

Alternatives **for** **Non** **Violent**  
**N** **Offenders**  
Task Force

Report and Recommendations  
December 2009

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**Assistance Provided By:**



## EXECUTIVE SUMMARY

Virginia today has four times as many prison inmates as it did 25 years ago. In 1982, there were 9,192 state responsible inmates; at the close of FY2009, there were 38,387.<sup>1</sup> To accommodate this growing inmate population, Virginia has built a number of correctional facilities. Since 1990, the Commonwealth has added over 22,000 state prison beds. With this growth in population and facilities, came a corresponding growth in costs. The price tag for those 22,000 state prison beds was \$1.1 billion in capital costs alone. In FY2008, the operating appropriation for the Virginia Department of Corrections (DOC) reached over \$1 billion, an increase of almost 74 percent since 1998.

After years of investing in expanding correctional facilities, the Commonwealth faces a very different and difficult fiscal situation. Rather than expanding, DOC must find ways to downsize. In October 2008, in response to budget reductions, DOC closed two older correctional facilities and reduced its prison capacity by 1,400 beds. For FY2010, DOC's general fund budget was cut by an additional 10 percent. To meet these budget reductions, DOC will have to close an additional two facilities, reducing its capacity by another 1,100 prison beds.

Recognizing that funding will be limited or non-existent for future prison or jail construction over the next several years, the General Assembly during its 2009 Session took several steps to determine ways that offender population growth could be moderated, while maintaining the Commonwealth's commitment to public safety. With this in mind, the General Assembly directed the Secretary of Public Safety to form a Task Force to develop recommendations for expanding the utilization of alternative methods of punishment for non-violent, lower-risk offenders who have been sentenced by a court to a term of incarceration. (See Appendix A).

The Secretary of Public Safety convened the Alternatives for Non-Violent Offenders Task Force and brought together a diverse group of stakeholders from across the criminal justice system, including judges, Commonwealth's Attorneys, sheriffs, police chiefs, regional jail administrators, the DOC, the Attorney General's Office, and the Virginia Criminal Sentencing Commission, among others. After a series of four meetings from May to August 2009, the Task Force developed both short and long-term data-driven policies and practices for state-responsible non-violent offenders that protect public safety, hold offenders accountable, and control correctional costs.<sup>2</sup>

Given the short time frame and diverse stakeholders, it is important to note that these recommendations represent the general view of the Task Force and were not put to a vote. Also, they are not presented in any priority order. There was however, unanimous consensus to extend the work of the Task Force. The members were enthusiastic about the level of cooperation and collaboration achieved in the few months in which the Task Force convened. The recommendations focus on state-responsible technical violators, community supervision practices, and community services.

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<sup>1</sup> The adult state-responsible inmate population includes offenders incarcerated in state prisons as well as state inmates housed in local and regional jails around the Commonwealth.

<sup>2</sup> The Task Force focused on *non-violent* felony offenders as required by Item 387, G of the 2009 Appropriations Act. The recommendations focus on those felony offenders sentenced to DOC and apply only to state-responsible inmates.

## SUMMARY LIST OF RECOMMENDATIONS

### RECOMMENDATIONS TO ADDRESS TECHNICAL VIOLATIONS

#### **Recommendation 1: Probation Violation Sentencing Guidelines**

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Enact legislation codifying the probation violation sentencing guidelines adopted by the Virginia Criminal Sentencing Commission and direct the Virginia Criminal Sentencing Commission to revalidate the risk assessment instrument that would be used for offenders recommended for a prison or jail sentence under the guidelines as a result of a technical violation.

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#### **Recommendation 2: Short Jail Stays**

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Enact legislation giving DOC's Division of Community Corrections the authority to use short jail stays as an intermediate sanction for probation and parole technical violators, ensuring that due process concerns are addressed in the process and that the impact on local jail space is taken into consideration.

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#### **Recommendation 3: Expand the Use of Detention and Diversion Centers**

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Develop ways to expand the use of detention and diversion facilities by adding nursing staff to ensure that a greater number of offenders are eligible for the facilities, using the centers as intermediate sanctions facilities for technical violators, and streamlining the screening process for offenders.

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#### **Recommendation 4: Streamline the Violation/Revocation Process**

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Work with the judiciary to establish administrative rules of the court creating procedures for court violation dockets.

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### RECOMMENDATIONS TO ENHANCE COMMUNITY SUPERVISION

#### **Recommendation 5: Maximum Probation Terms**

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Enact legislation that sets a maximum term of supervised probation for certain offenders, with the purpose of shortening the average length of supervision for most probationers.

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#### **Recommendation 6: Earned Compliance Credit**

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Enact legislation that creates a statewide system that awards credit to probationers upon the completion of goals or months in compliance.

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#### **Recommendation 7: Non-Active Supervision Category**

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Re-examine and streamline the process by which probationers may be moved off supervised probation if the failure to make full payment of fines, fees and costs are the sole reason why the probationer is kept under supervised probation.

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**Recommendation 8: Pilot HOPE Program**

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Implement and evaluate pilots in two jurisdictions that provide for swift and certain sanctions for probation violations, based on the HOPE program in Hawaii.

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**Recommendation 9: Expand Drug Courts**

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Expand existing drug courts that focus on moderate to high-risk offenders (e.g., technical violators or those convicted of multiple offenses rather than first-time offenders). Also provide incentives to localities to expand drug courts.

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**Recommendation 10: Expand Electronic Monitoring**

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Negotiate a statewide contract for the purchase of electronic monitoring (EM) and Global Positioning System (GPS) equipment and develop criteria governing the use of electronic monitoring by localities.

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**Recommendation 11: Renew Funding for Day Reporting Centers**

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Renew funding for day reporting centers and ensure that they apply evidence-based practices.

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**RECOMMENDATIONS TO EXPAND COMMUNITY SERVICES**

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**Recommendation 12: Improve Treatment Options**

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Increase funding for treatment options throughout the criminal justice system with a particular focus on proven outpatient services.

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**Recommendation 13: Expand Evidence-Based Practices**

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Implement Evidence-Based Practices (EBP) statewide by training all parole and probation officers on EBP and developing operating procedures to sustain implementation.

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**Recommendation 14: Improve Mental Health Services**

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Increase funding for mental health services, including from federal sources, and improve mental health services in prisons and in the community.

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**RECOMMENDATIONS TO EXTEND AND EXPAND THE TASK FORCE**

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**Recommendation 15: Extend and Expand the Task Force**

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Enact legislation extending and expanding the Alternatives for Non-Violent Offenders Task Force.

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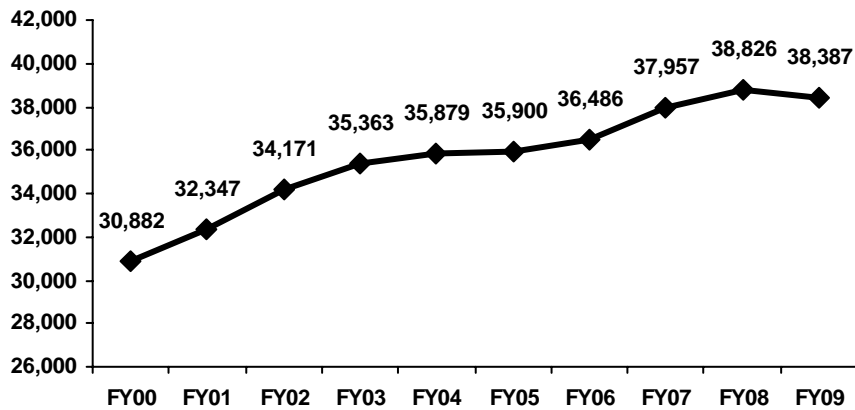
## BACKGROUND

### *Virginia's State-Responsible Population*

The Department of Corrections (DOC) is responsible for the management of all state inmates and the supervision of those offenders placed on probation or out have been paroled. DOC operates 29 major institutions, eight correctional field units, eight work/pre-release centers, three detention centers, four diversion centers, and 43 probation and parole district offices.

Although the state-responsible inmate population actually declined during FY2009, it was the first time it dropped in more than a decade. The population in Virginia has grown more than 300 percent in 25 years, from 9,192 in 1982 to 38,387 at the end of FY2009. In the last decade (between FY1999 and FY2008), the state-responsible prison population grew by 29 percent, over 8,700 offenders.<sup>3</sup> The state-responsible inmate population is expected to reach 39,910 inmates by the end of FY2015.<sup>4</sup> Additionally, the Division of Community Corrections supervises more than 59,000 offenders in the community.

**Figure 1: Virginia's State-Responsible Adult Inmate Population (June 30, 2009)<sup>5</sup>**



### *Truth in Sentencing*

One reason for the increase in Virginia's prison growth over the last 15 years was the adoption of truth-in-sentencing legislation in 1994 and the elimination of discretionary parole. These correctional reforms were designed to ensure that convicted individuals served a significant majority of their sentences. Felony offenders must serve at least 85 percent of their prison or jail terms. In addition, the sentencing guidelines implemented in 1995 were designed to yield longer

<sup>3</sup> Virginia Department of Corrections Management Information Summary Annual Report, Year End June 30, 2008. Actual costs vary by institution.

<sup>4</sup> *Report on the Offender Population Forecast to the Virginia General Assembly*. Office of the Secretary of Public Safety, Richmond, VA: October 2009.

<sup>5</sup> *Report on the Offender Population Forecast to the Virginia General Assembly*. Office of the Secretary of Public Safety, Richmond, VA: October 2009.

sentence recommendations for violent offenders than under the previous system.<sup>6</sup> Over time, the percentage of Virginia's prison population who are violent offenders, as defined by statute, has increased and those offenders now serve longer lengths of stay.<sup>7</sup> According to DOC, 74.2 percent of the current state-responsible population is classified as violent and 25.8 percent is classified as non-violent.<sup>8</sup>

While the majority of the offender population is classified as violent, approximately half of all new admissions are non-violent offenders. In FY2008, 52.8 percent of the probation violators admitted to prison were non-violent and 45.2 percent of admissions from new court commitments (excluding violators) were non-violent.<sup>9</sup> Of these non-violent offenders admitted to prison in FY2008, 39.7 percent were convicted of larceny or fraud, and 25.8 percent were convicted of drug possession.

### ***Recommitments for Technical Violations***

A growing driver of the prison population is the revocation of offenders on state probation and parole. In FY2008, almost half of the state-responsible admissions were probation and parole violators (of the 13,503 total admissions, 6,142 (45%) were probation or parole violators). While a majority of these violators were brought into custody for committing a new crime while on supervision, approximately 12.8 percent of all state-responsible admissions in FY2008 were for technical probation and parole violations (1,723 of 13,503 admissions). Virginia's offender forecast projects that the state-responsible population will include 2,363 technical probation violators by FY2015.

There are many reasons why offenders fail on supervision. A study of probation violators by the Virginia Criminal Sentencing Commission (VCSC) showed that in FY2008, use of a controlled substance was cited in 54.9 percent of technical probation violation cases. Other frequently cited reasons included failure to follow instructions (50.5%), failure to report to a probation officer as instructed (40.8%), absconding from supervision (37.2%), and violation of special court imposed conditions (29.5%).<sup>10</sup>

These technical violators contribute significantly to the state inmate population. The average sentence for a non-violent technical probation violator in FY2008 was over two years (24.1 months), with an expected length of stay of 20.2 months. The average expected length of stay for a non-violent technical parole violator in FY2008 was 31 months.<sup>11</sup>

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<sup>6</sup> As a result, sentences for violent offenses are up to six times longer than the historical time served under the previous parole system *Report on the Offender Population Forecast to the Virginia General Assembly*. Office of the Secretary of Public Safety, Richmond, VA: October 2008.

<sup>7</sup> *2008 Annual Report*. Virginia Criminal Sentencing Commission. Richmond, VA: December 2008.

<sup>8</sup> Confined population figures include state-responsible offenders housed in DOC facilities and local jails. "iolent" includes either a current or prior conviction for murder, abduction, rape/sexual assault, robbery, assault, weapons, burglary, sex offenses, and any other current convictions under §17.1-805.

<sup>9</sup> Parole violators are an exception: 70.6 percent of parole violators admitted to prison in FY2008 were violent.

<sup>10</sup> Percentages do not add to 100 percent because there may be multiple violations cited for each offender.

<sup>11</sup> Overview of the Current Populations, Virginia Department of Corrections, presentation by John Britton at the Task Force meeting on May 28, 2009.

### ***Virginia's Reliance on Incarceration***

As of January 1, 2008, one out of every 89 adults was incarcerated in Virginia.<sup>12</sup> This puts Virginia 13<sup>th</sup> nationally among the states, where the national average is 1 in 100 adults. On the other hand, Virginia has a relatively small share of adults under community supervision: 1 in 94, compared with a national average of 1 in 45. Combining these two statistics – a high incarceration rate and a low community supervision rate – shows that 52 percent of Virginia's adult correctional population is behind bars. This is the fourth highest rate in the country. Compared to other states, Virginia is using more incarceration and less community supervision.

Virginia has taken steps to identify those offenders who pose less risk to society and may be appropriate for alternative sentencing. As part of Virginia's changes to its sentencing laws in 1994, the Virginia General Assembly directed the VCSC to develop an offender risk assessment instrument predictive of a felon's relative risk to public safety. The purpose was to apply this instrument to non-violent offenders to determine appropriate candidates for alternative sentencing. The legislation specified a goal of diverting 25 percent of those bound for prison to alternatives.

In 2008, the risk-assessment instrument was applied to 7,060 non-violent felony offenders who met the criteria for incarceration under the sentencing guidelines. Of those, 51 percent (3,601) were sufficiently low risk and eligible for an alternative sentence. Prison bound offenders accounted for 2,199 of those eligible for an alternative (either jail, probation or another community corrections alternative), and jail bound offenders accounted for 1,402 of those eligible for an alternative (probation or a community correction alternative). Judges, however, have the discretion to use traditional incarceration or an alternative punishment. In 2008, of the 2,199 prison bound offenders eligible for an alternative punishment, 51.6 percent (1,134) were sentenced to an alternative, while 1,065 were sentenced to prison. The primary alternatives used were probation, a shorter incarceration period (jail) and restitution.

### ***The Cost of Corrections***

Virginia committed over \$1 billion of its general fund to DOC in FY2008. In fact, DOC is the state's largest agency with 13,000 employees, and corrections accounts for 1 in every 13 state general fund dollars. In FY2008, the cost to house each inmate in all the various facilities, including prisons, field units, work centers and diversion and detention centers, rose 6.6% to \$24,332. In FY2009, this cost rose to \$24,667.<sup>13</sup>

In addition to the annual housing costs, the Commonwealth has also spent considerable funds building facilities to hold the growing prison population. Since 1990, Virginia has built over 22,000 state prison beds at a capital cost of over \$1.1 billion, including two facilities that have not yet been opened due to lack of funding for operational costs. Each new 1,000-bed facility costs over \$100 million to build, and over \$25 million each year to operate.

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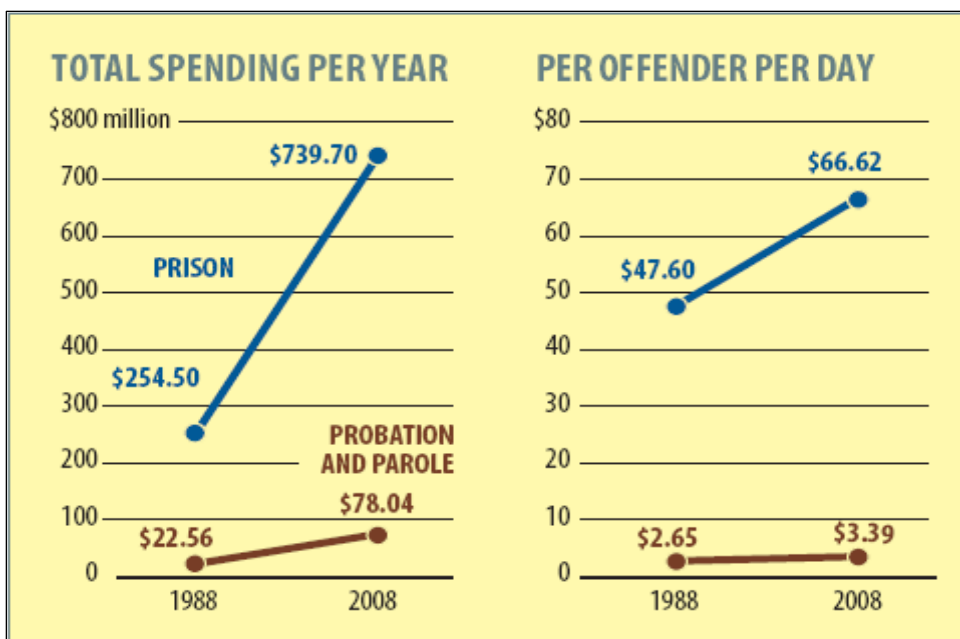
<sup>12</sup> *One in 31: The Long Reach of American Corrections*. The Pew Charitable Trusts – Center on the States. Washington, D.C., March 2009. The total correctional population figures include both state responsible and local responsible offenders.

<sup>13</sup> Virginia Department of Corrections Management Information Summary Annual Reports. Actual costs vary by institution.



In addition, Virginia is spending almost 20 times more per day to manage prison inmates than to supervise offenders in the community.<sup>14</sup> In 2008, DOC spent approximately \$739.70 million to house prisoners and only \$78.04 million on community corrections, despite having a larger population by almost 20,000.<sup>15</sup> In Virginia, between 1982 and 2008, the daily cost of housing a prison inmate increased from \$47.60 per day to \$66.62 per day, while daily parole and probation costs increased from \$2.65 per day to \$3.39 per day.

**Figure 2: Virginia Correction Costs by Category (1988 and 2008)**



### ***Recent Budget Reductions to Corrections***

Governor Kaine’s October 2008 Budget Reductions were extremely difficult for the Departments of Correctional Education (DCE), Corrections (DOC) and Juvenile Justice (DJJ). Hardest hit was DOC, which was forced to close older correctional facilities as well as eliminate valuable treatment and inmate programming. In total, DOC closed six facilities and eliminated more than 700 positions to cut \$42.5 million from the state budget.

These reductions forced the closure of all 12 day reporting centers for offenders under community corrections. Five detention and diversion centers were also closed leaving only three detention facilities and four diversion centers operating throughout the state.<sup>16</sup> In addition, the 2008 budget reductions reduced the available treatment options for offenders. Funding for substance abuse treatment for probation and parole offenders was reduced and DOC eliminated

<sup>14</sup> The national figures are similar. The average cost to house an inmate is \$79 per day or nearly \$29,000 per year. The average cost of managing an offender in the community ranged from \$3.42 per day for probationers to \$7.47 per day for parolees or about \$1,250 to \$2,750 per year *1 in 31: The Long Reach of American Corrections*. The Pew Charitable Trust: Center on the States. Washing, DC: March 2009.

<sup>15</sup> Ibid.

<sup>16</sup> Commonwealth of Virginia. Budget for the 2008-2010 Biennium. Acts of Assembly 2009, Richmond, VA: April 8, 2009

one counselor position in each major correctional facility. The six residential transitional therapeutic communities were also closed.

More recently, in September 2009, DOC incurred another \$22.18 million budget reduction and was forced to close two more correctional facilities, Brunswick and Botetourt Correctional Centers<sup>17</sup>. In total, between the cuts in October 2008 and September 2009, DOC has reduced its prison capacity by 2,500 beds. Once the 2009 budget closures have been made, DOC estimates that they will experience a shortfall of 3,600 prison beds by the end of FY2010 and they expect this shortfall to grow by approximately 250 to 350 prison beds each fiscal year thereafter.<sup>18</sup> Additionally, as of September 11, 2009, there were 2,858 out-of-compliance state inmates in local and regional jails, and this number is expected to increase due to the budget reductions.<sup>19</sup>

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<sup>17</sup> The Governor's Budget Reduction Plan (September 2009) includes the sale of both Brunswick Correctional Center and Natural Bridge for \$25 million, yielding a total budget reduction of \$47.18 million.

<sup>18</sup> Two new prisons, St. Brides Phase II and Grayson County, are projected to open in FY 2013. These openings will add 1,800 beds to DOC's capacity. However, DOC lacks the operating budget to open either facility at the present time.

<sup>19</sup> Green, Barry. "*Status of Prisoner Reentry Programming.*" PowerPoint presentation. Office of the Secretary of Public Safety. Presented on September 16, 2009 to the Virginia State Crime Commission.

## TASK FORCE APPROACH

With an anticipated annual growth in the state-responsible inmate population, a population forecast of 39,910 by the end of 2015, and no short-term end to the dire budget crisis facing the Commonwealth, it was timely for the General Assembly to charge the Secretary of Public Safety with the task of bringing together key stakeholders to develop recommendations to expand the utilization of alternative methods of punishment for non-violent, lower-risk offenders, who would otherwise be sentenced to a term of incarceration.

Secretary of Public Safety John W. Marshall convened a broad array of criminal justice stakeholders to serve as members of the Task Force. Judges, sheriffs, Commonwealth's Attorneys, police chiefs, staff from the DOC, the Attorney General's Office and the VCSC, among others, came together for a series of meetings held from May to August 2009.<sup>20</sup> Technical assistance was provided by the Pew Center for the States and the Vera Institute of Justice throughout the study period. Additional assistance was provided by the National Institute of Corrections and the Departments of Criminal Justice Services and Planning and Budget.

During the initial meetings, Task Force members heard about state correctional populations, probation and parole populations, sentencing guidelines practices, prison and jail forecasts, and local probation and pretrial populations. The Task Force also heard about national best practices and was provided with examples from other jurisdictions, including two select program examples (Drug Treatment Courts and Hawaii's HOPE program) and more broadly on evidence-based practices, including the use of risk/needs assessments, judicial participation, and effective programming. (See Appendix C for a complete list of presenters and presentations).

In addition to the presentations at the meetings, Task Force members were provided with various reports and data from DOC and other agencies. Additional information was given to Task Force members based on specific questions asked during each of the first two meetings. The comments and questions of the members led to the development of four workgroups in which Task Force members were divided for the third meeting. The groups were:

- Eligibility for Offenders
- Effective Alternative Sanctions
- Addressing Technical Violations and HOPE Program
- Addressing Special Needs Offenders and Drug Courts

Following the group discussions, the third meeting ended with each group presenting their draft recommendations to the full Task Force.

Based on the work group discussions, draft recommendations were compiled and circulated to Task Force members prior to the last meeting. The fourth meeting was devoted to assessing each of the individual recommendations. Task Force members took into account the following key criteria:

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<sup>20</sup> Meetings were held: May 28, 2009; June 17, 2009; July 23, 2009; and August 20, 2009. Public comment was invited during the third and fourth meetings.

- Potential impact on the prison population
- Cost
- Political feasibility
- Ease of implementation
- Impact on public safety

The Task Force considered dozens of proposals and has included in this report 16 specific recommendations. The recommendations presented in this report represent the general view of the Task Force. However, given the short time frame and diverse stakeholders, it is important to note that these recommendations were not put to a vote. Also, they are not presented in any priority order. The recommendations are presented in four categories:

- Recommendations to Address Technical Violations
- Recommendations to Enhance Community Supervision
- Recommendations to Expand Community Services
- Recommendations to Extend and Expand the Task Force

## TASK FORCE RECOMMENDATIONS

In developing the recommendations contained in this report, the Task Force members were informed and guided by evidence-based principles and practices. Generally, this means principles and practices that scientific, empirical evidence has demonstrated to reduce recidivism among individuals in prison, or on probation, parole or post-release supervision.

Some of these principles, all of which are supported by research, are included below:

- Moderate- to high-risk offenders are more likely than low-risk offenders to benefit from treatment and supervision.<sup>21</sup>
- Adding additional supervision conditions for low-risk offenders tends to produce little, if any, positive effect and may even worsen outcomes.<sup>22</sup>
- The first days, weeks and months after release from prison are when offenders are struggling with basic needs and most at risk of committing another offense.<sup>23</sup>
- Recidivism rates are highest in the first year of release from prison, before stabilizing in the second and third years (one study found that the probability of re-arrests and violations during the first month was nearly double that during the 15<sup>th</sup> month).<sup>24</sup>
- Providing incentives for meeting case-specific goals of supervision is a powerful tool to enhance individual motivation and promote positive behavior change.<sup>25</sup>

The Task Force believes that policies based on these principles will reduce additional criminal activity, reduce prison and jail populations, cut corrections costs and make Virginia communities safer.

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<sup>21</sup>See Solomon, Amy, et. al., Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes, The Urban Institute, 2008, page 12.

<sup>22</sup> See Solomon, Amy, et. al., Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes, The Urban Institute, 2008, page 12.

<sup>23</sup> See Solomon, Amy, et. al., Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes, The Urban Institute, 2008, page 14.

<sup>24</sup> National Research Council, Committee on Community Supervision and Desistance from Crime, Committee on Law and Justice, Division of Behavioral and Social Sciences and Education, *Parole, Desistance from Crime, and Community Integration* (Washington, D.C.: The National Academy Press, 2007).

<sup>25</sup> See Solomon, Amy, et. al., Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes, The Urban Institute, 2008, page 16.

## RECOMMENDATIONS TO ADDRESS TECHNICAL VIOLATIONS

### **Recommendation 1: Probation Violation Sentencing Guidelines**

Enact legislation codifying the probation violation sentencing guidelines adopted by the Virginia Criminal Sentencing Commission and direct the Virginia Criminal Sentencing Commission to revalidate the risk assessment instrument that would be used for offenders recommended for a prison or jail sentence under the guidelines as a result of a technical violation.

In 2004, the Virginia Criminal Sentencing Commission (VCSC) adopted probation violation sentencing guidelines as directed by the Virginia General Assembly to help judges determine whether revocation is appropriate and, if so, the appropriate length of re-sentence. However, use of the guidelines was not codified and, according to data from the VCSC, compliance is limited (measured at 53.7 percent in FY2008) and inconsistent across the state. Additionally, judges are not required to document any deviation from the guidelines, as they have to do now when sentencing felony offenders.

The VCSC developed the revocation guidelines based on historical revocation sentences. While re-sentencing under the guidelines may not necessarily result in shorter revocation sentences, it will reduce disparity. In addition, when coupled with the use of a risk assessment to select the lowest risk, incarceration-bound violators for placement in alternative sanctions, it is likely that more technical violators will be directed to alternative sanctions instead of prison. The VCSC previously concluded that it was feasible to integrate a reliable and valid risk assessment instrument into the guidelines for technical probation violators and, using such a tool, the VCSC found that approximately 48 percent of technical violators who would otherwise be recommended for prison would be recommended for alternative sanctions.<sup>26</sup>

The guidelines and assessment should be used together. Using the guidelines, certain technical violators would be recommended for a prison or jail sentence while others would be recommended for an alternative sanction. For those with a prison or jail recommendation, the risk assessment would be used to identify low-risk offenders who could safely remain in the community and for whom an intermediate sanction might be appropriate.

If codified, the legislative authority for the revocation guidelines could mirror the legislative authority of the discretionary sentencing guidelines under § 19.2-298.01 of the *Code of Virginia*, which requires discretionary sentencing guidelines to be reviewed and considered by the court in all felony cases other than Class 1 felonies. Judicial compliance with the guidelines is discretionary, although a written explanation must be filed for any departure from the guidelines recommendation.

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<sup>26</sup> In its Report on the Offender Population Forecasts, the Office of the Secretary of Public Safety projects that by the end of 2015, the state-responsible population will include 2,363 technical probation violators; DOC estimates that 53 percent of these technical violators may be suitable for alternative programs.

## **Recommendation 2: Short Jail Stays**

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Enact legislation giving DOC's Division of Community Corrections the authority to use short jail stays as an intermediate sanction for probation and parole technical violators, ensuring that due process concerns are addressed in the process and that the impact on local jail space is taken into consideration.

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Research shows that swift, certain and incremental (or graduated) responses to rule-breaking are key components of an effective strategy to change behavior.<sup>27</sup> Allowing corrections agencies to hold offenders accountable for breaking the rules of supervision without having to take them back to court can substantially boost the immediacy and certainty of responses. Supervising officers often are in the best position to impose timely and meaningful consequences to offender noncompliance; in addition, an administrative process can accomplish swift and certain consequences more easily than a judicial process.

Taking this into account, several states allow supervising officers to respond to noncompliance within a certain range of sanctions, including limited jail terms, without initiating a revocation process. This administrative structure enhances the timeliness and effectiveness of the sanction. It can also increase uniformity in offender sanctions if it is implemented with a sanctions grid or established rules. Other important benefits to the criminal justice system include reduced use of local jail space by state probation and parole violators, and greater time for probation officers to focus on high-risk offenders.<sup>28</sup>

In Delaware, for example, the DOC is authorized to impose administrative sanctions for minor or technical probation violations, including up to five days in jail. Similarly, Maine, Montana, Wisconsin and Wyoming all authorize short jail stays as an intermediate sanction. In Georgia, the sentencing judge is authorized to set a cap below which chief probation officers or the DOC hearing officers may impose an administrative sanction, including placement in secure state residential facilities. See below for more details on these and other state examples.

Due process concerns must be taken into account if the corrections agency is given the authority to incarcerate violators without a judicial proceeding. States have addressed due process concerns that arise by using an administrative review process involving a neutral agency

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<sup>27</sup> The relative effectiveness of swiftness, certainty and severity of sanctions is explored in Nagin, Daniel and Greg Pogarsky, "Integrating Celerity, Impulsivity, and Extralegal Sanction Threats into a Model of General Deterrence: Theory and Evidence," *Criminology*, 39 (4) (2001). See also Taxman, Faye, David Soule and Adam Gelb, "Graduated Sanctions: Stepping Into Accountable Systems and Offenders," *Prison Journal*, 79 (2), pp. 182-204 (1999); Kleiman, Mark, and Angela Hawken, "Fixing the Parole System," *Issues in Science and Technology* (June, 2007) (available online at <http://www.issues.org/24.4/kleiman.html#>). See also Harrell, Adele, Ojmarrh Mitchell, Jeffrey Merrill and Douglas Marlowe, "Evaluation of Breaking the Cycle" (Washington, D.C.: The Urban Institute, April 2004); Reedy, Darin C., Faye S. Taxman, Theodore Klem and Rebecca Silverman, *Does BTC Deter Drug Use? Lessons Learned from Three Years of Implementation* (University of Maryland Center for Applied Policy Studies, Bureau of Governmental Research, July 2002); Harrell, Adele, Shannon Cavanagh and John Roman, "Evaluation of the DC Superior Court Drug Intervention Programs," *NIJ: Research in Brief* (April 2000) (available online at <http://www.ncjrs.gov/pdffiles1/nij/178941.pdf>).

<sup>28</sup> Georgia allows for administrative sanctions and an evaluation of the program found: (1) a more than 70 percent reduction in the average number of days that violators spent in local jails awaiting disposition of their violation cases (one county reported the average fell from 34 days to 6 days); and (2) a significant reduction in the amount of time probation officers spent waiting in courthouses for violation cases to be heard. The administrative process saves resources and time—allowing officers to spend more time supervising their caseloads and reserving jail beds for those who pose the most risk to the community.

employee when the sanction involves confinement. Time limits on individual and cumulative periods of incarceration can be included to prevent any abuse of this authority.

It was noted by Task Force members that this recommendation simply formalized what was already happening on an informal basis in some jurisdictions around the Commonwealth. In some localities, probation officers issue a warrant pending a revocation hearing, and then withdraw the warrant and end the revocation process after a short stay in jail. Task Force members felt that a uniform statewide policy would benefit the entire system, so long as due process issues can be addressed.

### **State Examples**

- *Delaware*: The Probation Reform Act authorizes the Department of Corrections to impose administrative sanctions for minor or technical probation violations, including up to five days in jail, not to exceed 10 days annually.
- *Georgia*: Section 42-8-34.1 of the Official Code of Georgia authorizes a sentencing judge to set a cap below which chief probation officers or DOC hearing officers may impose administrative sanctions, including placement in secure state residential facilities.
- *Maine*: §17-A MRSA §1208 authorizes the probation officer to impose administrative sanctions up to 90 days in a residential center.
- *Montana*: §46-23-1015 of the Montana Code authorizes a hearing officer to impose up to a 30-day sanction in local jail for probation violations.
- *Oregon*: ORS §137.595 and §144.106 authorize supervising agency personnel to administratively sanction according to a statutory sanctions guideline, including imposition of limited jail sanctions.
- *Wisconsin*: §302.113 of the Wisconsin Statutes establishes a short term sanction program for offenders under Extended Supervision. This program allows DOC to impose confinement in a regional detention facility or local jail for up to 90 days as a sanction for a condition violation.
- *Wyoming*: §7-13-1107 of the Wyoming Statutes authorizes DOC to develop administrative sanctions as an alternative to probation or parole violations, not to exceed 30 days in jail or 60 days in a community corrections center.

### **Recommendation 3: Expand the Use of Detention and Diversion Centers**

Develop ways to expand the use of detention and diversion facilities by adding nursing staff to ensure that a greater number of offenders are eligible for the facilities, using the centers as intermediate sanctions facilities for technical violators, and streamlining the screening process for offenders.

In recent years, many states have established residential facilities devoted to technical violators who would otherwise be prison bound as a result of the revocation process. Offenders are often referred to these facilities, and the programs are generally short-term (two to six months) with intensive treatment and services. While these programs are more expensive than standard supervision, they are less expensive than the prison alternative.



For example, New Jersey established a program where offenders picked up for technical violations are sent to one of two assessment centers for up to 30 days, where officials determine whether to modify the offender's supervision or revoke the offender and return him or her to prison. According to state officials, the program saved New Jersey \$2 million in 2008. In Texas, the Board of Pardons and Parole sentences offenders to the state's Intermediate Sanction Facilities in lieu of prison. The facility holds over 2,000 violators and provides treatment and services for 60 to 180 days. Similarly, Arkansas has saved millions in prison costs and improved recidivism rates through their Omega Technical Violator Program, which houses up to 300 technical violators.

Following recent closings of detention and diversion centers, Virginia currently has three detention centers and four diversion centers operational in the state. In expanding the use of these facilities, the state should ensure that at least one of the centers provides a full range of services, including mental and health services. Currently, judges have not been able to place some offenders in the diversion or detention centers due to medical or mental health needs, which are not sufficiently available at the existing centers. In addition, the state should use such facilities more broadly both as a front-end sentencing alternative and as an intermediate sanction facility for technical violators on parole or probation.

Another way to expand the use of detention and diversion centers and ensure that they are used to their capacity is to give DOC authority to make referrals to such facilities. Similar to Recommendation 2, Task Force members believe that more work is needed to address the due process concerns implicated in sending offenders to a secure facility without a judge's order.

**Recommendation 4: Streamline the Violation/Revocation Process**

Work with the judiciary to establish administrative rules of the court, creating procedures for court violation dockets.

Probation violators spend a significant time in jail pending their court appearances for revocation hearings, up to six months in some instances. Streamlining the process would save bed days and allow for a more immediate and effective response to the violation. This has proven effective in at least one Virginia jurisdiction. In Norfolk, the probation and parole district office and the courts worked together to establish set dockets each week for violators to be brought before the court. This has resulted in a significant reduction in the amount of time that violators spend in jail waiting for their appearance.

While the impact on prison beds is difficult to gauge, this proposal would help ease the pressure on jail beds. Task Force members acknowledged that this type of process was being done in some other jurisdictions around the state, albeit in an informal manner. Standardized, statewide procedures would benefit the system and localities should collect data and evaluate whether the new process does indeed produce the intended outcomes.

## RECOMMENDATIONS TO ENHANCE COMMUNITY SUPERVISION

### **Recommendation 5: Maximum Probation Terms**

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Enact legislation that sets a maximum term of supervised probation for certain offenses with the purpose of shortening the average length of supervision for most probationers.

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### **Recommendation 6: Earned Compliance Credit**

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Enact legislation that creates a statewide system that awards credit to probationers upon the completion of goals or months in compliance.

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Currently, the average length of supervision for state probationers exceeds 24 months, while the average length of supervision for parolees exceeds 30 months for violent offenders and 20 months for non-violent offenders. In addition, many state probationers are placed on indefinite or lifetime probation, requiring probation officers to bring the case back to court when the officer determines the offender is ready to end supervision.

Setting a maximum period of probation is based on research that demonstrates that offenders on probation and parole are at the highest risk of re-arrest during the first few months on community supervision. A 2008 report by the National Research Council (NRC)<sup>29</sup> reviewed records from over 240,000 offenders released from prison in 13 states, and found the overall probability of arrest is roughly twice as high in the first month of supervision as it is in the 15<sup>th</sup> month. In addition, the arrest rate between months 15 and 36 for the group was uniformly lower. This suggests that supervision resources may have only marginal effects on offending after the first year back in the community.

While arrest rates decline over time for all offense types, they decrease precipitously for drug and property offenses. Between months 1 and 15 of supervision, the NRC report states, the chance of arrest for property and drug offenses drops by 40 percent. This evidence suggests that community corrections resources—including officers' time and program services—should be directed at the beginning of the offender's term of probation. By "frontloading" resources and supervision, community corrections managers can be proactive, and offenders become the focus of community supervision before—not after—they violate a specific rule or commit a new crime.

Many states have implemented a similar policy in recent years. For example, Texas, the state with the nation's largest community corrections population (accounting for more than 10 percent of offenders under community supervision in the country today), shortened maximum community supervision terms from 10 to five years for certain drug and property offenders. In 2003, Delaware reduced most maximum probation terms to two years for violent felonies, one and a half years for drug offenses, and one year for other offenses. Meanwhile, Pennsylvania has moved parolees onto "administrative" (or unsupervised) parole after one year if they comply with their conditions of supervision.

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<sup>29</sup> National Research Council, Committee on Community Supervision and Desistance from Crime, Committee on Law and Justice, Division of Behavioral and Social Sciences and Education, *Parole, Desistance from Crime, and Community Integration* (Washington, D.C.: The National Academy Press, 2007).

The recommendation as written will allow a judge to re-impose a suspended sentence if the offender commits a new crime while on supervision, but it removes the offender from active supervision after the maximum term.

The earned time credit proposal is premised on research that shows that moderate- to high-risk offenders benefit most from supervision and services, and that low-risk offenders often do worse with additional conditions.<sup>30</sup> Allowing offenders to earn their way off supervision by adhering to specific goals and strict guidelines is a particularly powerful incentive that will motivate individuals to participate in appropriate programs, stay sober, and retain a job. At the same time, by shortening the supervision period of these offenders, agencies can manage their caseloads and devote time and effort to those who warrant it most.

Several states have recently adopted an earned compliance policy. For example, courts in Arizona are able to reduce the term of an offender's probation by up to 20 days per month, provided the offender has met certain specific measures of probation compliance ("earned time credit").<sup>31</sup> Nevada offers reduction-of-sentence credits for parolees, probationers and state inmates who participate in programs shown to reduce recidivism.<sup>32</sup> Oregon similarly allows for a reduction in supervision of up to 50 percent of the supervision time depending on the offender's compliance, employment status, treatment program outcomes, and payment of monetary obligations.<sup>33</sup>

Automating early termination or setting a maximum period of supervised probation would improve the process in Virginia in a number of ways: first, it would provide consistency across the state in dealing with probationers, both in terms of the length of supervised probation as well as when a probationer is recommended for early termination; second, it would provide a clear, state standard rather than the discretionary standard currently used by DOC; third, it would provide a clear incentive to the individual probationers by demonstrating the benefits of complying with supervision conditions (i.e., a reduced term).<sup>34</sup>

#### **Recommendation 7: Non-Active Supervision Category**

Re-examine and streamline the process by which probationers may be moved off supervised probation if the failure to make full payment of fines, fees and costs are the sole reason why the probationer is kept under supervised probation.

Most offenders on probation or parole have substantial amounts to pay in fines and costs. Because of minimal assets and low paying jobs, there are offenders who otherwise would have completed their probation or parole supervision, but are continued under supervision because of

<sup>30</sup> *Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes*, The Urban Institute, 2008. <http://www.urban.org/publications/411791.html>.

<sup>31</sup> See Arizona Senate Bill 1476, at <http://www.azleg.gov/legtext/48leg/2r/bills/sb1476s.pdf>.

<sup>32</sup> See Nevada Assembly Bill 510, effective July 1, 2007, at [http://www.leg.state.nv.us/74th/Bills/AB/AB510\\_EN.pdf](http://www.leg.state.nv.us/74th/Bills/AB/AB510_EN.pdf).

<sup>33</sup> See Oregon House Bill 3508, effective July 1, 2009, at <http://www.leg.state.or.us/09reg/measpdf/hb3500.dir/hb3508.b.pdf>.

<sup>34</sup> Task Force members support setting a maximum term of probation supervision. Notably, support for this proposal is widespread, including all three Commonwealth Attorneys, so long as a mechanism is provided for the court to extend the supervision term if deemed necessary. Although not as unanimous, most members of the Task Force also support implementing an earned time credit for those on probation through statewide policy rather than the discretionary mechanism for early termination currently in place in jurisdictions around the Commonwealth.

their failure to pay these fines and costs. Probation and parole officers must spend time supervising these offenders, even though they pose little risk to public safety. DOC estimates that there are approximately 4,500 offenders still under supervision solely because of their failure to pay fines, fees and restitution. If these offenders, excluding those that owe restitution, were released from supervised probation then probation and parole officers would have more time and resources to supervise more serious and higher-risk offenders. In addition, it would reduce the number of technical violators brought back to court and returned to prison. The 2009 General Assembly enacted similar legislation that amended § 19.2-305 of the *Code of Virginia*, however the procedural hurdles for implementing this program have hampered its effectiveness.<sup>35</sup>

### **Recommendation 8: Pilot HOPE Program**

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Implement pilots in two jurisdictions that provide for swift and certain, but modest, sanctions for probation violations, based on the HOPE program in Hawaii.

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Under the current system, punishments for probation violations are often inconsistent and are imposed months after the violation occurs. However, under Hawaii's Opportunity Probation with Enforcement (HOPE) program, probationers are monitored closely and punished with swift and certain sanctions for noncompliance with conditions of probation. HOPE uses the threat of short jail stays (typically starting at a few days for a first violation, with similar or longer sentences for subsequent violations) as a disincentive for noncompliance. Routine, effective and randomized drug testing is used and the frequency of randomized testing is gradually reduced for offenders who report consistently for testing and have negative results. A brief warning/notification hearing is held at the start of HOPE probation for each offender, and violation/noncompliance hearings are held swiftly.

A randomized controlled trial of the HOPE program is underway in Hawaii, and preliminary results have shown that swift, but graduated judicial sanctioning has reduced positive drug screens by 91 percent and cut both revocations and new arrests by two-thirds. Due to this success, HOPE pilot projects are launching in other jurisdictions. Nevada will launch its version of HOPE in January/February 2010 (called Opportunity Probation with Enforcement Nevada). The federal government has also acknowledged the success of this program and with bipartisan support, the Honest Opportunity Probation with Enforcement (HOPE) Initiative Act of 2009 (H.R. 4055) was introduced in November 2009. The bill creates a competitive grant program to award grants to state/local courts to establish probation programs to reduce drug use, crime, and recidivism by requiring swift, predictable, and graduated sanctions for noncompliance with the conditions of probation.

A pilot modeled on the HOPE program in Virginia will require significant coordination among the judges the Commonwealth's Attorney, probation officers, the Sheriff's office and the defense bar participating in the program,. The pilots should be established in jurisdictions where evidence-based practices are already implemented in DOC's probation district offices.

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<sup>35</sup> See Chapter 20 of the 2009 Acts of the General Assembly, <http://leg1.state.va.us/cgi-bin/legp504.exe?091+lst+CHP>

Assistance from the National Institute of Corrections may be available to help establish the pilot programs.

### **Recommendation 9: Expand Drug Courts**

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Expand existing drug courts that focus on moderate to high-risk offenders (e.g., technical violators or those convicted of multiple offenses rather than first-time offenders). Also provide incentives to localities to expand drug courts.

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Drug courts provide an alternative for eligible drug-addicted persons in Virginia in lieu of the traditional justice system. Participants in drug courts are provided with intensive treatment, held accountable for meeting specific obligations, regularly tested, and rewarded or sanctioned appropriately. In Virginia, drug courts appear to be most effective for moderate to high-risk offenders who are otherwise prison-bound, particularly for technical violators who would otherwise be revoked and returned to prison. Drug courts in Virginia should be expanded particularly in those jurisdictions where they already exist and are in high demand.

In 2004, the General Assembly recognized Drug Treatment Courts as an effective alternative to incarceration. Section 18.2-254.1 of the *Code of Virginia* states: “It is the intent of the General Assembly by this section to enhance public safety by facilitating the creation of drug treatment courts ....” Reducing recidivism is a primary goal of Virginia’s 28 existing drug treatment courts. This goal is being satisfied, according to the Joint Legislative Audit and Review Commission (JLARC). JLARC studied Virginia drug treatment courts in 2008 and concluded that “drug court completers experienced significantly better outcomes in the criminal justice system after treatment ended” than did three comparison groups (*JLARC Study, House Document 19, 2008*). This is consistent with national research on recidivism.

Drug Treatment Courts reduce crime while saving taxpayer funds. "The Urban Institute estimates a favorable cost/benefit ratio as high as \$3.36 for every \$1.00 invested in treating drug-addicted offenders under the watchful eye of Drug Court."<sup>36</sup> In 2007, 41 state budgets included specific appropriation for Drug Courts, totaling \$181,795,694 nationwide. The cost of a participant in Virginia drug treatment courts is less than one-half the cost of incarceration.

### **Recommendation 10: Expand Electronic Incarceration**

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Negotiate a statewide contract for the purchase of electronic monitoring (EM) and Global Positioning System (GPS) equipment and develop criteria governing the use of electronic monitoring by localities.

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With dramatic advances in technology, affordable EM today allows officials to conduct “active” monitoring, in which an offender wears a transmitter, usually in the form of an ankle bracelet, which sends a continuous location tracking signal to a monitoring center. Across the country, EM is becoming more commonly used as an alternative sanction for some non-violent, low-risk

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<sup>36</sup> *The Urban Institute, 2008, To Treat or Not to Treat: Evidence on the Prospects of Expanding Treatment for Drug-Involved Offenders*)

offenders who can safely remain in the community on electronic home detention, resulting in some relief to prison overcrowding and growing corrections' populations.

In Virginia, EM is commonly used by local sheriff's offices and probation offices. For example, the Norfolk Sheriff's Office uses GPS technology and placed 227 offenders on EM in 2008 instead of housing them in the local jail. Electronic monitoring can also be ordered by judges as a condition of probation.

Expanded use of GPS technology and home incarceration is generally believed to be a way to achieve cost savings, while maintaining public safety and providing more intensive supervision over certain offenders. Several obstacles exist that make such an expansion difficult to achieve, including the up-front and ongoing costs of the equipment, lack of earned time or good time awarded to offenders who elect to be on electronic monitoring at the local level, and the absence of criteria making its use consistent across the state.

On the matter of cost, savings can be achieved if the Commonwealth negotiated a statewide contract for electronic monitoring. Currently, each locality negotiates separately with a provider. Savings will inevitably be achieved if Virginia implements a statewide contract.

Any expanded use must address those offenders who cannot pay the fees so that it is not a sanction given only to those who can afford to pay. Statewide criteria governing the use of electronic monitoring by localities would ensure consistent use both within the jurisdiction and throughout the state.

To encourage offenders to participate in the home incarceration program at the local level, earned time for any period successfully on electronic monitoring could be awarded (such that, if an offender violates and gets sentenced for the remainder of his sentence, the time will be reduced for any time served successfully on electronic monitoring).<sup>37</sup> Currently, sheriffs generally do not award sentence credits to local offenders on electronic monitoring, as a result of an Attorney General's opinion, causing some offenders to decide not to participate in such a program because they can earn sentence credits in jail.

### **Recommendation 11: Renew Funding for Day Reporting Centers**

**Renew funding for day reporting centers and ensure that they apply evidence-based practices.**

First established in 1993, day reporting centers are used for offenders who need more intensive supervision than straight probation, or those who have consistently violated their terms of supervision. These non-residential programs allowed parole and probation officers to have daily contact with the offenders they were supervising and they provided a one-stop location for offenders to receive counseling, treatment and other services. Up until last year, Virginia operated 12 day reporting centers. However, due to the budget cuts in 2008, funding for the

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<sup>37</sup> The Task Force was split on whether offenders on electronic monitoring should be eligible for good time of up to 15% as is provided to those who remain in jail. In particular, the Commonwealth Attorneys believed that such offenders should not be provided good time when they already receive the benefit of serving their sentences in their own home.

centers was eliminated and all of the facilities are now closed. In the absence of these day reporting centers, many of these higher-risk offenders may not receive the supervision or services that may have contributed to their success. It is unclear what impact this will have on the recidivism rate.

Task Force members unanimously agreed with the need to renew funding for day reporting centers. These facilities had a capacity for 1,100 offenders and were fully utilized by parole and probation officers and offered an effective mechanism for parole and probation officers to monitor high-risk offenders. In jurisdictions in which evidence-based practices have been implemented, successful completion of supervision is up to 9.3 percent higher than in other sites. It is uncertain whether the absence of the day reporting centers will impact the success of evidence-based practices.

## RECOMMENDATIONS TO EXPAND COMMUNITY SERVICES

### **Recommendation 12: Improve Treatment Options**

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Increase funding for treatment options throughout the criminal justice system with a particular focus on proven outpatient services.

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Substance abuse treatment options for offenders in Virginia were reduced due to an elimination of funding in the FY2008 budget reductions. DOC reduced the funding available for substance abuse treatment for probation and parole offenders as well as eliminated one counselor position in each major correctional facility. In addition, the six residential transitional therapeutic communities were closed.

Substance abuse is a primary driving factor in the increase of prison populations. Nearly thirty percent of those committed to Virginia's prisons each year were convicted of drug offenses, including many with substance abuse addictions. In addition, many of those offenders convicted of other non-violent or violent crimes had substance abuse problems. Substance abuse treatment can reduce criminal behavior and reduce re-arrest and re-incarceration. Intensive outpatient substance abuse services rather than residential services would likely be a more efficient approach, since evidence suggests that highly structured outpatient services often yields better results. The Virginia Department of Behavioral Health and Developmental Services (VDBHDS) has stated that \$1 invested in treatment results in a return of \$4 to \$7 in reduced drug-related crime, criminal justice costs, and theft.<sup>38</sup>

The Commonwealth needs improved treatment options throughout the criminal justice system. Such options should include not only an increase in residential treatment beds, but also highly structured outpatient services, which research demonstrates is particularly successful.

### **Recommendation 13: Expand Evidence-Based Practices**

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Implement Evidence-Based Practices (EBP) statewide by training all parole and probation officers on EBP and developing operating procedures to sustain implementation.

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The Department of Corrections has implemented EBP in eight parole and probation offices, six correctional centers, and three detention and diversion centers across the state. The early outcomes of this implementation have been positive and will likely result in long-term savings for the Commonwealth by reducing the rate of recidivism. Technical and new crime commitments were down 3.2 percent and the revocation rates dropped 4.3 percent in EBP probation and parole pilot sites. Using recidivism reduction figures, DOC estimates that if EBP is fully implemented in all its probation and parole districts, the potential to reduce probation/parole recommitments is in the range of 600 to 980 per year.<sup>39</sup>

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<sup>38</sup> Flanzer, Jerry (2003). Drug Use and Human Immunodeficiency Virus in the United States. *Clinical Infectious Diseases: Infectious Disease Society of America*, Volume 32, Number 12, page 441.

<sup>39</sup> "Implementation of Progress and Early Outcomes of Evidence-Based Practices." Department of Corrections: Program Development and Evaluation Unit, Richmond, VA: August 2008.



It is beyond dispute that an expansion of EBP would have a positive impact on the prison population. While there would be an initial cost to implement EBP statewide and train all of DOC's officers, this short-term investment will undoubtedly bring long-term cost savings.

**Recommendation 14: Improve Mental Health Services**

Increase funding for mental health services, including from federal sources, and improve mental health services in prisons and in the community.

Many incarcerated offenders with mental illness do not receive adequate mental health treatment while in jail or prison or when they return to the community. Improved treatment options and alternatives need to be identified to address mental health re-offenders that cycle in and out of the criminal justice system. In addition, better coordination is needed between the community service boards (CSB's) and the criminal justice system. The Task Force recommends that a law enforcement official serve on the local CSB's to help improve coordination.

The Task Force was unanimous in its belief that improved mental health services in prisons and in the community would have a positive impact on the prison population. Understanding that one primary obstacle is funding, potential funding sources should be explored to provide additional treatment options, including federal grants.

## RECOMMENDATIONS TO EXTEND AND EXPAND THE TASK FORCE

### **Recommendation 15: Extend and Expand the Task Force**

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Enact legislation extending and expanding the Alternatives for Non-Violent Offenders Task Force.

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The Task Force has brought together key stakeholders to weigh proposals and ideas and begin to address the challenges to corrections and supervision in the Commonwealth. The Task Force provides its members with a unique forum for collaboration and honest discussion. While significant policy work was accomplished in a short time period, the work of the Task Force has just begun. The Task Force members unanimously agreed that the Task Force should be extended. It is recommended that an extended Task Force will monitor the progress of the recommendations in this report and will evaluate them to determine cost savings, the effect on the prison population, and any other potential benefits. In addition, the Task Force members identified several issues and potential recommendations that needed further exploration or study. If extended, this Task Force could conduct this research and continue to make recommendations on improving the Commonwealth's correctional system. Funding from the National Institute of Corrections may be available to provide continued technical assistance to the Task Force efforts.

It was also recommended that this Task Force expand its focus and membership. Potential additional issues raised by Task Force members included drug related offenses, reentry, and the local jail population and its costs. Potential additional members that were suggested by Task Force members included representatives from crime victims, treatment providers, and local agencies.

## **CONCLUSION**

The Alternatives for Non-Violent Offenders Task Force brought together a diverse set of stakeholders and interests, each of whom devoted a significant amount of time to come together to discuss ways to increase Virginia's use of correctional alternatives. The members of the Task Force believe this is just the beginning and are each committed to continue their examination of the Virginia criminal justice system to ensure that the best outcomes are reached – both for the community and the offender – in ways that hold the offenders accountable and are cost-effective and fair.

The recommendations in this report could help move Virginia to a place where those who can safely be supervised in the community or released from supervision are identified and those who pose a higher risk to the community are incarcerated. The Task Force hopes that this report assists the General Assembly and other policy makers in making decisions regarding the criminal justice system.

## **APPENDIX A: AUTHORIZATION**

### **Item 387:G.1-2 of Chapter 781 2009 Acts of Assembly**

G.1. The Secretary of Public Safety, in cooperation with the Supreme Court of Virginia, the Virginia Sheriffs' Association, the Virginia Association of Regional Jails, the Virginia Association of Commonwealth's Attorneys, the Virginia Criminal Sentencing Commission, shall form a task force to develop recommendations to expand the utilization of alternative methods of punishment for non-violent, lower-risk offenders who have been sentenced by a court to a term of incarceration. The Departments of Planning and Budget, Corrections, and Criminal Justice Services, the Compensation Board, and the Virginia Criminal Sentencing Commission shall provide such assistance as may be necessary.

2. The Chairmen of the Senate Finance and House Appropriations Committees shall appoint a joint subcommittee to consider steps which may be appropriate to reduce the growth in the numbers of non-violent, lower risk offenders entering state correctional facilities. The consideration of such steps shall recognize the need to protect public safety; to enable the courts to sentence offenders to appropriate alternative punishment options; and, to provide the Department of Corrections, regional and local jails, and local community corrections and pretrial release programs with the appropriate programs and management tools to operate within the resources available. Consideration shall also be given to other issues as determined by the joint subcommittee. The Chairmen may include such representatives from the Senate and house Committees on Courts of Justice as they may deem appropriate. The Secretary of Public safety shall provide such assistance to the joint subcommittee as may be requested by the joint subcommittee.

## APPENDIX B: TASK FORCE MEMBERS AND STAFFING

### Task Force Members

**The Honorable John W. Marshall**

Secretary of Public Safety

**The Honorable Don Caldwell**

Commonwealth's Attorney

City of Roanoke

**Ms. Marla Decker**

Deputy Attorney General

Office of the Attorney General

**Ms. Helen Fahey**

Chair

Virginia Parole Board

**Mr. Richard Hall-Sizemore**

Budget Analyst

Department of Planning and Budget

**Mr. Conaway B. Haskins, III**

State Director

Office of Senator Jim Webb

**The Honorable Michael Herring**

Commonwealth's Attorney, City of Richmond

**Mr. Gene Johnson**

Director

Virginia Department of Corrections

**The Honorable Thomas Jones**

Sheriff

Charlotte County

**Dr. Richard Kern**

Director

Virginia Criminal Sentencing Commission

**The Honorable Robert McCabe**

Sheriff, Norfolk City

**Mr. Pat Nolan**

Vice President

Justice Fellowship

**The Honorable Brian Shepard**

Policy Director

Office of Governor Kaine

**The Honorable Neil Vener**

Commonwealth's Attorney, Campbell County

**Ms. Marilyn Harris**

Deputy Secretary of Public Safety

**Chief Richard Clark, Jr.**

Chief

Galax Police Department

**Ms. Robyn deSocio**

Executive Secretary

Virginia Compensation Board

**Mr. Jeffrey Frazier**

Superintendent

Northern Neck Regional Jail

**The Honorable Catherine Hammond**

Circuit Court Judge, Henrico County

**Mr. Richard Hickman**

Deputy Staff Director

Senate Finance Committee

**Chief Alfred Jacocks**

Chief, Virginia Beach Police Department

**The Honorable Jerrauld Jones**

Circuit Court Judge, Norfolk City

**Mr. George Keiser**

Chief, Community Corrections

National Institute of Corrections

**Mr. Michael Maul**

Deputy Director

Department of Planning and Budget

**Mr. Peter Meletis**

Superintendent

Prince Williams/Manassas Regional Jail

**Chief Michael Scott**

Chief

Arlington County Police Department

**Mr. Paul Van Lenten, Jr.**

Legislative Fiscal Analyst

House Appropriations Committee

**Mr. Chris Webb**

Virginia Association of Regional Jails (ret.)

### Alternates

**Ms. Meredith Farrar-Owens**  
Deputy Director  
Virginia Criminal Sentencing Commission

**Mr. Alan Katz**  
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**Ms. Anna Powers**  
Drug Treatment Court Coordinator  
Supreme Court of Virginia

**Mr. Lance Forsythe**  
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Virginia Association of Regional Jails

**Michael O'Toole**  
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**Ms. Cookie Scott**  
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### Task Force Staff

**Ms. Erin Rice**  
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**Mr. John Colligan**  
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**Ms. Neadie Moore**  
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**Ms. Beth Camphouse**  
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**Ms. Gayle Turner**  
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### Technical Assistance

**Mr. Steve Austin**  
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**Mr. Richard Jerome**  
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Vera Institute of Justice

**Mr. Jason Newman**  
Senior Associate, Public Safety Performance  
Project  
Pew Center on the States

## APPENDIX C: PRESENTERS

**The Honorable Steven Alm** - Judge, Hawaii First Circuit  
*Hawaii's Opportunity Probation with Enforcement (HOPE)*

**Mr. John Britton** - Virginia Department of Corrections  
*Corrections Current Non-violent and Low Risk Population Overview*

**Mr. James Camache** - Virginia Department of Corrections  
*Department of Corrections Probation and Parole Overview*

**Mr. Dan Catley** - Virginia Department of Criminal Justice Services  
*Pretrial Services/Community Corrections Probation Overview*

**Ms. Meredith Farrar-Owens** - Virginia Criminal Sentencing Commission  
*Current Corrections/Jail Forecast Trends/Overview*

**Mr. Richard Hall-Sizemore** - Virginia Department of Planning and Budget  
*State's Current Fiscal Picture*

**The Honorable Catherine Hammond** - Judge, Henrico Circuit Court  
*Alternative Sentencing*

**Mr. Richard Jerome** - Pew Center for the States  
*A National Perspective - What Works (part 1)*

**Dr. Richard Kern** - Virginia Criminal Sentencing Commission  
*State's Current Sentencing Practice and Alternatives Overview*

**Dr. Edward Latessa** - Division of Criminal Justice at the University of Cincinnati  
*Alternatives that Work*

**Ms. Alison Shames** - Vera Institute of Justice  
*A National Perspective - What Works (part 2)*

**Judge Roger K. Warren (rtd)** - President Emeritus, National Center for State Courts  
*Sentencing Policies and Evidence-Based Practices*