

**REPORT OF THE  
VIRGINIA STATE CRIME COMMISSION ON**

**Alternatives to Incarceration**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 69**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1994**



# COMMONWEALTH of VIRGINIA

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General Assembly Building

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EXECUTIVE DIRECTOR

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December 14, 1993

TO: The Honorable L. Douglas Wilder, Governor of Virginia,  
and Members of the General Assembly:

House Joint Resolution 631, agreed to by the 1993 General Assembly, directed the Virginia State Crime Commission to study alternatives to incarceration and to submit its findings and recommendations to the Governor and the 1994 session of the General Assembly.

In fulfilling this directive, a study was conducted by the Virginia State Crime Commission in 1993. I have the honor of submitting herewith the study report and recommendations on alternatives to incarceration.

Respectfully submitted,

Robert B. Ball, Sr.  
Chairman

RBB:sc

## **MEMBERS OF THE VIRGINIA STATE CRIME COMMISSION 1993**

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## **Study on Alternatives to incarceration**

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## **I. Authority for Study**

During the 1993 legislative session, Delegate Bernard S. Cohen sponsored House Joint Resolution 631 directing the Virginia State Crime Commission to "study alternatives to incarceration." (See Appendix A.) Section 9-125 of the Code of Virginia establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Section 9-127 of the Code of Virginia provides that "the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Section 9-125, and to formulate its recommendations to the Governor and the General Assembly." Section 9-134 of the Code of Virginia authorizes the Commission to "conduct private and public hearings, and to designate a member of the Commission to preside over such hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, is undertaking the study of alternatives to incarceration.

## **II. Members Appointed to Serve**

At the April 20, 1993 meeting of the Crime Commission, Chairman Delegate Robert B. Ball, Sr., of Henrico selected Delegate Jean W. Cunningham of Richmond to serve as Chairman of the Corrections Subcommittee studying alternatives to incarceration. The following members of the Crime Commission were selected to serve on the subcommittee:

James F. Almand  
V. Thomas Forehand, Jr.  
Virgil H. Goode  
Raymond R. Guest, Jr.  
George F. Ricketts, Sr.  
Edgar S. Robb

## **III. Executive Summary**

House Joint Resolution 631, sponsored by Delegate Bernard S. Cohen of Arlington and passed by the 1993 General Assembly, directed the Crime Commission to study alternatives to incarceration. The major objectives delineated in the study resolution were to increase diversion for first-time, non-violent offenders; make more diverse programs and treatments available to inmates; and increase the involvement of the public sector in educational and employment programs.

An exhaustive review of the literature revealed that, in Virginia alone, some 43 studies dealing with alternatives to incarceration have been initiated since 1913; thirteen of these studies are ongoing or were completed during 1993. The final report of the Governor's Commission on Violent Crime as well as the Department of Corrections' Master Plan will to great extent accomplish

the objectives set forth in HJR 631. Consequently, the Commission recommended that the findings and recommendations contained in these two reports be reviewed by the membership.

During the course of this study, the Commission also discovered, although there is no statewide system of alternatives to incarceration in Virginia, many such programs are operated by private and public agencies at the local level. As a result, the Commission recommended that an inventory of local alternative programs and punishment options be developed and included as an appendix to the final report on HJR 631. Additionally, the Commission, in its final report, recognized the importance of community participation in corrections issues and encouraged jurisdictions to seek local solutions to jail crowding, including alternative programs.

Finally, the Commission considered target populations for alternative programs and found that the Criminal Justice Research Center is currently developing a risk assessment tool to help judges determine who would be appropriate for such punishment options. According to data compiled by the Senate Finance Committee, over 1,000 non-violent offenders from FY92 were on the borderline in the application of judicial sentencing guidelines. The Commission recommended that, once the risk assessment tool is in place, these borderline offenders be considered for alternative programs.

#### **IV. Study Design**

- Project staff met with Delegate Bernard S. Cohen, patron of HJR 631.
- Project staff met with Department of Criminal Justice Services staff on two occasions to obtain information for the literature review.
- Project staff met with Department of Corrections staff to obtain statistical information as well as data on existing programs in Virginia.
- Project staff met with House Appropriations Committee staff to learn what the money committees are currently pursuing in this area.
- At the request of Del. Cohen, project staff contacted Dr. Stanton Samenow to obtain information on his work and to invite his participation.

### **Corrections Subcommittee and Commission Meeting Schedule for 1993:**

|              |                                                                                                                                                                         |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| May 25       | Presentations by <b>The Hon. O. Randolph Rollins</b> , Secretary of Public Safety and <b>Mr. Peter Decker</b> , Chairman of the Board of Corrections                    |
| June 22      | Initial Staff Report                                                                                                                                                    |
| July 27      | Presentations by <b>George Kelser</b> of the National Institute of Corrections and <b>Peggy McGarry</b> from the Center for Effective Public Policy<br><br>Staff Report |
| August 24    | Staff Report                                                                                                                                                            |
| September 21 | Staff Report                                                                                                                                                            |
| October 19   | Annual Public Hearing/Staff Report                                                                                                                                      |
| November 30  | Full Commission Meeting                                                                                                                                                 |
| December 14  | Full Commission Meeting                                                                                                                                                 |

### **V. Study Goals/Objectives**

#### **A. Study Goals/Objectives:**

- Increase diversion for first-time and/or nonviolent offenders
- Increase involvement of the public sector in educational and employment programs to enhance habilitative capabilities
- Make more diverse programs and treatments available to inmates

#### **B. Suggested Activities:**

- Review alternatives to incarceration programs in other states as well as in Virginia
- Consider available technologies to enhance penal, educational, treatment and employment options for inmates
- Review the findings and recommendations of relevant studies conducted previously in Virginia

- Determine what percentage of the prison population is made up of drug offenders and any recent trends in the drug offender population
- Determine the feasibility of targeting the drug offender population for alternatives to incarceration programs

## **VI. Background**

### **A. Introduction**

Alternatives to incarceration are punishment options that are considered on a continuum to fall between traditional probation and traditional incarceration. Alternatives to incarceration can be used for keeping the indicted (but not convicted) out of jail, for keeping non-threatening convicted offenders out of prison and for providing a gradual reintegration of an offender back into his or her community. Alternatives to incarceration include community corrections programs as well as shock incarceration programs. As the name implies, community corrections programs are designed to punish offenders within their own communities. Shock incarceration programs, on the other hand, are designed to give youthful offenders a taste of prison life that will hopefully deter them from future crime.

There are highly restrictive alternatives to incarceration, which include halfway houses, electronic monitoring and shock incarceration, and there are moderately restrictive programs, which include intensive supervision probation, community service and day reporting centers, designed for both pre-trial and post-adjudication offenders. The goals of such programs include cost effectiveness, greater public safety, reduction of recidivism and offender improvement.

### **B. Highly Restrictive Programs**

**1. Halfway House Programs** are an effective sanction to ease offenders back into the community and to ensure that participants maintain employment or pursue vocational training. Halfway houses free up prison space for more violent offenders while re-integrating low-risk offenders into the community.

**Virginia:** There are twelve adult residential facilities (halfway houses) currently operating in Virginia. These facilities serve as pre-release centers for parolees from prison and are affiliated with Community Services Boards (CSB's), Community Diversion Incentive (CDI) programs and private entities. The statewide capacity for these facilities is 150 adults. The average cost per inmate per day is **\$32\***.

**2. Electronic Monitoring (EM)** is used in a number of home confinement and intensive supervision probation (ISP) programs to monitor compliance with confinement conditions (i. e., to make sure offenders are where they are supposed to be). Commercially available monitoring equipment acquires

information about the offender's presence in or absence from the monitored location and transmits it, normally by telephone line, to a computer where it is available to the surveillance officer. Two approaches are prevalent: a "continuously signalling device" which constantly monitors the offender's presence at a given location and the "programmed contact device" which phones offenders periodically to verify their presence. Recently, "hybrid" equipment has been introduced. It normally functions as a continuously signalling device, but when the computer is alerted to an unauthorized absence is capable of functioning as a programmed contact device, telephoning the offender and requesting verification that the individual responding is the offender being monitored. Numerous other advances and refinements are being incorporated in the systems, including visual verification through transmission of a snapshot activated by the person answering the phone.

**Virginia:** The Virginia Department of Corrections currently owns 90 EM units, each consisting of a field monitoring device and an ankle bracelet and costing \$1,325 per unit. The average monitoring cost per inmate per day is \$2.11\*. This figure does not include supervision costs.

In addition, the Department of Criminal Justice Services, using federal grant funds, has placed 174 EM units in localities across the Commonwealth. (Note: Some local and regional jails have purchased their own EM equipment and operate local/regional EM programs. The costs for these programs vary.)

The Senate Finance Committee is now considering expanding the EM program to provide EM units to each of DOC's regional offices. The equipment would be available on a loan basis to local jurisdictions (sheriffs, local probation and parole officers, etc.)

**3. Shock Incarceration (SI) Programs,** popularly known as "boot camps," are one of the most publicized alternatives to incarceration. Nationally, programs differ by capacity, duration, location, eligibility criteria, sentencing authority and special components (i. e., education, treatment, vocational training and aftercare). All SI programs are relatively brief in length and are designed for offenders who have not yet served time in a state prison. These programs draw on the model of a military boot camp. The programs stress strict discipline, obedience, regimentation, drill and ceremony, physical conditioning and frequently include manual labor. SI participants are expected to learn self-discipline and teamwork and to develop improved self-respect. Program participants are housed separately from the general population, although in some programs they are within sight and sound of general population inmates.

**Virginia:** Upon the recommendation of the Crime Commission, the DOC established a boot-camp/shock probation program at the former home of the Southampton Youthful Offender Center in Capron. The program has a capacity of 100 "probates" and lasts 90 days. Only non-violent, youthful offenders are eligible for the program. Probates receive educational and

vocational training, practice military drill and ceremony, gain work experience through hard labor and are offered minimal treatment and aftercare services. The average cost per inmate per day is **\$99.44\***.

In addition to the state-operated boot camp, the Chesapeake City Sheriff is in the process of implementing a local boot camp program to alleviate crowding in his jail.

**4. Home Confinement Programs** seek to confine a person to his or her home as an explicitly punitive measure. These sentences provide much stricter supervision than probation and, depending upon the severity of the restrictions, can be administered as a form of incarceration. Many home confinement programs use electronic monitoring devices and drug testing in conjunction with other program elements.

There are three degrees of severity for home confinement programs: curfew, detention and incarceration:

**a. Curfew Programs** require that offenders be at their residences for a specific period of time, generally at night. Curfew programs are designed to be tougher than probation but lighter than serving time at a halfway house. Participants work during the day and are allowed only a few hours of free time before returning to their home for the specified hours. A curfew program requires more frequent officer-client contacts than probation. Most offenders participate in curfew programs as part of pre-release programs rather than as direct court commitments specifically to curfew.

**b. Home Detention Programs** are more severe than the curfew sentence and require that the offender remain at home whenever he or she is not working. Home detention is strictly enforced with frequent contacts and visits by probation/parole officers. Travel is restricted and free time must be spent at home. Offenders are subject to frequent, announced visits and telephone calls by monitoring officers. All movements outside the home or apartment must be cleared in advance with an officer. Failure to abide by the regulations results in the imposition of a jail or prison sentence.

**c. Home Incarceration** is the most severe of the three types of home confinement programs; the offender's home actually serves as a prison. In addition to the restrictions of home detention, an offender in home incarceration is prohibited from working, shopping, and, in some cases, even from entering his or her own back yard. The only allowable exceptions for leaving the residence are for religious services, medical treatment and life-threatening emergencies.

**Virginia:** For Virginia-specific information, please see "Electronic Monitoring," and "Intensive Supervision Probation."

### C. Moderately Restrictive Programs

**1. Intensive Supervision Probation (ISP)** is employed as a technique for increasing control over offenders in the community and thereby reducing risk to public safety. The most basic elements of ISP are enhanced supervision, surveillance and control, usually achieved through reduced caseloads, increased numbers of contacts per month and a range of mandated activities for participating offenders. For instance, ISP may be used in conjunction with work or vocational training, community service, drug testing and/or treatment and curfew restrictions.

**Virginia:** Generally, ISP program participants are referred from either the Circuit Court, the Parole Board or probation and parole officers. However, hearing officers and parole hearing examiners may also utilize ISP as a sanction for technical parole violators. Additionally, ISP is frequently used in conjunction with other programs such as boot camp and electronic monitoring.

Each ISP program in Virginia has certain basic elements which are adapted to local needs. Program elements include around-the-clock accessibility of the ISP officer to the client; identification of participants to local law enforcement officials; graduated phases of supervision (Phase I, Phase II and Regular Supervision); high level of client and collateral contacts; mandated full-time employment and/or job training for the participant; and curfews and substance abuse screening on an as-needed basis. The average daily cost per participant in ISP is **\$3.40\***.

**2. Day Reporting Center Programs (DRC)** require that offenders physically report to the center on a daily basis and provide a schedule of their planned activities. Offenders must participate in designated programs, services and activities provided by the center or other community agencies. They must report by phone to the center throughout the day, and they can expect random phone checks by center staff both during the day and at home following curfew. In addition, most DRC's incorporate random drug testing.

**Virginia:** In the 1993 Budget Bill, the Department of Corrections received an appropriation of \$365,175 to establish a pilot day reporting center in Fairfax County for probation and parole technical violators. The program contracts with Offender Aid and Restoration (OAR) of Fairfax to provide social services, vocational and employment counseling and client emergency assistance for participants. The program capacity is 100 , and the length is 90 days. The average cost per offender per day is estimated at **\$10.14\***. The program was scheduled to begin accepting participants on July 1, 1993.

In addition, the Compensation Board received a 1993 appropriation of \$375,000 to provide for the establishment of a day reporting center for low-risk, state responsible offenders in the City of Richmond. With a capacity of 100, the program would provide supervised work experience, treatment and EM. A plan to implement this program was presented jointly by the DOC and the Compensation Board to the Governor and the Chairmen of the money committees.

Finally, the town of Abingdon has submitted a grant application to the Center for Substance Abuse Treatment (CSAT) to establish a day reporting center that would provide substance abuse treatment to offenders.

\*NOTE: At an estimated annual cost of \$16,525 per inmate (FY92), traditional incarceration in adult facilities costs about **\$45.27** per inmate per day.

**3. Pre-Trial Programs** monitor persons who have been arrested but not yet sentenced. These programs are designed to prevent unnecessary incarceration before conviction while ensuring an offender's attendance at trial. Most of these programs offer substance abuse testing and treatment, employment assistance, educational services and supervised residential custody as early intervention techniques for pre-trial individuals. These programs can reduce court backlogs, jail crowding and detention costs.

**4. Expanded Use of Fines** as a criminal sanction is gaining popularity in many jurisdictions. Recent research indicates that there are many courts across the nation where fines are imposed frequently and collections rates are high. Often such administrative measures as requiring immediate payment, keeping installment schedules short, monitoring payment and sanctioning non-compliance quickly appear to be major factors in program effectiveness. A number of courts are turning to the private sector for assistance with collection and enforcement.

**5. Day Fines** are one technique for addressing the equity issue in using fines for offenders with vastly different incomes. With day fines, the judge first decides the number of "day fine units" warranted, based on the nature and severity of the crime (the more serious the crime, the higher the number of units) with no consideration of the offender's income or resources. The monetary value of each day-fine unit is then determined based on the offender's income. The individual offender's "day fine" is multiplied by the number of units imposed to determine the total fine.

**6. Community Service** orders require offenders to work without pay for a designated number of hours, usually for public or non-profit organizations. Typical tasks include cleaning up highways and public parks, maintenance work in hospitals or nursing homes or clerical tasks in public agencies. Community service orders may be used as one element within a more stringent intermediate punishment; as a stand-alone sanction; as a condition of

probation for low-level indigent offenders unable to pay a fine; for lesser white collar offenders and for many juveniles.

**7. Financial Restitution** to the victim, or, in the absence of an identified victim, mandated contributions to the state victim compensation fund, is increasingly being used as one element of a more stringent intermediate sanction, such as ISP. When victim restitution is ordered as a condition of probation, it may be administered by the probation agency, a victim-assistance program or an independent program.

**8. Mandatory Driver's License Suspension** (or ineligibility to apply for one) is being used as a sanction for drug and alcohol offenses. The theory behind this is that the loss of a driver's license for a significant period of time may not only enhance public safety, but also provide an inexpensive and administratively simple sanction that can have a significant deterrent effect, particularly for casual drug users and juveniles. In addition, some jurisdictions are experimenting with confiscating the automobiles of drug users driving to a "drug market" to purchase drugs.

**9. Drug Testing**, to determine that an offender remains drug-free, is now being used as part of ISP, home confinement, probation with day reporting and SI programs at the state and local level. Urinalysis, which identifies recent drug use, is the current technology. Hair analysis, which can identify drug use over time, is too expensive presently for widespread use. However, the technology is developing rapidly and may hold promise for a less intrusive testing method, which could be used at less frequent intervals to provide not simply a "snapshot" of recent drug use, but a history of use over time.

## **VII. Discussion/Analysis**

### **A. Proposed Goals of Alternatives to incarceration**

#### **1. Cost Effectiveness**

Alternatives to incarceration, including community corrections and SI programs, can save money. It costs less to operate community corrections programs than to operate jail and prison facilities. In community corrections programs, costs become even lower when fees are collected from participating offenders to cover the costs of supervision. For instance, in every federal halfway house, offenders are required to pay 25 percent of their gross weekly income to the government. Over the past three years, \$10 million has been collected by the Federal Bureau of Prisons from its offenders in community corrections programs.

In addition, each offender in a community corrections program continues to pay taxes and is required to pay victim restitution and court-ordered fines.

Furthermore, offenders with families can contribute to their support, in many cases saving the government welfare payments.

With SI programs, expenditures for food, clothing and consumables are about the same as for regular prisons. At the same time, more intensive demands on custodial staff and/or rehabilitative staff results in higher daily costs per inmate than standard incarceration. However, officials in all states believe that SI costs considerably less per inmate than standard imprisonment because SI participants are confined for shorter periods.

## **2. Fuller Spectrum of Sentencing Options/Appropriate Punishment**

Intermediate punishments offer judges and prison officials a more complete spectrum of sentencing and placement options. Such programs should be used to increase the range of available penalties so that offenders receive the most appropriate punishment.

## **3. Greater Public Safety**

The proper implementation of community corrections and boot camp programs can actually enhance public safety. First, incarceration can make non-violent offenders violent. Once a prisoner is released, there is a potential for new and dangerous criminal activity, even among those originally confined for nonviolent offenses. A 1989 recidivism study conducted by the U. S. Bureau of Justice Statistics indicated that "nearly 1 in 3 released violent offenders and 1 in 5 released property offenders were arrested within 3 years for a violent crime following their release from prison." Such programs divert "salvageable" offenders away from the criminal environment inevitably present in most prisons and jails.

Secondly, by utilizing intermediate punishments, scarce prison space is made available for truly violent offenders. Finally, such programs can provide supervision that monitors and controls offenders more intensely than traditional probation.

## **4. Opportunities for Offender Improvement**

Community corrections and SI programs frequently incorporate various treatment, educational and vocational training components. Community corrections programs frequently require that an offender work or continue educational training while receiving alcohol, drug or psychological treatment in his or her own community. SI programs are often followed by aftercare programs which place similar requirements on the offender. Unlike programs in prison, these services are available to the offender even after the sentence has been served.

## **VIII. Relevant Studies**

### **Substance Abuse and Sex Offender Treatment Services for Parole Eligible Inmates, Joint Legislative Audit and Review Commission, January 1992.**

This report examines the planning process and service delivery system used by the Department of Corrections to organize and provide treatment for inmates with substance abuse problems and those who are sex offenders.

### **Study of Electronic Monitoring Programs for Offenders, Department of Planning and Budget, March 1993.**

This document summarizes existing information concerning electronic monitoring programs and provides current program information gathered through surveying programs operating in the state as a basis for program and budget decisions for the 1994-96 biennium.

### **Study of Alternative Punishment Programs for Offenders, Department of Planning and Budget, June 1993.**

This report summarizes existing information concerning alternative punishment programs and identifies alternatives which may require further study before additional expansion is funded.

### **Virginia Offender Population Management Study, Department of Corrections Master Plan, Fall 1993.**

This document will provide a series of models and tools for use by localities and the Department of Corrections in defining current and future incarcerative capacity and appropriate alternatives to incarceration.

### **House Joint Resolution 574, Joint Subcommittee to Study Jail Financing Mechanisms, Fall 1993.**

This study will examine the feasibility of consolidating all state assistance to localities for correctional services into a comprehensive community corrections program.

### **Inmate Productivity Subcommittee of the Governor's Commission on Violent Crime, Fall 1993.**

The primary objective of the Inmate Productivity Subcommittee was to identify ways to reduce recidivism by equipping offenders with the skills and perspectives needed to return to society as productive citizens.

**Evaluation of Fairfax Day Reporting Center, Criminal Justice Research Center, December 1993.**

This evaluation will determine the effectiveness of the Fairfax Day Reporting Center, an alternative punishment program for technical probation and parole violators. An implementation evaluation will be completed by December 1993, and an impact evaluation is due by December 1994.

**Evaluation of Richmond Pilot Alternative Punishment Program, Criminal Justice Research Center, December 1993.**

This evaluation will determine the effectiveness of the Richmond Pilot Alternative Punishment Program, a program providing work, treatment and electronic monitoring for 100 non-violent, state responsible offenders. An implementation evaluation will be completed by December 1993, and an impact evaluation is due by December 1994.

**Assessment of Reimbursement to Jails for Alternative Programs, Criminal Justice Research Center, December 1993.**

Pursuant to the 1993 Appropriations Act, the Research Center is conducting a policy assessment of the Compensation Board's paying \$8 per day for offenders in jails who are assigned to alternative punishment programs.

**Evaluation of the Department of Corrections' Intensive Supervision Program, Criminal Justice Research Center.**

This evaluation will assess the effectiveness of a program providing selected probationers and parolees with greater levels of supervision, drug testing and treatment.

**Evaluation of the Department of Corrections' Drug Treatment Programs, Criminal Justice Research Center.**

This evaluation will assess the effectiveness of the Department of Corrections' therapeutic communities, intensive counseling and drug education programs for inmates.

**Judicial Sentencing Guidelines Study, Criminal Justice Research Center.**

An objective of this study is to develop a risk assessment tool to help judges determine who would be appropriate for alternative sanctions.

## **Overview of Post-Incarceration Services, Virginia State Crime Commission, Fall 1993.**

At the request of Delegate Van Landingham, the Commission will study post-incarceration services in Virginia, survey services currently being offered and compare the costs per individual served.

## **Welfare Reform Subcommittee of the Poverty Commission, Fall 1993.**

The subcommittee is considering employment and training services for ex-offenders.

## **IX. Proposed Findings and Recommendations**

### **Finding I**

At present, there is no statewide system of alternatives to incarceration in Virginia. Instead, many such programs are operated by private and public agencies at the local level. As a result, alternative programs and punishment options vary widely among local jurisdictions. For instance, Virginia currently has locally-operated halfway houses, electronic monitoring and day reporting center programs.

At this time, there is no statewide inventory of these local programs. This data has been collected through a survey of sheriffs that was conducted under the auspices of the Governor's Commission on Violent Crime. However, the survey results were not compiled during the course of the Commission's study. The Sheriffs Association is willing to release these surveys to the Crime Commission so that the results can be compiled into an inventory of existing local programs. Such an inventory would be useful in identifying gaps in program availability and providing a comprehensive, jurisdiction-by-jurisdiction breakdown of the programs currently in use in Virginia.

**Recommendation 1:** Crime Commission staff should develop an inventory of local alternative programs and punishment options to be included as an appendix to this document. (See Appendix C.)

### **Finding II**

By providing budgetary incentives and technical assistance to localities, the state is already promoting alternatives to incarceration as local remedies to ease jail crowding.

Item 174 of the 1993 Appropriations Act authorizes the Compensation Board to pay the \$8 per diem for local responsibility offenders who are assigned

to alternative punishment programs or alternatives to incarceration. This payment is intended to be made for prisoners who would otherwise be housed in local correctional facilities. Item 174 stipulates that plans for such alternative programs must be approved by the Department of Corrections and directs the Department of Criminal Justice Services to evaluate the effectiveness of this incentive in achieving its intent.

In addition, House Bill 1950 (1993) requires that localities or regions submit community corrections plans to the Board of Corrections for approval. Facility construction will be a component of these plans, but they will also include a range of alternative sanctions. These plans will include pre-trial detention and post-disposition punishment alternatives.

Finally, the Virginia Offender Population Management Study, scheduled for release later this year, will review policy options regarding alternatives to incarceration and make recommendations to the state and localities concerning which options would be most appropriate for use in Virginia. The document will include a series of models which will provide the DOC and localities with methods to assess the current situation and form the basis for expansion or development of alternatives to incarceration. A "training manual" will be developed to assist localities and the DOC in assessing incarcerative capacity in the facilities and in comparing specific alternatives to the cost of keeping the offender incarcerated or in another program.

**Recommendation 2:** The Crime Commission should encourage jurisdictions to seek local solutions to jail crowding, including alternatives to incarceration programs.

### **Finding III**

At the federal level, the Alternatives to Incarceration Project, a joint venture of the National Institute of Corrections and the State Justice Institute, is a program of support and technical assistance developed in response to the enormous interest on the part of local jurisdictions in the development of alternatives to incarceration. In 25 urban and suburban jurisdictions across the nation, the Project has worked with judges, county commissioners, prosecutors, sheriffs, probation officials, defense attorneys, state legislators and their colleagues in their efforts to develop and implement a range of sanctioning options short of total incarceration.

The major findings of the Project have been summarized in a monograph which provides a step-by-step strategy for use by local jurisdictions in implementing alternatives to incarceration and defines the essential elements of this process. The monograph stresses the importance of goal and outcome clarification, program evaluation and the establishment of a work group responsible for developing and implementing alternatives to incarceration.

During the course of this study, Commission staff has learned that, in Virginia, without the "up-front" participation and support of judges and prosecutors, local alternative programs are frequently under-utilized. However, in jurisdictions where these key players have participated in the planning process, such programs are widely accepted and used.

Additionally, evaluation of the effectiveness of alternative programs is needed to assess the actual goals and outcomes accomplished by these programs. Most importantly, this provides policy-makers with the information necessary to decide which programs are worthy of future funding.

**Recommendation 3:** When developing alternatives to incarceration, localities and the Department of Corrections should clearly define the goal(s) of the program. Such goals may include cost effectiveness, fuller spectrum of sentencing options/appropriate punishment, greater public safety and/or opportunities for offender improvement.

**Recommendation 4:** Once established, the effectiveness of these programs should be evaluated by the Criminal Justice Research Center; success should be measured in terms of the expressed goals of the program as well as any unexpected outcomes.

**Recommendation 5:** Judges, prosecutors, sheriffs, defense attorneys, probation officials and state legislators should be involved at all stages of the intermediate sanction process. Such participation assures that the concerns of the key players in the system will be satisfied which should lead to maximum utilization of the programs.

#### **Finding IV:**

Since 1913, some forty-three studies have been conducted addressing alternatives to incarceration. (See Appendix B.) At present, there are eleven ongoing studies that have objectives which overlap with those of this study. At least three of those studies will make recommendations to expand alternative programs and punishment options in Virginia; five more will evaluate newly implemented alternative programs; and one will result in the development of a risk assessment tool for use by judges.

The Department of Corrections (DOC) has contracted with consultants to conduct the Virginia Offender Population Management Study (also referred to as the DOC's Master Plan) which will be released later this year. The final product will make recommendations regarding which punishment options would be most appropriate for implementation in Virginia and provide a technical assistance manual to aid localities in assessing alternative programs.

Next, House Joint Resolution 574 (1993) established the Joint Subcommittee to Study Jail Financing Mechanisms. This study will examine

the feasibility of consolidating all state assistance to localities for correctional services into a comprehensive community corrections program.

The Inmate Productivity Subcommittee of the Governor's Commission on Violent Crime released its report last Fall. The primary objective of the Inmate Productivity Subcommittee was to identify ways to reduce recidivism by equipping offenders with the skills and perspectives needed to return to society as productive citizens. The final document made programmatic recommendations to provide vocational assessments for inmates and to expand home electronic monitoring services, prison work release beds and facilities and post-release services.

The Criminal Justice Research Center is evaluating the Fairfax Day Reporting Center, the Richmond Pilot Alternative Punishment Program, the Reimbursement to Jails for Alternative Programs, the DOC's Intensive Supervision Program and the DOC's Drug Treatment Programs and is developing a risk assessment tool to help judges determine who would be appropriate for alternative sanctions.

**Recommendation 6:** The Crime Commission should review the findings and recommendations of the Inmate Productivity Subcommittee of the Governor's Commission on Violent Crime.

**Recommendation 7:** The Crime Commission should review the findings and recommendations of the Department of Corrections' Master Plan.

#### **Finding V:**

In his presentation to the Crime Commission, Secretary of Public Safety Randolph Rollins estimated that there were 1,595 borderline drug and larceny admissions to prison in fiscal year 1992.

According to data compiled by the Senate Finance Committee, three types of offenses accounted for two thirds (67 percent) of all admissions to Virginia prisons for fiscal year 1992 (FY92), although they only represented 46 percent of the current state responsible population. Thirty percent of all new admissions in FY92 were drug offenders; 13 percent were convicted of burglary/breaking and entering; and 24 percent were convicted of larceny/fraud.

Some of these offenders were on the borderline in the application of the judicial sentencing guidelines, with respect to whether they should or should not be sentenced to prison. In FY92, there were 168 cases of burglary, larceny and fraud and 979 drug cases that received exactly the number of points required to be sentenced to prison. These are the "borderline" offenders that judges sentenced to prison.

Most of the borderline cases of burglary, larceny and fraud involved offenders who had a prior adult record. This suggests that judges in Virginia typically do not sent an offender to prison for these crimes on the first offense. However, most of the borderline drug offenders did not have a prior adult record.

There were 979 drug offenders who scored on the borderline on the Drug Offender Worksheet of the sentencing guidelines. Of these, 921 (94 percent) were convicted of selling Schedule I/II drugs. (Note: Over 92 percent of these offenders were convicted of selling powder cocaine or crack). Of these 921 cases, 709 (77 percent) had one count of the offense, no additional offenses, and no prior record.

The results of this study indicate that a significant number of inmates in Virginia's correctional system are borderline drug offenders. Many have been convicted of selling relatively small amounts of cocaine and crack. Many have no prior record as an adult. Previous studies have suggested a very high rate of recidivism for these offenders.

Additional information is needed before a decision is made by the judiciary that a specific offender is an appropriate candidate for an alternative type of punishment. Some borderline burglary, larceny and drug offenders may be suitable risks. At this time, the Criminal Justice Research Center is developing a risk assessment tool to help judges determine who would be appropriate for alternative sanctions.

**Recommendation 8:** Once a reliable risk assessment tool is in use, borderline burglary, larceny and drug offenders should be the primary population considered for placement in alternative sanction programs.

## **X. Acknowledgements**

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**Office of the Chesapeake Sheriff**

The Hon. John Newhart, Sheriff

**Office of the Secretary of Public Safety**

O. Randolph Rollins, Secretary

## **Appendix A:**

# 1993 SESSION

LD9368156

**HOUSE JOINT RESOLUTION NO. 631**  
**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
(Proposed by the House Committee on Rules  
on February 6, 1993)

(Patron Prior to Substitute—Delegate Cohen)

*Requesting Virginia State Crime Commission to study alternatives to incarceration.*

WHEREAS, our experience over 200 years has shown that incarceration and the threat of incarceration do not necessarily deter violent criminal behavior; and

WHEREAS, it is currently estimated that operating expenses and debt service for nine new prisons coming on line by 1996 will cost \$278 million in 1992 dollars; and

WHEREAS, there will, nonetheless, be a housing shortfall of at least 594 beds for state-responsible inmates; and

WHEREAS, a public perception exists that harsher penalties, particularly longer prison sentences, are needed to ensure public safety by removing the offender from society, but, unless the offender is habilitated while incarcerated, experience shows he will likely commit further crimes shortly after his release; and

WHEREAS, the Commonwealth must develop more effective means to break the cycle of crime because of the increasing cost both in dollars and in public confidence in the criminal justice system; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be requested to analyze the available data on criminal behaviors and study alternatives to incarceration for purposes of punishment and habilitation.

The Commission shall consider, among other things, available technologies to enhance penal and educational treatment and employment options for inmates; increase diversion for first-time or nonviolent offenders; increase involvement of the public sector in educational and employment programs to enhance habilitative capabilities; and make more diverse programs and treatments available to inmates.

The Commission shall complete its work in time to submit its recommendations to the Governor and the 1994 Session of the General Assembly in accordance with the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

| Official Use By Clerks                     |                                            |
|--------------------------------------------|--------------------------------------------|
| <b>Agreed to By</b>                        |                                            |
| <b>The House of Delegates</b>              | <b>Agreed to By The Senate</b>             |
| without amendment <input type="checkbox"/> | without amendment <input type="checkbox"/> |
| with amendment <input type="checkbox"/>    | with amendment <input type="checkbox"/>    |
| substitute <input type="checkbox"/>        | substitute <input type="checkbox"/>        |
| substitute w/amdt <input type="checkbox"/> | substitute w/amdt <input type="checkbox"/> |
| Date: _____                                | Date: _____                                |
| _____<br>Clerk of the House of Delegates   | _____<br>Clerk of the Senate               |

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## **Appendix C:**

## **Inventory of Local Programs\***

### **Albemarle County**

Community Diversion Programs  
Pre-Trial Programs  
Work Release

Academic education

### **City of Alexandria**

Community Diversion Programs  
Community Service  
Work Release

Academic education  
Vocational education  
Substance Abuse Treatment Program  
Mental Health Program

### **Alleghany County**

Work Release

### **Appomattox County**

Community Diversion Programs  
Work Release

Academic education

### **Arlington County**

Home Electronic Monitoring  
Pre-Trial Programs  
Community Service Program  
Work Release

Academic education  
Vocational education

### **Augusta County**

Community Diversion Programs  
Work Release

Academic education  
Substance Abuse Program

### **Bland County**

Community Diversion Programs  
Work Release

**City of Bristol**

Community Diversion Programs  
Work Release

Academic education  
Substance Abuse Program

**Brunswick County**

Community Diversion Programs  
Work Release

**Buchanan County**

Community Diversion Programs

Academic education

**Buckingham County**

Community Diversion Programs

**Campbell County**

Work Release

**City of Chesapeake**

Home Electronic Monitoring  
Community Diversion Programs  
Pre-Trial Programs  
Work Release  
Work Incentive Program  
Weekend confinement

Academic education  
Vocational education

**Chesterfield County**

Home Electronic Monitoring  
Community Diversion Programs  
Pre-Trial Programs  
Work Release

Academic education

**Clarke County**

Home Electronic Monitoring  
Community Diversion Programs  
Pre-Trial Programs

**Dinwiddie County**

Work Release

Academic education

**Essex County**

Community Diversion Programs

Pre-Trial Programs

**Fairfax County**

Home Electronic Monitoring

Community Diversion Programs

Pre-Trial Programs

Work release

Residential substance abuse treatment programs

Community services

Fine options

Weekend confinement

Parks service program

**Fauquier County**

Community Diversion Programs

Work Release

Anonymous Programs

Academic education

**Floyd County**

Work Release

**Fluvanna County**

Community Diversion Programs

**Franklin County**

Community Diversion Programs

Pre-Trial Programs

Work Release

County Trustee Program

Academic education

**City of Fredericksburg**

Home Electronic Monitoring

Community Diversion Programs

Pre-Trial Programs

**Grayson County**

N/A

**Greene County**

Community Diversion Programs  
Pre-Trial Programs

Academic education  
Vocational education

**City of Hampton**

Community Diversion Programs  
Pre-Trial Programs

Academic education  
Vocational education

**Hanover County**

Work Release

Academic education  
Anonymous Programs

**Highland County**

Community Diversion Programs  
Work Release

Academic education

**City of Hopewell**

Home Electronic Monitoring  
Community Diversion Programs

Academic education

**King George**

Home Electronic Monitoring  
Community Diversion Programs  
Pre-Trial Programs

**Lancaster County**

Community Diversion Programs  
Work Release  
Weekend confinement

Academic education

**Loudoun County**

Home Electronic Monitoring  
Community Diversion Programs  
Pre-Trial Programs  
Fines Option Program  
Community Work Force Program  
Work Release

Academic education

**Louisa County**

Community Diversion Programs  
Pre-Trial Programs

**Lunenburg County**

Community Diversion Programs

**City of Lynchburg**

Community Diversion Programs  
Work Release

Academic education

**City of Martinsville**

N/A

**Mathews County**

Community Diversion Programs

**Mecklenburg County**

Community Diversion Programs  
Work Release

Substance Abuse Programs

**Montgomery County**

Work Release  
Academic education

**Nelson County**

Work Release

**New Kent County**

Home Electronic Monitoring

**City of Newport News**

Home Electronic Monitoring  
Community Diversion Programs  
Work Release

Academic education

**City of Norfolk**

Home Electronic Monitoring  
Community Diversion Programs  
Pre-Trial Programs  
Work Release

Academic education  
Vocational education  
Substance Abuse Program

**Northumberland County**

Community Diversion Programs  
Work Release  
Weekend Confinement

Academic education  
Substance Abuse Program

**Patrick County**

Community Diversion Program  
Work Release

Academic education

**City of Petersburg**

Community Diversion Program  
Work Release

Academic education

**Pittsylvania County**

Community Diversion Programs  
Work Release  
Weekend Confinement

Academic education  
Substance Abuse Program

**City of Portsmouth**

Community Diversion Programs  
Work Release  
Alternative Work Program

Academic Education

**Powhatan County**

Work release (limited)

**Pulaski County**

Community Diversion Programs  
Work Release

Academic education

**Prince George County**

Home Electronic Monitoring  
Community Diversion Programs  
Pre-Trial Programs

**Prince William County**

Pre-Trial Programs

**City of Radford**

Community Sentencing  
Work Release

Academic education  
Substance Abuse Program

**Rappahannock County**

Community Diversion Programs  
Work Release

Academic education

**City of Richmond**

Home Electronic Monitoring  
Community Diversion Programs  
Work Release  
Misdemeanor Community Services Program  
School Release

Academic education

**City of Roanoke**

Community Diversion Programs  
Pre-Trial Programs  
Substance Abuse Testing  
Work Release

Academic education  
Vocational education

**Roanoke County**

Community Diversion Programs  
Work Release

Academic education

**Rockbridge County**

Community Diversion Programs

**Rockingham County/City of Harrisonburg**

Community Diversion Programs  
Work release  
Community service  
Weekend confinement

Academic education

**Russell County**

Community Diversion Program  
Pre-Trial Program  
Work Release

Vocational education

**City of Salem**

N/A

**Scott County**

Community Diversion Programs  
Work Release

Academic education

**Shenandoah County**

Community Diversion Programs  
Work Release

Academic education  
Vocational education

**Southampton County**

Community Diversion Programs  
Work Release

Academic education

**Stafford County**

Community Diversion Programs

Academic education

**Sussex County**

Community Diversion Programs  
Work release

Academic education

**City of Virginia Beach**

Home Electronic Monitoring  
Community Diversion Programs  
Pre-Trial Programs  
Work Release  
Weekend Confinement  
Anonymous Programs  
Substance Abuse Programs

Academic education  
Vocational education

**Warren County**

Community Diversion Programs

**Westmoreland County**

Community Diversion Programs  
Work Release

Academic education

**City of Williamsburg**

Community Diversion Programs

**Wythe County**

Community Diversion Programs  
Work Release

***\* Surveys developed and distributed and information collected by the Governor's Commission on Violent Crime. Information compiled by the Virginia State Crime Commission.***