



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

Leonard G. Cooke
Director

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January 15, 2008

The Honorable David B. Albo, Chairman, House Courts of Justice
General Assembly Building, Room 529
Capitol Square
Richmond, Virginia 23219

The Honorable Henry L. Marsh, III, Chairman, Senate Courts of Justice
General Assembly Building, Room 432
Capitol Square
Richmond, Virginia 23219

Dear Chairman Albo and Chairman Marsh:

As directed by House Bill 719 (2008), the Department of Criminal Justice Services is providing to you an interim report on the number of detentions pursuant to §18.2-266.1 that are in violation of the federal Juvenile Justice and Delinquency Prevention (JJDP) Act. In accordance with the legislation, an interim report is due by January 15, 2009 and a final report is due by November 1, 2009.

We will continue to monitor use of §18.2-266.1 and will provide you with a more detailed report in the fall. If you have any questions regarding this interim report, please feel free to contact me or Fran Ecker, Division Director, Division of Programs and Services (786-3967 or Fran.Ecker@dcjs.virginia.gov).

Sincerely,

A handwritten signature in cursive script that reads "Leonard G. Cooke".

Leonard G. Cooke, Director

Cc: The Honorable John Marshall, Secretary of Public Safety

Interim Report Regarding Juvenile Detentions Under §18.2-266.1

Background

During the 2008 Legislative Session, amendments were made to §18.2-266.1 of the *Code of Virginia* regarding the punishment of individuals under age 21 found guilty of driving after illegally consuming alcohol with a blood alcohol level of .02 or more, but less than .08 (HB719). The amended legislation raised the severity of this offense from an unclassified offense to a Class 1 misdemeanor. Because of concerns raised regarding its potential impact on the compliance with the federal Juvenile Justice and Delinquency Prevention (JJDP) Act, the Department of Criminal Justice Services was directed to report to the Chairmen of the House and Senate Committees for Courts of Justice on the number of detentions pursuant to §18.2-266.1 that are in violation of the Act.

Under the JJDP Act, underage alcohol offenses, including those governed by §18.2-266.1, are viewed as status offenses. Since the JJDP Act prohibits the confinement of juvenile status offenders, with limited exceptions, the Class 1 misdemeanor designation could increase the number of violations Virginia is required to report to the Office of Juvenile Justice and Delinquency Prevention (OJJDP). If our violations exceed the allowable number, Virginia will be found out of compliance with the JJDP Act and will lose 20% of the federal funding we receive through it (we currently receive \$1.284M). In addition, 50% of the remaining funds must go towards achieving compliance with the Act, thereby significantly reducing the amount of federal funds available for prevention and intervention programs in Virginia's communities.

Legislative Impact

Since the amendments to §18.2-266.1 went into effect on July 1, 2008, 2 juveniles have been detained for a violation of this *Code* section, both during the second quarter of FY2009. Each detention was in violation of the JJDP Act. It is still too early to tell how violations resulting from this legislative change will impact Virginia's full compliance with the JJDP Act.

Detentions for violations of §18.2-266.1:

| | FY06-FY08 | FY2009 July 1 - Sept 30 | FY2009 Oct 1 - Dec 31 |
|---|------------------|------------------------------------|----------------------------------|
| Detentions | N/A | 0 | 2 |
| Detentions in violation with the JJDP Act | N/A | 0 | 2 (100%) |