Joint Legislative Audit and Review Commission

The Virginia General Assembly

LOCAL JAIL CAPACITY AND POPULATION FORECAST

...series dealing with corrections issues in Virginia

113045

REPORT OF THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION ON

Local Jail Capacity and Population Forecast

TO THE GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA

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PREFACE

Because of the close relationship between local jail and State prison crowding, JLARC was directed by the 1983-1985 Appropriations Acts to examine the capacity and population of local jails. This report focuses on the capacity of local jails, local and State inmate population forecasts, and different ways that the State can manage growing prison and jail populations.

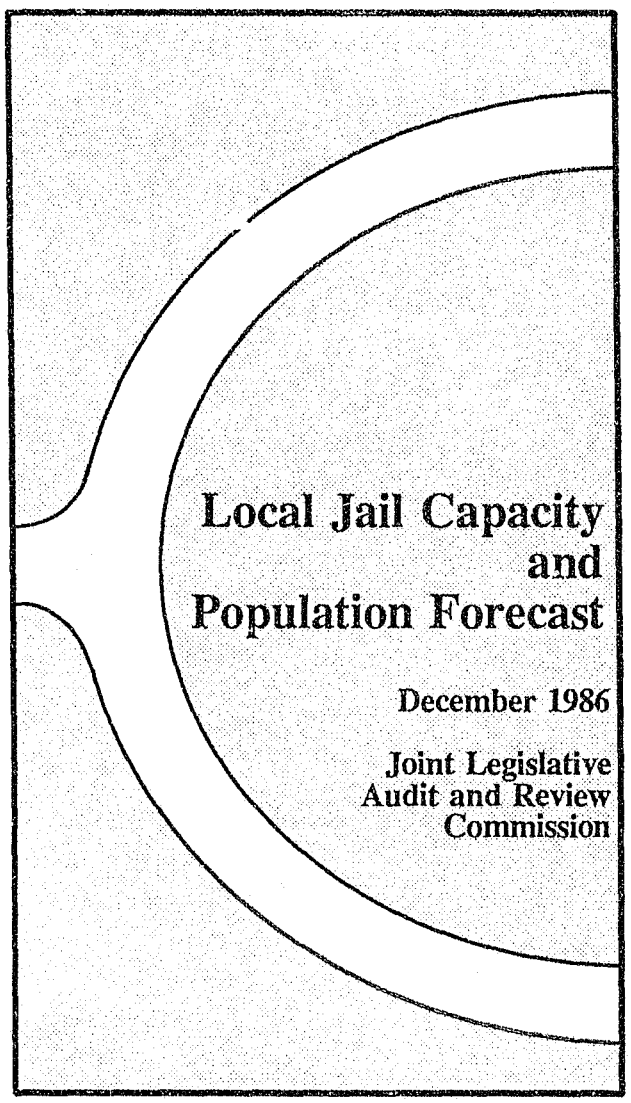
Local jails and State prisons are already crowded. Jail populations in the fall of 1986 have been in the 7500 range, almost a thousand greater than the 6,551 aggregate jail capacity that JLARC staff measured in visits to all the State's 94 jails. Weekend populations in jails have been even higher. State prison populations for the same period were about 11,000, again well above the capacity of the system.

Both State and local inmate populations will grow during the remainder of the 1980s. A combined population projection of 21,169 for 1990 will strain both State and local facilities. Consequently, additional facilities -- above and beyond those already planned -- are needed at both the State and local levels.

In particular, the State needs adequate capacity to house those inmates of its own that are "backed-up" into local jails. During the course of this study approximately 1,000 State responsibility prisoners were being held in local jails awaiting available space in State prisons. The addition of the State inmates to jails that are already overcrowded simply makes a bad situation worse.

I wish to thank the many State and local officials who cooperated in the preparation of this study. We are particularly grateful to the Sheriffs of the Commonwealth who assisted the JLARC staff in collecting data on all of the State's jails.

Philip A. Leone
Director



Local jail and State prison populations are closely linked. When State responsibility inmate populations exceed the capacity of prisons, inmates tend to "back up" in local jails, thus straining local capacity. Currently, more than a thousand State responsibility inmates are backed up into local jails. Local jails do not have the capacity to absorb a back-up of this magnitude, and consequently many jails are extremely overcrowded. In addition to crowding caused by State prisoners, many localities lack sufficient jail capacity to hold even their own inmates. The situation is unlikely to improve in the near future.

Higher Inmate Populations Are Predicted

Inmate population levels forecast at 21,169 in 1990 will require new initiatives to expand capacity or to otherwise relieve crowding in Virginia's correctional facilities. Of the projected 21,169 inmates, 13,372 will be State responsibility inmates and 7,797 will be the responsibility of localities.

The 1990 forecast of 21,169 represents a 19 percent increase over the June 1986 total inmate population of 17,782. This increase will further stress prisons and jails that are already overcrowded. Because State prisons will not be able to handle all State responsibility prisoners, jail populations will continue to grow unless new State facilities are available. Given current State prison capacity expansion plans, jail populations will rise to 8,814 in 1990 from their June 1986 level of 6,880 (a 28 percent increase). If the State Penitentiary is closed and not replaced, jail populations could reach 9,682 inmates in 1990.

A JLARC REPORT SUMMARY

Prison and Jail Capacities Will Be Insufficient

Such projected jail populations are especially disturbing since the current capacity of the local jails is only 6,551. (DOC rates jail capacity even lower, at 5,696. JLARC staff calculated the higher capacity figure after visiting all 94 jails in Virginia, inventorying available confinement space, and applying various criteria to the calculation of each jail's capacity.)

Local plans call for the addition of 832 beds by the end of 1987, but those additions still leave local jails short by approximately 1,400 beds in 1990 alone. Additional local construction is also tentatively planned and could help relieve crowding. However, between now and 1990, overcrowding in jails and prisons could be routine.

Some relief in the way of added capacity is anticipated at the State level. New construction is slated at a few major institutions and improvements to field units are planned, which could ease local jail crowding.

Expansion of State prison capacity will boost operational capacity from 10,117 in 1986 to 11,671 in 1990, as reflected in Table 1. The double celling of 684 beds adds to operational capacity and gives the State a possible "planning capacity" of 12,355 in 1990. This level of double celling is regarded by JLARC staff as acceptable, even on a long-term basis.

Adding the 684 double celled beds to operational capacity results in a planning capacity which can be used as a baseline for determining future construction needs. State prisons can operate at an even higher level--temporary emergency capacity -- on a short-term basis. Building plans should not be based on this highest level, however, as some of that capacity should be held in reserve for emergencies and for changes or errors in the forecast. The planning capacity is still approximately 1,000 beds short of housing the 1990 forecast State responsibility population of 13,372.

Closing the State Penitentiary prior to 1990 will further constrict prison capacity by deleting 868 beds from the system. Planning capacity would then drop to 11,487 beds, resulting in a deficit of 1,885.

As shown in Figure 1, the number of State beds needed in the future depends directly on the assumptions made regarding how the State system should operate. Bed need ranges from almost nothing (60) if the State operates at Temporary Emergency Capacity to 1,719 if the State operates at an accreditation level. An acceptable, but not ideal, level would be to plan and operate at the planning capacity level.

Current State policy calls for addressing bed shortfalls by diverting 550 inmates through probation programs and backing up 300 inmates into local jails. As noted in Figure 1 (middle column), however, this would still leave an unmet need of 1,035 beds. If operational capacity is used as the capacity base, the predicted unmet need in 1990 is 1,719 beds (Figure 1, left column).

The State is currently operating its prisons at a "temporary emergency capacity" level, which is substantially higher than either operational or planning capacity. As indicated in the right column of Figure 1, only 60 additional beds would be needed in 1990 if the State were to operate at temporary emergency capacity levels.

Table 1

Operational and Planning Capacity of The State Prison System

Year	Operational Capacity*	(Plus)	Cumulative Double Celling**	(equals)	"Planning Capacity"
1985	9,617	+	460	=	10,077
1986	10,117	+	460	=	10,577
1987	10,457	+	524	=	10,981
1988	10,841	+	684	=	11,525
1989	11,129	+	684	=	11,813
1990	11,671	+	684	=	12,355
Penitentiary Closed***	10,803		684		11,487

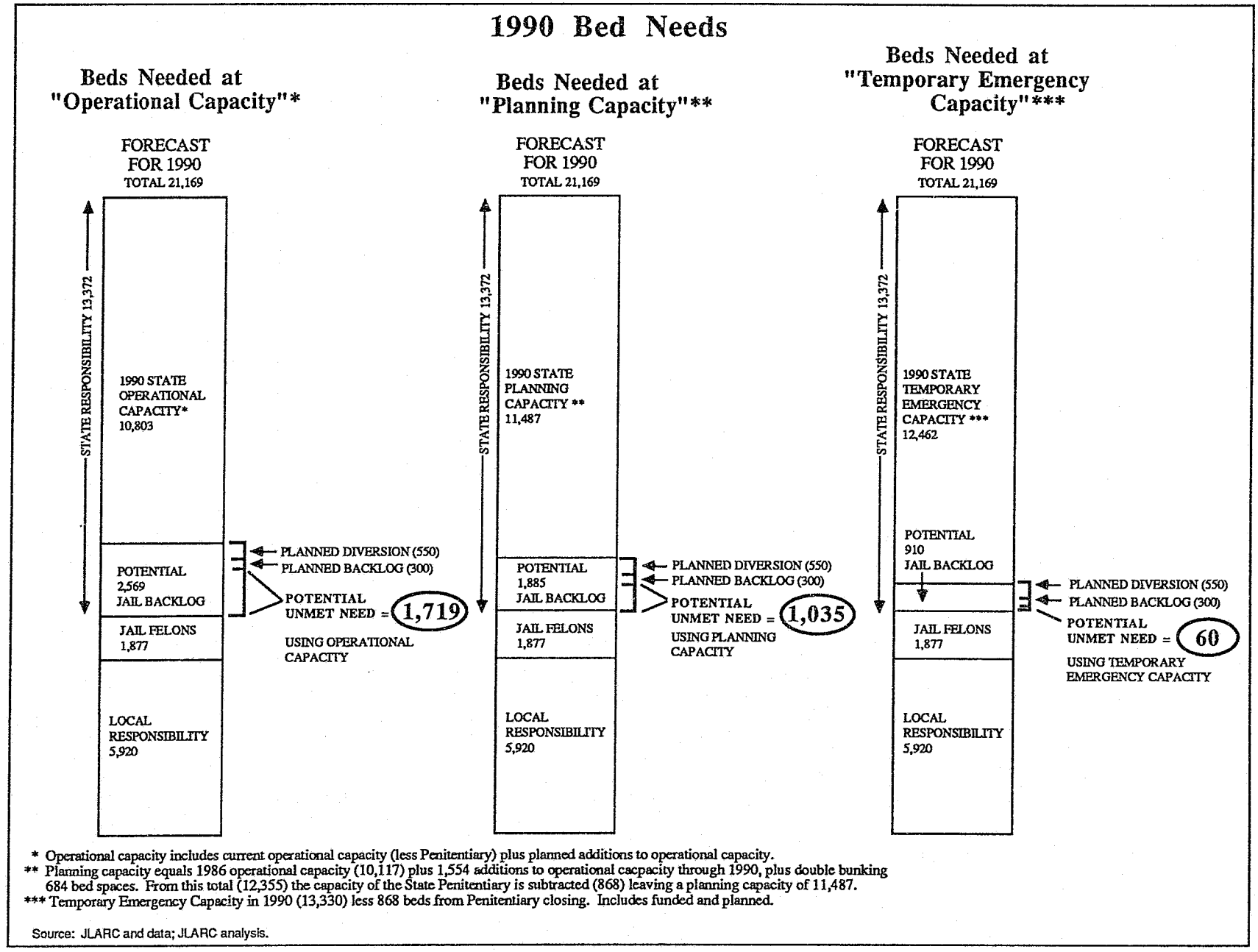
* For June/July of each year, includes 1,554 beds of funded and planned construction through 1990.

** A total of 684 additional beds are gained through planned double celling, resulting from General Assembly policy decisions. Actual double celling is currently higher. Double celling includes 460 beds at MSIs from 1985 on, plus 64 beds at Augusta in July 1987, 96 beds at Nottoway in March 1988, and 64 beds at Buckingham in June 1988. Double celling is carried forward from year to year.

*** Closing the Penitentiary in or before 1990 removes 868 beds from operational and planning capacity.

Source: DOC capacity data and the Joint Report of the House and Senate Public Safety Subcommittees, dated February 10, 1986.

Figure 1



* Operational capacity includes current operational capacity (less Penitentiary) plus planned additions to operational capacity.
** Planning capacity equals 1986 operational capacity (10,117) plus 1,554 additions to operational cacpacity through 1990, plus double bunking 684 bed spaces. From this total (12,355) the capacity of the State Penitentiary is subtracted (868) leaving a planning capacity of 11,487.
*** Temporary Emergency Capacity in 1990 (13,330) less 868 beds from Penitentiary closing. Includes funded and planned.

Source: JLARC and data; JLARC analysis.

Operation at such levels is not recommended, however. Such levels tolerate degrees of crowding that are not well advised on a long-term basis. In addition, operation at such levels taxes support and staffing capabilities. Finally, because temporary emergency capacity is a maximum level at which the State should operate, some of this capacity should be held in reserve. Reserve capacity is needed for operational emergencies and also in case forecasts are low and the population is even higher than anticipated.

The local jail population forecast shown in Table 2 assumes the increasing State planning capacity resulting from State system expansions funded or planned by the 1986 General Assembly. Despite these additions, local jail populations will continue to grow significantly, in large part because of insufficient State capacity.

The Magnitude of Bed Need Depends Upon the Assumptions

Varying degrees of bed need will exist depending on what assumptions are used. Whether or not the Penitentiary is closed, how many beds are added to the State and local systems, the level of jail backlog, and the success of diversion programs all affect the bottom line. For example, a policy decision to divert prisoners from incarceration theoretically reduces need by a like amount. Under any set of assumptions, however, there is capacity need at both the State and local levels. Most acutely, the need is in local jails which become the repositories of State-ready felons unable to enter the State system.

The phrase "local bed need" is somewhat of a misnomer because much of local need is a result of State prisoners being backed up into local facilities. If such back-ups continue, local bed need will increase each year from 1986 through 1990 (Table 3).

"Aggregate local bed need" is also a somewhat misleading concept. While it does reflect net jail crowding across the State, it does not capture the unevenness of the situation. Unlike State prisons, local jails are not a system. The jails in some localities, particularly urban areas, are almost always extremely crowded. At the same time, jails in other localities may have excess space. It is also important to note that not all crowding is the result of the back-up of State prisoners. Numerous localities will experience overcrowding even if aggregate local need is zero. This is because many local jails lack the capacity to handle their own prisoners.

Table 2

Local Jail Population Forecast

Year	Total Inmate Population Forecast	(Minus)	Less State Planning Capacity	(equals)	Local Jail Population Forecast**
1985*	16,621*	-	10,254*	=	6,367*
1986*	17,782*	-	10,902*	=	6,880*
1987	18,775	-	10,981	=	7,794
1988	19,701	-	11,525	=	8,176
1989	20,472	-	11,813	=	8,659
1990	21,169	-	12,355	=	8,814
Penitentiary Closed***	21,169		11,487		9,682

* Actual population data for 1985 and 1986. Diversion for 1985 and 1986 would be accounted for in actual population figures.

** Local jail population projects Tuesday populations of local jails. Weekend populations may run 500 or more in excess of weekday populations.

*** Closing the Penitentiary in or before 1990 removes 868 beds form operational and planning capacity.

Source: JLARC jail forecast methodology

Table 3

Local Jail Bed Need 1986-1990

(June of Each Year)

Year	Local Jail Population Forecast	(Minus)	Local Capacity	(equals)	Aggregate Local Bed Need**
1986*	6,880 *	-	6,551	=	329
1987	7,794	-	6,941	=	853
1988	8,176	-	7,383	=	793
1989	8,659	-	7,383	=	1,276
1990	8,814	-	7,383	=	1,431

* Actual

** Aggregate local bed need is 0 if all State responsibility inmates are housed in State prisons.

Source: JLARC analysis

Initiatives Are Needed

Currently-planned capacity additions at the State and local levels, while easing crowding and increasing capacity somewhat, will still not fully meet the forecast demand for confinement space. Additional construction is needed at both the State and local levels in order to reduce overcrowding. Non-construction initiatives to handle overcrowding are also needed.

The overcrowding of local jails results from both State and local factors. There are, however, initiatives which can affect the anticipated gap between systemwide capacity and the forecast population. Construction of both State and local beds is needed. Planning and management initiatives at both the State and local levels, however, can reduce somewhat the need to construct new beds.

Among the alternatives available are regional transportation pools, changes in sentencing practices, and the conversion of existing jail space into minimum security housing. Regional jails are also an alternative. In addition, the Community Diversion Incentive (CDI) program has helped divert prisoners from local jails. A 1985 JLARC evaluation of the program recommended that CDI be expanded into areas of the State not currently served. The State, largely through the Board and Department of Corrections, could also pursue policies that would promote the more efficient use of jail space. More active use of the Director's authority to transfer prisoners between jails would result in use of currently underutilized space. Reduction of building standards from 105 to 70 square feet per inmate could result in more building by localities and less double bunking of inmates within jails. Any reduction in building standards should be accompanied by a prohibition on double bunking smaller cells.

Better management of DOC's inmate intake system could also affect local jail populations. Processing delays result from high DOC personnel turnover in the warrant section, where additional permanent staffing is needed. Improvements to DOC's intake policies and proper implementation of these policies would aid in the timely removal of inmates from local jails.

Parole Board policies also affect jail population. Administrative changes in 1982 created a temporary sharp increase in the number of persons being paroled. Persons sentenced to less than 12 months are ineligible for parole. Persons convicted of serious crimes and sentenced to a year or more are sometimes eligible for earlier release as parolees.

Recommendations

The following recommendations address these concerns and other issues raised in the JLARC analysis of local jail capacity and population forecast. Each is discussed fully in the main body of this report.

Recommendation (1). *Because of the decentralized nature of the jail system and the need for State corrections planners to know the capacity of each local jail and the State jail system, DOC in conjunction with the Department of Criminal Justice Services should regularly review and update jail capacity figures. Calculation of jail capacity should be made on a systematic, standardized basis, similar to the JLARC methodology and consistent with Board of Corrections standards and good correctional practices.*

Recommendation (2). *On an aggregate level, underutilized beds indicate capacity which is not being used to house prisoners. The inclusion of these bed spaces can overstate available bedspace. Similarly, the exclusion of definite local building plans can overstate the future need for State and local beds. For these reasons, DOC should adjust the aggregate number of jail beds used for State planning to reflect underutilized beds and definite local programs for jail expansion.*

Recommendation (3). *Unless jail conditions warrant State or judicial intervention, it is the locality that determines when and how jails will be expanded. A number of localities lack sufficient jail capacity to meet their own needs. In such cases, localities should assess their present and future bedspace needs. Where possible, localities should expand local or regional jail capacity to meet expected needs. Regional jails should be promoted as a particularly viable means of housing special populations.*

Recommendation (4). *The Department of Corrections should modify its definition of operational capacity of the State prison system to more accurately reflect the actual capacity of the system. At a minimum, the mandated double celling of 684 bed spaces should be included as in JLARC's "planning capacity" measure. Should DOC not upgrade its definition of capacity, the Department of Planning and Budget or the standing committees of the General Assembly should consider setting operational capacity ratings for planning purposes.*

Recommendation (5). *DOC should present plans to the General Assembly to address anticipated increases in State and local inmate populations. The plans should provide options to the General Assembly including: community-based alternatives, emergency utilization, renovations, and replacements and construction. The General Assembly should adopt an appropriate plan to substantially reduce the anticipated number of State responsibility prisoners backed up in local jails.*

Recommendation (6). *Although not all the underutilized capacity in the jails is easily accessible, a number of localities have some chronically unused bed space. Additional unused space is periodically available even in localities that may from time to time experience overcrowding. Transfer of prisoners to underutilized local jails can be one viable option to capital construction. The General Assembly may wish to direct the Director of Corrections to use his authority to transfer State responsibility inmates to jails that have underutilized capacity. To effect such transfers smoothly, the department should give consideration to transfer incentive programs, involving, for example: transportation assistance, intake priority consideration, or additional payments. In any programs involving additional payments, consideration should be given to developing a program which does not dampen current voluntary exchanges between jails which the State does not finance.*

Recommendation (7). *The Board of Corrections is charged with establishing minimum standards for jail construction. The current standards being used by the Department of Corrections are higher than what is required by statute or by court decisions. The Board of Corrections should consider lowering the minimum jail building standard from the current accreditation level of 105 square feet to its old standard of 70 square feet. Additional emphasis should be put on common areas such as dayrooms and recreation areas. The Board should forbid*

double occupation of the smaller cells built to this standard. New standards should also require adherence to the "totality" concept to ensure that occupants of smaller cells have access to recreation, education, and other opportunities outside their living areas.

Recommendation (8). *Due to the organizational structure and mission of DOC, DOC jail managers have the opportunity to observe new and more efficient means of handling jail populations and overcrowding at the local level. Since it is the mission of the jail managers to provide assistance to jail operators, DOC jail managers should identify effective techniques to manage overcrowding used in localities and disseminate this information to sheriffs.*

Recommendation (9). *Strong consideration should be given by DOC to replacement of the temporary positions within the warrant section with permanent staff. The benefits of such replacement could be realized in more timely court order processing, lower staff turnover, and improved efficiency.*

Recommendation (10). *DOC should change its inmate intake priority system to reflect the capacity figures outlined in Chapter II or similar capacity figures developed by DOC and updated periodically. Allocation of priority spaces due to overcrowding should be based on these new figures.*

Recommendation (11). *DOC should change the inmate intake priority system to reflect the burden placed on the individual jails by State inmates. Therefore, distribution of beds for overcrowded jails should be based on the percentage of capacity occupied by inmates with greater than six months left to serve. This method more equitably measures need and allocates beds where the presence of State inmates cause the most severe crowding problems.*

Recommendation (12). *The Department should carefully monitor the new inmate intake priority system. Proper implementation could disperse overcrowding and ease pressure on the most severely overcrowded jails.*

Recommendation (13). *A task force should be formed to study problems caused by the current inmate transportation system. The study should estimate the costs involved by having the sheriffs' department transport prisoners as well as the costs involved if the Department of Corrections were to reestablish a transportation program. The study should include representatives of DOC, DCJS, sheriffs, and legislative committees. The task force should report its findings and recommendations to the Governor and General Assembly prior to the 1988 session of the General Assembly. Recommendations should include budgetary as well as statutory amendments required to align costs and responsibilities of State prisoner transportation to the reception and classification units.*

Recommendation (14). *Parole eligibility should be more systematically and fairly applied. The General Assembly may wish to consider revisions to Section 53-135.2 of the Code of Virginia to extend systemically parole eligibility to include sentences of less than twelve months. A comprehensive study of sentencing and other court practices might also focus on broader insights into managing and reducing jail and prison populations.*

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I. INTRODUCTION

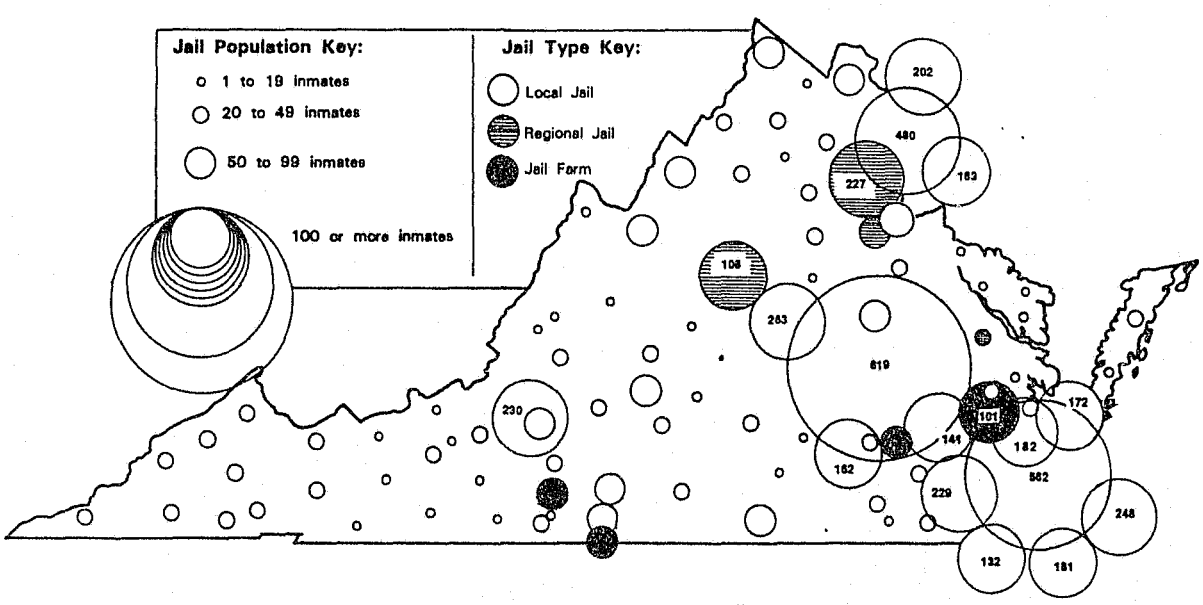
As part of its study of corrections in Virginia, JLARC was directed by Item 518 of the 1985 Appropriations Act to look at the local jail population and its relationship to the State correctional system. This report addresses the relationship between the State system and local jails. It assesses local jail capacity and some practices that affect capacity. It provides updated forecasts of State and local prison populations and predicts needs based on the differences between the expected incarcerated populations and the facilities available to house them.

There are 94 jail facilities serving local detention needs in the Commonwealth of Virginia (Figure 1). (One jail, Essex, closed in July 1986.) Among these, there are three basic types of facilities: the jail, the jail farm, and the regional jail.

Jail farms are secure detention facilities that actually operate as farms and/or as bases for local jail work crews. There are four jail farms in the State. The Danville jail farm, the Martinsville jail farm, and the Newport News jail farm are independent of the sheriff and are run by the local governing body. The jail farm annex in Petersburg is considered part of the jail and is managed by the sheriff.

Figure 1

Inmate Populations in Virginia Jails



Source: August 12, 1986 DOC "Tuesday" Reports.

A regional jail is formed when three or more counties or cities cooperatively establish, maintain, and operate a jail. Each regional facility operates under a superintendent who reports to a jail board. The board is composed of one or more representatives from each jurisdiction, one citizen at large, and one sheriff. Presently, there are four regional jails operating in Virginia: the Prince William Adult Detention Center, the Albemarle/Charlottesville Joint Security Complex, the Middle Peninsula Regional Security Center, and the Fredericksburg/Rappahannock Joint Security Complex.

While there are three types of jail facilities, local jails make up the majority of the facilities (93 percent). Each jail is managed by a locally elected sheriff. The daily operation of the jail is often left to a chief jailer, who is usually a deputy sheriff. Although sheriffs have primary authority over the operation of their jails, State and local entities are also involved with some aspects of jail operations and management. Jails hold three basic types of prisoners: those awaiting trial, those convicted of a felony or misdemeanor and sentenced to less than 12 months, and those convicted of a felony and awaiting transfer to, or parole from, the State correctional system. Delays in transferring inmates to State prisons have resulted in crowded conditions in some local jails.

Crowding also occurs as a result of the inadequate capacity of some local jails. Over 40 local jails were built before 1960. Some were built as early as the 1800s and the early 1900s. Even though population and square footage standards have changed considerably, some of these facilities have not been expanded since that time.

In 1982 and again recently, jail crowding reached crisis proportions in Virginia's jail system. In 1982, the problem was alleviated by the timely opening of the Brunswick and Buckingham correctional centers. During the period of August 26 to November 7, 1985, the Department of Corrections brought 1,158 inmates into the State system to alleviate jail crowding, more than 500 inmates above the normal intake. As a result, the State institutions were operating at their reserve or "emergency" capacity, but localities still had over 1,200 State felons backed up in their jails. In 1986, jail crowding again peaked, and record numbers of inmates occupied jails in the summer of 1986. Consequently, Virginia's growing jail population continues to be of concern to the General Assembly.

The remaining sections of this chapter provide a general introduction to Virginia's jail system. Information is presented regarding Virginia's incarcerated population and State and local involvement within the jail system. A final section describing the JLARC review concludes the chapter.

JAIL POPULATION AND CHARACTERISTICS

The State correctional system places inmates into correctional institutions only after a classification process and after space is found for them. Local jails, however, must accept all individuals brought to them by local law enforcement agencies or sentenced by the courts.

An individual confined in a local jail can be classified into one of three categories: individuals awaiting trial, convicted misdemeanants, or convicted felons. The following three sections describe the populations confined in local jails.

Individuals Awaiting Trial

Inmates who are held at a local jail and have not been convicted of any offense are described as awaiting trial. Generally, an individual will be detained in a jail for a short period of time before bond is set by the local magistrate. If the individual is not deemed bondable or cannot afford the bond, that individual must remain in jail until his case is tried. The Department of Criminal Justice Services (DCJS) staff estimate this time period to average approximately two months. On August 12, 1986, there were 3,228 individuals awaiting trial in Virginia's local jails.

Convicted Misdemeanants

Inmates incarcerated in local jails who have been convicted and given a sentence of 12 months or less comprise the convicted misdemeanant population. The convicted misdemeanant population totaled 1,406 on August 12, 1986. Convicted misdemeanants will spend their entire sentences in local jails. Because misdemeanants are often not serious or violent offenders, many options are available to them while serving their sentences. Programs offered at local jails include work release, weekend-only incarceration, community service, and trustee work. These options are described below.

Work Release. Work release is a formal program designed to allow inmates to maintain regular employment. Work release inmates are permitted to leave the jail during the day for work and return at night. Of the 80 local jails offering work release programs, 42 house work release prisoners away from the jail's general population. Approximately 450 inmates are involved in work release at any one time.

Weekend-Only Time. Many convicted misdemeanants are allowed to serve their sentences on weekends. They report to the jail on Friday afternoon or Saturday morning and leave on Sunday afternoon. Similar to work release, inmates who serve weekend time, or "weekenders," are able to maintain regular employment while serving their sentences. Weekenders complicate jail management by serving their time when jails are usually experiencing larger populations from weekend arrests.

Community Service and Trustee Work. Community service workers are generally minimum security inmates who do work in the community during the day and return to the jail at night. Trustees are minimum security inmates who work in and around the jail. Community service and trustee programs allow inmates the opportunity to leave their cells during the day and earn extra "good time" for the services they perform. These programs ease crowding because they get inmates away from jail living areas during the day when inmate activity is greatest.

Convicted Felons

Individuals who constitute this portion of the jail population have been convicted of a felony offense. On August 12, 1986, there were 2,308 convicted felons housed in Virginia's 94 local jails. Convicted felons who are housed in local jails can be classified into one of three categories: (1) felons who have been sentenced to the jail by the courts, or "local felons", (2) felons who have been sentenced to the Department of Corrections (DOC) but are awaiting transfer to the State system, or "State responsibility felons" and (3) felons who are being kept to work at the local jail by request of the sheriff. Sheriffs sometimes request that some State responsibility inmates be kept at the jail because the inmates have special skills important to the jail. Local and State responsibility felons are described below.

Local Felons. Local felons are individuals who have been convicted of a felony offense and sentenced to the local jail for 12 months or less. They will spend their entire sentences in the jail and are the responsibility of the jail for housing. Local felons are not parole eligible but can accumulate good time.

State Responsibility. Inmates who have been convicted of felonies, sentenced to the Department of Corrections, and issued sentences of one year or more are State responsibility inmates. State responsibility inmates are housed in local jails until space becomes available for them in a State institution. When the State correctional system operates at full capacity, State responsibility inmates can "back up" into the local jails. This can cause increases in the jail population and problems for local sheriffs.

Jail Configuration

There are four basic types of housing units (Figure 2) or confinement units used in jails: cell blocks, dormitories, unattached cells, and holding areas.

The typical cell block in Virginia consists of a row of four to six cells fronted by a dayroom of corridor-like proportions. At the time of JLARC staff visits in 1985, there were 758 cell blocks in local jails in Virginia.

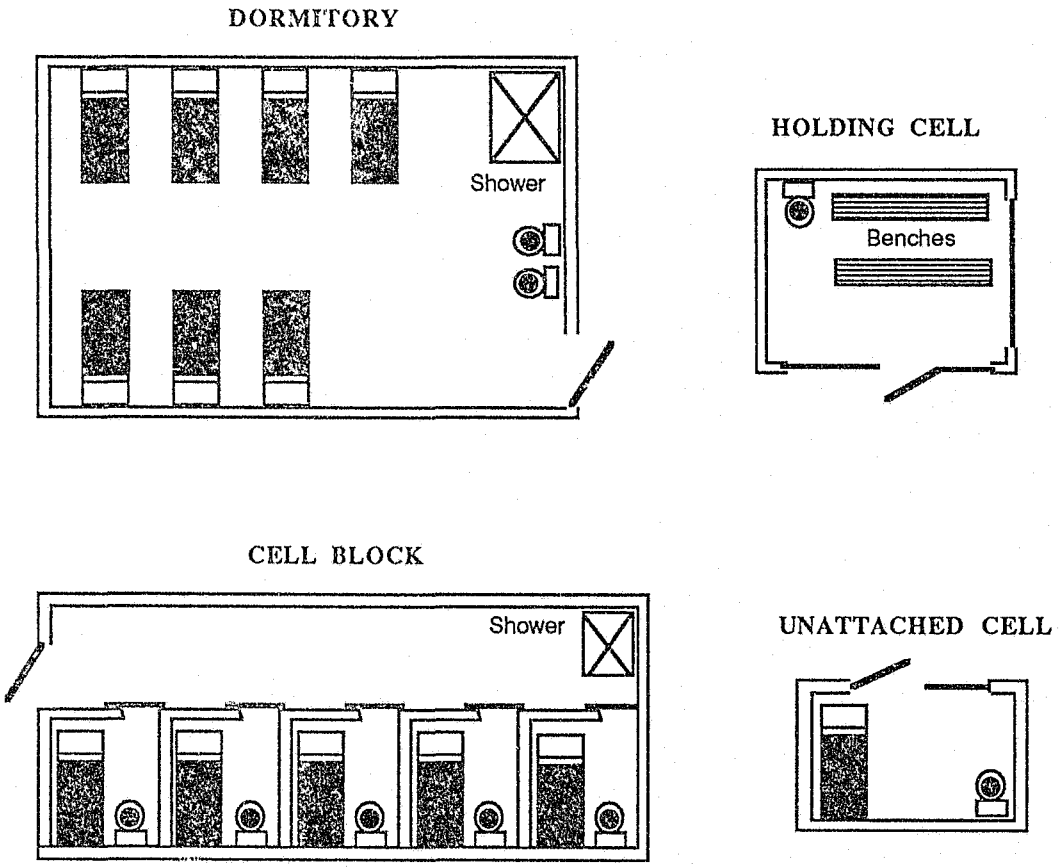
A dormitory is a large undivided room designed for four or more people. The toilet facilities are shared and the dayroom is incorporated into the dormitory. There were 129 dormitories in local jails in Virginia in 1985.

An unattached or single cell is a cell designed to hold one to four people. Unattached cells may be located next to other cells and rooms, but they are separate units and do not open onto a common dayroom. There were 739 unattached cells in local jails in Virginia in 1985.

Holding areas are meant to detain people for a period of 12 hours or less, although they are sometimes used for longer periods of time. Holding areas have either benches or beds. There were 318 holding area units in local jails in Virginia in 1985.

Figure 2

Types of Housing Units in Virginia Jails



Source: JLARC staff graphic.

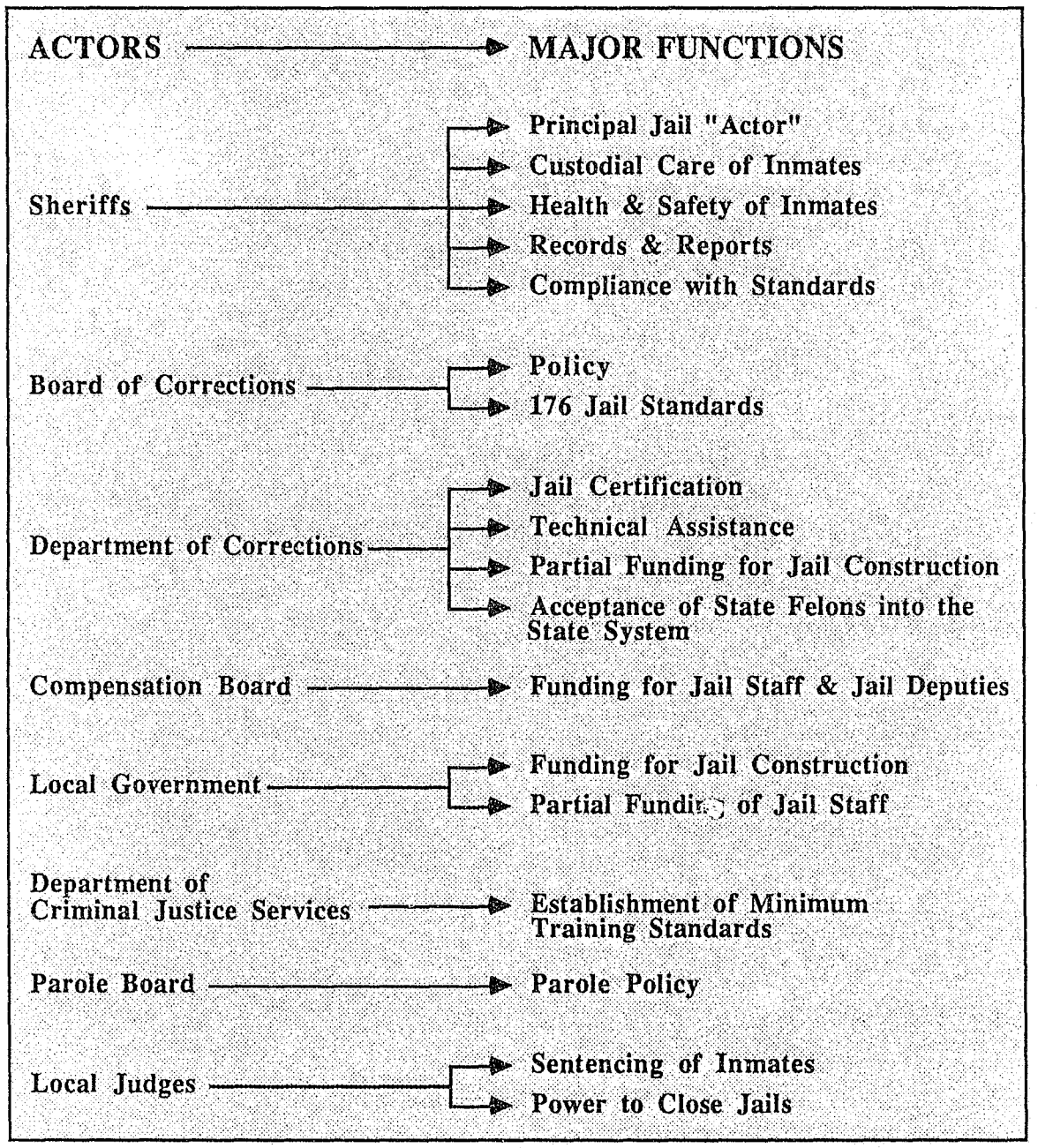
THE JAIL SYSTEM: STATE AND LOCAL INVOLVEMENT

Local jails are the focal point of Virginia's loosely knit jail system. Although the constitutionally elected sheriffs have primary authority over the jails, at least five State entities have statutory responsibility for some aspect of jail management. These entities include the Department of Corrections, the Board of Corrections, the Parole Board, the Compensation Board, and the Department of Criminal Justice Services.

Through the five entities, the State provides such functions as policy-making; financial assistance for salaries, operating expenses, and construction costs; and training and staffing of deputies. In addition, the State provides technical assistance to jails, and certifies and administers the jail accreditation program (Figure 3).

Figure 3

Actors & Their Functions Within the Virginia Jail System



Source: JLARC staff graphic.

A number of local entities are also components of the jail system. Local governments provide a portion of jail funding for staffing and the majority of funding for jail construction. In addition, local judges have responsibility for sentencing inmates, and have the power to close a jail or to designate the jail for use by another county or city. Locally-elected sheriffs, empowered to operate and manage their localities' jails, are the key actors in the jail system.

Constitutionally Elected Sheriffs

Local sheriffs are constitutional officers elected under provisions of Article III, Subsection Four of the State Constitution. In every county and city in Virginia, qualified voters elect a sheriff to serve a term of office for four years. Most sheriffs are charged with the operation of the jail and the basic custodial care of inmates. (Not all sheriffs have jails, however.) Some sheriffs also have police and investigatory responsibilities, but those activities are not discussed in this report.

Sheriffs generally have a fair amount of latitude in the operation of their facilities. There are, however, certain statutory requirements dealing with the administration and upkeep of a jail by which all sheriffs must abide. These requirements include: the basic custodial care of inmates, record keeping and reporting, courthouse and courtroom security and court duties, and compliance with the requirements of the Board of Corrections.

Basic Custodial Care. Under Sections 53.1-126 of the *Code of Virginia*, a sheriff is responsible for the food, clothing, and medical care of inmates. The general custody of inmates also requires a sheriff to ensure that the inmate is processed into the jail, separated from the public, and protected from other inmates.

The sheriffs and deputies must also maintain the normal operations of the jail, including the transportation of inmates to court and to DOC reception centers, the preparation of meals, the daily cleaning and upkeep of the jail, and personal and attorney visits.

Record Keeping and Reporting. Locally elected sheriffs have record keeping and reporting responsibilities under Title 53.1 of the *Code of Virginia.* Each sheriff keeps a daily record showing the total number of prisoners confined in the jail, the number of prisoners admitted, the number released, and the time of each admittance and release. In turn the sheriff's chief jailer keeps a record on each prisoner. The sheriff also maintains any other records that may be required by the Department of Corrections. For example, sheriffs must make monthly reports to the Director of DOC for reimbursement.

Court Security and Duties. Each sheriff is directed to designate deputies who will ensure that the courthouses and courtrooms within his jurisdiction are secure from violence and disruption (§53.1-120). Each sheriff must provide officers to attend the courts within his jurisdiction while courts are in session. The sheriff must also receive into the jail all persons committed by the order of the courts (§53.1-119).

Compliance with the Requirements of the Board of Corrections. The State Board of Corrections has established 176 minimum operating standards for

local jails. Under Section 53.1-125 of the *Code of Virginia,* if a sheriff does not abide by the minimum standards set by the Board, the Board may file a complaint with the circuit court of the county or city in which the jail is located. At that time, the sheriff is given ten days notice that the court will conduct a hearing on the complaint.

Board of Corrections/Department of Corrections

Virginia's correctional system is governed by a State Board of Corrections, which consists of nine residents of the Commonwealth appointed by the Governor and subject to confirmation by the General Assembly. Under Section 53.1-5 of the *Code of Virginia,* the Board establishes policies that are necessary to carry out the purpose and intent of the laws of the Commonwealth relating to local jails.

The Board of Corrections is authorized and directed by State law to prescribe minimum standards for the construction and equipment of local jails, jail farms, and lock-ups. The Board is also charged with prescribing minimum requirements for the feeding, clothing and medical attention, attendance, care, segregation and treatment of all prisoners confined in local jails. In 1978, the Board charged the Department of Corrections (DOC) with the responsibility of coordinating the development of minimum standards for jails in the Commonwealth. The established standards fall under three categories:

- Mandatory standards: those standards that deal with constitutional guarantees and current mandates by the courts and statutory law.
- Essential standards: standards which are necessary for the humane, safe, effective, and efficient operation of a facility.
- Important standards: standards which are not mandated but are important for the operation of an effective and efficient facility.

Presently, a full-scale revision of the standards is in process. The Department of Corrections is responsible for the implementation of these standards and other Board policies. The Director of the Department of Corrections is responsible (Section 53.1-10) for carrying out his management and supervisory powers in accordance with the standards and goals of the Board.

Local jails are aided by DOC in a number of ways. Key responsibilities of DOC include jail certification, technical assistance, partial funding for jail construction, and the removal of State felons from local jails for entry into the State system.

Certification of Local Jails. All jails must be certified by the Department of Corrections. Periodic evaluations of both personnel and equipment are essential to ensure compliance with DOC standards. DOC, as the designee of the Board of Corrections, has the responsibility to inspect and certify each local detention facility periodically to determine the adequacy of the conditions of confinement and the treatment of inmates.

Each local jail goes through local jail certification every three years. In order to carry out this responsibility, DOC has established jail certification teams. The jail certification team is required to inspect the

facility physically, interview staff and inmates, and specifically assure compliance with jail standards. The team consists of two members: the regional jail manager and a jail specialist from the DOC certification unit.

In order to pass jail certification, a facility should be in compliance with the minimum standards set by the Board of Corrections. A deficiency in any standard requires an action plan 30 days after the certification team's audit. If DOC is not satisfied with the action plan, the sheriff is required to rewrite the plan. Unresolved deficiencies could ultimately result in the closing of a jail (Section 53.1-69 of the *Code of Virginia*).

Technical Assistance. Technical assistance provided to jails by the Department of Corrections includes design assistance in the construction of jail facilities and the general services of regional jail managers.

A locality may request technical assistance from the Department of Corrections in planning for the renovation, enlargement, or new construction of an adult detention facility. DOC assists localities by helping with preliminary planning, design, and final inspection.

The Department of Corrections also provides a regional manager to assist localities in the operation of their jails. The four regional offices have a regional jail manager position to monitor and assist sheriffs with the operations of the local jails.

Partial Funding for Jail Construction. The Department of Corrections will reimburse a locality a maximum of $400,000 for jail construction, depending on the size of the jail facility. For example, $100,000 is reimbursed to jails with 35 or fewer beds, $200,000 is reimbursed to jails with 36 to 99 beds, and $300,000 is reimbursed to jails with 100 to 299 beds. Jails with 300 or more beds are eligible for up to $400,000. A locality may receive this maximum reimbursement or 50 percent of the total amount of construction, whichever is less (*Code of Virginia,* §53.1-83).

Acceptance of Felons into the State System. The transfer of State-ready felons into the State prison system is the responsibility of the Department of Corrections. One issue of concern to many sheriffs is who transports the felons to State correctional facilities. Technically, the responsibility is the State's. Section 19-2-310 of the *Code of Virginia* states:

> Following the receipt of the report of disposition, the Director or his designee shall dispatch a correctional officer to the county or city with a warrant directed to the sheriff authorizing him to deliver the prisoner to the correctional officer whose duty it shall be to take charge of the person and convey him to an appropriate receiving unit designated by the Director or his designee.

Currently, DOC does not pick up State-ready felons. Instead, sheriffs are having to transfer the prisoners themselves. This issue is discussed in greater detail in Chapter IV.

The Compensation Board

The Compensation Board is responsible for the approved salaries and expenses of all constitutional officers in the Commonwealth (Title 14.1, *Code*

of Virginia). The Compensation Board is especially responsible for the funding and staffing of local jails. Through the Compensation Board's jail grant program, localities are reimbursed for inmate care, operational expenses, and medical, classification, and treatment staff. Jails also receive funds for the salaries of the sheriffs and sheriffs' deputies through the law enforcement subprogram. The Compensation Board is responsible for determining how many deputies are needed for each jail and will only fund approved positions. Some jails, particularly larger ones, hire more than the approved number and fund these deputies themselves. All funding for local jails is handled through the State's general fund appropriations.

The Jail Block Grant Program. The jail "block grant" program commonly refers to the "financial assistance for adult confinement in local facilities" subprogram. Under this program, localities are paid for the number of prisoner days confined inmates spent in local jails. In the past, localities were reimbursed for confinements of the previous quarter. The current practice is to pay localities in advance, based on the experience of the preceding quarter. The per diem is set by the Appropriations Act at $7.50 a day per prisoner (arrested on a State warrant) for FY 1987, with an additional $5.50 a day per prisoner for convicted felons (with six months or greater remaining to be served on the sentence) being housed in local jails. This per diem is designed to cover the estimated necessary operating expenses, such as heat, water, electricity, and food. All jails receive a floor of $20,000 per year. Positions or salaries beyond those approved by the Compensation Board are the responsibility of the locality.

Reimbursement for jail farms differ, in that they receive $21.00 a day per prisoner plus the additional $5.50 for State-ready felons. Jail farms receive no additional funds for staffing and therefore are compensated for this by their larger daily per diem rate. If a locality's expenses exceed this per diem reimbursement, the locality must pay the difference.

Local jails are reimbursed by the Compensation Board for two-thirds of the salaries and fringe benefits for approved medical, classification, and treatment personnel. The locality is responsible for funding the remaining one third of these salaries. The Compensation Board reviews each position and then allocates localities a lump sum for the total number of positions approved.

Also included in the jail block grant program is a special fund for extraordinary medical expenses. The General Assembly has set a statewide cap of $754,020 for such expenses in FY 1987. This fund is operated on a reimbursement basis.

The Law Enforcement Subprogram. A locality receives 100 percent funding for approved jailers deputies, supervisory personnel, cooks, and clerical support. However, the Compensation Board determines the number of positions it will fund.

The salaries are set by the Compensation Board on a statewide basis. If a locality decides to pay a higher salary for these positions, it must pay the difference. Each jail receives funding for individuals under this program on a case-by-case basis.

Also included in this budget is a fund to be used by sheriffs in hiring part-time or temporary help. The Compensation Board considers the staffing

recommendations of each locality and allots each locality a dollar amount for the hiring of part-time or temporary help.

Staffing of Local Jails. Sheriffs deputies are compensated at the same pay grade with some allowed differentials and steps within grade. The Compensation Board allocates the number of deputies and the amount of funds between localities. According to the Director of the Compensation Board, there are three criteria used to determine the number of staff for which a jail will be reimbursed: (1) the average daily population of the jail, (2) the layout and design of the jail, and (3) the mix of the inmate population. A ratio of one guard per three inmates is also used as a "rule of thumb." Actual staffing levels may exceed those set by the Compensation Board, but the difference is funded by the locality.

Local Government

Local governments also play a role in the jail system. Localities share in the funding of staff for local jails with the Compensation Board, and local government has the largest responsibility in the construction of a local correctional facility.

Funding of Staff. Each locality works in conjunction with the sheriff in recommending to the Compensation Board the total number of staff needed to operate the jail facility efficiently. If the locality prefers to hire more deputies than the Compensation Board recommends, it is responsible for totally funding those additional deputies. As mentioned previously, the Compensation Board is responsible for two thirds of the salaries and fringe benefits for medical, classification, and treatment staff. The locality must pay the remaining one third of these salaries.

Funding for Construction. In most cases the majority of the funding for construction is the responsibility of the local governing body. For example, the construction of a large jail facility can cost well into the millions to build, but the State offers a maximum of $400,000 towards the construction of the facility, depending on its size.

The Department of Criminal Justice Services

The Department of Criminal Justice Services (DCJS) is responsible for establishing minimum training standards for court security personnel and for jailers and other custodial officers (Section 9-170 of the *Code of Virginia*). Sheriffs, however, still establish minimum performance standards and management practices for employees under their responsibility. DCJS is also required to approve a basic course in firearms for jailers, which is a prerequisite to their use and the carrying of weapons under Section 53.1-29 of the *Code of Virginia*.

The Parole Board

Under Sections 53.1-134 of the *Code of Virginia*, the Parole Board functioned as part of the Department of Corrections until July 1, 1984. Since then the Parole Board has been established as a separate agency but continues

to rely on DOC for certain services. The Parole Board is responsible for governing the early release of inmates. The granting of parole to inmates can and does affect the amount of time an individual will spend in a local jail. The effects of parole on jail population will be discussed in Chapters III and IV.

Local Judges

The sentencing practices of judges affect jail operations and capacity. How an inmate has been sentenced determines the length of time that individual will spend in a local facility. A judge can even modify the sentence of an inmate held in a local jail (Section 19.2-303). As noted earlier, judges also have the power to close a facility when conditions warrant such action. In addition, under Section 53.1-74 of the *Code of Virginia*, judges may adopt the jail of another county or city to house sentenced persons when a locality is without an adequate jail.

JLARC REVIEW

The 1983 General Assembly directed JLARC to conduct a series of studies dealing with corrections. Correctional studies already completed by JLARC staff include:

- *Central and Regional Office Staffing in the Department of Corrections*
- *Virginia's Correctional System: Population Forecasting and Capacity*
- *The Community Diversion Incentive Program of the Virginia Department of Corrections*
- *Security Staffing and Procedures in Virginia's Prisons*
- *Nonsecurity Staffing of Virginia's Adult Prisons and Field Units*
- *Staff and Facility Utilization by the Department of Correctional Education*
- *The Capital Outlay Planning Process and Prison Design in the Department of Corrections*

A wrap-up of all JLARC reports in the area of corrections will also be prepared.

This study represents one of the final phases of the corrections series. The JLARC staff was directed specifically to review jail population and capacity by Item 518 of the 1985 Appropriations Act (Appendix A).

Methodology

To carry out this review, JLARC staff collected and analyzed data from numerous sources. Staff visited every jail in Virginia during the course of

the study, observing every cell, dormitory, and other living area in the facilities. Data from 94 jail facilities were collected. Structured, in-depth interviews of both the sheriff and the chief jailer in every jail were also conducted. The information obtained from these interviews and jail visits was systematically collected and analyzed. In addition, the staff interviewed and collected data from staff at the Department of Corrections and other involved State agencies. A more detailed discussion of the report methodology can be found in the technical appendixes to this report.

Report Organization

This chapter has provided a general overview of the jail system and the responsibilities of the entities within the system. Chapter II reviews local jail operations and capacity. Chapter III reviews planning for statewide needs and provides a forecast of local jail population. Chapter IV addresses issues regarding the effect of selected State actions on the local jail population.

II. LOCAL JAIL CAPACITY AND OVERCROWDING

Although Virginia's local correctional system consists of 94 separate jails, there is a strong interdependence between the jails and the State system. Historically, as the State prison system reaches capacity, inmates sentenced to State prisons begin to back up in the local jails. Because of this interdependence, it is essential to know the capacity of both the local and the State correctional systems. Capacity basically refers to the number of prisoners a given facility or system can hold safely at any one time.

Capacity estimates provide a baseline in the correctional planning process at both the State and local levels. JLARC estimated the capacity of the State correctional system in a 1984 report. This chapter continues that work by developing capacity figures for local jails. The new calculations indicate that aggregate local jail capacity is far greater -- 6,551 beds -- than was previously indicated by DOC's rated capacity measure, which was 5,696 at the time of review.

Currently, a number of capacity measures are used to describe the ability of the local jails to house prisoners and detainees. The most widely used measure is the Department of Corrections' "rated capacity." Problems exist with this and other current measures, however, making them inappropriate tools for State planners.

JLARC, therefore, developed new capacity figures taking into account recent court cases, current and previous Board of Corrections building standards, and operational limitations. The aggregate jail figures were adjusted to reflect the underutilization of some jail beds. The new capacity figures indicate that a significant number of jails are overcrowded. Moreover, because jails are independent, some jails may be extremely overcrowded while others have a relative surplus of beds and space.

Overcrowding in the local jails appears to result from two principal causes: a backlog of State prisoners and insufficient local capacity. While crowding by itself does not appear to be unconstitutional, responses to crowding cause many problems for jails which could result in unconstitutional conditions. A number of construction and non-construction alternatives are available to localities to address local detention needs. In addition, the State needs to add to its capacity or pursue other courses of action necessary to reduce the backlog of State prisoners in local jails.

JAIL CAPACITY

Capacity refers to the number of inmates which a correctional system or facility can accommodate under a given set of assumptions or criteria. Notions of correctional capacity are relatively fluid. While a facility might be designed to hold a certain number of inmates in its general population area, the capacity issue becomes confused when special purpose beds or other factors are considered. Several capacity measures, including the Department of Correction's rated capacity, are often associated with Virginia's jails. Problems exist with these measures of capacity, however, making them somewhat unreliable measures of usable bed space.

In order to assess fully the impact of projected incarcerated populations, JLARC developed new jail capacity measures. JLARC's computation of capacity upwardly revises the measured capacity of the jail system, principally by counting special purpose beds and by applying the construction standards under which the jails were built.

DOC's Rated Capacity

The Department of Corrections (DOC) has rated the capacity of each jail since 1949. The current DOC-rated capacity of the jail system is 5,696 beds. Three major problems exist with the DOC-rated capacity measure: (1) the definition of available space is a misleading indicator because it does not include special purpose beds, (2) the definition reflects a 1976 re-rating of capacity that substantially reduced the measured capacity statewide, and (3) the department has not systematically reviewed the capacity of the jails.

In calculating the rated capacity, the Department of Corrections looks only at the jail space used to house general population inmates. Living areas used for special purposes, such as work release, are not always added into the capacity number. At the same time, work release and other special purpose prisoners are always counted as part of a jail's population. DOC's method of counting jail space may also underestimate a jail's ability to house prisoners. Figure 4 illustrates how the exclusion of work release beds from rated capacity calculations can make it appear that a jail is either more or less crowded than it actually is.

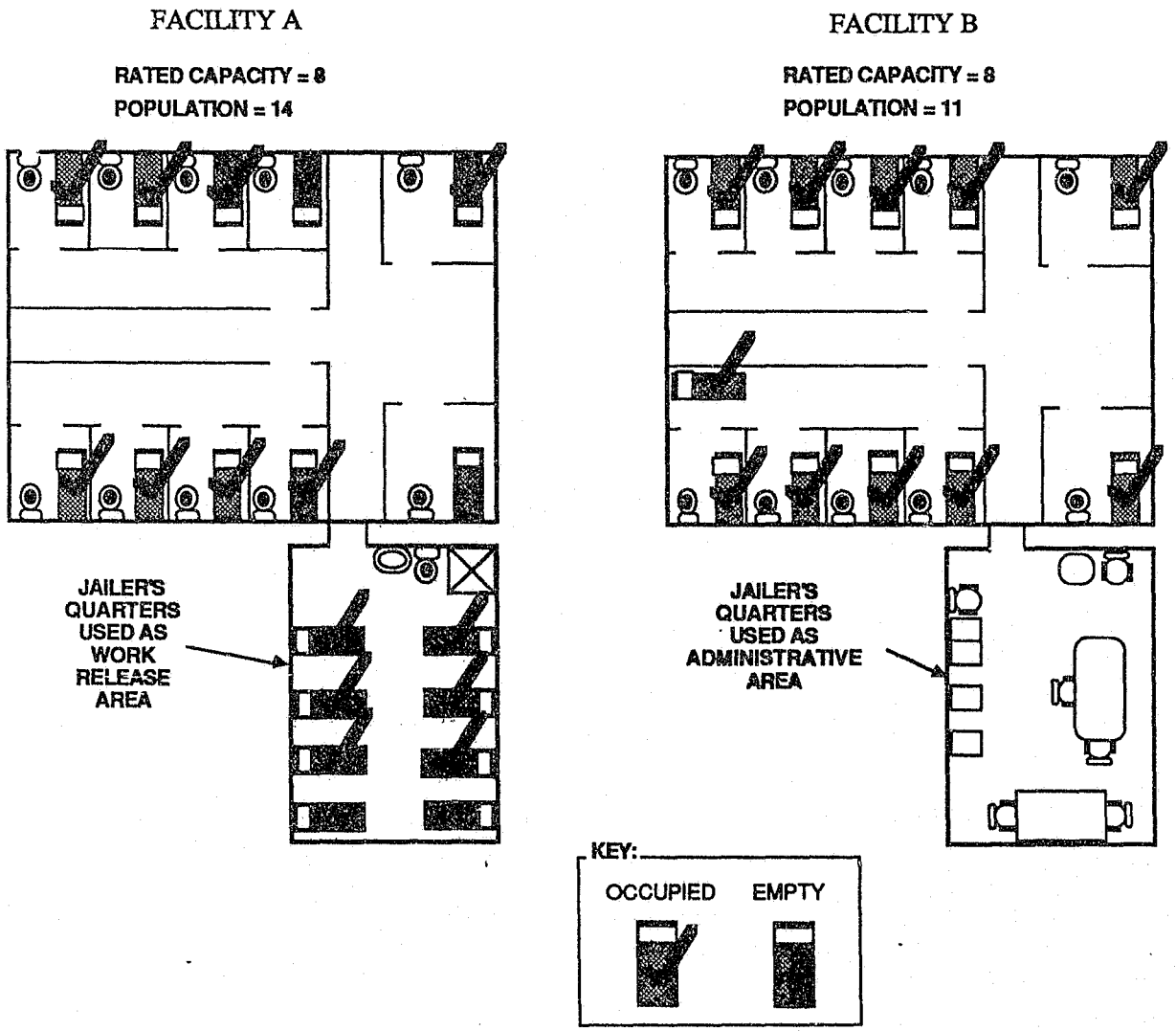
DOC has rated the capacity of local jails for over a decade. In 1975, the rated capacity of all jails was 6,120. This 1975 number is roughly comparable to the design capacity of the jails. In 1976, DOC re-rated all jails, applying a 105 square foot per inmate standard. Using this new standard, the rated capacity of the same jail system fell to 4,847. Thus, the rated capacity of the system fell by 1,273 beds simply as a result of redefined standards. Since 1976 the rated capacity of the system has risen to 5,696 as new jail beds have been brought into service.

A key problem JLARC staff found is that the capacity of the jails has not been systematically updated. Since DOC's initial rating of the system in 1975, the department has not systematically visited and rated all jails. As a result, changes are sometimes made to a jail's capacity that are not included as part of rated capacity. Examples of problems found include:

> *In 1981, the City of Richmond moved operating responsibility for 123 beds in the city lockup from the police department to the sheriff's department. Although the sheriff's jail has been operating the area for four years, and houses work release inmates in the lockup, the jail's capacity has not been re-rated to include the former police lockup cells.*
>
> *The Pulaski County jail added a work release unit in the old jailer's quarters. Because DOC considers work release housing special purpose, it has not re-rated the jail's capacity, even though the work release unit has extended the ability of the jail to house prisoners.*

Figure 4

Illustration of Rated Capacity Problem



Both facilities have a rated capacity of eight (eight general purpose cells plus two isolation cells that are not included in DOC's capacity ratings). Facility A, however, has eight additional beds in a work release area that are not counted. (The prisoners in the work release area are counted as part of the jail's population, however.) Both facilities appear crowded if one considers only rated capacity. Facility A with 14 prisoners would appear to be more crowded than facility B, which has 11 prisoners. In fact, facility A has empty beds, while facility B is using all of its beds and sleeping someone on the floor of the day room.

Source: JLARC staff graphic.

Jail capacity figures should be calculated using a consistent method of accounting for special purpose housing. Work release housing, for example, should be included in capacity ratings as minimum security housing rather than excluded. In order to provide adequate information on jail capacity, the Department of Corrections should regularly review and update each jail's capacity.

Measuring Local Jail Capacity

Given problems associated with the measure of rated capacity, JLARC staff decided to develop an alternate measure of local jail capacity. JLARC staff based new capacity calculations on extensive fieldwork and research. JLARC staff visited every jail in the Commonwealth, collected detailed facility information about all jails, and interviewed all sheriffs operating jails and their chief jailers concerning jail operations. JLARC staff also reviewed court decisions and professional standards regarding capacity. From this information, decision rules were developed regarding capacity calculations and the treatment of special purpose beds. JLARC staff then computed new capacity figures for each jail.

Courts and Jail Capacity. In determining assumptions and criteria in establishing capacity figures for jails, JLARC staff reviewed recent court decisions on jail capacity and overcrowding. Jails in the United States have increasingly come under judicial scrutiny as greater numbers of prisoners have been housed in local facilities. Numerous court decisions, including the landmark 1981 *Rhodes v. Chapman* decision, however, have stopped short of selecting any particular minimum standard square footage per person as a mandatory requirement in jail operation.

Rather, courts have stressed that while the amount of square feet allowed per person is of critical concern, it is the total jail environment ("totality of conditions") that determines a jail's ability to meet the constitutional rights of prisoners. Modest square footage has been found to be acceptable by courts when other operating conditions, such as the availability of outdoor or indoor recreation, compensated for the decreased amount of personal living space. Court decisions have resulted in a wide range of acceptable living conditions, including varying amounts of square footage allowed per person (Table 1).

Standards and Constraints. JLARC staff tested 29 different capacity options that combined four different standards for the minimum amount of square footage allowed per person. After reviewing the assumptions, JLARC staff focused on an option that reflects the design standards of Virginia's jails.

JLARC incorporated two standards in the capacity calculations. These standards are both the old and current Board of Corrections building standards. The old standard called for 70 square feet of space per person. The current standard establishes a minimum of 105 square feet per person. Although the current standard (105 square feet) was formally adopted by the Board of Corrections in 1978, jails built between 1974 and 1978 were built at a level of 105 square feet of space per person. Many of these jails were funded through federal grants, and federal law mandated that the jails constructed with federal funds be built at the higher standard.

Table 1

VARIABILITY OF LIVING CONDITIONS ALLOWED BY COURT DECISIONS

Jones v. Metzg (1972)	-	More than two persons in a 6 x 9 cell when combined with "deplorable" conditions is unconstitutional.
Laaman v. Helgemoe (1977)	-	Although cells did not meet minimum space requirements, each inmate had his own cell. The court ruled that conditions were not unconstitutional.
Hite v. Leeke (1977)	-	Where inmates have a wide range of movement and no aggravating conditions, 66 square feet double celling is not unconstitutional even though cells were originally designed for single occupancy.
Finney v. Hutto (1978)	-	Court said that the question of unconstitutionality goes beyond minimum square feet allowed per person to quality of living quarters and time confined to them.
Hendrix v. Faulkner (1981)	-	Cells with less than 50 square feet will receive greater scrutiny, but no fixed decision rules applied.
Rhodes v. Chapman (1981)	-	Double celling in cells allowing 63 square feet and operating at 38% over capacity are not unconstitutional. The Supreme Court held that the totality of conditions did not show an unneccessary or wanton infliction of pain. "To the extent such conditions are restrictive and even harsh, they are part of the penalty that criminals pay for their offenses against society."
French v. Owens (1982)	-	Double bunking in dorms resulting in 55.8 square feet per inmate and cells of 22 to 23.8 square feet per inmate where inmates are locked in 20 hours per day are unconstitutional. The court referenced statutes which required 24 square feet for residential pets.

Source: JLARC review of court decisions.

Each standard applies to the total amount of confinement space available to an inmate, both in his cell and in an accessible day room area. The old standard (70 square feet) was applied to jails built prior to 1974. All new jails and additions constructed since 1974 were assessed at the current standard (105 square feet). According to information provided by the sheriffs, the current standard was applied to 16 jails and five jail additions. Since both standards have been used in the construction of jails, both were used in developing jail capacity measures.

The use of both the old standard and the current standard resulted in a "dual standard" being applied in the computations. The use of the dual standard was an appropriate option for two reasons: (1) it is at or above the minimum square footage standards which the courts have appeared to accept as reasonable, and (2) it represents the standards at which the jails were designed and constructed. Application of this standard does not suggest that totality of conditions in the jails is satisfactory. Significant changes to some jails would be necessary to meet totality requirements under either standard.

In establishing the dual standard, a number of decision rules were applied to capacity calculations to ensure that the results were fair and realistic. Two decision rules were adopted which established a maximum capacity per cell block. Under one decision rule, no cell block can have more than two people per cell. This decision rule was used in several of the newer jails which were actually built above the 105 square foot standard. In addition, a rule was adopted which limits double occupancy to cells 52.5 square feet or larger. The effect of this rule is to prevent double occupancy of small cells which may be attached to large dayrooms.

A "grandfather" clause was also included in the JLARC staff decision rules. A number of cells and cell blocks were built allowing less than the old standard (70 square feet). For example:

> *Clarke County has a cell block that has a total area of 210 square feet. There are 4 cells in the cell block. This results in an average of 52 square feet of space per inmate, which is below the old standard (70 square feet). Under the grandfather clause, however, the capacity of the Clarke County cell block would be calculated to include all four cells, with single occupancy of each.*

Under the "grandfather" clause, every cell has a minimum occupancy rating of one bed.

Special Purpose Beds. A major problem with DOC's rating of local jail capacity is the exclusion of special purpose beds. While DOC does not count special purpose beds as part of a jail's capacity, these beds are routinely and appropriately occupied. Statewide, JLARC staff identified 1,755 special purpose beds, most of which are not counted as part of DOC's rated capacity. Included in the 1,755 special purpose beds are 499 isolation/segregation beds, 498 work release beds, 433 trustee beds, 166 medical beds and 159 detoxification and other beds.

Excluding special purpose beds from capacity totals, while counting the inmates who occupy them, exaggerates the crowding that exists in local jails. For example, the Fairfax County jail is routinely crowded. The jail's

August 12, 1986, population was 480. Fairfax has a very active inmate classification program and consequently has a large number of special purpose beds. The DOC rated capacity of the jail is 228, a figure which excludes 26 isolation/segregation beds, 32 trustee beds, 9 medical beds, 14 work release beds, and 43 other special purpose beds. Exclusion of these 124 special purpose beds understates the capacity of the jail to handle its population. The jail is still severely overcrowded, but the rated capacity measure does not give an accurate picture of the degree of crowding that exists.

While special purpose beds should be reflected as part of a jail's capacity, JLARC staff recognized that an important part of jail operations is the ability to segregate individual prisoners. Sheriffs need to be able to separate prisoners who fight, violate jail regulations, get sick, or need protective custody. Consequently, a jail should always have some empty special purpose beds. In order to provide space for special purpose management, each jail's capacity calculation was reduced by five percent. Thus a jail with an actual capacity of 100 had its capacity calculation reduced to 95. In cases where a jail had 10 beds or fewer, one bed was removed for management purposes.

The deduction of five percent of a jail's capacity for special purpose beds does not mean that a jail would or should only allocate five percent of its beds for that purpose. Most jails need the ACA-suggested 10 percent of their capacity for special purpose beds. Some of these beds, however, should be counted in jail capacity because they will be routinely and appropriately occupied. The five percent reduction in capacity acknowledges the importance of leaving some beds open at all times for transfer and other jail management purposes.

Jail Capacities

Using the dual standard and the established decision rules, capacity was calculated for each jail. Aggregated, the capacity of the jails is 6,764 beds. This capacity estimate is 1,068 more beds than DOC's rated capacity. Under the new calculations, the capacity of some jails changed significantly.

The capacity calculations were based on the amount of square feet of confinement space available in each jail and were not dependent upon the current number of beds in place. Most jails, because of double bunking, have significantly more beds than the JLARC capacity calculation reflects. Many of these beds, however, do not meet any standards and should not be included as part of a jail's capacity.

The capacity calculation reflects a standard for planning purposes. To put this standard into practice, some adjustments to jail capacity may be needed. For some jails, this means removing some beds from service (which will increase the minimum square feet per person currently available). In other cases, the calculation reflects a "potential" jail capacity which can be realized with the addition of new jail beds. (Some cells, for example, could be double bunked.)

Using the methodology described above, JLARC staff calculated the capacity of every jail in the State. Table 2 lists all the jails, their populations, their previous rated capacities, and JLARC's dual standard capacity

calculations. The table illustrates the capacity and crowding that currently exist in Virginia jails:

- Column 1 of Table 2 gives each jail's population on August 12, 1986. This "snapshot" view of State jails reflects typical conditions in the summer and fall of 1986. The State total for August 12, 1986 was 6,989.

- Column 2 of Table 2 gives the highest population of jails during FY 1986 and the first six weeks of FY 1987 (through August 12). The maximum population figures frequently occurred on Sunday, August 10, 1986. On August 10, there were 7,421 inmates in local jails. The sum of all local jail record populations through August 12, 1986, was 8,381. Using these data, 77 of 94 jails exceeded their capacity when holding their maximum population. (Jail populations were continuing to grow at the time of this report, however. On Sunday, September 14, a new jail record population of 7,705 was set, and on Sunday, September 21, another record -- 7,831.)

- Column 3 presents DOC's rated capacity for each jail. The sum of rated capacities was 5,696, a figure which excludes 20 beds made available to localities in three State prisons.

- Column 4 presents JLARC's "dual standard" capacity maximum. This number reflects the decision rules discussed previously and represents the maximum number of inmates a jail can hold. The aggregate capacity of jails using this standard is 6,764.

- Column 5 depicts the difference in JLARC's maximum capacity and DOC's rated capacity. JLARC capacity is 1,068 beds higher, statewide, than rated capacity.

- Column 6 is a measure of jail crowding. Because the JLARC "dual standard" capacity is a maximum capacity for each jail, a jail is said to be crowded when its population exceeds the dual standard capacity. Column 6 represents the difference in the JLARC capacity calculation (Column 4) and jail population on August 12, 1986 (Column 1). Using this snapshot of jail population, 42 jails were crowded. On other days during the time studied, an additional 33 jails exceeded their maximum capacities.

While the maximum capacities calculated by JLARC staff are higher than rated capacity, the new measure still shows significant and widespread jail crowding. Before looking at the causes of this crowding, however, a final adjustment to the capacity calculation was needed to produce a State total suitable for planning purposes.

Adjustments for State Planning

Because the jail system is composed of 94 independently operated jails scattered across the State, adjustments are needed in the aggregate jail capacity to more accurately reflect "system" capacity. Specifically, system-wide capacity used for statewide correctional planning purposes should reflect the underutilization of some jail space, as well as planned local expansion.

Comparative Jail Capacity and Population Measures

Column →	(1)	(2)	(3)	(4)	(5)	(6)
Jail Name	8/12/86 Population	Maximum FY 1986 Population	DOC Rated Capacity	70/105 FT Capacity Maximum	70/105 Capacity minus Rated Capacity	70/105 Capacity minus 8/12/86 Population
ACCOMACK	39	64	40	44	4	5
ALBEMARLE/CHRLTSVL	108	160	84	104	20	[-4]
* ALEXANDRIA	163	174	98	98	0	[-65]
ALLEGHANY	18	18	28	19	-9	1
AMHERST	34	37	12	19	7	[-15]
APPOMATTOX	14	23	13	14	1	0
ARLINGTON	202	202	164	193	29	[-9]
AUGUSTA	70	107	90	99	9	29
BATH	0	5	7	5	-2	5
BEDFORD	41	50	36	40	4	[-1]
BLAND	8	9	6	5	-1	[-3]
BOTETOURT	25	30	35	33	-2	8
BRISTOL	49	80	66	65	-1	16
BUCHANAN	23	46	34	33	-1	10
CAMPBELL	39	50	32	34	2	[-5]
CAROLINE	21	38	24	25	1	4
CARROLL	19	34	12	16	4	[-3]
CHESAPEAKE	181	193	90	127	37	[-54]
CHESTERFIELD	162	168	120	135	15	[-27]
CLARKE	12	15	9	11	2	[-1]
CLIFTON FORGE	1	6	10	14	4	13
CULPEPER	25	36	14	19	5	[-6]
DANVILLE	81	87	84	89	5	8
DANVILLE FARM	64	112	160	152	-8	88
DICKENSON	21	30	34	32	-2	11
DINWIDDIE	21	33	30	31	1	10
ESSEX (Closed)	-	-	-	-	0	0
FAIRFAX	480	519	228	348	120	[-132]
FAUQUIER	34	46	43	42	-1	8
FLOYD	5	8	10	10	0	5
FRANKLIN	38	54	27	18	-9	[-20]
FREDERICK	54	59	20	26	6	[-28]
FREDERICKSBURG/RAP	79	82	45	49	4	[-30]
GILES	13	20	22	15	-7	2
GLOUCESTER	15	25	20	16	-4	1
GRAYSON	9	18	10	11	1	2
GREENSVILLE	15	32	30	31	1	16
HALIFAX	38	52	38	38	0	0
HAMPTON	172	187	156	134	-22	[-38]
HANOVER	51	58	40	40	0	[-11]
HENRICO	263	264	185	246	61	[-17]
HENRY	41	68	40	50	10	9
HIGHLAND	1	3	12	7	-5	6
LANCASTER	18	24	24	39	15	21
LEE	26	35	32	32	0	6
LOUDOUN	65	72	52	66	14	1
LOUISA	19	26	20	24	4	5
LUNENBURG	14	23	8	19	11	5
LYNCHBURG	88	94	42	44	2	[-44]
MARTINSVILLE	19	29	18	19	1	0
MARTINSVILLE FARM	50	56	35	29	-6	[-21]

* Court Ordered Capacity Limit

KEY:

[42] CROWDED JAILS

Source: JLARC and DOC capacity data.

Comparative Jail Capacity and Population Measures

Column →	(1)	(2)	(3)	(4)	(5)	(6)
Jail Name	8/12/86 Population	Maximum FY 1986 Population	DOC Rated Capacity	70/105 FT Capacity Maximum	70/105 Capacity minus Rated Capacity	70/105 Capacity minus 8/12/86 Population
MECKLENBURG	69	62	50	82	32	13
MID-PENINSULA	38	47	33	36	3	-2
MONTGOMERY	42	72	40	40	0	-2
NELSON	12	15	10	6	-4	-6
NEWPORT NEWS	182	173	151	192	41	10
NEWPORT NEWS FARM	101	119	100	82	-18	-19
NORFOLK	562	650	347	550	203	-12
NORTHAMPTON	14	43	18	28	10	14
NORTHUMBERLAND	4	17	16	23	7	19
NOTTOWAY	10	21	12	11	-1	1
ORANGE	21	26	7	14	7	-7
PAGE	27	31	24	26	2	-1
PATRICK	12	18	12	10	-2	-2
PETERSBURG	141	153	122	138	16	-3
**PETERSBURG FARM	63	86	86	37	-49	-26
PITTSYLVANIA	50	75	36	46	10	-4
PORTSMOUTH	229	266	197	233	36	4
PRINCE EDWARD	27	40	17	18	1	-9
PRINCE WILLIAM	227	245	175	224	49	-3
PULASKI	42	57	40	44	4	2
RADFORD	1	12	8	14	6	13
RAPPAHANOCK	6	13	8	7	-1	1
RICHMOND CITY	819	923	629	813	184	-6
RICHMOND COUNTY	8	15	6	7	1	-1
ROANOKE CITY	230	243	192	206	14	-24
ROANOKE COUNTY	82	109	104	187	83	105
ROCKBRIDGE	13	18	12	5	-7	-8
ROCKINGHAM	59	72	50	78	28	19
RUSSELL	32	33	36	37	1	5
SCOTT	25	42	32	32	0	7
SHENANDOAH	30	34	30	34	4	4
SMYTH	25	50	40	39	-1	14
SOUTHAMPTON	30	48	32	32	0	2
STAFFORD	57	56	40	40	0	-17
SUFFOLK	132	159	55	61	6	-71
SUSSEX	27	30	28	29	1	2
* TAZWELL	32	47	40	40	0	8
VIRGINIA BEACH	248	290	166	210	44	-38
WARREN	33	36	32	32	0	-1
WASHINGTON	40	58	40	58	18	18
WESTMORELAND	13	18	8	19	11	6
WILLIAMSBURG	42	55	40	43	3	1
WISE	40	60	44	44	0	4
WYTHE	15	44	18	15	-3	0
YORK	29	39	24	33	9	4
STATE TOTAL	6,989	8,381	5,696	6,.64	1,068	N/A

State Planning Number: 6,551 Capacity, [6,764 less underutilized capacity of 213]

* Court Ordered Capacity Limit

** Operated by Petersburg Sheriff and considered part of Petersburg Jail for this report.

796 = Over Capacity
571 = Under Capacity

Note: Table does not include three prisons which hold jail inmates -- Powhatan, James River and VCCW -- with a rated capacity of approximately 20 total beds.

KEY:
42 CROWDED JAILS

Source: JLARC and DOC capacity data.

Local jails are not a system. Therefore it would be unrealistic to expect that every bed in every jail could be used every day. In addition, an estimated 213 beds were not used during FY 1986. This capacity was estimated by subtracting each jail's maximum population from the new capacity figures. This capacity may not have been used for a variety of reasons, including the remoteness of some jails or the reluctance of some sheriffs to accept prisoners from other local jails that are overcrowded. JLARC staff chose to exclude these 213 beds from the Statewide total jail capacity as a means of taking into consideration both the fact that jails are not a system and the fact that this capacity was not used in FY 1986. The exclusion of the 213 beds would result in a system-wide capacity of 6,551 beds. This number -- 6,551 -- is what JLARC staff consider to be the aggregate capacity of the State's 94 jails.

While JLARC staff did not count beds under construction as part of local capacity, these beds should be considered by State planners who are assessing local capacity. Future planned construction by localities will have a direct impact on jail capacity. Currently there is an estimated net gain of 832 new jail beds becoming available by the end of 1987 (Table 3). An additional 642 jail beds are more tentatively planned through 1990 (Appendix D).

To adequately understand and plan for firm future housing needs, jail expansions should be considered with population forecasts and capacity projections. Consequently, DOC should periodically collect information on local jail construction plans. An increase in jail beds, however, may largely relieve local overcrowding and may not necessarily represent an increase in "new" or available statewide capacity. For example:

> *During FY 1985 the Alexandria jail was on the average 48 people over its capacity of 98. In 1987, Alexandria will be adding a capacity of 340 beds. The existing jail, which has a capacity of 98 bedspaces, will be closed. After taking into account the closure of the old jail and the beds which will be taken up by the current excess population, Alexandria will have approximately 194 "uncommitted" or new beds. Approximately 100 of these new beds are reserved for the federal government, which helped fund the jail.*

State correctional planners should revise jail capacity figures for future planning. The Statewide numbers should be used in conjunction with other information about specific jails, such as the amount of underutilized bedspace or planned expansions of some jails.

JAIL CROWDING

A comparison of the revised capacity figures with FY 1986 population figures shows that most of Virginia's jails have been overcrowded. There are two principal causes of jail crowding -- the back-up of State responsibility prisoners into local jails, and insufficient local capacity. While overcrowding by itself is not unconstitutional, JLARC's survey of sheriffs indicated that operating conditions deteriorate as jail populations exceed capacity.

Table 3

LOCAL PLANNED CONSTRUCTION EXPANSIONS

Year	Jail	Type of Addition	Number of Additional Beds	Plan for Closing Jail	Less 70/105 Capacity if Replacement	Net Gain
1986	Norfolk*	Other Building	40	NO		40
	Chesapeake	New Construction	50	NO		50
	Fairfax	New Construction	300	NO	-30	270
	Subtotal = 360					
1987	Prince Edward**	Regional Jail	101	YES	-48	53
	Rockbridge	Regional Jail	50	YES	-5	45
	Albemarle/ Charlottesville	New Construction	50	N/A		50
	Culpepper	New Construction	37	PARTLY	-3	34
	Alexandria	New Construction	340	YES	-98	242
	Fredericksburg	New Construction	48	NO		48
	Subtotal = 472					
	TOTAL FOR ALL YEARS = 832					

*Norfolk beds have been built but are not included as part of capacity totals (except as planned additions) because the new beds were not on line during JLARC staff visits.

**Includes Lunenburg and Nottoway.

Sources and Effects of Jail Crowding

Theoretically, jail crowding should be simple to define: crowding occurs when a jail's population is greater than its capacity. As already seen, however, there are different measures of capacity, and population tends to fluctuate. The sources of overcrowding are both State and local in nature: the backlog of State prisoners and insufficient local jail capacity.

State Felons and Overcrowding. During FY 1985 and FY 1986 there were, on average, about 1500 felons with greater than six months left to serve on their sentences being housed in local jails. The concept of "felons with greater than six months left to serve" is important to DOC because felons with less than six months will, by statute (Section 53.1-21), never be transferred to

a DOC State prison unless approved by the Director of DOC. Many, but not all, felons over six months are the State's responsibility and are in jails because there is no room for them in DOC prisons. Others may not in fact be eligible for transfer for a variety of reasons, including detainers on other charges. There are, by DOC estimates, usually about 600 "felons over six" who are not eligible for transfer because of detainers or other factors. Overall, however, felons over six can be viewed as a rough surrogate for State responsibility prisoners.

Given already high jail populations, the presence of backed-up felons over six exacerbates jail crowding. On August 12, 1986, there were 1,653 felons with over six months to serve housed in local jails. Discounting the 600 estimated to be unavailable for transfer, there were approximately 1,053 felons who were backed up into local jails because there was no room for them in the State prison system.

The effects of such State responsibility prisoners on local jails can be severe. Of the 42 jails which were crowded on August 12, 1986, 22 would not have been crowded had they not had felons over six backed up into their jails. Table 4 provides data on each jail and its felon population. On average, felons over six comprise one-fourth of local jail population. In some localities, felons over six comprise more than half of jail population. Nineteen localities were both crowded and had a percentage of felons over six higher than the State average of 25.1 percent. The City of Richmond held the most felons over six (215).

While there is no constitutional or statutory requirement to bring all State felons into the State system, §19.2-310 of the *Code of Virginia* specifies that the director shall:

> ...give due regard to the capacity of local as well as State correctional facilities and, to the extent feasible, shall seek to balance between local and State correctional facilities the excess of prisoners requiring detention.

While the 1986 opening of the Augusta prison should ease overcrowding somewhat, a backlog of State responsibility inmates in the local jails will continue indefinitely. And, although the backlog of State prisoners contributes to overcrowding, insufficient local capacity is also a principal factor in local jail overcrowding.

Local Capacity and Overcrowding. Of the 42 crowded jails on August 12, 1986, 20 would have been crowded even if there had been no felons over six in the jail (Table 4). These jails were crowded as a result of insufficient capacity, caused in large part by the failure of localities to add to the local jail. Half of all local jails were built before 1960. Many were built in the 1930s and 1940s, and one locality uses a jail built in 1892. Many of these jails have not been expanded since their construction.

As long as jails are not closed by the courts, and jails can meet DOC certification standards, it is the individual locality that determines if and when a jail will be replaced or expanded. In interviews with JLARC staff, local sheriffs discussed several causes of inadequate local capacity, including: inadequate new facility planning, expansions that do not meet demand, and local priorities in other areas of local government.

Effects of "Felons Over Six" On Local Jails

Jail Name	DOC Rated Capacity	70/105 ft Capacity Maximum	8/12/86 Population	Jails Over Capacity	Felons > 6 months	Felon Percentage	Jails Over Capacity and High % Felons
ACCOMACK	40	44	39		6	15.4 %	
ALBEMARLE/CHRLTSVL	84	104	108	-4	[26]	24.1	
* ALEXANDRIA	98	98	163	(-65)	25	15.3	
ALLEGHANY	28	19	18		3	16.7	
AMHERST	12	19	34	(-15)	10	29.4	AMHERST
APPOMATTOX	13	14	14		5	35.7	
ARLINGTON	164	193	202	-9	[51]	25.2	ARLINGTON
AUGUSTA	90	99	70		26	37.1	
BATH	7	5	0		0	0.0	
BEDFORD	36	40	41	-1	[9]	22.0	
BLAND	6	5	8	(-3)	0	0.0	
BOTETOURT	35	33	25		2	8.0	
BRISTOL	66	65	49		14	28.6	
BUCHANAN	34	33	23		7	30.4	
CAMPBELL	32	34	39	-5	[22]	56.4	CAMPBELL
CAROLINE	24	25	21		7	33.3	
CARROLL	12	16	19	(-3)	1	5.3	
CHESAPEAKE	90	127	181	(-54)	36	19.9	
CHESTERFIELD	120	135	162	(-27)	26	16.0	
CLARKE	9	11	12	-1	[5]	41.7	CLARK
CLIFTON FORGE	10	14	1		0	0.0	
CULPEPER	14	19	25	(-6)	5	20.0	
DANVILLE	84	89	81		25	30.9	
DANVILLE FARM	160	152	64		9	14.1	
DICKENSON	34	32	21		8	38.1	
DINWIDDIE	30	31	21		4	19.0	
ESSEX (Closed)	-	-	-		-	0.0	
FAIRFAX	228	348	480	(-132)	102	21.3	
FAUQUIER	43	42	34		6	17.6	
FLOYD	10	10	5		1	20.0	
FRANKLIN	27	18	38	-20	[20]	52.6	FRANKLIN
FREDERICK	20	26	54	(-28)	11	20.4	
FREDERICKSBURG/RAP	45	49	79	(-30)	27	34.2	FR[illegible]KSBURG/RAP
GILES	22	15	13		5	38.5	
GLOUCESTER	20	16	15		4	26.7	
GRAYSON	10	11	9		1	11.1	
GREENSVILLE	30	31	15		5	33.3	
HALIFAX	38	38	38		5	13.2	
HAMPTON	156	134	172	-38	[49]	28.5	HAMPTON
HANOVER	40	40	51	(-11)	4	7.8	
HENRICO	185	246	263	-17	[42]	16.0	
HENRY	40	50	41		16	39.0	
HIGHLAND	12	7	1		0	0.0	
LANCASTER	24	39	18		9	50.0	
LEE	32	32	26		1	3.8	
LOUDOUN	52	66	65		14	21.5	
LOUISA	20	24	19		7	36.8	
LUNENBURG	8	19	14		1	7.1	
LYNCHBURG	42	44	88	(-44)	22	25.0	
MARTINSVILLE	18	19	19		6	31.6	
MARTINSVILLE FARM	35	29	50	-21	[38]	76.0	MARTINSVILLE FARM

* Court Ordered Capacity Limit

KEY:

IN (20) JAILS, CROWDING WOULD RESULT EVEN WITHOUT ANY FELONS OVER SIX MONTHS

IN [22] JAILS, FELONS OVER SIX MONTHS CAUSE CROWDING

Source: JLARC capacity data and DOC population data.

Effects of "Felons Over Six" On Local Jails

Jail Name	DOC Rated Capacity	70/105 ft Capacity Maximum	8/12/86 Population	Jails Over Capacity	Felons > 6 months	Felon Percentage	Jails Over Capacity and High % Felons
MECKLENBURG	50	82	69		9	13.0 %	
MID-PENINSULA	33	36	38	-2	9	23.7	
MONTGOMERY	40	40	42	-2	1	2.4	
NELSON	10	6	12	-6	4	33.3	NELSON
NEWPORT NEWS	151	192	182		41	22.5	
NEWPORT NEWS FARM	100	82	101	-19	8	7.6	
NORFOLK	347	550	562	-12	76	13.5	
NORTHAMPTON	18	28	14		1	7.1	
NORTHUMBERLAND	16	23	4		1	25.0	
NOTTOWAY	12	11	10		1	10.0	
ORANGE	7	14	21	-7	8	38.1	ORANGE
PAGE	24	26	27	-1	9	33.3	PAGE
PATRICK	12	10	12	-2	0	0.0	
PETERSBURG	122	138	141	-3	33	23.4	
**PETERSBURG FARM	86	37	63	-26	5	7.9	
PITTSYLVANIA	36	46	50	-4	26	52.0	PITTSYLVANIA
PORTSMOUTH	197	233	229		59	25.8	
PRINCE EDWARD	17	18	27	-9	9	33.3	PRINCE EDWARD
PRINCE WILLIAM	175	224	227	-3	64	28.2	PRINCE WILLIAM
PULASKI	40	44	42		11	26.2	
RADFORD	8	14	1		0	0.0	
RAPPAHANOCK	8	7	6		4	66.7	
RICHMOND CITY	629	813	819	-6	215	26.3	RICHMOND CITY
RICHMOND COUNTY	6	7	8	-1	4	50.0	RICHMOND COUNTY
ROANOKE CITY	192	206	230	-24	59	25.7	ROANOKE CITY
ROANOKE COUNTY	104	187	82		18	22.0	
ROCKBRIDGE	12	5	13	-8	2	15.4	
ROCKINGHAM	50	78	59		16	27.1	
RUSSELL	36	37	32		13	40.6	
SCOTT	32	32	25		7	28.0	
SHENANDOAH	30	34	30		16	53.3	
SMYTH	40	39	25		10	40.0	
SOUTHAMPTON	32	32	30		12	40.0	
STAFFORD	40	40	57	-17	6	10.5	
SUFFOLK	55	61	132	-71	41	31.1	SUFFOLK
SUSSEX	28	29	27		8	29.6	
* TAZWELL	40	40	32		7	21.9	
VIRGINIA BEACH	166	210	248	-38	51	20.6	
WARREN	32	32	33	-1	10	30.3	WARREN
WASHINGTON	40	58	40		18	45.0	
WESTMORELAND	8	19	13		3	23.1	
WILLIAMSBURG	40	43	42		9	21.4	
WISE	44	44	40		16	40.0	
WYTHE	18	15	15		4	26.7	
YORK	24	33	29	•	1	3.4	
STATE TOTAL	5,696	6,764	6,989	42	1,653	25.1 %	19

* Court Ordered Capacity Limit

** Operated by the Petersburg Sheriff and considered part of Petersburg Jail for this report.

Note: Table does not include three prisons -- Powhatan, James River and VCCW -- with a rated capacity of approximately 20 total beds.

KEY:

IN (20) JAILS, CROWDING WOULD RESULT EVEN WITHOUT ANY FELONS OVER SIX MONTHS

IN [22] JAILS, FELONS OVER SIX MONTHS CAUSE CROWDING

Source: JLARC capacity data and DOC population data.

In many localities, jail populations have grown over the past 15 years. This may be due to any number of causes, including changing laws and demographics. Unexpected increases in jail populations can make it difficult for local correctional planners to design facilities that will meet local needs. For example:

> *The Roanoke City jail, which opened in 1980, was designed to meet the city's jail needs through the year 2010. The day the sheriff moved his prisoners into the jail, however, he found he was one prisoner over capacity.*

In other localities, expansions have been or are being made to jails to help alleviate overcrowding. Sometimes, however, the expansion only partially alleviates the local overcrowding problem. For example:

> *The Lynchburg jail was built in 1935 and has a capacity of 44. The jail is currently expanding its work release section to add between 8 and 10 beds. Even with the additional space, the jail would not have been able to house properly the average 1985 population of 66 prisoners. There are no current plans for further expansion.*

In many localities, other needs compete with the jail for local funding. Funds, however, may be limited and other projects may have a higher local priority. For example:

> *The Westmoreland County Sheriff would like to have more space in his jail. If possible, a regional jail would be a good alternative to building an addition to the jail. Recently, however, the county voted for a large bond offering in order to build a new school. According to the sheriff, money for jail expansion might be a long way off.*

In cases where local capacity is insufficient, State action alone will not alleviate crowded conditions. Localities must themselves replace or add to their crowded facilities.

While overcrowding by itself is not unconstitutional, the effects of overcrowding may result in unconstitutional conditions. Many sheriffs have developed several courses of action to moderate conditions caused by high numbers of prisoners being kept in jail.

Effects of Overcrowding. The most common effects of overcrowding, according to the sheriffs, are inmates sleeping on mattresses on the floor, insufficient amounts of space for the inmates to move about, and an increase in violence or other incidents in the jail. In addition, other undesirable conditions may occur when the jail is overcrowded. For example:

> *One central Virginia sheriff said that "sanitary conditions become bad. Access to the commode, urinals, and showers is limited. There are only three of each for over 60 people in the dorm. Tempers tend to flare..."*

Another sheriff reported that "When we get overcrowded, we have to cut back on our programs and recreation. There aren't enough deputies to handle all those things under crowded conditions."

A third sheriff said that "We have increased plumbing problems when we get overcrowded...it also places a lot of pressure on our kitchen staff."

Sheriffs often have to deal with temporary overcrowding when the population rises above the capacity of the jail for short periods of time. This situation often occurs on such occasions as weekends or shortly after the circuit court meets.

Sheriffs have developed a number of methods to deal with temporary overcrowding. The three most common responses are (1) to call DOC about taking State responsibility inmates, (2) to use temporary beds or mattresses on the floor to house prisoners, and (3) to transfer prisoners to other localities that have empty beds.

Sheriffs also use a variety of other actions to alleviate temporary overcrowding, some of which may not be desirable:

One sheriff has a court order allowing him to turn away "weekenders" (people sentenced to serve time on the weekends) and give them credit toward their sentences if the jail is crowded. At one time the sheriff used the authority with some regularity, but has avoided using the power since a woman was raped by a weekend prisoner who had been turned away from the crowded jail.

In one Northern Virginia city, the sheriff has a working arrangement with the general district court. The court has some of its sentenced misdemeanants make appointments with the sheriff to work out a schedule for serving time. The same sheriff allows detainees unlimited telephone calls while they are trying to make personal arrangements for bail bonds.

One Northern Neck sheriff releases prisoners at 12:01 a.m. on the scheduled day of release if the jail is overcrowded.

In order to gain space when the jail is overcrowded, one Piedmont area sheriff asks the judge to suspend the remaining sentences of prisoners who are nearing the end of their terms.

Sheriffs must deal with overcrowding within the physical limitations of the jail, jail staff, and with the available resources of the locality. A number of other correctional alternatives are also available to localities. These are discussed in Chapter IV.

CONCLUSIONS AND RECOMMENDATIONS

An accurate measure of local jail capacity, coupled with a local jail forecast, is necessary for developing future correctional plans and policies. The development of a local jail population forecast is discussed in the next chapter.

To calculate capacity, JLARC staff recalculated local jail capacity and found that there is more system-wide capacity than was previously indicated by DOC's rated capacity measure. Comparisons of the new capacity figures with weekly population counts indicated that a number of jails had capacity which was never used during FY 1986. For planning purposes, JLARC's calculation of State-wide jail capacity was revised downward to reflect this underutilization of space.

The new capacity calculations are based on the amount of confinement space available in each local jail. For some jails, the recalculation of jail space indicated the potential for more beds than currently exist. Even under the new standard, however, jails were generally found to be crowded.

Crowding appears to result from two principal sources: a backlog of State prisoners and insufficient local capacity. Localities with populations that regularly exceed capacity need to expand their facilities. Some may need to replace their facilities to meet totality requirements.

The presence of State-responsibility inmates in crowded jails makes a bad situation worse. In many cases, jails would not be crowded at all were it not for the presence of backed-up State felons. The State needs sufficient prison capacity to keep State-responsibility prisoners from crowding local jails.

Recommendation (1). Because of the decentralized nature of the jail system and the need for State corrections planners to know the capacity of each local jail and the State jail system, DOC in conjunction with the Department of Criminal Justice Services should regularly review and update jail capacity figures. Calculation of jail capacity should be made on a systematic, standardized basis, similar to the JLARC methodology and consistent with Board of Corrections standards and good correctional practice.

Recommendation (2). On an aggregate level, underutilized beds indicate capacity which is not being used to house prisoners. The inclusion of these bed spaces can overstate available bedspace. Similarly, the exclusion of definite local building plans can overstate the future need for State and local beds. For these reasons, DOC should adjust the aggregate number of jail beds used for State planning to reflect underutilized beds and definite local programs for jail expansion.

Recommendation (3). Unless jail conditions warrant State or judicial intervention, it is the locality that determines when and how jails will be expanded. A number of localities lack sufficient jail capacity to meet their own needs. In such cases, localities should assess their present and future bedspace needs. Where possible, localities should expand local or regional jail capacity to meet expected needs. Regional jails should be promoted as a particularly viable means of housing special populations.

III. STATE AND LOCAL INMATE POPULATION FORECASTS

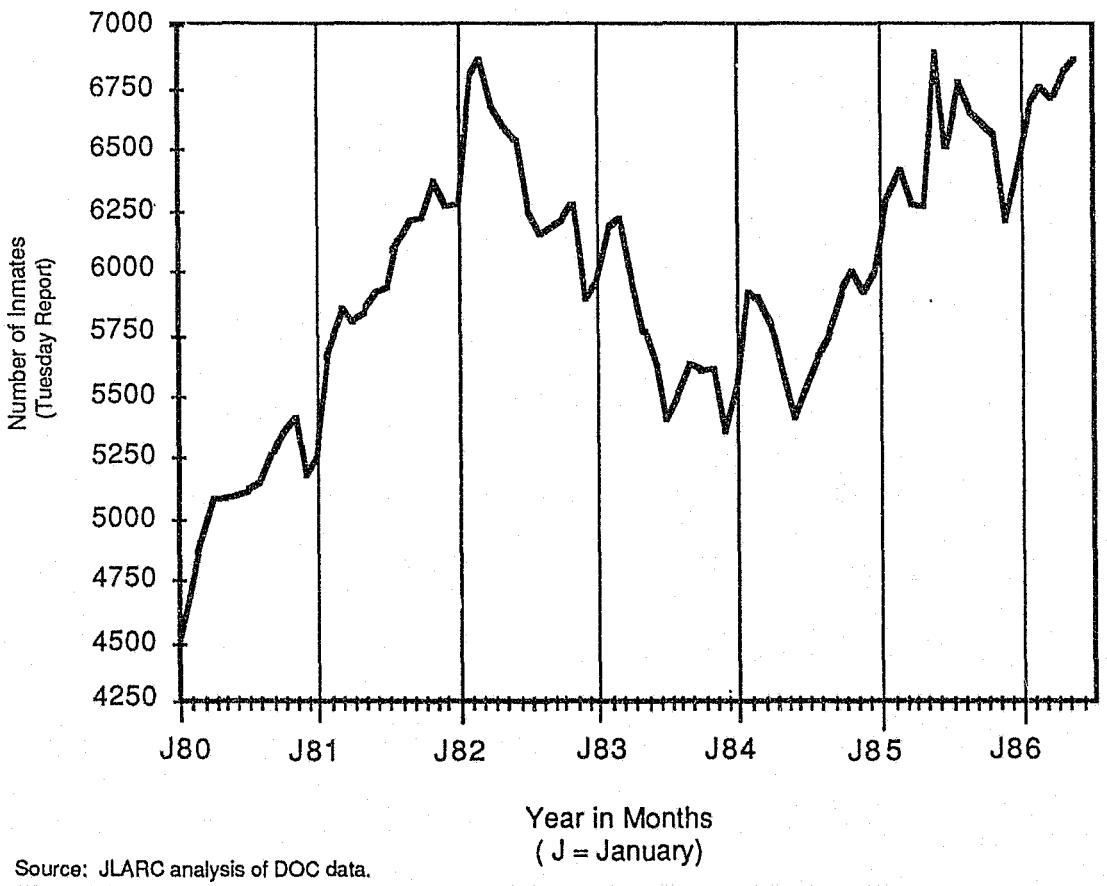
Sharp increases and decreases in the local jail population, along with State capacity limitations, have made local jail needs difficult to predict. Since 1980, the jail population has increased, peaked, decreased and increased again (Figure 5).

Sharp increases in local jail populations can affect both State and local correctional systems. Overcrowded jails force sheriffs to accommodate inmates in make-shift arrangements, such as sleeping inmates on roll-away beds or mattresses on the floor of the jail. When this occurs, local sheriffs pressure DOC to remove "State-ready" inmates from their jails to alleviate overcrowding.

The General Assembly recognized the relationship between State and local correctional systems and directed JLARC to evaluate "the effect of projected local jail population and capacity on the State correctional system". An accurate projection of the local jail population, combined with an analysis

Figure 5

Local Inmate Population
January 1986 to June 1986



Source: JLARC analysis of DOC data.

of local jail capacity, could give policy makers insight into capital outlay needsand diversion needs of State and local correctional systems. Simply stated, by subtracting the projected number of inmates from the anticipated capacity of the system, it is possible to predict the number of correctional beds (or other alternatives) needed to handle future inmates.

An analysis of local jail capacity is provided in the preceding chapter. To evaluate the effect of the local jail population and capacity on the State correctional system, a local jail population projection is needed. Currently, no State agency produces a local jail population projection on a regular basis; therefore, a jail population projection methodology and forecast have been developed for this report. The projection methodology used is intended to account for factors which have historically influenced the local jail population.

The following five sections will discuss the jail forecast methodology, the jail forecast, and needs for capacity increases or alternatives. The five sections will (1) define Virginia's incarcerated population as used in the forecast, (2) explain and illustrate the relationship between the State and local correctional systems, (3) present the methodology used to produce a jail forecast, (4) present results of the local jail forecast, and (5) translate the population forecasts and capacity comparisons into assessments of future bed needs and other alternatives.

VIRGINIA'S INCARCERATED POPULATION

Virginia incarcerates individuals in either a local jail or State correctional facility. To provide the basis for a forecast and to understand better just which inmates are housed where in the system, this section will define the various inmate populations. There are five populations to consider: total inmate population, total felon population, State inmate population, State responsibility population, and local jail responsibility population (discussed in Chapter 1). The five inmate populations are used in the forecast and are defined below.

Total Inmate Population

The total inmate population is defined as all inmates housed in any correctional facility in the State. The total inmate population is calculated as the number of inmates housed in the State correctional system plus all individuals housed in local jails. Therefore, total inmate population is a figure which represents all incarcerated inmates in the State of Virginia. The total inmate population was 17,778 in June 1986, up from 16,621 in June 1985.

Total Felon Population

The total felon population is all convicted felons incarcerated in the State, whether in a State institution or a local jail. Felons who are housed in the local jails make up a portion of the local jail population and are housed with individuals awaiting trial, convicted misdemeanants, and individuals being held for non-support. The State inmate population plus felons housed in the local

jails will be used to represent the total number of felons housed in the State. The total felon population was 13,260 in June 1986, up from 12,503 in June 1985.

State Inmate Population

Inmates housed in a State correctional institution are the State inmate population. The State inmate population includes convicted felons who have been sentenced to the Department with a sentence greater than one year, or misdemeanants with multiple sentences totaling more than one year. Once admitted to the State system, an inmate will spend his remaining sentence there. The only exception is when an inmate might have to appear in court. When an inmate is transferred to a jail for a court appearance, that inmate is included in the local jail population. The number of individuals housed in State correctional facilities averaged 10,902 inmates in June 1986, up from a June 1985 average of 10,254.

State Responsibility Population

The State responsibility population is defined as the number of inmates the Department of Corrections is responsible for housing. State responsibility inmates can be located in State facilities or local jails. An individual is considered State responsibility once convicted of a felony or misdemeanor and given a total sentence greater than one year. The Department of Corrections, however, does not recognize State responsibility for an inmate until a copy of the court order sentencing the individual to the State is received by the department.

There are two components of the State responsibility population: those housed in a State facility and those housed in local jails. The State facility component equals the State inmate population. The local jail component cannot be measured directly due to the unavailability of data; it must be estimated. The estimate of backlogged State responsibility inmates housed in jails, as defined by the department, was 993 in June 1986. Therefore, the total State responsibility inmate population is estimated as of June 1986 to be 11,895, consisting of 10,902 inmates in State correctional facilities and an estimated 993 State responsibility inmates held in local jails.

Often, State felons with greater than six months left to serve on their sentences are referred to as State responsibility. This number, however, can over-estimate the number of felons who are actually awaiting transfer to the State correctional system. Many of these inmates are awaiting parole from the jail, awaiting trial for other charges, on detainers because of appeal, or kept in the local jail at the request of the sheriff for cadre purposes. DOC has estimated the number of inmates not available for transfer to be approximately 600, although the number has varied from a high of 900 to a low of 200. When the "felons over six months" figure is used as a measure of State backlog it can over-estimate the State responsibility portion of the jail felon population unless those unavailable for transfer are deducted from the number.

Local Responsibility

The local jail responsibility includes inmates the jail is responsible for housing. The local jail responsibility consists of tried and convicted misdemeanants, individuals awaiting trial, and individuals held for non-support. All of these inmates are sentenced to the local jail. It is the localities' responsibility to house these inmates (statutes state only those inmates with a sentence totaling more than one year and sentenced to the Department will be housed in a State institution). The local responsibility population totaled 4,522 in June 1986.

STATE-LOCAL FACTORS WHICH AFFECT JAIL POPULATIONS AND CROWDING

Historically, the local jail population has been influenced by the population and capacity of the State correctional system. Increases in capacity of the State correctional system have a "cleaning out" effect on the local jails. When State prison beds are available, convicted felons are transferred from jails to State institutions, relieving some local jail crowding. Likewise, when the population of the State system nears capacity, convicted felons become backed up into local jails. Backing State inmates into jails becomes a greater problem when the jails are already experiencing crowding with local responsibility prisoners.

The overcrowding that occurred in March 1982 can be used to illustrate the relationship between the State and local correctional system and factors that affect local jail populations. The overcrowded situation of the jails is attributed largely to three factors: (1) a general increase in the total correctional system population, (2) overcrowded conditions of the State correctional system and the subsequent backup of convicted State responsibility inmates into the jails, and (3) insufficient capacity at some local jails to house even their own responsibility inmates.

Increased Inmate Population

January 1980 through March 1982 displayed an increasing inmate population. The total number of inmates, both State and local combined, increased from 12,718 in January 1980 to 15,484 in March 1982, an increase of almost 2,800. During this time, the total correctional system experienced little increase in capacity. Of the 2,800 population increase, 400 were housed in State facilities, leaving the remaining 2,400-inmate increase to be housed in the local jail system.

Capacity of the State System

Perhaps the strongest influence on the local jail population is State system capacity. When there are beds to transfer State-ready inmates from jails to State prisons, the population level of jails is generally depressed. When there is little or no excess capacity in State correctional facilities, State responsibility inmates are backed into local jails because the State is unable to house additional inmates. Consequently, local jail population levels increase.

The State correctional system operated at or above capacity from January 1980 through June 1982 (Figure 6). During this period the local jail population increased from 4,500 in January 1980 to 6,900 inmates in March 1982. Also, the number of convicted felons housed in local jails increased from 1,000 to nearly 2,400 inmates. This indicates that 1,400 of the increase can be attributed to convicted felons and 1,000 to local responsibility inmates.

This relationship is further illustrated in September 1982. Four months after the opening of Brunswick Correctional Facility (750 budgeted capacity), the local jail population decreased to approximately 6,200 (Figure 6). Jail population further decreased after the opening of Buckingham in November of 1982. The decrease is attributed to moving felons from jails to State institutions. Generally, when State capacity increases, the local jail population declines (1982, 1983). On the other hand, when State capacity is static (1980, 1981, 1984, 1985), the local population increases.

Insufficient Capacity of the Local Jails

One cause of jail overcrowding that is often overlooked is local jail capacity. As noted in Chapter II, a backup of State inmates into local jails causes problems principally when the jails are already at or near capacity with local responsibility inmates. Local responsibility inmates must be housed in a local jail and not the State system. A jail with a small local responsibility population can handle a backup of State inmates more easily than one that is already at or near capacity. Because of a lack of capacity in some jails, however, local jail capacity problems can exist even when no backup of State responsibility prisoners occurs.

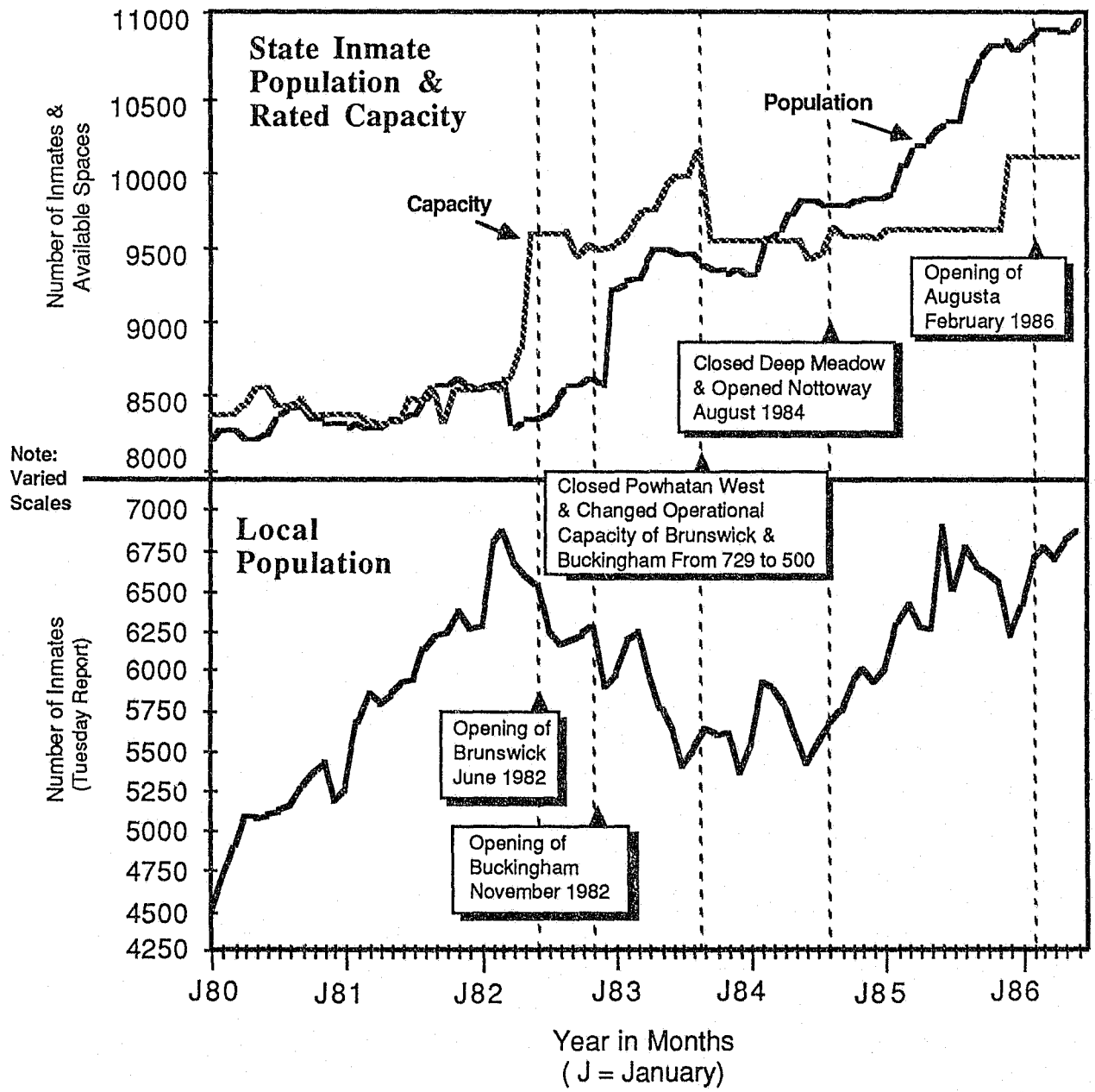
On March 2, 1982, sixty-two local jails reported to DOC that they had inmate populations which exceeded their rated capacity. (While problems exist with the use of DOC rated capacity, as noted earlier, there are no other capacity figures available for 1982. However, this overcrowding was not due entirely to the back-up of State inmates into local jails. Even if DOC had removed all felons with greater than six months left to serve (the department will not accept any inmate with less than six months left to serve), many of the jails would still have been overcrowded. Of the 62 jails, 32 would still have been over their rated capacity. Therefore, the State and DOC can be held responsible for only some of the local jail overcrowding. While felons in jails caused many problems for sheriffs, 32 of the jails had inmate populations over rated capacity as a direct result of insufficient capacity for their own needs. A similar circumstance existed in 1986 when JLARC staff found that 24 of 53 jails with inmate populations over DOC rated capacity would still have been crowded even if DOC had removed all felons with over six months left to serve.

THE JAIL FORECAST METHODOLOGY

As noted earlier, capacity needs in the future will be largely dictated by the sizes of the various incarcerated populations. Currently, no model is used to forecast the local jail population. Two methods have been used previously; however, neither method considered the interrelationship of State and local correctional systems.

Figure 6

Comparison of State Inmate Population & Capacity with Local Population January 1980 to June 1986



Source: JLARC analysis of DOC data.

The first method, developed by DCJS, forecasted individual locality jail need, based on population trends. The second method, most recently used by DOC, projected jail populations using historical data. Neither method accounted for the effect of limited State capacity on jail populations. Also, neither method included the effects of unemployment and Parole Board grant rates on the incarcerated population. A jail forecast methodology should incorporate both the local jail population and factors which affect it -- the capacity of the DOC system, Parole Board policies, and unemployment.

Forecasting the jail population independently would not yield an accurate forecast because, as already shown, it is dependent on the population and capacity of the State correctional system. This necessitates incorporating the effect of State inmate populations and capacities into the local jail forecast scenario.

JLARC's forecast methodology is described below in four sections. First, the methodology (an Autoregressive Integrated Moving Average, or ARIMA) is briefly discussed. Second, the inclusion of unemployment and parole grant rates as leading indicators is explained. Third, the method used to solve for the population that cannot be forecast by the ARIMA procedure is presented. Finally, the total correctional system approach to producing a local jail forecast is explained.

ARIMA Forecast Methodology

The ARIMA (Autoregressive Integrated Moving Average) forecast is a sophisticated curve-fitting device that replicates a data series and extends the past form into the future. ARIMA models are a family of models, not just a single model. The procedure inherent to developing ARIMA models guides the analyst in choosing the most appropriate model for a particular data series. Also, ARIMA models allow the inclusion of other variables as leading indicators. When leading indicators are used, the procedure becomes a multivariate ARIMA model. A fuller discussion of ARIMA and its application in this study is included in Appendix E.

Use of Leading Indicators

Factors which have been shown historically to lead increases or decreases in the series being forecast can be incorporated into the model. Two leading indicators are used for the local jail forecast methodology: the Parole Board grant rate and the Virginia unemployment rate.

The parole grant rate can have significant effects on the incarcerated population. As grant rates increase, more people are released from prison and inmate populations decline. Likewise, when grant rates are lower, the inmate population tends to rise. Including parole grant rates allows for adjustments to the forecast based on expectations concerning Parole Board practices. The parole grant rate is assumed to continue for the forecast period at 32 percent, its average for the last ten years.

Unemployment is also used as a leading indicator of the incarcerated population. Higher unemployment indicates more idle time, with theoretically increased opportunity and greater motivation to commit crimes.

Unemployment is also currently used by DOC to forecast State inmate responsibility. The unemployment forecast included in the model is supplied by the Virginia Large Scale Econometric Forecast developed by Chase Econometrics. Chase Econometrics updates its long-term unemployment forecast semi-annually.

Solving for an Unknown

The ARIMA methodology was used to forecast statistically the total felon population and the local responsibility population. In some instances ARIMA is not necessary. In those situations the ARIMA methodology is replaced with simple mathematical computations to solve for other unknowns.

For example, if it is necessary to forecast A, B and C, and if

A = B + C then it follows that
B = A - C by identity.

If ARIMA is an appropriate methodology for A and C but not for B, B can be estimated by first forecasting A and C, then subtracting C from A to arrive at B. Therefore, it is not necessary to use ARIMA in all cases.

The total inmate population, for example, has been defined as the sum of local jail and State inmate population. The total and State inmate populations are known, hence the local jail population can be solved mathematically by subtracting the State inmate population from the total inmate population. This method is used to arrive at the local jail population and felons housed in local jails forecasts.

Total Correctional System Approach

The local jail forecast was produced using a total correctional system approach which reflects the interrelationship of the State and local correctional systems. The total correctional system approach accounts for local jail population changes due to the transfer of inmates from jails to State institutions when beds are available. Or, when State beds are not available to move felons from the jails, it accounts for jail population increases. A forecast based on local jail population alone would not be able to account for changing jail populations due to a change in State capacity. Also, a total correctional system approach allows for validation of each individual forecast to promote forecast accuracy. A more detailed explanation of the validation procedure can be found in Appendix D.

The method used to forecast jail population is illustrated in Figure 7. All inmate population totals are for June 1986 and are used to exemplify how the methodology works. Step A is to forecast the total inmate population (3). The total inmate population forecast is derived from two separate forecasts: the total felon population (1) plus the local responsibility population (2). Total inmate population (3) is disaggregated and forecast using two separate populations to enhance forecast accuracy. The total felon and local responsibility populations are forecast using ARIMA methodology.

Step B begins with the total inmate forecast produced in Step A. To arrive at a local jail population forecast it is necessary to know the population of the State correctional system (4). Once the total inmate population (3) and State correctional system population (4) are known, the remainder (3 minus 4) must be housed in a local jail (5). This assumes that an inmate will be housed in either a State or local correctional facility.

Step C uses the local jail forecast (5) produced in Step B to forecast the number of felons in local jails (6) by subtracting the local responsibility population (Step A, 2) from the local jail population (5).

Step D uses DOC's State responsibility inmate population forecast (7). State responsibility can be housed in either a State correctional facility or a local jail. This step will be used to determine the State system bed need in Step E.

Step E includes state capacity (4) so that jail backlog (8), jail felons (9), and State prison capacity can all be forecast. Jail backlog (8) is the State responsibility (7) less what is housed in the State correctional system (4). Jail backlog can also be called State bed need, for it is the State responsibility population housed in the local jails. "Jail felons" (9) is the difference between felons housed in jails (6) and the jail backlog (8).

The above example uses actual 1986 data to illustrate relationships. Step F of the process involves the substitution of June 1990 forecast values. June 1990 forecast values are the following:

Local Responsibility Forecast (ARIMA): 5,920

Total Felon Forecast (ARIMA): 15,249

Total Inmate Forecast (ARIMA): 21,169

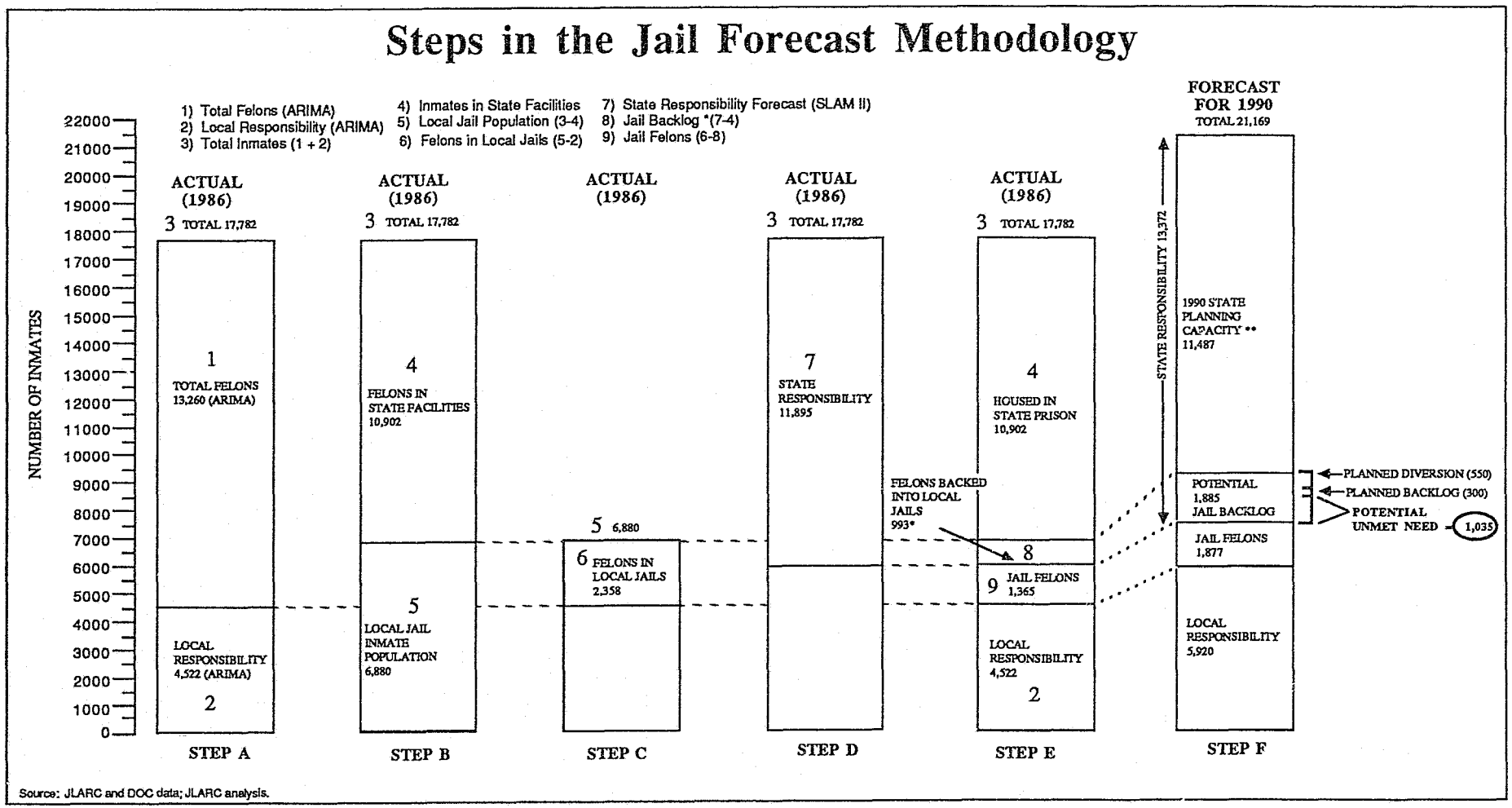
State Responsibility (SLAM II): 13,372.

Some assumptions must be made to generate a number forecasting inmates to be housed in State prisons in 1990. This number is taken to be equal to the expected capacity of the State prison system in 1990. The number includes planned additions to the State's current operational capacity plus the planned double bunking of 684 beds. Use of a "planning capacity" concept recognizes that DOC prisons have greater usable capacity than the DOC operational capacity figure reflects.

State Capacity	=	10,117	(Operational Capacity, 1986)
(in 1990)	+	1,554	Additions to Operational Capacity
	+	684	Planned Double Bunking
		12,355	
	-	868	(Closing the State Penitentiary)
		11,487	1990 State Planning Capacity

Using the forecasts together, Figure 7 shows a potential jail backlog of 1,885 in 1990. Potential jail backlog represents the difference between the State responsibility forecast (13,372) and the planning capacity of the State prison

Figure 7



Source: JLARC and DOC data; JLARC analysis.

* As defined & calculated by DOC.

** Planning capacity equals 1986 operational capacity (10,117) plus 1,554 additions to operational capacity through 1990, plus double bunking 684 bed spaces. From this total (12,355) the capacity of the State Penitentiary is subtracted (868) leaving a planning capacity of 11,487.

Source: JLARC analysis of DOC data.

system 11,487. Deducting 550 inmates for diversion programs and 300 inmates who represent planned backlog leaves a potential unmet need of 1,035.

Also shown in Figure 7 is a predicted jail felon population of 1,877. This figure includes the roughly 600 felons over six months who are unavailable for transfer to the State system.

Application of the jail forecast methodology as described provides the basis for forecasting the different inmate populations. Varied assumptions about capacity, however, can yield differing bottom line need figures. A comparison of 1990 bed needs is shown in Figure 8. The projected capacity and the State system in 1990 is defined three ways: an "operational capacity" of 10,803, a "planning capacity" of 11,487, and a "temporary emergency capacity" of 12,462. The lower the State capacity prediction, the higher the potential jail backlog, and the greater the potential unmet need. All three cases reveal a need, since none of the projected capacity measures could fully accommodate the 1990 forecast of 13,372 State responsibility population. The planning capacity case represents a capacity middle ground: it incorporates planned and possible expansions of operational capacity, yet does not validate the continued operation of the State system at temporary emergency capacity.

THE LOCAL JAIL FORECAST

Each of the steps used in the JLARC jail forecast methodology produces a forecast of an incarcerated population within the State. The following sections present the results of the forecasts.

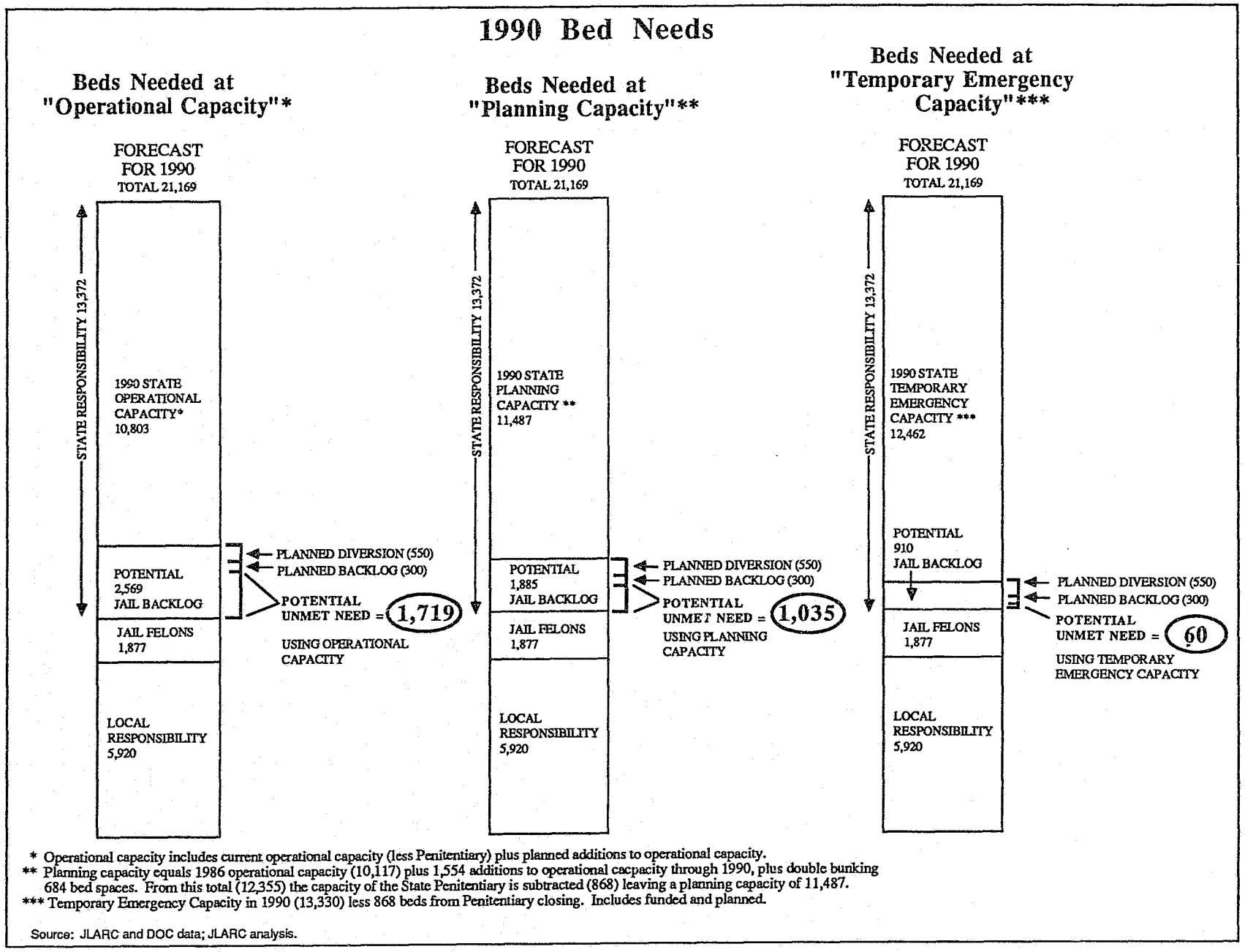
Step A: Total Population Forecast

Step A of the jail forecast methodology projects total inmate population as the sum of total felon and local responsibility populations. The total inmate population represents all inmates confined in a correctional institution in the State at a given time. The three forecasts are presented below in Table 5. Actual population data is used for 1985 and 1986. Population figures for 1987 through 1990 are forecasts.

The results of the forecast present an increasing total felon and local responsibility inmate population. The total inmate population, defined as the sum of local responsibility and total felons, is also predicted to increase.

The total felon population is expected to increase from 12,503 in June 1985 to 15,249 in June 1990. This represents a 22 percent increase in five years. The local responsibility inmate population is expected to increase from 4,118 in June 1985 to 5,920 in June 1990, a 44 percent increase. This increase is driven by rapidly growing local jail populations in 1985 and 1986. The total inmate population is expected to increase 27 percent, from 16,621 in June 1985 to 21,169 in June 1990. The rate of growth is higher than the previous five-year increase for the total inmate component: from June 1980 through June 1985, total inmate population increased from 13,371 to 16,621, a 24 percent increase. In contrast, the 30 percent increase in the felon population from 9,654 in 1980 to 12,503 in 1985 is expected to slow between 1985 and 1990 to a 22 percent increase. The forecast increase of 44 percent for local

Figure 8



* Operational capacity includes current operational capacity (less Penitentiary) plus planned additions to operational capacity.
** Planning capacity equals 1986 operational capacity (10,117) plus 1,554 additions to operational cacpacity through 1990, plus double bunking 684 bed spaces. From this total (12,355) the capacity of the State Penitentiary is subtracted (868) leaving a planning capacity of 11,487.
*** Temporary Emergency Capacity in 1990 (13,330) less 868 beds from Penitentiary closing. Includes funded and planned.

Source: JLARC and DOC data; JLARC analysis.

Table 5

TOTAL FELON, LOCAL RESPONSIBILITY, AND
TOTAL INMATE POPULATION FORECASTS
1985 - 1990, JUNE OF EACH YEAR

Year	Total Felon Forecast	(Plus)	Local Responsibility Forecast	(Equals)	Total Inmate Population Forecast
1985	12,503*	+	4,118*	=	16,621*
1986	13,260*	+	4,522*	=	17,782*
1987	13,922	+	4,853	=	18,775
1988	14,468	+	5,233	=	19,701
1989	14,902	+	5,570	=	20,472
1990	15,249	+	5,920	=	21,169

*Actual population for June 1985, June 1986.

Source: JLARC ARIMA forecast of DOC data.

responsibility is substantially higher than the 11 percent increase seen between June 1980 and June 1985, when the population grew from 3,717 to 4,118 inmates. This element of the population forecast should be examined carefully as new data become available.

Step B: Local Jail Population Forecast

The local jail population forecast projects the number of all inmates expected to be housed in local jails. As already shown, the local jail population is directly related to the capacity of the State correctional system. The local jail forecast is equal to the total inmate population forecast (Step A) minus State inmate population. State inmate population, during times of overcrowding and jail backlog, can be predicted based on capacity of the correctional system. Local correctional facilities can expect to be operating at or above their maximum capacities for the foreseeable future.

The planning capacity of the State correctional system is defined as the operational capacity of the system plus the double celling of 684 cells that has been planned by the General Assembly. Table 6 provides operational and planning capacities for the State prison system through 1990. As Table 6 shows, from 1986 to 1990 State planning capacity grows by 1,777 beds to 12,355 as a result of the addition of new beds and double celling. This still leaves the system 1,017 beds short of the State responsibility forecast of 13,372. When diversions totalling 550 and a planned backlog of 300 are deducted, however, the gap shrinks to 167. If the State Penitentiary is closed and its capacity of 868 is lost, the gap then increases to 1,035. This and subsequent tables will

Table 6

PLANNING CAPACITY OF
THE STATE PRISON SYSTEM

	Operational Capacity*	(Plus)	Cumulative Double Celling****	(Equals)	Planning Capacity
1985	9,617	+	460	=	10,077
1986	10,117	+	460	=	10,577
1987	10,457	+	524	=	10,981
1988	10,841	+	684	=	11,525
1989	11,129	+	684	=	11,813
1990	11,671	+	684	=	12,355
Penitentiary Closed***	10,803	+	684	=	11,487

*For June/July of each year, includes 1,554 beds of funded and planned construction through 1990.

**Double celling includes a total of 684 planned double celling resulting from General Assembly policy decisions. Actual double celling is currently higher. Double celling includes 460 beds from 1985 on, plus 64 beds at Augusta in July 1987, 96 beds at Nottoway in March 1988, and 64 beds at Buckingham in June 1988. Double celling is carried forward from year to year.

***Closing the Penitentiary removes 868 beds from operational and planning capacity.

Source: DOC capacity data and the Joint Report of the House and Senate public safety subcommittees, dated February 10, 1986.

present planning capacity for the State system with and without the closing of the Penitentiary.

The Local Jail Population Forecast (Table 7) shows jail population increasing by 38 percent from June 1985 to June 1990, with the June 1990 population totalling 8,814. If the Penitentiary is closed (and not replaced) the population would increase another 868 to 9,682, a 52 percent increase. The local jail population, as noted earlier, is dependent on the capacity of the State system. Different forecasts, using other assumptions, are presented in Appendix G.

The incarcerated population could be reduced somewhat by funded expansion of diversion and probation programs. While the programs divert

Table 7

LOCAL JAIL POPULATION FORECAST

Year	Total Inmate Population Forecast	(Minus)	Less State Inmate Planning Capacity	(Equals)	Local Jail Population Forecast**
1985*	16,621*	-	10,254*	=	6,367*
1986*	17,782*	-	10,902*	=	6,880*
1987	18,775	-	10,981	=	7,794
1988	19,701	-	11,525	=	8,176
1989	20,472	-	11,813	=	8,659
1990	21,169	-	12,355	=	8,814
Penitentiary Closed	21,169	-	11,487	=	9,682

*Actual population data for 1985 and 1986 exceeds "planning capacity" for both years. Diversion for 1985 and 1986 would be accounted for in actual population figures.

**Local jail population projects Tuesday populations of local jails. Weekend populations may run several hundred in excess of weekday populations.

Source: JLARC Jail Forecast Methodology.

felons from State beds, an indirect effect could reduce jail populations, since freeing State prison beds could make room for reducing jail backlog. Programs funded in 1986 could reduce State responsibility by 550 inmates by 1990. The potential effect on jail populations is seen in Table 8.

As noted in a previous JLARC report, The Community Diversion Incentive Program of the Virginia Department of Corrections, diversion efforts do not always represent net reductions in incarcerations. Some divertees resemble probationers more than incarcerated felons. Consequently, while planners should be aware of the potential effects of diversions, the local jail forecast does not factor them in. The forecast of felons housed in local jails is based on forecast jail populations without the deduction of potential divertees.

Local Jail Felon Forecast

The local jail felon forecast predicts the number of felons (State responsibility or sentenced to local jails) that are expected to be housed in jails. This forecast, like the local jail forecast, is sensitive to State correctional system capacity. Table 9 includes the forecast for each year from 1987 to 1990. Actual population data is included for 1985 and 1986.

Table 8

POTENTIAL EFFECT OF DIVERSIONS
ON LOCAL JAIL POPULATIONS

Year	Jail Population Forecast	(Minus)	Less Planned Diversions	(Equals)	Potential Jail Population
1987	7,794	-	210	=	7,584
1988	8,176	-	450	=	7,726
1989	8,659	-	550	=	8,109
1990	8,814	-	550	=	8,264

Source: DOC estimate of diversions from new probation program implementation.

Table 9

LOCAL JAIL POPULATION, LOCAL RESPONSIBILITY
POPULATION, AND LOCAL JAIL FELON FORECASTS
1985 - 1990, JUNE OF EACH YEAR

Year	Local Jail Population Forecast	(Minus)	Local Responsibility Forecast	(Equals)	Felons Housed in Jails Forecast ***
1985*	6,367*	-	4,118*	=	2,249*
1986*	6,880*	-	4,522*	=	2,358*
1987	7,794	-	4,853	=	2,941
1988	8,176	-	5,233	=	2,943
1989	8,659	-	5,570	=	3,089
1990	8,814	-	5,920	=	2,894
Penitentiary Closed	9,682		5,920		3,762

*Actual for June 1985 and June 1986.

Source: JLARC Jail Forecast Methodology.

Based on the planning capacity and other assumptions discussed in the preceding section, the number of felons housed in the local jails is expected to increase from 2,249 in June 1985 to 2,894 in June 1990, a 29 percent increase. If the Penitentiary is closed and not replaced, the potential increase would be from 2,249 to 3,762, an increase of 67 percent.

The forecasts of State and local inmate populations take on greater meaning when compared to the capacity of the State and local correctional systems. The following section compares State and local correctional facility capacities to the projected population. In this manner, aggregate bed needs on the State and local level can be identified.

STATE AND LOCAL BED NEEDS

In this and in a previous study, JLARC has evaluated the DOC model used to forecast State responsibility inmate population and has forecast total correctional system inmate population and local jail population. Also, JLARC has evaluated the capacity of State and local correctional facilities. With sound methodologies for State and local inmate population projections, and with capacities at the State and local level accurately measured, State and local bed needs can be estimated. Need is defined as: population (actual or forecast) minus capacity.

Need will be calculated on three levels: (1) aggregate State and local bed need, (2) separate local bed need, and (3) separate State bed need. Aggregate State and local bed need is calculated as the difference between the expected total statewide capacity and the total statewide inmate population. State need is calculated as the difference between expected State system capacity and the State inmate responsibility forecast. Local need is defined as aggregate need less State system need.

It is important to note that capital expansions are only one way of addressing bed needs. Needs can also be addressed through increases in diversion programs, changes in sentencing practices, increased transfers of prisoners between jails, and other practices. Thus, while needs are explained for simplicity's sake as "bed needs," there are numerous other options available. (These options are discussed at greater length in Chapter IV.)

Aggregate (Total Correctional System) Bed Need

The total inmate population forecast was presented in the previous section and represents all inmates to be confined in either a local jail or State correctional facility. Aggregate correctional system capacity includes the State correctional system and the local jail capacity identified in Chapter II. Aggregate correctional system bed needs are expected to increase from 614 in 1986 to 1,431 by 1990 and to 2,299 in 1990 if the Penitentiary is closed (Table 10). These increases in need occur despite the inclusion of planned increases in capacity totalling 2,570 beds between 1986 and 1990. These 2,570 beds include capacity increases of 1,694 beds funded or planned in the 1986 session (Table 15), 792 planned jail beds (the 832 in Table 3 less 40 Norfolk beds added to 1986 capacity), and 84 beds at Appalachian (which is being converted from a youth to an adult facility in FY 1987). The construction of 642 beds in localities with

Table 10

AGGREGATE SYSTEM BED NEEDS
1986 - 1990, JUNE OF EACH YEAR

Year	Projected Total Inmate Population	(Minus)	Available Total** Capacity	(Equals)	Total Prison and Jail Needs
1986*	17,782*	-	17,168*	=	614*
1987	18,775	-	18,364	=	411
1988	19,701	-	18,908	=	793
1989	20,472	-	19,196	=	1,276
1990	21,169	-	19,738	=	1,431
Penitentiary Closed***	21,169		18,870		2,299

*Actual.

**Includes State planning capacity for each year plus local dual standard capacity of 6,551 plus 832 planned local additions through FY 1988.

***Closing the Penitentiary removes 868 beds from operational and planning capacity.

Source: JLARC analysis of DOC and jail capacity. JLARC 1986 jail forecast methodology.

tentative building plans would also reduce overall need but is unlikely to be completed prior to 1990. Of greatest concern is the fact that the overall system will be operating substantially over capacity for the foreseeable future. This circumstance will provide little if any flexibility for State and local correctional officials if populations are even higher than is now expected.

State Bed Needs

State bed need is defined as the difference between State responsibility inmate population and expected capacity of the State correctional system. A State responsibility inmate forecast (SLAM II) is produced annually by DOC and forecasts State responsibility population housed in both jails and State correctional facilities. When compared to the expected State correctional system capacity, State bed need can be identified. State bed need is presented in Table 11 for the years 1986 through 1990.

The State correctional system is predicted to need at least 1,017 new beds by June 1990 (Table 11). The number assumes an accurate State

Table 11

STATE CORRECTIONAL SYSTEM BED NEED
1986 - 1990, JUNE OF EACH YEAR

Year	State Inmate Responsibility Forecast (SLAM II)	(Minus)	State Planning Capacity	(Equals)	State Correctional System Bed Needs
1986*	11,895*	-	10,902*	=	993*
1987	12,491	-	10,981	=	1,510
1988	12,832	-	11,525	=	1,307
1989	13,140	-	11,813	=	1,327
1990	13,372	-	12,355	=	1,017
Penitentiary Closed	13,372		11,487	=	1,885

*Actual figures used for population (10,902) plus a DOC estimate of a backlog of 993 for June 24, 1986.

Source: JLARC Evaluation of DOC Capacity, SLAM II Forecast.

responsibility inmate population forecast, removing all State responsibility backlog from local jails, operation of the State correctional system at planning capacity, and the State Penitentiary remaining open through 1990. State bed need increases substantially if any of the noted assumptions are changed. The 1,017 need figure is based on DOC's continuing to operate at the planning capacity level, a realistic level of operation which is only 684 beds above what DOC defines as operational capacity. DOC's emergency utilization level, which is not suitable for long-term operation, will be 13,330 in 1990, or 975 beds above the planning capacity of the system. (Appendix E includes DOC operational and temporary emergency capacities through 1990) the system. (Appendix F includes DOC operational and temporary emergency capacities through 1990.)

The 1,017 need figure also assumes 868 beds in capacity at the State Penitentiary. Closing the State Penitentiary, a widely held goal, would require 868 replacement beds. The effect of closing the State Penitentiary would be to increase the 1990 level of need to 1,885 beds. Two 1986 policy decisions, however, could reduce the level of need considerably. First, community corrections programs funded in 1986 should remove approximately 550 State responsibility prisoners. In addition, the General Assembly public safety subcommittees agreed in 1986 to permit a planned backlog of 300 State responsibility prisoners in local jails. The effect of these assumptions is seen in Table 12.

One troubling aspect of the above assumptions is the ability of localities to absorb State backlog. Because local needs will exceed capacity,

Table 12

PROJECTED STATE BED NEED
UNDER PLANNING ASSUMPTIONS

State Responsibility Forecast (1990)	13,372	State Bed Need	1,885
		Less Diversions	- 550
Less Planning Capacity With Penitentiary Closed	- 11,487	Less Planned Local Backlog	- 300
State Bed Need Without Assumptions	1,885	State Bed Need With Assumptions	1,035

Source: JLARC evaluation of DOC capacity.

any State backlog may exacerbate existing crowding. The next section discusses local bed need.

Local Bed Needs

Local bed needs can be examined two ways: (1) by taking the local jail population forecasts and subtracting local capacity, or (2) by taking the total correctional system bed need less those beds that are needed by the State correctional system to house the State responsibility inmate population. Need will also be affected by localities' plans to expand or close jails. Many localities are planning expansions to their current jail to alleviate local overcrowding. As noted earlier, many local jails are too small to house even their own local responsibility inmates.

Interviews with local sheriffs who manage jails indicate that 360 beds will be added in 1986, and 472 beds will be added in 1987 for a total increase of 832. More expansions, totalling 642, are planned at a local level; however, these expansions were not included in expected increases in capacity because of the uncertainty of construction. (A detailed listing of planned additions to local jails is included in Appendix D.)

An examination of local bed need from the perspective of the local jail population less local capacity shows that when the State lacks capacity, all need is backed up into localities. Table 13 displays that after 1987 local need is equal to the projection of total system need made in Table 10. The projected need in 1990 actually represents the back-up of more than a thousand State responsibility prisoners into local jails.

If State bed need is subtracted from agreggate bed need, then localities are shown, as a whole, to have little if any additional need. In other

Table 13

LOCAL JAIL BED NEED
1986 - 1990, JUNE OF EACH YEAR
(Including Projected Backlog)

Year	Local Jail Population Forecast	(Minus)	Local Capacity	(Equals)	Local Bed Need
1986	6,880*	-	6,551	=	329
1987	7,794	-	6,941	=	853
1988	8,176	-	7,383	=	793
1989	8,659	-	7,383	=	1,276
1990	8,814	-	7,383	=	1,431

*Actual

Source: JLARC analysis

words, until 1990 there is no local responsibility need, when the combined capacities of all jails are considered (Table 14).

Again, it is important to note that local bed needs in this section are being examined from an aggregate perspective. Statewide, excess capacity in some localities is masking inadequate capacity in other localities. As noted in Chapter II, some jail crowding is a direct result of inadequate local capacity. While some local crowding can be alleviated by a more active inter-jail transfer policy, a number of small and/or old jails need expansion or replacement. Some local jails need to expand their capacity to meet purely local needs, regardless of total State situations.

Actions Taken by the 1986 General Assembly

The 1986 General Assembly has taken actions towards closing the gap between what the population is projected to be by 1990 and the number of available prison beds. The legislature has appropriated funds for the construction (or double celling) of 1,248 beds, with another 446 beds tentatively planned for funding in the 1988-90 biennium (Table 15).

The 1984-86 budget bill was amended by the General Assembly to include an additional appropriation of $6.2 million for an expansion of the new Augusta prison. Basically, the construction is a continuation of the work being completed on the new facility and includes the further construction of two new housing units. Each housing unit will be a close-security (maximum) unit containing 128 cells each, a quarter of which will be double bunked for a total of 320 new beds.

Table 14

LOCAL RESPONSIBILITY NEED
1986 - 1990, JUNE OF EACH YEAR

Year	Correctional System Bed Needs	(Minus)	State Bed Needs	(Equals)	Local Jail Responsibility Bed Needs
1986	614*	-	993*	=	None
1987	411	-	1,510	=	None
1988	793	-	1,307	=	None
1989	1,276	-	1,327	=	None
1990	1,431	-	1,017	=	414

*Actual

Note: Does not include tentative plans through 1990 (Appendix D).

Source: JLARC analysis of local jail bed needs.

The budget bill for the 1986-88 biennium funds an additional 928 beds for the adult prison system. Nottoway Correctional Center will be increased by 352 beds with two additional housing units. One unit will be designated as a close-security building like the two housing units being constructed at Augusta. The close-security unit will have 128 cells of which 32 will be double bunked for a total of 160 beds. The other unit will be a cadre unit located outside the current perimeter fence. This cadre unit will have 128 cells like the close-security units, but half of the cells will be double bunked for a total of 192 beds. Two units are also scheduled to be built at the Buckingham Correctional Center. These units include a 96-bed maximum-security cell block and a 192-bed cadre unit. Another 125 medium-security beds will be added at the Southampton Correctional Center. Over 160 beds will be added to the field units following the upgrading of water/wastewater facilities at approximately 12 field units. The water treatment plant improvements will allow these field units to house more prisoners than the water systems would previously allow.

Plans for the 1988-90 biennium tenatively call for an addition of 446 beds. Included in these provisional plans are an additional 96 maximum-security beds at Southampton or another corrections facility, 150 medium-security beds at various field units, and the inclusion of 200 mental health beds. Plans for the replacement of the Deerfield Corrections Center are also being considered.

In addition to significant construction increases, the 1986 General Assembly also took steps to reduce the overall prison and jail populations. DOC committed to diverting an additional 550 inmates through probation and parole supervision, contracts with private vendors for local pre-release

Table 15

PLANNED EXPANSION OF PRISON CAPACITY

Biennium	Number	Double	Description
1984-86	128	32	Additional close-security unit at Augusta.
	128	32	Additional close-security unit at Augusta.
1986-88	128	32	Additional close-security unit at Nottoway.
	96		Maximum-security unit at Buckingham.
	125		Medium-security unit at Southampton.
	128	64	Cadre unit at Buckingham.
	128	64	Cadre unit at Nottoway.
	163		Additional beds at field units through improvements to water and wastewater facilities.
Subtotal	1248		
1988-90	96		Maximum-security unit at Southampton.
	200		Mental health correctional beds.
	150		Medium-security outfill at field units.
	Replacement		Medium-security unit at Deerfield.
Subtotal	446*		
TOTAL	1694		

*Plans call for a total of 446 beds to be added in the 1988-90 biennium. These plans are not definite, but when added in bring the total by 1990 to 1694 beds. (An additional 84 beds are being added to DOC adult prison capacity by the conversion of the Appalachian youth learning center into an adult facility.)

Source: 1986 budget documents.

services, expanded work release programs, and expanded community diversion programs. The General Assembly appropriated $6.2 million for these programs in the 1986-88 biennium.

CONCLUSIONS AND RECOMMENDATIONS

There is an estimated gap between total State correctional capacity and the total State forecast population. This gap is offset substantially by planned local construction, and by 1,248 new beds funded through 1988 and another 446 tentatively planned for funding by 1990. State and local bed needs vary depending on the assumptions used concerning the population forecast and capacity. Changes in these assumptions will affect State and local bed need.

Virginia's incarcerated population is expected to increase through 1990. To house adequately the rapidly increasing inmate population, more correctional beds or diversion methods are necessary. Local jails are expected to see even larger populations than before. Without increases in State correctional system capacity or diversion techniques, the local jail population will reach 8,815 by 1990, far beyond the capacity of the State's jails and a level about 1,000 higher than the highest jail populations to date.

To plan adequately for the various scenarios facing it, the General Assembly needs a realistic measure of the prison system's capacity. The DOC's current definition of operational capacity understates system capacity and is not a viable planning tool.

Recommendation (4). The Department of Corrections should modify its definition of operational capacity of the State prison system, to reflect more accurately the actual capacity of the system. At a minimum, the mandated double celling of 684 bed spaces should be included, as in JLARC's "planning capacity" measure. Should DOC not upgrade its definition of capacity, the Department of Planning and Budget or standing committees of the General Assembly should consider setting operational capacity ratings for planning purposes.

Recommendation (5). DOC should present updated plans to the General Assembly to address anticipated increases in State and local inmate populations. The plans should provide options to the General Assembly including: community-based alternatives, emergency utilization, renovations, and replacements and construction. The General Assembly should adopt an appropriate plan to substantially reduce the number of State responsibility prisoners backed up in local jails.

IV. LOCAL AND STATE ALTERNATIVES FOR MANAGING JAIL POPULATIONS

The previous chapter described the effect of State correctional system capacity on the jail population and crowding. The chapter discussed the gap between the system's capacity and forecast population in terms of the needed bed space. There are, however, alternatives other than constructing new beds that can close some of the anticipated gap between system capacity and the forecast population.

Overcrowding of local jails results from factors at the State and local levels. Chapter II suggested that the State is responsible for some, but not all of the overcrowding occurring in local jails. Likewise, some localities have failed to properly expand their jails to adequately house inmates. Solutions to jail overcrowding, then, must be addressed by both State and local correctional systems. This Chapter discusses ways in which localities and the State can affect the jail population and possibly reduce overcrowding.

LOCAL ALTERNATIVES

Local governments bear the primary policy-making power in determining how local prisoners will be housed. Localities which continue operating with overcrowded conditions potentially risk judicial intervention or DOC decertification. JLARC's interviews with local sheriffs revealed a number of alternatives available to local governments in addressing local incarceration needs, including non-capital expansion of existing facilities, regional transportation pools, programs affecting sentence length, community diversion, and, of course, capital construction. Capital construction options include local as well as regional building programs.

Non-Capital Expansion of Existing Facilities

While building new or expanded facilities is the most direct way to increase capacity, other options are available. A number of localities have expanded the capacity of their jails through the conversion of such areas as basements, large storage areas, and former jailer's quarters into living areas for prisoners. The cost of expanding jail space through conversion is relatively small compared to new construction.

The Petersburg City jail converted an existing food storage area off the kitchen into a minimum security dormitory consisting of 10 beds. Trustees who work in the kitchen are housed in this area.

The Washington County jail transformed the top floor of the old jailer's quarters into a work release housing unit. The unit is attached to the jail and provides an additional 12 minimum security beds.

Due to the minimum security nature of these units, they are generally occupied by trustees, work release, and community work program participants. Many of the minimum security prisoners housed in these areas also participate in programs that can shorten their jail sentences, such as community service work.

Informal Transfer and Regional Transportation Pools

Prisoners are sometimes transferred between localities on an informal basis when one jail experiences temporary overcrowding. The transfer of these prisoners often requires jail staffs to call other facilities to find another jail willing to share empty bed space. This kind of sharing of bed space is a valuable safety valve for spot or temporary crowding.

In one region of the State, a number of localities have developed a cooperative confinement program involving a regional transportation pool. Under the program, each of the jails in the five counties involved (Shenandoah, Warren, Page, Frederick, and Clarke) use their jails to house general populations. Transfers are made almost daily between jails to reduce overcrowding. The fifth county, Clarke, holds all of the female prisoners for the region. This prevents other jails from losing housing capacity by housing one or two women out of "sight and sound" from the male sections of the jails. The program operates under a cooperative agreement by which each county contributes funds to a central operating pool. The pool pays for three staff positions and a transportation van.

Each locality involved in the regional transportation pool expressed satisfaction with the arrangement. The localities felt that their jails operated more efficiently and that temporary overcrowding was reduced in individual jails.

Programs Affecting Sentence Length

A number of localities have initiated community programs for prisoners that allow the prisoners to earn extraordinary good time credit toward their sentences. These programs help prisoners obtain early release from the jail, thus freeing bed space.

There are approximately 24 localities with community service programs. Typically, prisoners work under the supervision of non-security personnel such as a municipal maintenance foreman, and perform such tasks as grounds work, trash pick-up, and janitorial chores. In addition, seven localities operate jail farms or gardens. At least one facility has established a program for inmate tutors. For example:

> *One facility has prisoners cleaning the courts, working in the animal shelter, and cleaning streets. When not working, inmates return to the jail. Inmates must be residents of the locality, have less than 12 months to serve, and not have been convicted of a drug or sex related crime. For every two hours worked, they receive one day off their sentences.*

One city jail has approximately eight inmates who work on the two jail farms. The farm grows tobacco, vegetables, and hay. They also raise about a dozen cattle and a dozen and a half hogs. Much of the food is canned for use by the jail. Inmates working on the farms are eligible for "extraordinary," or additional, good time.

A city jail has a dormitory that doubles as a classroom. All the inmates in the dorm attend the school, which is equipped as a normal school room with blackboards and supplies. The school is located in the dorm's dayroom area. Inmate tutors, under the guidance of a teacher, tutor other inmates. Participation in the program allows the inmates the opportunity to earn extraordinary good time.

These types of programs are intended for prisoners currently incarcerated in jails. Another program attempts to divert convicted felons and misdemeanants prior to incarceration.

Community Diversion Incentive Programs

Some localities have helped reduce the number of incarcerated misdemeanants and felons by participating in the State's Community Diversion Incentive (CDI) Program. CDI is a State-supervised, locally-administered program that diverts nonviolent offenders from jails and prisons into community programs.

Under CDI, divertees are required to perform unpaid community service work to make restitution for the crimes they have committed. Some are also required to make financial restitution. Divertees receive regular supervision, counseling, and services that are intended to help them maintain a crime-free life-style.

CDI is supervised by the Department of Corrections and administered by 25 local programs. Since 1980, a total of 5,350 misdemeanants, local felons, and State felons have been diverted into CDI. Out of this total number of diversions, 2,969 divertees have successfully completed the program (Table 16).

A JLARC evaluation of CDI, issued in April 1985, found that the program is beneficial to the Commonwealth. The report recommended that planning be undertaken for expansion to additional areas of the State currently not served by CDI.

Capital Construction

Some localities faced with aging jails or continued growth in their incarcerated population should opt for new jail construction or expansion. Many jails, including some that are not overcrowded, are of advanced age and often require a great deal of maintenance in order to keep them operational. A number of older jails cannot be easily adapted to meet such standards as minimum fire safety standards.

Table 16

CDI DIVERSIONS AND TERMINATIONS
As of June 30, 1985

Type	Diverted	In Program	Successful Completions	Unsuccessful (Incarcerated)
State Felon	1,187	503	383	301
Local Felon	233	41	154	38
Misdemeanant	3,930	890	2,432	608
TOTAL	5,350	1,434	2,969	947

Source: DOC Division of Community Programs.

In addition, some localities have experienced what appears to be a permanent increase in jail populations. Local conditions, such as growth in the local population, may suggest the need for a corresponding increase in local jail capacity. In some localities, however, the conversion of existing jail space or the implementation of local programs may not be sufficient to meet the local incarceration needs. The only viable alternative may be the construction of a new jail or jail addition, or participation in a regional jail complex. Regional jail complexes appear to be especially effective ways of managing special populations, such as women prisoners. There are also a number of alternatives available to the State which would promote the more efficient use of jail space.

STATE ALTERNATIVES

Chapter III illustrated the relationship between State correctional system capacity and the population in local jails. This relationship shows that State capacity increases are one method of alleviating jail overcrowding. Construction of new prison beds was funded by the 1986 General Assembly, as noted in Chapter 3. Additional construction is probably necessary, given projected population increases. There are also other resources available to the Department which can influence the population of local jails.

Other State alternatives for the easing of local jail populations include such options as more aggressive management of the local jail system by DOC, improved inmate intake policy, and altered parole policies and sentencing practices. This section addresses such non-construction alternatives for managing the jail population, focusing on the State management of the jail population and parole policies.

State Management of Jails

Currently, DOC and the Board of Corrections are involved with local jails largely through the transfer of prisoners to the State prison system and through the certification of local jails. A more active transfer policy by the department, and changes in BOC regulations, could result in the more efficient use of jail space.

Use of Director's Authority to Transfer. JLARC's review of jail capacity and jail populations indicated that some beds, scattered around the State, were never used during FY 1986. In addition, at any given time, there are empty beds in some jails that may be overcrowded at other times. Under §53.1-21 of the *Code of Virginia,* the Director of Corrections has the authority to direct the transfer of State prisoners between jails. Until now, however, that authority has never been exercised.

Under the authority granted to the Director, DOC could move State inmates from overcrowded jails into some jails with underutilized capacity. DOC officials prefer not to (and do not) force sheriffs to take inmates they do not want, however. Consequently, localities with overcrowded jails may be adjacent to localities with underutilized jail space.

It should be noted that not all underutilized bed space can be effectively used for the transfer of inmates. Lack of adequate staffing and geography are two factors that can restrict transfers. In some cases, however, the only factors precluding transfers are the unwillingness of localities to agree to the transfer and the reluctance of DOC to mandate the transfer. Indeed, several jails could even be adapted for the long-term housing of State prisoners. For example:

> *Using 105 square feet per prisoner as the standard, the Roanoke County jail could double bunk to a capacity of 180 prisoners. The jail's highest population during FY 1985 was 95, leaving a potential 85 beds available. Furthermore, Roanoke has previously proposed that DOC finish off the top floor of the jail and use the county jail as a regional reception and classification facility.*

The use of such beds could result in available housing for many State responsibility inmates in local jails. The General Assembly may wish to consider expressing to the Director of Corrections the position that he invoke his authority to transfer inmates to jails that have underutilized capacity.

Construction Standards. The Board of Corrections is charged under §53.1-68 of the *Code of Virginia* with establishing minimum construction standards for local jails. The current standards, however, appear to be well above minimum requirements. As a result, localities, which bear most of the cost of jail construction, are faced with higher building expenses.

The current living space standard was increased from 70 square feet per person to the current standard of 105 square feet per person in 1978. According to the Department of Corrections, the increase was made in part as a response to a 1974 federal mandate that jails built with federal funds be built to the standard of the Federal Bureau of Prisons.

The Federal Bureau of Prisons had adopted the standards from the American Correctional Association (ACA). The ACA is a private association that grants accreditation, through its Commission on Accreditation, to those jails that meet its standards. Accreditation standards, however, are generally considered to be ideal standards and, according to the ACA, are adopted by those institutions or systems wishing to be leaders in their fields.

Building jails at the 105-foot standard is considerably more expensive than constructing jails at the previous standard of 70 square feet per person. Since the State funds only a small percentage of jail construction, localities not using federal funds must finance this higher construction cost. In addition, the construction of jails at the higher standard has led to housing practices that counter the purpose of the ACA standards. For example:

> *In one jail, a cell block containing 5 cells was built in 1980 at the 105 foot standard, rather than the previous minimum standard of 70 square feet per person. Faced with an overcrowded jail, the sheriff added a second bunk in each cell in 1982. When the jail added a second cell block in 1983, the sheriff double bunked the 105 foot cells from the beginning. Cell blocks theoretically built at the 105 foot standard were in reality 52 feet per person.*

Since the *Code of Virginia* directs the Board of Corrections to develop minimum standards, and the courts have allowed many jails with lower square foot standards t0 operate, the Board of Corrections should adopt the 70 square foot minimum building standard. Additional emphasis should be put on common areas, such as recreation facilities and day rooms. This would save localities money and might promote local building programs to ease overcrowding. In turn, the Board should forbid double bunking of the smaller cells.

Transfer of Knowledge. A number of localities have developed effective methods of dealing with jail overcrowding. Sharing this information with other localities could promote the more efficient use of jail space. But currently no formal systematic mechanism exists by which information about new approaches is shared among localities.

Each of the DOC regional offices has a jail manager whose purpose is to monitor jail compliance with BOC regulations and to assist local jail operators. DOC jail managers should identify new ideas and options in local jails and assist in the dissemination of information about the technical aspects of these methods.

Conclusions. Although responsibilities for various aspects of jail operations cross different branches of State government and State-Local governmental boundaries, the primary responsibility for housing prisoners assigned to jails rests with the individual localities. The State, however, through the Department of Corrections, has the organizational structure and authority to promote a more efficient jail "system." For these reasons, the following recommendations should be implemented:

Recommendation (6). Although not all the underutilized capacity in the jails is easily accessible, a number of localities have some chronically unused bed space. Additional unused space is periodically available even in

localities that may from time to time experience overcrowding. Transfer of prisoners to underutilized local jails can be one viable option to capital construction. The General Assembly may wish to direct the Director of Corrections to use his authority to transfer State responsibility inmates to jails that have underutilized capacity. To effect such transfers smoothly, the department should give consideration to transfer incentive programs, involving, for example: transportation assistance, intake priority consideration, or additional payments. In any programs involving additional payments, consideration should be given to developing a program which does not dampen current voluntary exchanges between jails which the State does not finance.

Recommendation (7). The Board of Corrections is charged with establishing minimum standards for jail construction. The current standards being used by the Department of Corrections are higher than what is required by statute or by court decisions. The Board of Corrections should consider lowering the minimum jail building standard from the current accreditation level of 105 square feet to its old standard of 70 square feet. Additional emphasis should be put on common areas such as dayrooms and recreation areas. The Board should forbid double occupation of the smaller cells built to this standard. New standards should also require adherence to the "totality" concept, to ensure that occupants of smaller cells have access to recreation, education, and other opportunities outside of their living areas.

Recommendation (8). Due to the organizational structure and mission of DOC, DOC jail managers have the opportunity to observe new and more efficient means of handling jail populations and overcrowding at the local level. Since it is the mission of the jail managers to provide assistance to jail operators, DOC jail managers should identify effective techniques to manage overcrowding used in localities and disseminate this information to sheriffs.

Inmate Intake Management and Policy

Management of DOC's inmate intake system can also affect local jail populations. One of DOC's principal links with local jails is its warrant section. The work of the DOC warrant section can affect the local jail population in two ways. First, slow processing of court orders received by the warrant section from localities can cause a delay in identification and eventual release or transfer of State inmates from local jails. Second, the priority system which allocates State beds to local jails can cause some State responsibility inmates to be housed in jail longer than others. In addition, DOC's practice of not picking up local jail prisoners has resulted in frayed relations with a number of localities.

Processing Delays. Approximately 2,500 court orders and other documents are processed monthly by the DOC warrant section. The warrant section staff consists of seven individuals: one supervisor, three typists, and three clerk typists. Of the six clerical positions, four are full-time temporary positions. One study within the unit found that the temporary positions had an average turnover of nine weeks. The unit supervisor felt this was inadequate time for proper training and utilization.

Although warrant section personnel have stated that the normal processing time for a court order is only three days, increases in court orders received can cause a backlog in processing. In fall 1985, a two-week backlog

existed in processing court orders. This indicates that an inmate could spend an additional two weeks in jail before having been recognized by the warrant section as eligible to enter the State system. DOC should assess the effect that the use of temporary employees has on the backlogs that occur in the warrant section. Strong consideration should be given to the replacement of temporary positions with permanent staff.

Inmate Transfer Priority System. The warrant section is responsible for transferring inmates from jails to State facilities. Approximately 70 bed spaces per week are available for accepting inmates from the local jails. To facilitate the transfer process, DOC prioritizes inmate intake from the local jails. The purpose of the priority system, as stated in the October 1, 1980, classification manual is: "...to ensure that the receipt of [State] sentenced prisoners into the adult corrections system from local jails, local jail farms, regional jails or correctional centers, is accomplished on a standard, equitable basis." If properly implemented, the intake priority system can ensure equitable allocation of State beds between local jails.

Two priority systems have been used by the warrant section for inmate intake during the past six years. The two systems, dated October 1, 1980, and August 30, 1985, were similar and placed special emphasis on relieving overcrowded jails. Highest priorities under the 1985 policy were (1) special intake, (2) problem intake, and (3) overcrowded jails.

Priority 1: Special Intake. Occasionally, special situations require that DOC implement temporary intake priorities. This occurred in October 1985, when local jail populations reached problem levels. During a ten-week period, DOC increased inmate intake by an additional 50 inmates per week. This special intake was accomplished by operation of the State correctional system at its emergency utilization level, which created 500 additional beds. The priority system for these beds was developed in cooperation with local sheriffs and concentrated on crowded jails.

Priority 2: Problem Intake. Problem intake inmates are allocated about 10 beds per week. Problem intake includes medical problems, inmates with unusual behaviors, management problems, and parole revocation cases. Recently, DOC expanded the problem intake classification to include State-ready inmates who are located in jails that are not overcrowded but who have been in jail for a long period of time. Intake for all inmates in the problem intake category is at the discretion of the warrant section supervisor.

Priority 3: Overcrowded Jails. Bed spaces that are not allocated on a special or problem basis are made available to local jails on the basis of crowding. About 40 such beds are available per week. Identification of crowding is accomplished by inspecting the most recent Tuesday report for jails reporting that they are over their rated capacity. For only those jails over their rated capacity, allocated bed spaces are based on the number of felons with greater than six months left to serve as a proportion of all felons in the overcrowded jails with greater than six months to serve.

Jail intake priorities are necessary to ensure an equitable and standard intake from the local jails. The inmate intake priority system has made progress toward the goal of equitable allocation of State beds to local jails. The current system, implemented in August 1985, constitutes an improvement over the previous system in place since 1980. The current

system, however, does not appear to fully accomplish the goal of equitable inmate intake. Two problems exist with the intake priority system.

First, only those jails which are overcrowded are considered. Overcrowding, however, is relative to rated capacity. As noted in Chapter II, many jails' rated capacities were incorrect, and their actual capacities were higher. Therefore, some jails would appear to be more overcrowded than they actually were and would be placed high on the intake priority list.

For example, on the October 29, 1985, Tuesday Report, 48 local jails reported they were over their DOC rated capacity. However, if the jail capacity figures from Chapter II were used, 42 jails would be considered overcrowded. Therefore, because fewer jails would be considered overcrowded, more bed spaces would be allocated to these jails.

Second, the intake priority system does not account for the percentage of capacity that State felons occupy. For example, a jail with a capacity of 100 may house 20 felons with greater than six months left to serve, with these inmates occupying 20 percent of the total capacity of the jail. A jail with a capacity of 20, however, may house only ten inmates with greater than six months left to serve. These inmates thus occupy 50 percent of the jail's capacity. The smaller jail will be allocated fewer beds because it houses fewer inmates with greater than six months left to serve than the larger jail. State inmates, however, may be causing a larger burden on the smaller jail because they occupy more of the total capacity. Therefore, the inmate intake priority system does not adequately distribute the burden of housing State inmates among large and small jails which are crowded.

Devising a formula for transferring inmates from jails to State institutions would enhance the Department's management of the jail population. Also, equitable allocation of available bed spaces would ensure that individual jails were treated in a consistent and systematic nature. It appears equitable that intake be based on the jails with the highest level of overcrowding; however, identification of overcrowded jails should be improved, and the allocation formula should be changed to more accurately measure overcrowding and need.

Conclusions. Warrant section practices can affect the population level of the jails. Staffing problems of the warrant section can cause a backlog and delay identification of State responsibility inmates held in local jails.

Two priority systems for inmate intake have been used by the Department. The intake priority system ranks overcrowded jails based on the measure of rated capacity. A more accurate measurement of capacity would better identify overcrowded jails.

Recommendation (9). Strong consideration should be given by DOC to replacement of the temporary positions within the warrant section with permanent staff. The benefits of such replacement could be realized in more timely court order processing, lower staff turnover, and improved efficiency.

Recommendation (10). DOC should change its inmate intake priority system to reflect the capacity figures outlined in Chapter II or similar capacity figures developed by DOC and updated periodically. Allocation of priority spaces due to overcrowding should be based on these new figures.

Recommendation (11). DOC should change the inmate intake priority system to reflect the burden placed on individual jails by State inmates. Therefore, distribution of beds for overcrowded jails should be based on the percentage of capacity occupied by inmates with greater than six months left to serve. This method more equitably measures need and allocates beds where State inmates cause the most severe problems.

Recommendation (12). The Department should carefully monitor the new inmate intake priority system. Proper implementation could disperse overcrowding and ease pressure on the most severely overcrowded jails.

Transportation of Prisoners. According to the *Code of Virginia*, the Director of Corrections is responsible for the transportation of prisoners from the local jails to the State reception and classification unit. Section 19.2-310 specifically states:

> *The Director or his designee shall dispatch a correctional officer to the county or city with a warrant directed to the sheriff authorizing him to deliver the prisoner to the correctional officer whose duty it shall be to take charge of the person and convey him to an appropriate receiving unit.*

Until 1976, DOC sent prison buses on circuit routes to all the jails twice a month to pick up and transport all prisoners ready for transfer to the State system. According to DOC, this bus system was halted for several reasons including: (1) some localities received staff specifically for inmate transportation, and (2) DOC became concerned about transporting prisoners together after several serious incidents occurred between inmates while on the transit buses. According to DCJS, the program died when the buses used in the transportation program became unserviceable and were not replaced. Currently, prisoners are transported to State facilities by each individual sheriff's department. Sheriffs have complained that the transportation of State prisoners by the sheriffs' departments places a strain on their staffing schedules and forces them to bear transportation costs that are clearly the responsibility of the Department of Corrections. Some specific problems associated with the transportation of State prisoners include:

- This is a particular hardship on smaller departments. The sheriff will often use off-duty jail deputies and deputy sheriffs who are normally assigned to patrolling the roads to act as escorts for State prisoners.

- Local jails are sometimes given less than 24 hours notice on when DOC wants a prisoner delivered to the reception and classification units. Sheriffs' departments must frequently make last minute scheduling changes in order to have two officers escort the prisoner.

- Jails must bear the expense of transporting the prisoners to the reception and classification units located in Powhatan and Southampton Counties. Because of the distances involved, sheriffs' departments (particularly in southwestern Virginia) often have to house their deputies overnight while they are transporting prisoners.

Although sheriffs currently transport prisoners, the statutory responsibility lies with the Department of Corrections. Either the *Code of*

Virginia needs to be amended to remove the responsibility from DOC, or the Department of Corrections should reinstate a transportation program.

Recommendation (13). A task force should be formed to study problems caused by the current inmate transportation system. The study should estimate the costs involved by having the sheriffs' departments transport prisoners as well as the costs involved if the Department of Corrections were to reestablish a transportation program. The study should include representatives of DOC, DCJS, sheriffs, and legislative committees. The task force should report its findings and recommendations to the Governor and General Assembly prior to the 1988 session of the General Assembly. Recommendations should include budgetary as well as statutory amendments required to align costs and responsibilities of State prisoner transportation to State reception and classification units.

Parole Policy

The Virginia Parole Board is the constitutional authority for the Commonwealth of Virginia responsible for releasing adult offenders to parole and mandatory supervision. The goal of the Parole Board is to release on parole, at the earliest possible time, those eligible offenders deemed suitable for release and whose release will be compatible with the welfare of society and the offender. The duties of the Parole Board include adopting general rules for parole, releasing convicted inmates on parole, and revoking and re-incarcerating individuals who have violated the terms of their parole.

The Parole Board can have a substantial impact on the State and local correctional systems. Changes in administrative practices and parole grant policies can increase or decrease the confined population. The impacts of Parole Board policies on State and local correctional systems will be discussed in the following sections.

Parole Policy Changes. In 1982, the Governor appointed a nearly new Parole Board. The new Parole Board took office with ideas on ways to decrease the inmate population through changing Parole Board policies that are not controlled by statute. The policy changes had immediate effects on the State inmate population.

As a result of the 1982 policy changes, both the number of cases reviewed for parole annually and the parole grant rate increased (Table 17). Record levels of cases reviewed and parole grant rates were set in 1982 and 1983. The rate then dropped to more normal levels in 1984 and 1985. Except for the two record years, parole grant rates appear stable at around 32 percent.

Parole Board policy changes have had a significant impact on Virginia's confined population (Figure 9). Shortly after the changes, the total number of inmates housed in State and local correctional facilities decreased. The changes were implemented from June 1982 through June 1984. Both the State and local correctional systems were affected. The largest population decrease occurred during 1983, when parole grant rates were at their highest. In September 1983, one year and two months after the Parole Board policy changes had been implemented, State prisons had 780 empty beds, and the jails were approaching their lowest level in years (combined with the decreases in population, State prison capacity increased during this time period).

Table 17

PAROLE BOARD GRANT RATES
1980-1985

Calendar Year	Cases Considered	Paroles Granted	Percent Paroled
1980	6,115	2,022	33%
1981	7,954	2,457	31
1982	8,898	3,620	41
1983	8,687	3,767	43
1984	8,891	2,803	32
1985	8,021	2,528	32
1986*	4,449	1,459	33

*January through June, 1986

Source: Virginia Parole Board.

Variation in Parole Eligibility. Once convicted of either a misdemeanor or felony, an individual may be eligible for parole. However, to be parole eligible, the convicted felon or misdemeanant must have a sentence or sentences which total more than one year.

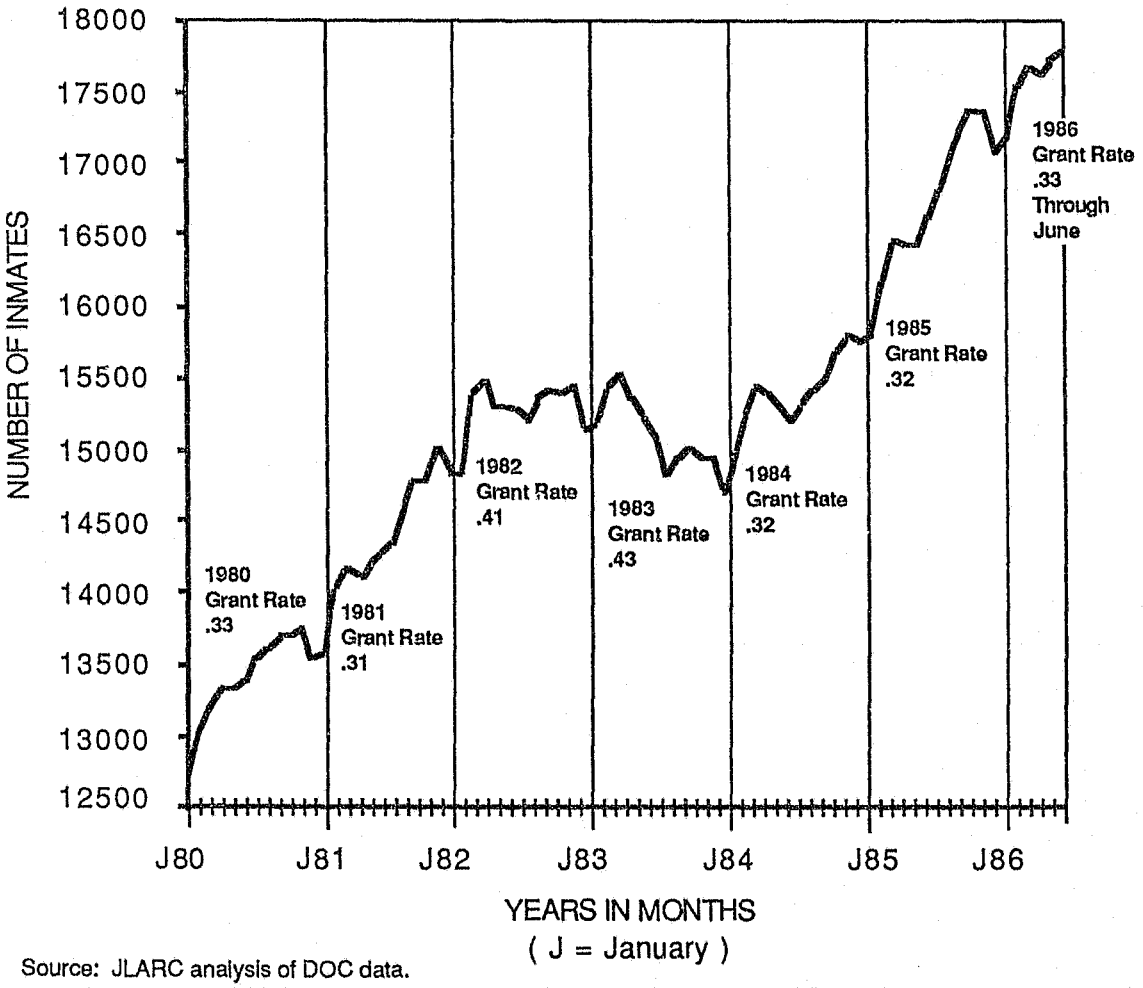
Once an individual is determined to be parole eligible, the actual parole eligibility date is based on (1) whether the individual is a recidivist and (2) the amount of good-time credit the person has earned. Compared to first-time offenders, recidivists must spend a larger portion of their sentence confined before being eligible for parole. A first-time offender must serve 25 percent of his sentence before being parole eligible; the second-time recidivist, 33 percent; the third-time recidivist, 50 percent; and the fourth-timer, 75 percent.

Good-time credit adjusts the parole eligibility date to make the individual eligible for parole sooner. An individual who is not a recidivist and gets the maximum amount of good time will be parole eligible before a recidivist who gets less good time and has an identical sentence.

Parole eligibility gets more complicated when felons who are sentenced to local jails are considered. Section 4788h of the 1948 *Code of Virginia,* stated "...every person convicted of a felony and sentenced and committed under the laws of the Commonwealth to any penal institution in the Commonwealth..." is eligible for parole. However, this was amended in Section 53-135.2 of the *Code of Virginia,* to state "Persons convicted of felonies or misdemeanors who are sentenced to jails...shall be eligible for parole...provided the sentences to be served...are more than twelve months." Thus, a local jail felon is not parole eligible if his sentence is less than 12 months. The potential effect of this policy change is illustrated below.

Figure 9

Total State Inmate Population for January 1980 to June 1986



Source: JLARC analysis of DOC data.

Two felons are convicted of the same offense and have similar backgrounds. Both are non- recidivists and both accrue good time at the same rate. One felon receives a two-year DOC sentence, and the other receives a 12-month jail sentence. It would appear that the felon with the 12-month sentence would spend less time confined than the individual with a two-year sentence. However, this outcome may not actually occur.

An individual with a two-year sentence will be parole eligible after serving one-fourth of his sentence minus good time. Assuming that the individual accrues good time at the standard rate, 15 days for each month, he will be parole eligible after four months. In any event, this individual must be mandatory paroled after ten months.

Current first-timers with sentences under five years are being paroled at a 50 percent rate. The individual with a two-year felony sentence has a 50 percent chance of spending four months and will spend no more than ten months incarcerated.

The felon sentenced to a local jail with a 12-month sentence is not eligible for parole. After good-time allowances, he will spend at least eight months of his 12-month sentence incarcerated, with no chance for an early release. This could result in a convicted felon with a 12-month sentence being incarcerated twice as long as a felon with a two-year sentence. A further irony is that the felon with the two-year sentence will most likely be paroled from the jail and will never enter a State institution. Both inmates could spend their entire sentence in the jail, possibly even in the same cell, with the felon with the two-year sentence getting out earlier.

Table 18 illustrates other examples of parole eligibility variation.

Interviews with local sheriffs suggested that all judges, lawyers, and inmates might not be aware of the discrepancy of parole eligibility. One sheriff indicated that those judges who are aware of the parole eligibility statutes might purposefully sentence an inmate to 12-months in jail rather than sentence him to two years in the Penitentiary. By doing this, the judge could

Table 18

SENTENCING & PAROLE VARIATION

Offense	Sentence	Discretionary Parole Eligibility Date	Mandatory Release Date
Misdemeanor	8 month jail	None	5.33 months
Combined Felony and Misdemeanor	6 month jail 8 month jail 14 month total	3 months minimum	4 months
Felony	12 month jail	None	8 months
Felony	one year DOC	3 months minimum	3 months
Felony	18 months DOC	3 months	6 months
Felony	30 months DOC	5 months	18 months

Source: JLARC analysis.

be sure the inmate would have to spend at least eight months in jail. Otherwise, the inmate could be parole-eligible in just four months. On the other hand, another sheriff indicated that some judges seemed unaware of parole eligibility differences and thought they were doing an inmate a favor by issuing him a shorter sentence and allowing him to stay in the local jail near his family and friends.

Other stories are told of inmates who would commit an additional offense while incarcerated in jail so that their sentence would be greater than one year and they would be parole eligible sooner. Finally, it was reported that some lawyers would actually settle for a stiffer sentence, knowing that their client would have a better chance at an earlier parole.

The variation in parole eligibility is obvious but unexplained. The Chairman of the Parole Board indicated that a potential reason that only individuals with a sentence greater than one year are eligible for parole is that felons with sentences of less than one year could not be identified in the jails early enough. Once identified, they would already be past their mandatory parole eligibility date. Although this situation may be true for some cases, it seems unlikely it would be the case for all felons with sentences less than one year. Also, it appears inappropriate to punish a felon because he has received a shorter sentence and is not parole eligible.

Conclusions. Parole Board policies can have major effects on the inmate population. Increases in the parole grant rate can act to reduce the inmate overcrowding. Also, parole eligibility variation diminishes the intent of systematic parole. The system is not universally or logically applied. The consequences of parole eligibility variation are to unfairly inflate the time served of some inmates, and to crowd jails by arbitrarily increasing time served.

Recommendation (14). Parole eligibility should be more systematically and fairly applied. The General Assembly may wish to consider revisions to Section 53-135.2 of the *Code of Virginia* to extend systematically parole eligibility to include sentences of less than twelve months. A comprehensive study of sentencing and other court practices might also focus on broader insights into managing and reducing jail and prison populations.

APPENDIXES

APPENDIX A

APPROPRIATIONS ACT (HB 1050)
PASSED BY THE 1985 SESSION

Item 518 Pursuant to Section 30-58.1, *Code of Virginia,* the Joint legislative Audit and Review Commission is directed to conduct a study of manpower utilization in the Department of Corrections. The study shall examine the utilization and need for existing or anticipated central office and regional staff. Other parts of the study, to be completed prior to subsequent sessions, shall include a review of security and non-security manpower, plans to increase manpower in relation to projected growth in the adult inmate population, and the effectiveness of the Department's capital outlay planning process and prison design. The effect of projected local jail population and capacity on the state correctional system shall be considered. A final phase of the report shall include a review of the effectiveness of various programs designed to divert offenders from state prisons and local jails. The final report to the Governor and General Assembly shall be submitted prior to the 1986 Session and shall include recommendations for improved manpower and facilities utilization.

APPENDIX B

AGENCY RESPONSES

As part of an extensive data validation process, each State agency involved in a JLARC review and evaluation effort is given the opportunity to comment on an exposure draft of the report.

Appropriate technical corrections resulting from the written comments have been made in the final report. Page references in the agency responses relate to the exposure draft and may not correspond to page numbers in the final report.

Included in this appendix are the following responses:

- Department of Corrections
- Virginia State Sheriff's Association
- Virginia Parole Board

Data on jail capacity and jail building plans were also mailed to each sheriff with a jail. Copies of these responses are filed at JLARC staff offices.

Differences in grant rate figures cited on page 1 of Mr. Vassar's letter are due to the fact that this report uses calendar year, rather than fiscal year, data. The attachments noted are on file in JLARC staff offices. The text of the report has been modified to reflect the independence of the parole board from DOC.

COMMONWEALTH of VIRGINIA

EDWARD W. MURRAY
DIRECTOR

Department of Corrections

P.O. BOX 26963
RICHMOND, VIRGINIA 23261
(804) 257-1900

December 11, 1986

Mr. Philip Leone, Director
Joint Legislative Audit and Review Commission
Suite 1100
General Assembly Building
Richmond, Virginia 23219

Dear Mr. Leone:

Thank you once again for the opportunity to review and make comments on the JLARC study of Local Jail Capacity and Population Forecast dated November 19, 1986. As usual, your staff has been very cooperative in discussing this study and in agreeing to make changes where factual or contextual errors were identified.

The Department of Corrections is in basic agreement with the findings and recommendations of the study. I would point out that the use of "Planning Capacity" in determining bedspace shortfalls, makes it difficult to compare figures included in the study, with figures published by Department of Corrections. The Department has previously expressed its' concern over the introduction of another descriptive statistic at this time and feels that it only increases confusion over the capacity of Virginia's prison system.

It should also be noted that recommendation number seven would require consideration by the Board of Corrections. I do not feel that it is appropriate for me to comment on this recommendation and would suggest that this response not be viewed as that of the Board.

Again, I appreciate the opportunity to review this draft document. Please express my thanks to your staff for the professional and courteous manner in which they have worked with

our facilities. If I can be of further assistance, please do not hesitate to contact my office.

Sincerely,

Edward W. Murray
Director

/fg

cc: Mr. John W. Williams, III
The Honorable Vivian E. Watts
Dr. John W. McCluskey
Mr. C. Ray Mastracco

OCT 28 1986

Virginia State Sheriffs' Association

9413 HULL STREET ROAD - SUITE D • RICHMOND, VIRGINIA 23236
(804) 745-3720

October 27, 1986

Mr. John W. Long
Section Manager for Publications
Joint Legislative Audit & Review Comm.
910 Capitol St
Richmond, VA 23219

Dear Mr. Long:

Please find enclosed the remarks I gave at the JLARC hearing on October 13th. I apologize for the delay in getting them to you and hope it has not caused any inconvenience.

Sincerely,

John W. Jones,
Executive Director

JWJ:jdr
Enclosures

THANK YOU MR. CHAIRMAN FOR GIVING THE VIRGINIA STATE SHERIFFS' ASSOCIATION THE OPPORTUNITY TO APPEAR AND RESPOND TO THE JLARC LOCAL JAIL AND CAPACITY POPULATION FORECAST STUDY. THIS EFFORT REPRESENTS THE FIRST TIME THAT ALL JAILS IN VIRGINIA HAVE BEEN VISITED BY A STUDY TEAM EITHER PUBLIC OR PRIVATE SINCE THE MID 1970'S. IT WAS LONG OVERDUE AND WILL BE A SIGNIFICANT SOURCE FOR PLANNING INFORMATION FOR YEARS TO COME.

THERE ARE SEVERAL POINTS THAT DESERVE MENTION. THEY INCLUDE:

1. IT SHOULD BE NOTED THAT THE JAIL CAPACITY FIGURES ESTABLISHED IN THE JLARC REPORT DID NOT CONSIDER ADEQUACY OR ADHERENCE TO LOCAL JAIL STANDARDS ESTABLISHED BY THE BOARD OF CORRECTIONS. SOME SHERIFFS HAVE INDICATED RESERVATIONS ABOUT ESTABLISHING HIGH CAPACITY FIGURES FOR THEIR PARTICULAR JAIL WHEN THE JAIL STANDARDS CANNOT BE MET.

2. THE STUDY INDICATES CLEARLY THAT THE LOCAL JAIL OVERCROWDING IS A LOCAL AND STATE PROBLEM. THIS IS SIGNIFICANT AND IT IS IMPORTANT TO NOTE THAT OVERCROWDING IN SOME AREAS IS CAUSED BY THE INADEQUATE LOCAL ACTION FOR JAIL CONSTRUCTION OR EXPANSION. IT IS ALSO IMPORTANT TO NOTE THAT A GREAT PORTION OF THE LOCAL JAIL OVERCROWDING PROBLEM IS CAUSED BY A BACKLOG OF STATE INMATES IN LOCAL JAILS.

THE JLARC REPORT CONTAINS SEVERAL RECOMMENDATIONS. WHILE I DON'T INTEND TO ADDRESS ALL THE RECOMMENDATIONS THERE ARE SOME WE ESPECIALLY AGREE WITH AND SOME WE ESPECIALLY DISAGREE WITH. THE ASSOCIATION AGREES WITH RECOMMENDATION #3 INDICATING A NEED FOR LOCAL JAIL CONSTRUCTION. FURTHER, THE ASSOCIATION RECOMMENDS THAT CONSIDERATION BE GIVEN TO INCREASING JAIL FUNDING TO LOCALITIES TO 50% OF THE COST WITH NO MAXIMUM CAPACITY. THE MAXIMUM CAPACITY IS PRESENTLY $400,000. THIS PROPOSAL WOULD PROVIDE JAIL FUNDING CONSISTENT WITH THE FORMULA FOR CONSTRUCTION AND RENOVATION OF LOCAL JUVENILE DETENTION HOMES.

THE ASSOCIATION ESPECIALLY AGREES WITH RECOMMENDATION #8 RELATING TO THE WARRANT SECTION IN THE DEPARTMENT OF CORRECTIONS. THE WARRANT SECTION HAS FOR SOMETIME BEEN A BOTTLENECK HAMPERING THE MOVEMENT OF INMATES FROM THE LOCAL JAILS TO THE STATE PRISON SYSTEM. WE AGREE THAT THE TEMPORARY POSITIONS IN THE WARRANT SECTION SHOULD BE REPLACED WITH PERMANENT POSITIONS.

THE ASSOCIATION AGREES WITH RECOMMENDATION #12 RELATING TO CONDUCTING A STUDY OF TRANSPORTATION OF INMATES FROM LOCAL JAILS TO PRISONS. PRESENTLY §19.2-310 OF THE CODE PROVIDES THAT THE DIRECTOR OF THE DEPT. OF CORRECTIONS SHALL PICK UP STATE READY INMATES FROM THE JAILS. THIS HAS NOT BEEN THE PRACTICE FOR SEVERAL YEARS. SHERIFFS HAVE REGULARLY TRANSPORTED STATE READY INMATES TO THE STATE SYSTEM IN RETURN FOR THE ABILITY TO MOVE THE INMATES.

MANY SHERIFFS HAVE EXPRESSED OPPOSITION TO RECOMMENDATION #5 OF THE REPORT WHICH PROVIDES THAT THE DIRECTOR OF THE DEPT. OF CORRECTIONS EXERCISE HIS DISCRETION TO TRANSFER INMATES AMONG JAILS. THIS RECOMMENDATION IS NOT PRACTICAL FOR A NUMBER OF REASONS AND WOULD BE REJECTED BY MANY SHERIFFS.

IN ADDITION, A NUMBER OF SHERIFFS HAVE EXPRESSED CONCERN RELATING TO THE RECOMMENDATION FOR 70 sq.ft. CELLS, SINCE THE RECOMMENDATION INDICATES THAT DOUBLE BUNKING SHOULD BE PROHIBATIVE WITH 70sq.ft. CELLS. THE ASSOCIATION FEELS THAT SINCE THE SHERIFFS HAVE NO CONTROL ON THE POPULATION, DOUBLE BUNKING IS A REALITY AND WILL BE USED FOR A LONG TIME. ACCORDINGLY, IT WOULD BE BETTER FOR A NUMBER OF REASONS TO DOUBLE BUNK IN A 105sq.ft. CELL RATHER THAN A 70sq.ft. CELL.

THE JLARC JAIL CAPACITY IS INDICATED AT 6551. ON SUNDAY, OCTOBER 5, 1986, THE LOCAL JAILS HELD 7588 TOTAL. 1791 OF THOSE PRISONERS WERE STATE INMATES. OF THE 1791, ABOUT 1200 WERE STATE READY. SINCE THE STATE HAS A POLICY OF BACKLOGGING 300 INMATES THERE ARE ABOUT 900 INMATES THAT ARE STATE READY TO COME INTO THE SYSTEM FROM LOCAL JAILS ON THAT DAY.

OTHER CONSIDERATIONS INCLUDE LEGISLATION CARRIED OVER TO THE 1987 GENERAL ASSEMBLY SESSION. S.B. #142 MAY CREATE THE NEED FOR AN ADDITIONAL 254,000 LOCAL JAILS DAYS ANNUALLY OR THE EQUIVALENT OF A 700 MAN JAIL COMPLETELY FULL ALL YEAR.

THANK YOU MR. CHAIRMAN. I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

COMMONWEALTH of VIRGINIA

B. NORRIS VASSAR
CHAIRMAN

LEWIS W. HURST
VICE-CHAIRMAN

KATHY E. VESLEY
DEPUTY DIRECTOR

Virginia Parole Board
Koger Executive Center
Culpeper Building, 2nd Floor
1606 Santa Rosa Road
Richmond, Virginia 23288
(804) 281-9601

BOARD MEMBERS

GEORGE M. HAMPTON, SR.
LEWIS W. HURST
MORRIS L. RIDLEY
FRANK E. SAUNDERS
B. NORRIS VASSAR

September 5, 1986

Mr. Philip A. Leone, Director
Joint Legislative Audit &
Review Commission
Suite 1100, General Assembly Building
Capitol Square
Richmond, Virginia 23219

ATTENTION: Mr. Kirk Jonas

Dear Mr. Leone:

I appreciate the copy of the Exposure Draft entitled "Local Jail Capacity and Population Forecast" prepared by your Commission. I do have certain reactions to the report I wish to express which relate to parole. I have discussed these reactions with Mr. Jonas of your staff and expressed to him that I would forward these comments, nevertheless.

First, page 21 of the report reflects that the Parole Board "functions as a part of the Department of Corrections" (DOC) by law. As of July 1, 1984, the Board no longer "functions as a part of the Department of Corrections" but continues to rely on DOC for certain services.

Second, the parole grant figures and some of the rates reflected in the charts on pages 63 and 110 of the draft are not in keeping with Parole Board figures for the periods noted. The attached listing of annual figures (Attachment # 1) shows our figures for the periods. It is not clear whether your figures reflect actual release (there is lag between grant and actual release) figures or reflect a comparison of "interviews" only (excluding "reviews") and grants or actual releases.

Third, you may wish to give more attention to the administrative impact on the total number of grants/releases as well as the impact on rates resulting from the administrative decisions of the Board to pursue more aggressively the practice of conducting parole interviews at local jails. The total number of cases seen at the local jails increased dramatically within the last year as indicated by the enclosed one-year comparison figures (Attachments #2 and #3). I am of the opinion that the higher grant rate at local jails is due to the fact that the vast majority of persons seen at the jails are persons serving short-term sentences for non-violent, less serious crimes when compared with those in prison. I anticipate that the local jail consideration practices

will continue (There are proposals pending to increase the capacity on the Board and the Department to parole more of the eligible jail inmates before they reach their mandatory release dates.).

Of course, it is not anticipated that the parole rate at the prisons will change dramatically. (See rate of prison grants on Attachments #2 and #3) About 70% of paroles granted involve inmates serving sentences for non-violent crimes (see Attachment #4). Currently, DOC figures reflect that less than 40% of the prison population consists of individuals serving sentences for non-violent crimes as compared to better than 60% in 1983 when paroles from prison reached the highest rate.

Finally, while the recommendation that the General Assembly consider expanding parole eligibility to those serving sentences of less than 12 months may have merit if done, such a change would present enormous, and perhaps counter productive, practical difficulties to the Board and DOC relative to our ability to get in position to prepare, assess and decide cases in the 90+ local jails where most such offenders would be found. Even under the current eligibility requirement, many if not most offenders serving sentences of less than two (2) years are beyond their parole eligibility date when their sentences are finalized and the time served is credited. Moreover, even when they are not beyond their eligibility dates upon sentencing, since it takes six (6) weeks or more for the Board to schedule an interview, conduct it and complete a decision which then has to be implemented by DOC, often such offenders are too close to their mandatory release dates to allow their cases to be processed before the mandatory date.

If an effort is made by the Legislature to draw a different line on eligibility for equity reasons, it would be may suggestion that a mandatory release to supervision be imposed with a ceiling on serving time before such release for those serving a sentence of 12 months or under. Since a first time felon with a one (1) year sentence (or a sentence of just over 12 months) is generally parole eligible after serving roughly two and one-half (2½) months of the sentence and is mandatorily released to supervision (if not discretionarily paroled) in roughly four (4) months, a provision to mandatorily release offenders with 12 months or less no later than one or these dates (or at some point in between) would seem to be the most practical way equity could be addressed in this context. There would be questions as to what agency/official has responsibility to implement such a provision, how long a period of supervision is required (I would suggest a 3 month minimum plus any time unsatisfied beyond that to a maximum of six (6) months.), and as to supervision and violation processing, all of which I assume could be answered through increased resources to existing agencies.

I hope that some of this is helpful. I would be happy to answer any questions of these comments.

Sincerely yours,

B. Norris Vassar

B. Norris Vassar
Chairman

BNV:drs

Attachments

APPENDIX C

JAIL CAPACITY TECHNICAL APPENDIX

JLARC was directed through Item 518 of the 1985 Appropriations Act to review the effect of the projected jail population and capacity on the State correctional system. In order to provide definitive jail capacity numbers, JLARC recalculated the capacity of each local jail. The effort involved an on-site facility survey of all local jails in conjunction with structured interviews of the sheriffs and their chief jailers. Information gathered from these instruments was used in the computation of jail capacity.

SURVEY OF JAIL FACILITIES

A census survey was conducted of the jails to gather data concerning the physical layout of each jail. The survey included all jails except the Goochland and Powhatan County jails. These two jails are operated by the Department of Corrections within the confines of the James River, Powhatan, and Women's Correctional Facilities located in those counties. The survey consisted of two parts, a data gathering form and structured interviews.

Data Collection Forms

The facility survey systematically gathered data about each jail's physical layout. The survey form was mailed out to each sheriff who oversees the operation of a jail. In the case of independent jail farms and regional jails, the survey was sent to the jail administrator. Accompanying the survey form was a cover letter explaining the study. The letter also requested that the sheriff pass the form along to the chief jailer to be completed prior to the JLARC staff visiting the jail. A copy of the letter and data gathering instrument are on file at JLARC staff offices.

Development of the Survey Instrument. The survey instrument, called the Facility Fact Sheet, went through four major steps in its development. After researching court cases, jail standards, and construction guidelines; a tentative data collection instrument was drawn up. This instrument was exposed to DOC personnel who made some suggestions to alter the format. These suggestions were incorporated into the instrument.

The next step was a developmental test. The survey instrument was taken to 4 jails by JLARC staff. After a brief explanation to the chief jailer, the chief jailer was asked to read the instrument and partially complete the form. Afterwards, the jailer was asked whether or not the instructions were clear and where, if any, the jailer had any difficulty in filling out the form. Some wording and formatting changes were made as a result of the development phase.

After the developmental phase, the instrument was pre-tested at 10 jails. During the pre-test, two different sets of instructions were used in recording the area of the cell blocks. One method asked for the length and width of the entire cell block. The other method asked for the length and

width of the typical cell and the length and width of the day room. Both asked how many cells were in the cell block. The second method was the one chosen to be used in the final version of the Facility Fact Sheet. Other than the decision on the favored method for measuring cell blocks, no other changes were made to the Facility Fact Sheet from the pre-test form.

Information Gathered. The Facility Fact Sheet was designed to gather information concerning the physical layout of the jail. Table 1 shows the data items which were collected on the Facility Fact sheet. The information was largely provided by the Chief Jailer. In cases where the Facility Fact Sheets were not completed prior to the JLARC staff visit, a JLARC staff member completed the form with the chief jailer. These forms were completed during JLARC staff visits to all 94 jails.

Verification of Information. The information was verified through three steps. First, the chief jailers were asked if they had any difficulty in filling out the form. If there were any problems or questions, the staff member discussed them with the chief jailer and then made any necessary corrections to the Facility Fact Sheet. Secondly, the chief jailers were also asked whether there were any other areas where prisoners might be held under the sheriff's responsibility, i.e., a work release house, etc. In no cases had the chief jailers neglected to include any areas that housed adults. And lastly, the information was visually verified by JLARC staff who carefully toured the facility and measured many of the confinement units. Later, if the JLARC staff had any further questions concerning the physical layout of the jail, follow-up calls were made to the chief jailers.

Structured Interviews

Structured interviews were conducted with both the sheriff and the chief jailer. Every sheriff and chief jailer was interviewed either in person or by telephone. At least one of the two interviews was conducted at the locality. Follow-up phone calls were made to jails that had been pre-tested to ask those questions which were added in the development of the final interview instrument.

The sheriffs' interview was designed to ask the sheriffs about the administrative aspects of jail operation, whether or not there had been any changes or additions to the jail in the past fifteen years, and whether or not there were plans for jail expansion in the near future. In addition, the sheriffs were asked questions about how they handled overcrowding and their opinions on such topics as space allowed per prisoner, and how the State handles the intake of State responsibility inmates.

The chief jailers' interview focused largely on the daily operation of the jail as well as on some of the same opinion questions regarding space requirements and overcrowding that were asked of the sheriff. Copies of the survey instruments are on file at JLARC staff offices.

The survey was developed and pre-tested along with the Facility Fact Sheet at the 10 pre-test jails. The survey went through some moderate changes, largely in wording and formatting of questions. Several questions were added. In two localities, the sheriff was also the chief jailer. In these cases, both the sheriff's interview and the chief jailer's interview were answered by the sheriff. Duplicate questions were omitted from the chief

Table 1

INFORMATION GATHERED ON THE FACILITY FACT SHEET

Type of Confinement Unit
- Cell Block
- Dormitory (designed for more than 4 people)
- Room or Cell (designed for 1 to 4 people)
- Holding Cell

Location of the Confinement Unit
- Main Jail
- Holding Area
- Trailer
- House
- Other

Type of Population Most Often Housed in Unit
- General Population
- Isolation or Segregation
- Detoxification
- Medical or Infirmary
- Work Release
- Other

Inmate Most Often Housed in Unit
- Adult Male
- Adult Female
- Juvenile Male
- Juvenile Female

Floor Space of Confinement Unit
- For dorms, rooms, and holding areas, the length and width of the area.
- For Cell Blocks, the length and width of the typical cell, the number of cells, and the length and width of the day room.

Number of Beds
- Permanent beds in the confinement unit. Permanent beds were defined as those beds which had been in place for three months or more.
- Temporary beds in the confinement unit. Temporary beds were defined as those that had been in place less than 3 months and included mattresses on the floor.

Source: JLARC Facility Fact Sheet.

jailer's survey form. In one locality, there were two chief jailers, one for the main jail and one for the jail farm. In this case, the chief jailer survey was administered to both chief jailers.

CAPACITY COMPUTATION

Once the information was gathered, verified, and entered into the computer, decision rules were developed in order to compute the local jail capacity.

Assumptions

The major assumptions dealt with establishing square foot standards, grandfathering undersized cells, creating decision rules for cell blocks as well as decision rules for holding cells, and deducting beds for special purposes.

Setting Square Foot Standards. According to recent court decisions, particularly *Rhodes v. Chapman*, there are no set minimum square foot requirements that guarantee the constitutionality of a jail as a place of detention. Court cases, however, have converged on a square footage range which appears to receive less scrutiny than do the smaller sizes. JLARC staff took this range into consideration in determining what square foot standards could be applied in the calculation of each jail's capacity.

JLARC chose to use the minimum building standards used historically by the Board of Corrections as the square foot standards for calculating capacity. The standards are 70 square feet and 105 square feet per person. The standard applied to a particular jail was determined by when the jail was constructed. These standards were chosen for two reasons. First, the dual standards are above the square footage range that courts are heavily scrutinizing, and secondly most Virginia jails were built at these standards.

The age of the jail determined the square footage that would be used in calculating the capacity. Jails built prior to 1974 had the BOC building standard of 70 square feet applied to the living areas. Jails or major new construction occurring since 1974 had the newer BOC standard applied to the jail even though the BOC did not change its building standard to 105 square feet per person until 1978. According to the Department of Corrections, jails built between 1974 and 1978 were all built using federal funds. Under a provision in receiving the federal funds, these jails had to be built at the same level as the Federal Bureau of Prisons standards, which were 105 square feet.

Grandfather Clause. Many of the jails, especially those built prior to the mid 1940s were built below the BOC's earlier standard of 70 square feet per person. Although the housing units do not meet minimum standards, these areas are still viable living units. In *Rhodes v. Chapman,* the deciding factor in the constitutionality of a jail as a place of detention was not the square footage, but the totality of conditions. If other conditions are adequate, the square footage can be significantly below the previous BOC standard. Under this rule then, cells were grandfathered and counted in the capacity for single occupancy.

Decision Rules for Cell Blocks. During facility tours, JLARC staff encountered two problems with cell blocks that had to be addressed through decision rules. The first problem was how to deal with cell blocks that operated under a locked-down status, and secondly, what to do with oversized cell blocks.

In most jails, prisoners occupying cell blocks are permitted to leave their cells and go into the dayroom of the cell block for at least 8 to 10 hours per day. In some jails though, a cell block may be used to house isolation or segregation prisoners. In these instances, inmates are locked into their cells for most of the day and are denied access to the dayroom. If prisoners were locked into their cells 18 hours or more per day, the cells in the cell block were examined as though they were independent cells. In most cases, this would not affect the capacity of the jail.

A decision rule was adopted which established a maximum capacity per cell block. This decision rule was developed because several of the newer jails have cell blocks with an unusually large amount of floor space. A strict application of the capacity calculations in these jails would have resulted in having three people per cell. Because of observations of the jails and conversations with sheriffs and chief jailers, JLARC staff felt that a capacity ceiling of two was appropriate. Under this decision rule, no cell block can have more than two people per cell.

Holding Cells. Since there are no standard definitions of a holding cell being used in Virginia jails, JLARC observed a wide variation in the designation and usage of holding cells. JLARC staff incorporated all holding cells that had beds into the capacity of the jail. While holding cells should not hold inmates on a long-term basis, they are routinely occupied and the occupants are counted as part of the jails population. Holding areas that did not have beds were not included in the calculations.

Special Purpose Beds. An important part of jail operations is the segregation of individual prisoners. Prisoners frequently need to be separated from the general population for such purposes as temporary holding, violation of jail regulations, protective custody, and medical isolation. In most cases, placement in special purpose housing is not intended as a permanent arrangement. In order to provide space for special purpose management, each jail's capacity calculation was reduced by five percent. In cases where a jail had 10 beds or fewer, one bed was removed for special purpose management.

The deduction of five percent of a jail's capacity for special purpose beds does not mean that a jail would or should only allocate five percent of its beds for that purpose. Most jails need 10 percent of their capacity for special purpose beds. Some of these beds, however, should be counted in the jails capacity because they will be routinely occupied. The five percent reduction in capacity acknowledges the importance of leaving some beds open at all times for transfer and other jail management purposes.

Jail Capacities. Using the dual standard and the established decision rules, capacity was calculated for each jail. Aggregated, the capacity of the jails is 6,764 beds. This capacity estimate is 1,068 more beds than DOC's rated capacity. Under the new calculations, the capacity of some jails changed significantly. The capacity calculations were based on the amount of square feet of confinement space available in each jail. The capacity calculations

were not dependent upon the current number of beds in place. Therefore, there are discrepancies between the number of permanent beds and the capacity calculation.

Adjustments for State Planning

Because the jail system is composed of 94 independently operated jails scattered across the State, adjustments need to be made to the aggregate jail capacity to more accurately reflect "system" capacity. Specifically, system-wide capacity used for Statewide correctional planning purposes should reflect the underutilization of some jail space, as well as planned local expansion.

Underutilization. An estimated 213 beds were never used during FY 1985. This capacity was estimated by subtracting the maximum recorded jail population from the new capacity figures. This capacity may not have been used for a variety of reasons, including the reluctance of some sheriffs to accept prisoners from other local jails that are overcrowded. The inclusion of these beds, however, in a Statewide jail capacity number would overestimate the number of beds available on a daily basis to house prisoners. The exclusion of the 213 beds would result in a system-wide capacity of 6,551 beds.

Local Planned Construction. Future planned construction by localities will have a direct impact on jail capacity. Currently there is an estimated net gain of 832 new jail beds becoming available by the end of 1987.

Firm future planned jail expansions should be added into the adjusted statewide total capacity for State planning purposes. The increase of jail beds, however, may largely relieve local overcrowding and may not necessarily represent an increase in "new" or available statewide capacity.

APPENDIX D

PROVISIONAL LOCAL PLANNED CONSTRUCTION

Year	Jail	Type of Addition	Number of Additional Beds	Plan for Closing Jails	Less 70/105 Capacity if Replacement	Net Gain
1988	Suffolk	New Construction	40	NO		40
1989	Montgomery	Upgrade Existing Area	20	NO		20
	Orange	Regional	101	YES	-25	76
1990	Prince William	New Construction	200	NO		200
UNK	Accomack	New Construction	10	NO		10
	Bedford County	New Construction	30	NO		30
	Bristol City	Double Bunking	28	NO		28
	Campbell	Conversion	8	NO		8
	Franklin	Work release	32	NO		32
	Halifax	New Construction	12	NO		12
	Hanover	New Construction	30	NO		30
	Roanoke City	New Construction	44	NO		44
	Virginia Beach	New Construction	100	NO		100
	York	New Construction	12	NO		12
	TOTAL = 642					

APPENDIX E:

JAIL FORECAST TECHNICAL APPENDIX

The jail forecast methodology employs a sophisticated modeling technique known as multivariate Autoregressive Integrated Moving Average or ARIMA. This procedure is desirable because it is easily adapted to time series forecasting. Two multivariate ARIMA models have been developed to produce the total inmate population forecast. The accuracy and performance of the models depend on the data used and statistical properties of the models. Therefore, the following sections discuss the data used for the forecast and the statistical properties of the total felon and local responsibility models. Also, the forecast validation procedure is presented, including a model which forecasts the total inmate population.

Development of Forecast Data Series

There are two data sources used in the jail forecast methodology: the Inmate Population Summary and the Population Summary of Local Correctional Institutions (Tuesday Report), both distributed by DOC. The Inmate Population Summary contains average daily adult inmate population by month from the late 1970s. The Tuesday Report contains the population of the jail system, by jail, for Tuesday of each week, and also dates back to the late 1970s. The forecast data series begins in January 1980 and continues through June 1985.

Average daily inmate populations for State institutions are an accurate representation of the State inmate population, because the State population should vary little during the month. Unlike jails, the State population experiences no weekend increases or decreases that would differ from the mid-week population.

Local jails, however, experience large weekend peaks. Average daily population would not represent the static mid-week or the variable weekend population, but a mixture of both. The Tuesday report does, however, account for a stable, static, mid-week population. The jail forecast is based on the Tuesday Report data. The weekly data are averaged to arrive at monthly population figures.

The Model Results

Two models using transfer functions were developed to forecast the total incarcerated population. Transfer functions are specified to explain variation of the series being forecast. Preliminary identification procedures produced mixed results and led to the necessity of utilizing a transfer function. Chapter III explains the methodology by which total felon and local responsibility population were used to project the total inmate population. Separating the two series allows each to be forecast with more accuracy. This section of the technical appendix presents the statistical properties of each model.

Total Felon Population Model. The Total Felon Population Model uses parole board grant rates as a leading indicator of the felon population. As parole board grant rates increase, total felon population is expected to decrease. The opposite is true for parole grant rate decreases. The results of the model supported this hypothesis and suggested that parole grant rates "lead" total felon population by three months. (Also, causality suggests that an increase in parole grant rates could decrease the inmate population, while a decrease in grant rates could increase the inmate population.)

The total felon and parole grant rate series are prewhitened by an ARIMA (1,1,0) with the one AR term having a three-period lag. This is necessary to reduce the leading series to white noise. The model results are presented below (Table 1).

All terms of the model were significant above the five percent level. The Chi Square test of residuals indicate that the error terms are not different from white noise and the model is acceptable. The model is well explained by three AR terms, two that account for the trend in the data and one that accounts for seasonal fluctuations. The two AR terms which account for the trend suggest an increasing total felon population, possibly due to an increasing crime-prone population age group. Also, the model indicates that even if parole grant rates remain stable, the total felon population may increase. The negative coefficient for the numerator term in the transfer function supports the hypothesis that increasing parole grant rates may reduce the total felon population.

Local Responsibility Population Model. Similar to the Total Felon Population Model, the Local Responsibility Model includes a leading indicator to assist with forecast accuracy. Unemployment is found to be a significant indicator of the local responsibility inmate population. As unemployment

Table 1

RESULTS OF TOTAL FELON MODEL

Parameter	Estimate	STD Error	T Ratio	Lag	Shift
AR	.219935	.094772	2.32	1	0
AR	.384375	.120049	3.20	3	0
AR	.293356	.125133	2.34	12	0
NUM-RATE	-621.48	274.81	-2.26	0	3
DEN-RATE	.944885	.061507	15.36	1	3

Where: AR = Autoregressive Parameter
NUM-RATE = Numerator term for transfer function
DEN-RATE = Denominator term for transfer function.

Model STD Error = 67.13
Chi Square Test of Residuals = .699

Source: JLARC jail forecast methodology.

increases, local responsibility population increases. The results of the identification stage suggest that the unemployment rate of a certain month influences the local responsibility of that same month.

Unemployment and local responsibility population were prewhitened using an ARIMA (0,1,1) $(1,0,0)_{12}$. The first set of specifications indicates that a model with one short difference and one MA term was included, while the second set of specifications indicates one seasonal AR term was used (Table 2).

All terms of the model are significant above the five percent level. The Chi Square residual test concludes the model residuals are white noise and the model is acceptable. One AR term is included in the model to account for seasonal variations of the local responsibility population. The rest of the variation in local responsibility is being explained by unemployment. This model suggests that the local responsibility series is stable. Increases or decreases in local responsibility are explained by unemployment. The positive coefficient of the numerator term in the transfer function supports the hypothesis that increases in unemployment have an increasing effect on the local responsibility inmate population.

Forecast Validation

Chapter III defined the total inmate population forecast as the total felon and local responsibility forecasts summed. Forecasting the two series independently is preferred so that felons in jails can be forecast (Chapter III). Also, separating the series promotes forecast accuracy. The forecast presented in Chapter III could be validated if a model based on the total inmate series were to produce a similar forecast.

A total inmate population model was developed using an ARIMA transfer function with unemployment and parole grant rates included as leading indicators. The total inmate population series was first prewhitened by the

Table 2

RESULTS OF LOCAL RESPONSIBILITY MODEL

Parameter	Estimate	STD Error	T Ratio	Lag	Shift
AR	-.47652	.13859	-3.44	12	0
NUM-UNEMP	140.257	36.3789	3.86	0	0
DEN-UNEMP	-.633596	.138986	-4.56	1	0

Where: AR = Autoregressive Parameter
NUM-UNEMP = Numerator tem for transfer function
DEN-UNEMP = Denominator term for transfer function

Model STD Error = 77.71
Chi Square Test of Residuals = .688

Source: JLARC jail forecast methodology.

grant rate and the unemployment models used previously to prewhiten each individual series (Table 3).

Again, all model parameters are significant at better than the five percent level. The Chi Square test of residuals suggests the residuals are white noise and the model is acceptable. The total inmate population series is expressed with one seasonal autoregressive term. The remainder of the variation in total inmate population is being represented by the transfer functions for unemployment and parole grant rates. The signs associated with each transfer function correspond to the individual model signs and suggest that the model was specified correctly.

When the independent total felon and local responsibility forecasts are summed and then compared to the separate total inmate population forecast, the difference between the two is not significant (Table 4).

The largest difference between the two forecasts occurs in 1988 and 1989. The difference of 230 represents a 1.2 percent difference and suggests that the two series forecast nearly similar results. Using the disaggregated method, however, allows local responsibility and felons housed in jails to be forecast and used in later stages of the forecast methodology in Chapter III.

Table 3

RESULTS OF TOTAL INMATE POPULATION MODEL

Parameter	Estimate	STD Error	T Ratio	Lag	Shift
AR	.791088	.0670126	11.81	12	0
NUM-UNEM	123.309	35.0106	3.52	0	0
DEN-UNEM	.618641	.118045	5.24	1	0
NUM-GRANT	-1029.99	391.099	-2.63	0	3
DEN-GRANT	.730661	.148204	4.93	1	3

Where:
- AR = Autoregressive Parameter
- NUM-UNEM = Numerator term for unemployment transfer function
- DEN-UNEM = Denominator term for unemployment transfer function
- NUM-GRANT = Numerator term for grant rate transfer function
- DEN-GRANT = Denominator term for grant rate transfer function

Model STD Error = 98.23
Chi Square Test of Residuals = .961

Source: JLARC jail forecast methodology.

Table 4

FORECAST VALIDATION PROCEDURE

Year	Summed Total Forecast	Separate Total Forecast	Difference
1986	17573	17625	- 52
1987	18298	18467	-169
1988	18883	19113	-230
1989	19382	19612	-230
1990	19800	19997	-197

Source: JLARC jail forecast methodology.

Conclusion

All the models presented above are statistically acceptable and present empirically pleasing results. The hypotheses concerning parole grant rates and unemployment are supported by the model findings. The validation procedure supports the Chapter III forecast results.

APPENDIX G

RELATIONSHIP OF LOCAL JAIL FORECAST TO STATE CAPACITY

The local jail population will vary, depending on the capacity level at which the State system operates. The local jail forecast is equal to the total inmate forecast less the capacity of State prisons. In the table below are three different forecasts, based on differing levels of State capacity. In the left column, no capacity constraint is considered. These numbers represent the total inmate population ARIMA forecasts less the State responsibility forecasts for each year. Thus, were the State able to hold all of the prisoners it is responsible for, jail population would actually drop in 1987 and 1988 to levels below 1986 populations.

The middle column represents expected jail population if State prisons operate at "planning capacity." This number was thought to represent the most realistic scenario and is used throughout the report. The column on the right represents expected jail populations were the State to operate at temporary emergency capacity. This forecast is generated by subtracting the temporary emergency capacity from the total inmate population ARIMA forecasts.

JAIL POPULATION WILL VARY DEPENDING
ON CAPACITY OF STATE SYSTEM

Fiscal Year	With No State Capacity Constraints	With State System At Planning Capacity	With State System At Temporary Emergency Capacity
1986*	(6,880)	(6,880)	(6,880)
1987	6,284	7,794	6,819
1988	6,869	8,176	7,201
1989	7,332	8,659	7,684
1990	7,797	8,814	7,839
Penitentiary Closed	(N/A)	9,682	8,707

*Actual population for June 1986.

APPENDIX F

ANTICIPATED TOTAL CAPACITIES OF PRISON FACILITIES
July 1985 - July 1990

Date	Location	Operational Capacity Change	Operational Capacity Total	Temporary Emergency Utilization Capacity Change	Temporary Emergency Utilization Capacity Total
7-85			9,617		10,830
7-86	Augusta	+500	10,117	+715	11,545
9-86	Appalachian	+ 44	10,161	+ 44	11,589
7-87	Appalachian	+ 40	10,201	+ 47	11,636
7-87	Augusta	+256	10,457	+320	11,956
3-88	Nottoway	+256	10,713	+352	12,308
6-88	Buckingham	128	10,841	192	12,500
4-89	Southampton	125	10,966	125	12,625
6-89	Infrastructure	163	11,129	163	12,788
9-89	Buckingham	96	11,225	96	12,884
NA[2]	Southampton	96	11,321	96	12,980
NA[2]	Mental Health	200	11,521	200	13,180
NA[2]	Infill-field units/majores	150	11,671	150	13,330
7-90	Closing Penn	868	10,803	868	12,462

[1]July 1985 represents both the Temporary Emergency Capacity and the Emergency Utilization level.

[2]Precise estimated completion times not available.

Source: DOC Planning and Engineering Services, Estimates, October 1986.

JLARC STAFF

RESEARCH STAFF

Director

Philip A. Leone

Deputy Director

● Kirk Jonas

Division Chiefs

Barbara A. Newlin
Glen S. Tittermary

Section Managers

John W. Long, Publications & Graphics
Gregory J. Rest, Research Methods

Project Team Leaders

Stephen W. Harms
Clarence L. Jackson
Charlotte A. Kerr
Susan E. Massart
Robert B. Rotz
E. Kim Snead

Project Team Staff

Andrea C. Baird
Andrew D. Campbell
Karen E. Chappell
● Nolani Courtney
Stephen Fox
Thomas J. Kusiak
Laura J. McCarty
Cynthia Robinson
Carl Wilson Schmidt
● Rosemary Skillin

ADMINISTRATIVE STAFF

Section Manager

Joan M. Irby, Business Management & Office Services

Administrative Services

Maryann Du Val

Secretarial Services

Bonnie A. Blick
Rosemary B. Creekmur
Joanne Harwell
Betsy M. Jackson

SUPPORT STAFF

Technical Services

Timothy J. Hendricks, Graphics
R. Jay Landis, Data Processing

● *Indicates staff with primary assignments to this project*

Former Staff Contributing to this Report

William A. Butcher
Lynn L. Grebenstein
Gary T. Henry

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