activities of each participating agency during FY08 are summarized throughout the remainder of this report.

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## Department of Corrections

The Department of Corrections (DOC) provides a tiered substance abuse services approach to address varying offender treatment needs based on the severity of the problem. DOC is organized into two primary operating Divisions: Community Corrections and Operations.

The Division of Community Corrections (DOC-DCC) encompasses adult probation and parole services, day reporting centers, detention and diversion centers. It contracts for many of its treatment services with Community Services Boards (CSBs) and private vendors. On June 30, 2008, there were 59,905 offenders under active supervision. They are preponderantly adult felons. In FY 2008, DOC staff completed more than 29,568 screenings with 36.8% indicating a need for further assessment but only 295 assessments were completed. The loss of Regional Clinical Substance Abuse Supervisors due to budget cuts in previous years has reduced DOC's ability to train and provide appropriate quality controls for staff to provide assessment services. Therefore, unless court ordered, assessments were generally provided by licensed service providers outside of DOC.

Most Probation and Parole Districts (43), Day Reporting Programs (12) and Community Corrections Facilities (9) have a Memorandum of Agreement (MOA) with their respective Community CSB for substance abuse treatment services. There are five contractual vendors providing inpatient substance abuse services, and 26 outpatient service providers plus 43 MOA with CSBs for outpatient services. An estimated 17,000 offenders entered education or treatment services during the year. However, the current DOC-DCC caseload exceeds 59,000 adult felon offenders.

Urinalysis screenings are done on a random basis, both on site in the district probation and parole offices, and day reporting and diversion programs. Samples are collected on site and in the field with off-site laboratories completing the testing. In FY 2005, new and more precise testing guidelines were implemented. These guidelines reduced costs, although we lack the data to determine how many tests were conducted. The 8 contractual Community Residential Programs (CRP), which are not substance abuse treatment facilities, also conduct substance abuse testing. DOC Institutions also conduct random urinalysis sampling of inmates. Urinalysis results indicate a variety of illegal substances are being used. Cocaine and marijuana continue to be discovered most often. Results from community-based programs indicate some regional issues, including methamphetamine as a problem along the I-81 corridor.

In addition to urinalysis of individuals in the programs, canine (K-9) officers and drug dogs coordinate and conduct random searches of Community Correctional facilities, contract residential programs and institutions. Eighteen such searches were conducted in FY 2008.

The DOC-DCC funds one component of the total "Therapeutic Community" Program. This 6-month Residential Transition Therapeutic Community (TTC) program is the community residential phase of the program that successful participants of the 12-month

institution-based Therapeutic Community (TC) program transition to upon completion of their institution-based sentences.

DOC-DCC programs state general funding for FY 2008 was not increased and remained at about \$ 727,000. This included *Treatment Services* \$ 3,066,521 including *Day Reporting Programs (DRP)*; *Residential Transition Therapeutic Community (Community- Based 6 Month Phase V)* \$ 3,625,707; and *Substance Abuse Testing* \$ 568,000. Approximately 19,000 offenders participated in programs and services describe in the aforementioned expenditures. In addition, additional persons were served by participating in self-help groups, such as Alcohol Anonymous.

DOC is in the process of introducing the concept of Evidence-Based Practices (EBP) into our programs and services. EBP protocols, procedures and forms are being piloted in five demonstration Probation and Parole Services District offices – Charlottesville District 9, Winchester District 11, Lynchburg District 13 , Williamsburg District 34 and Tazewell District 43. These EBP pilots are being conducted in partnership with Local Community Corrections Act programs (LCCAP) in the above communities. LCCA programs are under the aegis of DCJS. An EBP survey and site review process have been developed and are used to strengthen EBP in these programs as well as in the two new DRP’s in Winchester and Tazewell which are just started up. The five Diversion and four Detention Centers, all of which provide substance abuse services, completed a program review and are in the process of revamping their services. Two DOC – DCC facilities - Chesterfield / Richmond Diversion / Detention (Women) and White Post Diversion (Men) - have introduced ‘cognitive communities’ into their programming and the length of stay has increased from five to seven months.

Finally, we are modifying the “Purpose” in our Memoranda of Agreements (MOA) and as we renew and re-issue service arrangements. Alcohol and other drug service outpatient and residential service contracts are being modified to require that the contractual services be EBP.

The major issues facing the DOC-DCC include:

- replacement of clinical supervision staff who would have major impact on the capacity to provide clinical oversight to DOC’s Certified Substance Abuse Counselors (CSAC), to enhance quality control service delivery and to offer training and technical assistance to field staff.
- continued funding from the Drug Offender Assessment and Treatment Fund.
- increased availability of “evidence based practices” (EBP) programs and services for offenders with substance abuse problems, as well as those with co-occurring mental disorders.
- accommodating a projected annual caseload growth rate of about 4%.
- cancellation of the TTC, Phase V (TTC) program contract in October 2008 with participation discontinuance planned for January 2009.
- closing all 12 Day Reporting Programs (DRP) by January 2009 along with DOC support for Drug Treatment Courts;

The Division of Operations includes 49 institutions plus 4 special housing units across the state with a population in excess of 35,000 with about 1,600 in local and regional jails

awaiting intake. Incoming prisoners are typically screened for substance abuse during reception and classification with about 80% indicating some substance abuse history. The facilities range from maximum security housing the most serious offenders, to minimum security and work centers housing less violent offenders. Over 13,000 offenders were released to the community in FY 2008.

There are five programming tiers to DOC institution-based substance abuse treatment services: Orientation; Psycho-Education; Substance Abuse Counseling; Support Programs, such as Alcohol Anonymous and Narcotics Anonymous; and, Therapeutic Community (TC) and Residential Transition Therapeutic Community (TTC).

DOC Institutions continue to operate prison TCs and have consolidated the women's TC programs at the Virginia Correctional Center for Women with approximately 1,800 residential treatment beds.

The Institutional TCs include: Botetourt Correctional Center (capacity 352); Indian Creek Correctional Center (capacity 984); Lawrenceville Correctional Center (Private, capacity 160) and Virginia Correctional Center for Women (capacity 274). The total capacity of the Institutional TCs is 1,770. The Residential TTCs include: Bethany Hall (Women, capacity 13); Gemeinschaft Home (Men and Women, capacity 60); Serenity House (Men, capacity 71 – Closed October 15, 2007); Vanguard ( 3 ); Rubicon (Men, capacity 33 and women, capacity 4); and Hope Harbor (Men, capacity 8). The total capacity of the Residential TTCs on June 30, 2008 was 121.

In September 2005, DOC submitted Report on Substance Abuse Treatment Programs which addressed Institutional Therapeutic Communities, Community-Based Residential Therapeutic Communities and contractual Residential Substance Abuse Treatment. The findings from these studies suggest that DOC's substance abuse treatment programs – when properly funded and implemented – are able to reduce recidivism for the substance abusing offender population.

These findings and other information were presented to the Joint Legislative and Review Commission (JLARC) in its 2008 report, *Mitigating the Costs of Substance Abuse in Virginia*. The recommendations therein will be followed up by the SJR 77 Joint Committee on which the Department of Corrections is represented.

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## Department of Criminal Justice Services (DCJS)

For FY 2008, DCJS provided localities over \$21 million in general funds to support operations in 37 community-based probation and 30 local pretrial agencies. About 91% of the total is dedicated to personnel costs and less than 5% to other operating costs only a portion of which supports drug testing.

The majority of local agencies have incorporated the questions in the Substance Screening Instrument (SSI) into their pretrial investigation or defendant and offender intake interview procedures.

The Addiction Severity Index (ASI), as a general practice, is no longer completed in-house. When assessments are indicated, local probation and pretrial services agencies must rely on referrals to private counseling services by contract or CSBs who conduct their own assessments as part of substance abuse education or treatment services.

During the past year, there were 39,234 offenders directly placed by courts on local community-based probation resulting in an Average Daily Caseload (ADC) of 21,238. Pretrial services agencies investigated 50,444 defendants and received 18,523 total placements on supervision for an ADC of 4,628.

While the provision of substance abuse services has not ceased, the lack of SABRE or other dedicated funding has severely hampered a systematic process for identifying defendants and offenders with substance abuse problems and for paying for assessments and services. It appears that only 18.3% of defendants and offenders placed under pretrial or local community based probation supervision (10,593 of 57,757) last year participated in substance abuse education and/or treatment. Based on the amounts reported in grant applications for these substance abuse services, it appears that defendants and offenders paid for the major portion of assessment and education and treatment services received.

During FY 2008, local pretrial and community-based probation agencies referred:

- 8,474 defendants and 12,010 probationers for drug testing during their period of supervision
- 629 defendants and 4,850 probationers to substance abuse education
- 1,183 defendants and 3,931 probationers to substance abuse counseling
- 8 defendants and 16 probationers into short-term detoxification
- 43 defendants and 77 probationers into inpatient treatment facilities ( 28+ days)

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## Virginia Alcohol Safety Action Program (VASAP)

The Commission on the Virginia Alcohol Safety Action Program does not expend funds from the Drug Offender Assessment and Treatment Fund. All VASAP services, including screening, assessments and urinalysis testing are funded completely from offender fees.

Individuals referred to any of the 24 local Alcohol Safety Action Programs (ASAP) are screened by case managers using the Commission approved screening tools. If the initial screening indicates a need for further assessment, individuals are referred to treatment providers licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHRSAS) or certified by the Department of Health Professionals. It is significant to note that the number of individuals determined to be in need of mental health services in addition to alcohol education and treatment has been steadily increasing. Assessment and treatment services are provided by both private treatment providers and local community services boards.

Governor Warner's DUI Task Force Report of 2003 recommended that the Substance Abuse Services Council, in partnership with VASAP and DHMRSAS, develop a plan to identify and promote standardized assessment tools. These tools could be used by all service providers to help match individuals to appropriate intervention and treatment programs and to identify best practices for effective intervention with repeat offenders.

During 2005 and 2006, federal grant funding was provided and used to support training of screening and assessment tools and techniques for ASAP staff. This training was held at the Summer Institute for Addiction Studies at the College of William and Mary. Also in 2006, research was conducted by staff at the College of William and Mary to select assessment instruments and best practices in working with repeat offenders and hard core drinking drivers.

Using the research data, regional training was scheduled from March to June of 2007 to introduce ASAP treatment providers to assessment tools proven effective for repeat offenders. During these three 6- hour training sessions, providers were given practical information on administering the Comprehensive Drinker Profile.

The final phase of the training process occurred in 2008 when the Commission on VASAP partnered with DHMRSAS to conduct a statewide training session for ASAP staff and treatment providers. This session focused on using the American Society of Addiction Medicine placement criteria in working with high risk DUI offenders. The training, held in Charlottesville, was conducted by Gerald Shulman, a recognized expert in ASAM placement criteria. Participants developed skills in the use of the American Society of Addiction Medicine (ASAM) criteria from the point of intake through placement, discharge and referral for continuing care. Since the ASAP staff's primary responsibility with the high risk DUI offender is appropriate service referral and case management, Mr. Shulman spent a significant amount of class time exploring these roles. A five level risk rating system was used to determine the severity of problems with high-risk DUI offenders, and the use of assessment forms was demonstrated by the instructor. The latter portion of the training provided participants with the opportunity to receive hands-on experience through the use of a case study. The case study determined the

severity of the problems with high-risk DUI offenders, selected the services needed and finalized appropriate placement. The class composition of case managers and treatment providers afforded an additional opportunity to network and gain a greater understanding of the operations of the two agencies as they relate to the offender.

The Commission on VASAP will continue to explore best practices in the areas of screening and assessment especially as related to high risk offenders. Placing these offenders in the most appropriate level of intervention is critical to offender success.

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## Department of Juvenile Justice (DJJ)

### **Division of Community Programs**

Budget reductions, the expiration of federal grant funding and elimination of the SABRE appropriations for treatment led to a drastic reduction in DJJ activities starting in FY 2003. All 32 substance abuse screening and assessment positions were abolished, effectively ending DJJ's capacity to continue to provide activities as required by the *Code of Virginia* under §16.1-273. As the Appropriations Act now relieves DJJ of meeting these requirements, DJJ withdrew from participation in revenue drawn from the Drug Offender Assessment Funds.

DJJ has responded to the ongoing substance abuse issue of juveniles before the court in the following ways during FY 2008.

- Court Service Units (CSUs) continued to perform substance abuse screening with available staff resources. There were 1,976 screenings and 365 assessments completed. DJJ continues to supply screening instruments (SASSI-A2) to its CSUs.
- The Division of Community Programs utilized \$200,000 of funds appropriated by the General Assembly to support substance abuse treatment for 196 juveniles in community-based outpatient settings and a few placements in residential substance abuse treatment facilities.
- DJJ continued to provide support for monitoring substance abuse by juveniles on community supervision by allocating general funds (\$65,418) for the purchase of urine drug testing materials.
- All juveniles committed to the state received a substance abuse screening, assessment and indicated treatment services through the Division of Institutions.
- Juveniles released on parole supervision were eligible for funding for (primarily outpatient) substance abuse treatment services through the Department's transitional services program.

### **Division of Institutions**

The substance abuse treatment needs of all youth committed to DJJ juvenile correctional centers (JCC) are evaluated upon the youth's arrival at the Reception and Diagnostic Center. As a result, in FY 2008, 533 youth (69% of committed youth) required substance abuse treatment services. Services are provided within the JCC's general population in addition to four substance abuse treatment units. The general fund finances all treatment positions for these services, which are provided by the Behavioral Services Unit and select Case Management staff.



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## Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS)

The Commonwealth's Community Services Board system of care continues to struggle to provide services to offenders as a result of the loss of SABRE dollars and the severe demand for services. The Office of Substance Abuse Services (OSAS) has partnered with the Virginia Sheriffs' Association and Institute, the Virginia Association of Regional Jails and the Community Services Boards in developing a working relationship to explore means to meet the needs of this incarcerated population suffering with drug or alcohol addictions and assessing the additional needs of these citizens of the Commonwealth.

OSAS continues to work with local CSBs and established a forum of jail-based contacts to meet on a quarterly basis to share program concerns and networking strategies about what is working or not working in their respective areas.

OSAS is working with the Sheriff's Association and the Virginia Association of Regional Jails to develop a survey to be used by both organizations in collecting data that addresses the percentage of the population participating in each facility; the availability of the program on a continuing basis to recidivists regardless of the facility to which they may be committed; and the overall efficacy of the program.

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Appendix A  
Relevant Statutes

### **§ 2.2-223. Interagency Drug Offender Screening and Assessment Committee.**

The Secretary shall establish and chair an Interagency Drug Offender Screening and Assessment Committee to oversee the drug screening, assessment and treatment provisions of §§ [16.1-273](#), [16.1-278.1](#), [16.1-278.8](#), [18.2-251.01](#), [18.2-251](#), [18.2-252](#), [19.2-299](#) and [19.2-299.2](#) for defendants convicted in the criminal courts of the Commonwealth. The Committee shall include the Directors or Commissioners of the Department of Corrections; Department of Criminal Justice Services; Department of Juvenile Justice; Department of Mental Health, Mental Retardation and Substance Abuse Services; the Virginia Alcohol Safety Action Program; and the Virginia Criminal Sentencing Commission. The Committee shall have the responsibility to: (i) assist and monitor agencies in implementing the above-listed Code of Virginia sections, (ii) ensure quality and consistency in the screening and assessment process, (iii) promote interagency coordination and cooperation in the identification and treatment of drug abusing or drug dependent offenders, (iv) implement an evaluation process and conduct periodic program evaluations, and (v) make recommendations to the Governor and General Assembly regarding proposed expenditures from the Drug Assessment Fund. The Committee shall report on the status and effectiveness of offender drug screening, assessment and treatment to the Virginia State Crime Commission and the House Committees on Courts of Justice and Appropriations, and the Senate Committees on Courts of Justice and Finance by January 1 of each year.

### **§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.**

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may include the physical, mental and social conditions, including an assessment of any affiliation with a youth gang as defined in § [16.1-299.2](#), and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be a felony if committed by an adult, or a violation under Article 1 (§ [18.2-247](#) et seq.) or Article 1.1 (§ [18.2-265.1](#) et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § [54.1-3500](#) employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § [19.2-299.1](#) if the court determines that the victim may have suffered significant physical, psychological or economic injury as a result of the violation of law.

**§ 18.2-251.01. Substance abuse screening and assessment for felony convictions.**

A. When a person is convicted of a felony, not a capital offense, committed on or after January 1, 2000, he shall be required to undergo a substance abuse screening and, if the screening indicates a substance abuse or dependence problem, an assessment by a certified substance abuse counselor as defined in § [54.1-3500](#) employed by the Department of Corrections or by an agency employee under the supervision of such counselor. If the person is determined to have a substance abuse problem, the court shall require him to enter a treatment and/or education program, if available, which, in the opinion of the court, is best suited to the needs of the person. This program may be located in the judicial district in which the conviction was had or in any other judicial district as the court may provide. The treatment and/or education program shall be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or shall be a similar program which is made available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of twelve months or less, by a similar program available through a local or regional jail, a community-based corrections program established pursuant to § [9.1-174](#), or an ASAP program certified by the Commission on VASAP. The program may require the person entering such program under the provisions of this section to pay a fee for the education and treatment component, or both, based upon the defendant's ability to pay.

B. As a condition of any suspended sentence and probation, the court shall order the person to undergo periodic testing and treatment for substance abuse, if available, as the court deems appropriate based upon consideration of the substance abuse assessment.

**§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.**

There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund which shall consist of moneys received from fees imposed on certain drug offense convictions pursuant to subdivisions A 10 and A 11 of § [17.1-275](#) and § [16.1-69.48:3](#). All interest derived from the deposit and investment of moneys in the Fund shall be credited to the Fund. Any moneys not appropriated by the General Assembly shall remain in the Drug Offender Assessment and Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal year. All moneys in the Fund shall be subject to annual appropriation by the General Assembly to the Department of Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement and operate the offender substance abuse screening and assessment program; the Department of Criminal Justice Services for the support of community-based probation and local pretrial services agencies; and the Office of the Executive Secretary of the Supreme Court of Virginia for the support of drug treatment court programs.

**§ 19.2-299. Investigations and reports by probation officers in certain cases.**

A. Unless waived by the court and the defendant and the attorney for the Commonwealth, when a person is tried in a circuit court (i) upon a charge of assault and battery in violation of § [18.2-57](#) or § [18.2-57.2](#), stalking in violation of § [18.2-60.3](#), sexual battery in violation of § [18.2-67.4](#), attempted sexual battery in violation of § [18.2-67.5](#), or driving while intoxicated in violation of § [18.2-266](#), and is adjudged guilty of such charge, the court may, or on motion of the defendant

shall, or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall when the defendant pleads guilty without a plea agreement or is found guilty by the court after a plea of not guilty, or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of §§ [18.2-46.2](#), [18.2-46.3](#), [18.2-61](#), [18.2-63](#), [18.2-64.1](#), [18.2-64.2](#), [18.2-67.1](#), [18.2-67.2](#), [18.2-67.2:1](#), [18.2-67.3](#), [18.2-67.4:1](#), [18.2-67.5:1](#), [18.2-355](#), [18.2-356](#), [18.2-357](#), [18.2-361](#), [18.2-362](#), [18.2-366](#), [18.2-368](#), [18.2-370](#), [18.2-370.1](#), or § [18.2-370.2](#), or any attempt to commit or conspiracy to commit any felony violation of §§ [18.2-67.5](#), [18.2-67.5:2](#), or § [18.2-67.5:3](#), direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § [18.2-46.1](#), and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be made available only by court order and shall be sealed upon final order by the court, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § [9.1-101](#), of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person who has been indicted jointly for the same felony as the person subject to the report. Any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person is charged with a felony subsequent to the time of the preparation of the report. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections. For the purposes of this subsection, information regarding the accused's participation or membership in a criminal street gang may include the characteristics, specific rivalries, common practices, social customs and behavior, terminology, and types of crimes that are likely to be committed by that criminal street gang.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § [53.1-155](#).

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ [18.2-](#)

[247](#) et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a capital offense, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § [18.2-251.01](#).

**§ 19.2-299.2. Alcohol and substance abuse screening and assessment for designated Class 1 misdemeanor convictions.**

A. When a person is convicted of any offense committed on or after January 1, 2000, under Article 1 (§ [18.2-247](#) et seq.) or Article 1.1 (§ [18.2-265.1](#) et seq.) of Chapter 7 of Title 18.2, and such offense is punishable as a Class 1 misdemeanor, the court shall order the person to undergo a substance abuse screening as part of the sentence if the defendant's sentence includes probation supervision by a local community-based probation program established pursuant to Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1 or participation in a local alcohol safety action program. Whenever a court requires a person to enter into and successfully complete an alcohol safety action program pursuant to § [18.2-271.1](#) for a second offense of the type described therein, or orders an evaluation of a person to be conducted by an alcohol safety action program pursuant to any provision of § [46.2-391](#), the alcohol safety action program shall assess such person's degree of alcohol abuse before determining the appropriate level of treatment to be provided or to be recommended for such person being evaluated pursuant to § [46.2-391](#).

The court may order such screening upon conviction as part of the sentence of any other Class 1 misdemeanor if the defendant's sentence includes probation supervision by a local community-based probation program established pursuant to Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1, participation in a local alcohol safety action program or any other sanction and the court has reason to believe the defendant has a substance abuse or dependence problem.

B. A substance abuse screening ordered pursuant to this section shall be conducted by the local alcohol safety action program. When an offender is ordered to enter programming under the local community-based probation program established pursuant to Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1, rather than the local alcohol safety action program, the local community-based probation program shall be responsible for the screening. However, if a local community-based probation program has not been established for the locality, the local alcohol safety action program shall conduct the screening as part of the sentence.

C. If the screening indicates that the person has a substance abuse or dependence problem, an assessment shall be completed and if the assessment confirms that the person has a substance abuse or dependence problem, as a condition of a suspended sentence and probation, the court shall order the person to complete the substance abuse education and intervention component, or both as appropriate, of the local alcohol safety action program or such other treatment program, if available, such as in the opinion of the court would be best suited to the needs of the person. If the referral is to the local alcohol safety action program, the program may charge a fee for the education and intervention component, or both, not to exceed \$300, based upon the defendant's ability to pay.