

1991  
*Annual Report*  
of the  
*Virginia State Crime Commission*



General Assembly Building  
910 Capitol Street  
Richmond, Va. 23219

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# COMMONWEALTH of VIRGINIA

## VIRGINIA STATE CRIME COMMISSION

General Assembly Building

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

Pursuant to the provisions of the Code of Virginia (Title 9, Chapter 20, (§§9-125 through 9-138) creating the Virginia State Crime Commission and setting forth its purpose, I have the honor of submitting herewith the Annual Report for the calendar year ending December 31, 1991, as mandated in §9-132 of the Code.

Respectfully submitted,

Robert B. Ball, Sr.  
Chairman

140292

RBB:gf

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## **MEMBERS OF THE VIRGINIA STATE CRIME COMMISSION 1991**

### **From the Senate of Virginia:**

Elmon T. Gray, Chairman  
Howard P. Anderson  
Elmo G. Cross, Jr.

### **From The House of Delegates:**

James F. Almand  
Robert B. Ball, Sr., Vice Chairman  
V. Thomas Forehand, Jr.  
Raymond R. Guest, Jr.  
A. L. Philpott  
Clifton A. Woodrum

### **Appointments by the Governor:**

Robert C. Bobb  
Robert F. Horan, Jr.  
Rev. George F. Ricketts, Sr.

### **Attorney General's Office:**

H. Lane Kneedler

The 1991 Annual Report of the Commission  
is dedicated in memory of the late  
Albert Lee Philpott and the following  
resolution is respectfully offered.

## **MEMORIAL RESOLUTION**

WHEREAS, Albert Lee Philpott was born in the Town of Philpott, Henry County, Virginia on July 29, 1919, educated at the University of Richmond and T. C. Williams School of Law, and died on September 28, 1991, in Bassett, Virginia; and

WHEREAS, Albert Lee Philpott represented the 11th House District and the citizens of Martinsville and Henry County with dedication and conviction for 33 years, from 1958 through 1991; and

WHEREAS, Albert Lee Philpott served as Majority Floor Leader of the House of Delegates from 1978 through 1979, as Speaker of the House of Delegates from 1980 through 1991, and as Chairman of the House Committee on Rules; and

WHEREAS, Speaker Philpott was appointed a member of the Virginia State Crime Commission from its formal creation in 1972 through 1991, during which time he chaired numerous study committees and served on the Executive Committee of the Commission; now, therefore, be it

RESOLVED, by the Virginia State Crime Commission, That the contributions of Speaker Philpott to his community and the Commonwealth are recognized with deep appreciation. It is further recognized that the unequalled wisdom, unique integrity and character and diligent efforts of this most active member has shaped and enhanced the work of the Virginia State Crime Commission; and, be it

RESOLVED FURTHER, That the members and staff of the Virginia State Crime Commission express deep sorrow and regret on the passing of Speaker Albert Lee Philpott, an irreplaceable friend and colleague; and, be it

RESOLVED FINALLY, That the Chairman of the Commission prepare a copy of this resolution for presentation to his widow, Mrs. Katherine Apperson Spencer Philpott, as an expression of sympathy for her loss and as a token of the esteem with which Speaker Albert Lee Philpott was held by this Commission.

### ***The A. L. Philpott Law Enforcement Scholarship***

*In honor of the late A.L. Philpott, and in the desire to perpetuate his lifelong commitment to a fair and effective criminal justice system, the Virginia State Crime Commission has established a scholarship in his name. The Patrick Henry Community College in Martinsville, Virginia will administer the scholarship, to be awarded annually to a deserving student majoring in criminal justice from one of the counties of Henry, Franklin, Floyd, Patrick, Pittsylvania or the City of Martinsville. Persons interested in participating in this scholarship effort may submit contributions to The A. L. Philpott Law Enforcement Scholarship, Patrick Henry Community College, P. O. Box 5311, Martinsville, VA 24115.*

## **Elmon T. Gray**

In declining to seek reelection to the Virginia Senate in 1991, Elmon T. Gray, who served in the Senate with dedication and distinction for two decades, retired from public office. A resident of Waverly, Senator Gray represented the people of the sixteenth senatorial district with commitment and conviction, carrying on a proud tradition begun by his father, the late Garland Gray, first elected to the Senate in 1941.

Senator Gray's interests and successes in his long tenure were many and varied. His Chairmanship of the Education and Health Committee, and service on the Senate Finance Committee, the Rules Committee, the Transportation Committee, and Commerce and Labor Committee reflected a number of these interests. An uncompromising commitment to the highest quality of education in Virginia's schools and economic development throughout the state marked many of his legislative efforts.

As a member of the Virginia State Crime Commission since 1981, and its Chairman since the Commission renewed operations in 1986, Senator Gray has been unfailing in his positive contributions to the Crime Commission's substantial work. Among his many successes, Senator Gray sponsored Senate Joint Resolution 144 (1989) establishing within the Crime Commission a task force to conduct a comprehensive study on combatting drug trafficking, abuse and other related crime, and culminating in a lengthy report containing recommendations for attacking the drug epidemic on multiple fronts.

Senator Gray will not be easily replaced, in the legislature or on the Crime Commission, and he will long be remembered with great fondness and appreciation for his many years of service and dedication.

## **Howard P. Anderson**

Opting to forego a reelection campaign to the Virginia Senate in 1991, Howard P. Anderson ended 33 years of dedicated public service to the people of Virginia and of the eighteenth senatorial district, where he served first as a member of the House of Delegates and then, with the election of 1971, as their senator.

Senator Anderson's successes over his many years in the General Assembly are too lengthy to list. As Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources, and an active member of the Courts of Justice, Finance, Rules, and Privileges and Elections Committees, he has demonstrated vigilance in pursuing the interests of the people of his district and of the Commonwealth.

Joining the Virginia State Crime Commission when it resumed operations in 1986, Senator Anderson has made many valuable contributions. Among the more recent were his Chairmanship of the Drug Study Task Force's Education Subcommittee and sponsorship of legislation to create Virginia's "boot camp" program, emanating from the Crime Commission's shock incarceration study. The work of the Crime Commission, as well as that of the General Assembly, will suffer with the absence of Senator Anderson. His many years of dedicated service to the Commonwealth will long be remembered and his presence in the General Assembly will greatly be missed.

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## INTRODUCTION

1991 saw the Virginia State Crime Commission complete one of its busiest and most productive years ever. Pursuing its legislative mandate to investigate all areas of public safety, the Commission addressed those criminal justice issues that have received considerable attention in recent years as well as significant issues on the horizon which may reflect substantial concern to citizens of the Commonwealth in the future. The plethora of topics reviewed by the Commission encompass matters of law enforcement, education, mental health, corrections, the judicial system and other social institutions which relate to the safety of the public and administration of justice.

In addressing these vital areas of interest the Commission has taken both a reactive and proactive approach, developing strategies to resolve established problems while also seeking to determine the nature and extent of other problem areas which may not yet be apparent. In this way the Crime Commission stands poised to curb potential threats to public safety before they proliferate into epidemic proportions which become more expensive and difficult to control.

Commission studies directed at the safety of employees and consumers in convenience stores in the Commonwealth, drug-free schools, and other outgrowths of the task force study on drug trafficking and abuse focus on means of protecting our children and all citizens from the hazards of violent and dangerous crime. It would be a mistake, however, to view Commission work as merely cleaning up our streets. Commission efforts are driven also by the need to make numerous public safety services more effective and cost-efficient. Studies in 1991, undertaken to determine appropriate methods of transporting mentally ill patients, the feasibility of requiring jail inmates to reimburse the costs of their incarceration, means of reducing recidivism through enhancement of family and community ties of inmates, and consideration of special needs of our female inmate population, all represent efforts to improve a wide range of services.

In addition, the Commission undertook other formal studies and pursued continuing initiatives from past years, involving research, policy and legislative recommendations, and constant interaction with the many state and local agencies involved in the multitude of issues associated with Crime Commission projects. The Crime Commission prides itself not only on the substantive research performed in the course of studies, but also on the cooperative efforts to implement policies and programs, and the regular education of the public on important criminal justice issues. The substance of this work evinces the extensive and diverse nature of Commission activities, while the success the Crime Commission has seen in these efforts demonstrates the positive impact Crime Commission accomplishments have had on public safety in the Commonwealth.

The success of the Crime Commission in these many endeavors is highly dependent upon the commitment of many both in and outside government. Working towards a safer Virginia requires effective cooperation with the Governor's Office, the Lieutenant Governor, Attorney General and numerous agencies at both the state and local level as well, of course, as members of the General Assembly itself. The Commission has been fortunate to enjoy this cooperation and looks forward to continued collaboration with these and other interested parties in making the Commonwealth a better place to live and work in the years to come.



## **MEMBERSHIP, STAFF AND OFFICES**

### **Membership**

Composition of the thirteen-member Commission is controlled by Section 9-126 of the Code of Virginia, which requires appointment of six Delegates by the Speaker of the House of Delegates, three Senators by the Senate Privileges and Elections Committee, three citizen members by the Governor from the state at large, and the Attorney General of Virginia as an ex officio member with full voting privileges. All appointees serve terms of four years, with the exception of the Attorney General, whose membership runs concurrently with her tenure as Attorney General of Virginia. The Commission elects its own chairman and vice-chairman, and appoints and employs an executive director, counsel and other employees as it deems necessary.

#### **COMMISSION MEMBERS:**

Senator Elmon T. Gray, Sussex, Chairman  
Delegate Robert B. Ball, Sr., Henrico, Vice-Chairman  
Delegate James F. Almand, Arlington  
Senator Howard P. Anderson, Halifax  
Mr. Robert C. Bobb, Richmond  
Senator Elmo G. Cross, Jr., Hanover  
Delegate V. Thomas Forehand, Jr., Chesapeake  
Delegate Raymond R. Guest, Jr., Front Royal  
The Honorable Robert F. Horan, Jr., Fairfax  
Chief Deputy Attorney General H. Lane Kneedler, Richmond  
Speaker of the House of Delegates A. L. Philpott, Bassett  
Reverend George F. Ricketts, Sr., Richmond  
Delegate Clifton A. Woodrum, Roanoke

Additionally, serving on the Crime Commission's Ritual Crime Task Force in 1991 were Senator Elliot S. Schewel and Delegate Robert Tata, and citizen appointees Leonard G. Holmes, Ph.D., Michael L. Wade, M.S., Janet I. Warren, D.S.W., and Isaac K. Wood, M. D.

### **Staff and Offices**

To fill its many roles and needs, the Commission retains staff and interns on varied bases. Executive Director Frederick L. Russell and Executive Assistant Sylvia A. Coggins are the only permanent full-time members of the staff, however, other persons are employed on a part-time or temporary basis in order to maximize the Crime Commission's level of productivity.

During 1991, D. Robie Ingram and Michael P. Maddox served the Commission on a part-time basis as Staff Counsel. Dana G. Schrad served as Staff Attorney and Research Manager in

relation to certain Commission projects associated with a federally funded grant. Susan A. Bass served as Research Analyst in furtherance of these grant funded activities as well, and Gina L. Ford served in the role of secretary. The Crime Commission also obtained the services of Katie Vawter as intern on a number of projects.

The committed efforts of Pat Harris, Crime Prevention Center Manager and Dr. Jay W. Malcan, Crime Prevention Analyst, with the Department of Criminal Justice Services, in reporting to the Crime Commission on violent crime in convenience stores is greatly appreciated, as is the substantial work of Dr. Lissa Power-Cluver, who headed up the Department of Education's research and development of a plan for providing special education services to incarcerated youth.

In his capacity as coordinator of intern placement at Virginia Commonwealth University Professor James Hooker has assisted the Crime Commission over the years. We hope to continue to enjoy the benefit of his services in the future.

The Division of Legislative Services handles accounts and payroll for the Commission. Agency Director E. M. Miller, Jr., Fiscal Officer Ben Reese, Accountant Senior Caryl S. Harris, and Fiscal Technician Betsy W. Smith all provide invaluable services to the Commission. In addition, Staff Attorneys Oscar R. Brinson and Mary P. Devine, Research Associate Mary K. Geisen and Printer Jim Hall each regularly extend many courtesies to the Commission. We also wish to extend our sincere appreciation to Sharon Crouch, House of Delegates Systems Director, and her staff, for regular and substantial computer support, as well as Division of Legislative Automated Systems Director William E. Wilson and his staff for their technical and computer assistance.

The Crime Commission maintains offices in Suite 915 of the General Assembly Building, 910 Capitol Street, Richmond, Virginia 23219. Commission offices are open to all inquiries during regular business hours, with extended hours during sessions of the General Assembly and as otherwise required. Commission offices may be reached by telephone at 804-225-4534 and by facsimile at 804-786-0913.

## **ACKNOWLEDGEMENTS**

The Crime Commission would be unable to accomplish its numerous activities in pursuit of an ever more effective criminal justice system without the assistance of many agencies and organizations. We extend our sincere appreciation to the following parties for their diligent efforts in cooperation with the Commission.

Blue Ridge Association of Chiefs of Police  
Clerk of the House of Delegates  
Clerk of the Senate  
Commonwealth's Attorneys Training and Services Council  
Department of Correctional Education  
Department of Corrections  
Department of Criminal Justice Services  
Department of Education  
Department of Youth and Family Services  
Department of Mental Health, Mental Retardation and Substance Abuse Services  
Department of State Police  
Division of Forensic Science  
Division of Legislative Automated Systems  
Division of Legislative Services  
House Appropriations Committee Staff  
Office of the Attorney General  
Office of the Governor  
Office of the Lieutenant Governor  
Secretary of Administration  
Secretary of Education  
Secretary of Health and Human Resources  
Secretary of Public Safety  
Senate Finance Committee Staff  
Virginia Association of Chiefs of Police  
Virginia Association of Community Services Boards  
Virginia Commonwealth University  
Virginia Correctional Association  
Virginia Crime Prevention Association  
Virginia Medical Society  
Virginia Parent/Teacher Association  
Virginia Parole Board  
Virginia Pharmaceutical Association  
Virginia Probation and Parole Officers' Association  
Virginia State Sheriffs Association  
Virginia State Lodge of the Fraternal Order of Police  
Supreme Court of Virginia

## **1991 COMMISSION/STAFF ACTIVITIES**

In its role as conduit for state and local agencies involved in the criminal justice process, and for all persons interested in public safety in the Commonwealth, the Crime Commission strives to maintain accessibility for criminal justice agencies and the public alike. In furtherance of this objective, Commission staff regularly participate in numerous conferences, training sessions and other activities designed to provide information services as well as keep staff abreast of new developments in Virginia's criminal justice system.

As in years past, staff schedules have remained busy with these duties. Indeed, an increase in formal studies and related activities in 1991 has resulted in a proliferation of such appearances. Prominent among these are staff attendance of law enforcement functions, including in-service training with police associations and regular attendance at conferences of the Virginia State Sheriffs Association, Virginia Association of Chiefs of Police, Blue Ridge Association of Chief's of Police, and sessions of the Training Institute sponsored by Virginia's Association of Commonwealth's Attorneys.

Throughout the year Commission staff receive frequent requests to lecture or make presentations on specific topics at law enforcement training seminars or before meetings of state and local agencies, and will otherwise attend various seminars in relation to particular studies or inquiries. Drug Training for Police Officers in Lexington and Drug Enforcement Training for Uniformed Patrol Officers in Virginia Beach, the national PRIDE drug resistance education conference in Nashville, Tennessee, Maryland Senate hearings on pharmaceutical drug diversion in Annapolis, and the Pathways and Partnerships in Correctional Substance Abuse Treatment conference in New York City are merely a few of the meetings attended by staff in relation to work stemming from last year's report of the Drug Study Task Force. Other Commission studies necessitated their share of like participation in training, speaking engagements and other meetings. Site visits to all areas of Virginia to investigate specific areas of concern, and elicit local experiences and perspectives, are common in the course of many studies.

In order to better educate a broader general audience, staff summarized Commission endeavors, reviewed criminal justice issues and fielded open questions during multiple appearances on public television in Richmond and Roanoke.

Members of the Crime Commission staff are also asked to share their knowledge and expertise through service in various criminal justice advisory groups. In 1991, staff members held seats on the Forensic Science Advisory Board, the Virginia Juvenile Justice and Delinquency Prevention Advisory Committee, the Department of Corrections Jail Issues Liaison Committee and the Criminal History Records Improvement Task Force.

In an effort to respond to the needs of communities throughout the Commonwealth, Commission staff attended a series of meetings held in various regions of Virginia and encompassing participants from the Governor's Office, Office of the Secretary of Public Safety, the Virginia State Police, the Department of Criminal Justice Services and other state and local agencies. These provided an interactive forum for airing concerns and crime control strategies.

Consistent with its mandate to investigate all areas of public safety, the Crime Commission also convenes special hearings for purposes unrelated to formal studies or receipt of public input. Of particular note in 1991 was a hearing to review actions of the Virginia State Police relating to investigation of public officials under Section 52-8.2 of the Code of Virginia. Col. William F. Corvello, Superintendent of the Virginia State Police, was asked to appear before the Commission to respond to media allegations focusing on United States Senator Charles Robb. Following vigorous inquiries by a number of members, the Crime Commission concluded that no violation of Section 52-8.2 had taken place in this case, but that amendment of the Code may be appropriate to avoid future confusion about the proper procedure for undertaking an investigation of this nature.

## **FORMAL CRIME COMMISSION STUDIES**

The diversity in Crime Commission activities is based upon a comprehensive participation in Virginia's criminal justice system. The pages of this annual report highlight much of this work, the foundation for which is the substantive research conducted on the myriad of criminal justice concerns brought to the Commission's doors. From these studies spring legislative and policy recommendations, subsequent support in implementation, and public information and education initiatives. Following are summaries of all the formal reports issued on 1991 Crime Commission studies, including any findings and recommendations made by the Crime Commission pursuant to these studies.

### **REPORT OF THE TASK FORCE STUDYING RITUAL CRIME**

#### **Introduction**

During the 1990 session of the Virginia General Assembly, Delegate Robert Tata sponsored House Joint Resolution No. 147 (HJR 147) calling for a two-year study of occult related crime in the Commonwealth. The resolution directed that the Commission determine the prevalence of this activity in Virginia, risk factors which induce participation, fiscal costs associated with the activity and means of addressing it. In response to this resolution the Crime Commission established a thirteen member task force, reporting directly to the Commission. In addition to members drawn from the ranks of the Crime Commission itself, the task force was comprised of one member each from the House of Delegates and from the Senate, and four citizen members.

The task force completed its work in 1991 and submitted a final report, which was received and adopted by the Commission on October 22, 1991. This project was broad in nature, seeking to determine the level of ritual crime as well as both the causes and effects of it. Such an investigation necessitated inquiries of law enforcement agencies, social services agencies, schools and experts in the field of mental health, in addition to a number of other parties who claimed experience with the topic.

Because this topic is mired in controversy, the task force took great care to conduct its investigation in an objective but thorough fashion. Extensive surveys were conducted, and much testimony was taken in both public and private hearings (pursuant to Section 9-134 of the Code of Virginia). Further, the task force looked within Virginia and among the many states to develop an objective basis for defining and evaluating behavior associated with ritual crime and methods for responding to it. Allegations of ritual crime were vigorously pursued, and the concerns of all parties were duly considered in the course of the study. Recommendations focused on factual findings and gave proper recognition to the constitutional rights of all citizens.

#### Task Force Members

Crime Commission Chairman, Senator Elmon T. Gray, selected Mr. Robert C. Bobb to serve as chairman of the Ritual Crime Study Task Force. The full membership of the task force is as follows:

##### CRIME COMMISSION MEMBERS

Robert C. Bobb, Richmond, Chairman  
Senator Elmon T. Gray, Sussex  
Delegate Raymond R. Guest, Jr., Front Royal  
Mr. H. Lane Kneedler, Attorney General's Office  
Speaker A. L. Philpott, Bassett  
Rev. George F. Ricketts, Sr., Richmond  
Delegate Warren G. Stambaugh, Arlington

##### HOUSE OF DELEGATES AT-LARGE MEMBER

Delegate Robert Tata, Virginia Beach

##### SENATE AT-LARGE MEMBER

Senator Elliot S. Schewel, Lynchburg

##### CITIZEN MEMBERS APPOINTED

Leonard G. Holmes, Ph.D.  
Detective Michael L. Wade, M.S.  
Janet I. Warren, D.S.W.  
Isaac K. Wood, M.D.

### Issues Addressed

The task force initially focused a great deal of attention on definitional issues, since this is where much of the confusion arises in regard to ritual crime and, consequently, an inability to conduct objective research ensues. The substantive questions asked by the task force were:

1. What is the prevalence of ritual criminal activity in the Commonwealth?
2. What is the prevalence of other dangerous ritualistic activity which may not presently constitute a crime?
3. Where is this activity geographically concentrated?
4. What is the nature of such activity (whether it is associated with violent crime, crimes against property, or other crimes, and to what degree)?
5. What is the nature of other states' experiences with ritual crime, both in terms of the extent of such activity and the means by which such states address it?
6. Do existing criminal statutes adequately address adverse ritual activity in the Commonwealth?
7. Do measures beyond the criminal code need to be employed to address adverse affects of ritual activity in the Commonwealth?

### Findings

1. Misconceptions about ritual crime are pervasive.
2. Evidence is insufficient to establish the existence of any major conspiracy or organized criminal network based upon an occult or spiritual belief system.
3. Unpopular belief systems are erroneously associated with criminal behavior.
4. Criminal activity which might reasonably be associated with belief systems consists primarily of minor property crimes and is committed largely by "dabblers."
5. Existing criminal statutes in Virginia are adequate to address dangerous conduct which may result from participation in unconventional belief systems.
6. The ritual crime phenomenon has its greatest overt impact in the field of mental health.

### Recommendations

1. That the Virginia Department of Criminal Justice Services develop a model curriculum addressing ritual crime for Virginia's law enforcement officers.
2. That the Crime Commission's continued research on youth gangs be tracked and reviewed for findings and ultimate recommendations.
3. That the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services coordinate continued research efforts relating to the ramifications of ritual abuse in the mental health field.
4. That law enforcement personnel act in cooperation with appropriate agencies in the investigation and prosecution of claims involving ritual abuse of persons.
5. That school personnel and social service workers be provided objective and accurate information on ritual crime.
6. That the Virginia Department of Criminal Justice Services establish a definitional standard and review development of a separate reporting category for ritual crime.

## REPORT OF THE TASK FORCE ON RECIDIVISM AND WOMEN'S CORRECTIONAL ISSUES

### Introduction

House Joint Resolution 422 (HJR 422) and House Joint Resolution 429 (HJR 429), sponsored by Delegates Marian Van Landingham and Gladys B. Keating, respectively, were passed by the 1991 session of the Virginia General Assembly. HJR 422 requests the Virginia State Crime Commission to "study the conditions of incarcerated women in the state and local correctional facilities," specifically in regard to the "psychological, family, educational, treatment, vocational and reentry needs" of these women and the programs that are made available to them during their incarceration. HJR 429 requests the Commission to study means of reducing recidivism among inmates of state and local correctional facilities through family and community ties, focusing attention on "community volunteer programs, community-business ties, visiting conditions and policies, telephone communication systems and policies, commissary practices" and other topics relating to improved reentry into the community.

Both resolutions call for a two year study of these issues and, because the studies entail many common goals and research requirements, Delegate V. Thomas Forehand, Jr., who chairs the Correction Issues Subcommittee (to which both studies were assigned), established the task force to study these issues jointly and report directly to the subcommittee.



Consistent with this duty, the task force produced an interim report on its initial findings and recommendations and presented this to the subcommittee and then to the full Crime Commission on October 22, 1991. The task force will complete its work in 1992, after which the Crime Commission will produce final reports for HJR 422 and HJR 429.

### Task Force Members

#### CRIME COMMISSION AND LEGISLATIVE MEMBERS

Rev. George F. Ricketts, Sr., Chairman  
Delegate Robert B. Ball, Sr.  
Delegate Gladys B. Keating  
Delegate Marian Van Landingham

#### CITIZEN MEMBERS APPOINTED

Jean W. Auldrige  
B. J. Brown Devlin  
Ann Hart  
Cynthia Holley  
Tom Karwaki  
Jim Mustin  
Scott Richeson  
Johanna Schuchert  
Janet Welch  
Susie White

### Issues Addressed

In response to the mandates of both HJR 422 and HJR 429 the task force formulated the following questions:

1. How may contact and interaction between inmates and their families be strengthened?
2. What family support services (whether in education, counseling or social services) are most needed for inmates and their families and how can they most efficiently be provided?
3. What social reentry support services are most needed for inmates and how can they most efficiently be provided?
4. How may participation and volunteerism in the general community be enhanced to aid in improved family and community contact for prisoners and more effective social reentry services?

5. Which essential services for pregnant mothers, and parents, in an incarcerated setting are lacking and how may they most efficiently be provided?
6. What vocational training is presently available for incarcerated women and what deficiencies in this regard need be corrected?
7. What unique medical concerns of incarcerated women are being neglected and how may this neglect best be remedied?
8. What educational, counseling or intervention mechanisms should be employed to address personal addictions and self-esteem problems in the incarcerated population, thereby enabling enhanced ability to function in society upon release from jail or prison?

#### Preliminary Findings

1. Visiting rules differ unnecessarily from one DOC institution to the next, and are inconsistently applied, thereby resulting in confusion among inmates and their families as well as capricious enforcement of rules.
2. Visitors to state prisons encounter rules which substantially vary from one institution to the next. These variations relate both to the entry process for visitors and requirements once in the visiting room. Additionally, the same institution frequently enforces rules differently from one week to the next.
3. Not all prisons post visiting rules or make copies of such rules available for dissemination, contrary to specific requirements by the Department of Corrections.
4. Family members of prisoners often lack an understanding of their rights and of the prisoner's rights and responsibilities relating to the correctional process.
5. Available resources within DOC and the community which could enhance family relations and constructive programming are not being fully utilized.
6. Improvements could be made to enhance effectiveness of the delivery system of routine medical care for women at VCCW.

#### Preliminary Recommendations

1. Current efforts towards development of an information handbook for families of DOC inmates should be accelerated.
2. Greater uniformity in visiting and phone privileges in DOC institutions should be established where practical.

3. The Department of Corrections should ensure that each of its correctional facilities makes readily available a comprehensive and understandable list of rules for visitors, consistent with existing DOC policy.
4. The Department of Corrections should foster a policy of greater cooperative efforts between prison personnel and visitors of inmates, volunteer elements in the community and other members of the community generally.
5. Funding which the Department of Corrections presently seeks for renovations of medical facilities at VCCW should be endorsed.
6. DOC and DCE should make better use of existing resources to maximize program potential.

The Interim Report of the task force will serve as a launching pad for expanded research efforts on both studies over the next year. The Commission will continue its productive work with the Department of Corrections to remedy the problems summarized above, as well as addressing the broader issues identified. Subsequent to issuance of the interim report, staff of the Crime Commission appeared before the Board of Corrections to address specific areas of concern and received a strong endorsement for the Commission's continuing research on these studies. This cooperative relationship will be heavily relied upon as these studies progress.

## REPORT ON OFFENDER REIMBURSEMENT TO LOCAL JAILS

### Introduction

Pursuant to House Joint Resolution 419 (HJR 419), sponsored in the 1991 session of the General Assembly by Delegate Richard L. Fisher, the Crime Commission was requested to study the feasibility of requiring jail inmates to reimburse the costs of their incarceration. Such costs might include daily keep, medical care, or expenditures for any other services provided inmates during their period of incarceration.

A number of states assess charges to inmates for various costs associated with the incarceration of such inmates. Statutes in Virginia presently permit recovery of fees from inmates on work-release or serving non-consecutive day sentences, as well as persons subject to electronic home incarceration. No provisions in Virginia law, however, permit recovery of any costs from inmates serving consecutive day sentences. Such inmates represent the bulk of incarceration costs for jails and it is this segment of the inmate population at which the study was directed.

In determining the feasibility of an offender reimbursement program, the Commission was required to review the effectiveness of existing programs, the cost of a recovery program and a reasonable prediction of the amounts which might be recovered from such a program. Ultimately, if a reimbursement program was found to be of value a determination would have to be reached as to the most appropriate way of structuring the program and collecting the fees.

### Subcommittee Members

Crime Commission Chairman, Senator Elmon T. Gray, assigned the study called for by HJR 419 to the Correction Issues Subcommittee. Delegate V. Thomas Forehand, Jr., was appointed to serve as chairman of the subcommittee. All members serving on the subcommittee are as follows:

Delegate V. Thomas Forehand, Jr., Chesapeake, Chairman  
Senator Howard P. Anderson, Halifax  
Delegate Robert B. Ball, Sr., Henrico  
Senator Elmo G. Cross, Jr., Hanover  
Mr. Robert F. Horan, Jr., Fairfax  
Reverend George F. Ricketts, Sr., Richmond  
Delegate Clifton A. Woodrum, Roanoke

### Issues Addressed

The primary issue presented in this study was whether a system allowing for reimbursement of costs of incarceration by inmates would be feasible in Virginia. Within this broader issue were the following subsidiary questions relating to the manner in which any such program might be structured:

1. To what degree should the reimbursement program encompass actual costs of housing inmates?
2. Should the reimbursement program encompass recovery of medical costs expended by the jail on behalf of an inmate?
3. To the extent that medical costs are included can, and should, government medical assistance programs be relied upon in recovery of these costs?
4. What criteria should be used to determine which inmates will be billed for costs?
5. If "cost-of-keep" reimbursement is recommended, what amount (or sliding scale amounts) should be charged?
6. Should reimbursement be required of inmates incarcerated prior to conviction, as well as those already convicted of an offense?
7. What additional administration would be required to manage a reimbursement program and would the effort outweigh the costs of running the program?

8. If "cost-of-keep" payments were required, would such sums be returned only to the jail or to other entities which incurred expenses as well?

### Findings

1. Any correctional facility seeking to recover costs of incarceration should attempt to recover ordinary cost of care.
2. Any correctional facility seeking to recover costs of incarceration should attempt to recover medical costs.
3. Each inmate should be notified of his obligation to reimburse the facility in full for his costs of incarceration and should be required to pay that amount of the costs deemed recoverable by the officer in charge of the facility.
4. An inmate should not be obligated to pay incarceration costs incurred while in a correctional facility unless sentenced to serve the time spent in the facility.
5. The type and expense of administration of a program to recover costs of incarceration would necessarily vary from institution to institution and cannot be definitively predicted.
6. The chief officer of the facility should decide, considering all other obligations of the inmate, if the facility should pursue collection of all or part of the costs of incarceration.
7. Use of Medicaid funds for payment of an inmates medical costs is prohibited by federal law (42 U.S.C. §1396d) and regulation (42 CFR §435.1009). Thus, the primary government medical assistance program that might cover inmates is not accessible for reimbursement purposes by the jails.

### Recommendation

Consideration of actual implementation of a pilot program for recovery of jail costs, as outlined by the Correction Issues Subcommittee, should be withheld pending further study to determine more definitively which inmates should be made subject to the recovery program.

## REPORT ON THE VIRGINIA PLAN FOR DRUG-FREE SCHOOLS

### Introduction

During the 1991 legislative session, Delegate E. R. "Ted" Harris, Jr., of Lynchburg successfully patroned House Joint Resolution 360 directing the Virginia State Crime Commission to develop "a plan to ensure drug free schools" in the Commonwealth of Virginia.

House Joint Resolution 360 (1991) is a continuation of Delegate Harris' 1990 House Joint Resolution 161, that directed this activity to the Crime Commission's Drug Trafficking Task Force.

The recommendations in this report are directed to the Governor and General Assembly, and to local school boards and superintendents. In general, the recommendations encourage school divisions to upgrade their drug policies, work in cooperation with local and state law enforcement agencies, post drug-free school zone signs and develop their student assistance programs.

The information included in the report is the most updated available. The Youth Risk Prevention Office of the Virginia Department of Education supports the distribution of the HJR 360 report to local school divisions as an effective way to assist schools in their drug prevention efforts.

#### Subcommittee Members

At the April 16, 1991, meeting of the Crime Commission, Chairman Elmon T. Gray of Sussex selected Raymond R. Guest, Jr., to serve as Chairman of the Drug Issues Subcommittee studying the development of a plan for drug-free schools. The following members of the Crime Commission were selected to serve on the subcommittee:

Delegate Raymond R. Guest, Jr., Front Royal, Chairman  
Delegate James F. Almand, Arlington  
Robert C. Bobb, Richmond  
Senator Elmon T. Gray, Sussex  
H. Lane Kneedler, Attorney General's Office  
Speaker A. L. Philpott, Bassett  
Rev. George F. Ricketts, Sr., Richmond

#### Issues Addressed

Delegate Harris requested that a report be developed to encourage school divisions to develop student assistance programs, and promote better drug law enforcement in the schools. He did not recommend or request any changes in existing Virginia law. Consistent with Delegate Harris' goals, and the mandate of HJR 360, the Crime Commission developed a technical assistance manual for local school divisions encompassing information on the following subjects:

1. Student and Employee Drug Policies
2. Search and Seizure on School Properties
3. Drug-Free Zones on School Properties
4. Student Assistance Programs

### Recommendations

1. The Virginia Department of Education should offer regular training for the local Drug Act Contacts on the importance of writing student and employee drug policies that comply with federal and state laws.
2. Local school divisions should appoint expert advisory committees to review annually the divisions' student and employee drug policies, and require annual public review and approval of these policies by the local school board.
3. The Virginia Department of Education and local school divisions should ensure that school employees receive adequate training in the understanding of laws pertaining to schools, including those laws allowing law enforcement agencies to conduct drug investigations and execute search and arrest warrants on school properties.
4. Local school division officials should meet regularly with local law enforcement agency officials to develop mutual guidelines and memoranda of agreement concerning law enforcement officers' access to school properties for the purpose of drug investigations, searches and arrests.
5. The Virginia Department of Education and the Department of State Police should include information about the drug-free zone law as it pertains to schools in parent training, school employee training, and the student DARE curriculum, to promote common understanding of the law and its consequences.
6. Local school divisions should post each school and administration property with at least two drug-free school zone signs per property. Local school divisions should continue to work with the Drug Policy Office of the Governor to acquire drug-free school zone signs at a minimal cost to the school division.
7. The Virginia Department of Education should review its policy prohibiting the use of local Drug-Free Schools and Communities Act federal grant funds to purchase drug-free school zone signs.
8. The Drug Policy Office of the Governor should continue to promote the posting of drug-free school zone signs, and continue to provide low-cost signs for purchase by the local school divisions.
9. The Virginia Department of Education should encourage local school divisions to develop student assistance programs by providing training in student assistance program development and implementation.
10. The Drug Policy Office of the Governor should expand its student assistance program grant funding to make start-up and enhancement grants available to more local school divisions.

## REPORT ON THE TRANSPORTATION OF PERSONS WITH MENTAL ILLNESS

### Introduction

During the 1991 General Assembly session, Delegate Clifton A. Woodrum of Roanoke requested the Virginia State Crime Commission to study the problems created for sheriffs who are required to transport mentally ill persons for evaluation and civil commitment. Sheriffs throughout the Commonwealth assert that there is insufficient manpower, long distances between facilities, delays at area hospitals, competing and conflicting duties of sheriffs and associated security concerns related to transporting mentally ill persons who may be considered dangerous to themselves or others. Consequently, the Virginia State Sheriffs Association expressed concern about these problems and requested the study. The Commission applied for and received a federal grant in the amount of \$9,997 from the National Institute of Corrections to fund this endeavor.

During the course of the study, the subcommittee held a series of six site visits across the Commonwealth, providing a forum for sheriffs and deputies, mental health system representatives and judicial officials to voice their concerns and discuss their recommendations for improvement. These meetings were further intended to help enhance local working relationships among meeting participants through more effective communication and a heightened understanding of each other's duties and responsibilities.

Additionally, the subcommittee conducted surveys of all Virginia sheriffs and Community Services Board (CSB) executive directors. The data collected from the surveys and the information gathered at the site visits as to the nature and extent of problems with mental health transports was carefully documented and clearly reflected in the subcommittee's findings and recommendations.

### Subcommittee Members

At the April 16, 1991 meeting of the Crime Commission, Chairman Senator Elmon T. Gray of Sussex selected Delegate V. Thomas Forehand, Jr. to serve as Chairman of the Corrections Issues Subcommittee studying the transportation of mentally ill persons. The following members of the Crime Commission were selected to serve on the subcommittee:

Delegate V. Thomas Forehand, Jr., Chesapeake, Chairman  
Senator Howard P. Anderson, Halifax  
Delegate Robert B. Ball, Sr., Henrico  
Senator Elmo G. Cross, Jr., Hanover  
Mr. Robert F. Horan, Jr., Fairfax  
Rev. George F. Ricketts, Sr., Richmond  
Delegate Clifton A. Woodrum, Roanoke



### Issues Addressed

Based upon the requirements of HJR 427, the following issues were approved by the subcommittee for consideration:

1. What are the present procedures for transporting persons certified for admission to a hospital?
2. What is the practice in such cases?
3. What, if any, are the obstacles and problems with existing procedure and practice?
4. Is there need for amending Virginia statutes to allow the sheriffs' offices 24 hours to transport mentally ill persons certified for admission to state hospitals?

### Findings

1. On average, sheriffs' offices statewide collectively handle a total of 1,625 mental health transports each month. However, sheriffs' transportation duties are not currently addressed in their funding from the Virginia Compensation Board. In addition, the budget reductions experienced by sheriffs' offices last year have further impacted their ability to perform mental health transports. Furthermore, sheriffs in areas with a high volume of mental health transports and in areas with only one mental health evaluation site serving numerous jurisdictions have indicated a unique transport problem which may justify enhanced staffing patterns.
2. The Department of Criminal Justice Services has proposed that the Basic Law Enforcement Model Lesson Plan be amended to include instruction on the emergency custody order (ECO) and temporary detention order (TDO) processes. Pending approval of the plan, this training will be provided as part of the core curriculum which must be successfully completed by all state and local police officers and law enforcement deputy sheriffs.
3. Sheriffs often receive requests to transport the same persons repeatedly. These persons are committed and released numerous times each year, placing a significant burden on sheriffs' offices to provide transportation and an even greater hardship on all elements of the mental health system to provide treatment.

The Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and the CSB's are currently implementing alternatives to inpatient commitment. Outpatient commitment may be used to decrease the number of individuals who are committed to a hospital multiple times during a year. Whereas outpatient commitment is permitted, there have been no additional resources allocated to the CSB's to expand the necessary service alternatives. Other states, including North Carolina, have recently expended the resources necessary to fund successful involuntary outpatient commitment programs.

4. The present TDO and ECO forms do not provide any information as to the physical description of persons to be transported. In addition, these forms do not currently provide space for additional comments. Consequently, when officers arrive on the scene to perform these transports, they are not equipped with adequate information describing the individual's physical appearance or any other details that might further prepare officers for the situation they are about to enter. Furthermore, the TDO and ECO forms are very similar in appearance and may be confusing to officers executing the orders.
5. Sheriffs in jurisdictions which closely border other states (i. e., the counties of Accomack, Northampton and Greensville and the city of Bristol) must travel long distances to transport persons for ECO's, TDO's and civil commitments to hospitals in Virginia when there are hospitals in other states (i. e., Maryland, North Carolina and Tennessee, respectively) which are located in much closer proximity to their offices. According to the affected sheriffs, the travel time required to perform mental health transports would be significantly decreased if they were permitted to take persons to hospitals in adjacent states.
6. Although several localities have developed their own procedures manuals pertaining to ECO's and TDO's, there is no statewide manual available at this time for reference by the involved parties. Study participants have indicated that such a manual would be an invaluable resource in this area. Furthermore, the production of this manual is a condition under the National Institute of Corrections grant which funded this study.
7. Local emergency mental health systems are highly dependent on effective collaboration between mental health providers, judicial officials, and law enforcement officers (deputy sheriffs and police officers). The responsiveness and efficiency of these emergency mental health systems are enhanced when the specific roles and responsibilities of these local agencies are clear. At present, there is undue confusion among police officers about the limits of their authority in this area, resulting in unnecessary delays and complications in responding to mental health emergencies.
8. At present, in 85% of the public sector cases which require transportation by law enforcement officers, persons who need emergency mental health treatment are seen and evaluated face-to-face by a mental health professional who makes a recommendation to the judicial officer. However, in some instances (i. e., in 205 cases statewide for the month of May 1991), in both urban and rural areas of the state, TDO's are being issued over the telephone without the person to be committed having been evaluated face-to-face by a mental health practitioner. This practice may promote unnecessary and/or inappropriate commitments, thereby increasing the number of transports required by sheriffs and jeopardizing the individual's constitutional right to due process.
9. The Code of Virginia does not currently provide statewide jurisdiction for law enforcement officers serving mental petitions. Consequently, when officers from areas with one CSB serving multiple jurisdictions transport a person under an ECO to an evaluation site outside of their jurisdiction and a TDO is subsequently issued, the officers do not have the authority to serve the TDO because they are no longer within their jurisdiction. In such

cases, the officers already on the scene would be forced to violate the Code in order to serve the TDO outside of their jurisdiction.

10. Section 37.1-71 of the Code of Virginia currently requires that, once a person has been certified for admission to a hospital and has been delivered to the care of the sheriff, the sheriff shall "forthwith on the same day deliver such person to the proper hospital." According to sheriffs, requests for transports frequently occur during the late evening hours, and it is sometimes logistically impossible to deliver the person "on the same day." However, persons with mental illness and their family members need access to treatment immediately when they are in crisis situations. According to the CSB survey results, the majority of CSB's do not have a suitable "holding" facility in their catchment areas. Furthermore, the Code specifies that persons with mental illness shall not be held in local jails.

#### Recommendations

1. Amend and reenact §15.1-138 of the Code of Virginia to specifically provide authorization for police officers to execute and serve emergency custody orders (ECO's).
2. Amend and reenact §37.1-67.1 of the Code of Virginia to require a face-to-face evaluation by a designated public or private sector mental health evaluator of all persons to be detained before a temporary detention order (TDO) can be issued.
3. Amend and reenact §37.1-67.1 of the Code of Virginia to provide statewide jurisdiction for law enforcement officers serving ECO's and TDO's.
4. Amend and reenact §37.1-71 of the Code of Virginia to delete "on the same day." This change would assure that a sheriff, who, for example, is given a transportation order at 11:00 p. m. would not be in violation of the Code for not delivering the person "on the same day," but that the order for transport would still be executed immediately.
5. Support the request of the Virginia Compensation Board to the Governor that the formula for determining the number of law enforcement sheriffs' deputies be based on a ratio of 1 deputy per 1,800 population in FY93 and 1 deputy per 1,600 population in FY94.
6. Support the request of the Virginia Compensation Board to the Governor for restoration of sheriffs' overtime in the amount of \$867,000.
7. Support the request of the Virginia State Sheriffs Association to the Virginia Compensation Board and the Joint Subcommittee Studying the Staffing and Funding of Constitutional Officers that staffing standards for local jails be implemented based on a ratio of 1 deputy per 3 inmates in jails built after July 1, 1990, and 1 deputy per 5 inmates over the operational capacity in order to address overcrowding. At present, staffing standards for local jails built prior to July 1, 1990 should be based upon a staffing analysis conducted by the Department of Corrections. (Note: Delegate Robert B. Ball, Sr. abstained from voting on this recommendation.)

8. Encourage meetings among local CSB workers, sheriffs' deputies, police officers where applicable, magistrates, special justices and any others involved in the ECO, TDO and civil commitment processes in order to develop appropriate solutions to local problems.
9. The Supreme Court of Virginia, with assistance from the Virginia State Crime Commission staff, should pursue grant funding in order to provide comprehensive training on the ECO, TDO and civil commitment processes to all special justices in the Commonwealth.
10. The Department of Mental Health, Mental Retardation and Substance Abuse Services, with assistance from the Virginia Association of Community Services Boards, should review other states' initiatives in the area of outpatient commitment programs, develop guidelines for a model outpatient commitment program for consideration in Virginia and determine the resources necessary to implement such a program. The DMHMRSAS and the CSB's should report their findings and recommendations to the Virginia State Crime Commission.
11. The Supreme Court of Virginia should redesign the TDO and ECO forms to include, on an "if known" and/or alleged basis, the same basic information about the person's physical appearance that is presently provided on criminal warrants (i. e., hair and eye colors, race, age, weight, etc.). In addition, space should be provided for additional comments in order to offer the magistrate or special justice completing the form an opportunity to include other relevant information, such as whether the person is known to be armed with a weapon, under the influence of drugs or alcohol or prone to violence. Finally, the TDO and ECO forms should also be modified so that they are more easily distinguished from each other (i. e., different colored forms).
12. The Crime Commission staff, with assistance from the Virginia State Sheriffs Association and the Department of Mental Health, Mental Retardation and Substance Abuse Services, should carefully examine the legal issues surrounding reciprocal agreements with the states of Maryland, North Carolina and Tennessee that would allow detained persons to be transported to hospitals in these neighboring states. (Note: The subcommittee as well as the full Crime Commission did not vote to formally approve this recommendation; however, the subcommittee Chairman directed the staff to further explore the concept of reciprocal agreements.)
13. The Crime Commission staff, with assistance from the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Virginia Association of Community Services Boards and the Virginia State Sheriffs Association, should develop a procedures manual which clearly and comprehensively addresses the issuance and execution of ECO's and TDO's and emphasizes related transportation requirements. The manual should be printed and distributed to all Virginia sheriffs and applicable police chiefs, chief magistrates and community services boards' executive directors and should be made available upon request to any other interested parties.

## REPORT ON CARRY-OVER PROJECTS OF THE DRUG STUDY TASK FORCE

Including Pharmaceutical Drug Diversion, Drug Law Enforcement Efforts,  
Youth Gangs, Substance Abuse Treatment in Local Jails and  
Coordination with the Office of the Governor

### Introduction

During the 1991 General Assembly session, Senator Elmon T. Gray of Sussex successfully patroned Senate Joint Resolution 205, directing the Virginia State Crime Commission to complete the unfinished projects of the Commission's two-year Drug Study Task Force. SJR 205 specifically requested that the Commission complete its studies of pharmaceutical drug diversion, drug law enforcement efforts, youth gangs, the availability of substance abuse treatment in local jails and coordination with the Office of the Governor.

### Subcommittee Members

At the April 16, 1991 meeting of the Crime Commission, Chairman Senator Elmon T. Gray of Sussex selected Delegate Raymond R. Guest, Jr. to serve as Chairman of the Drug Issues Subcommittee that will carry out the directives of Senate Joint Resolution 205. The following members of the Crime Commission were selected to serve on the subcommittee:

Delegate Raymond R. Guest, Jr., Front Royal  
Delegate James F. Almand, Arlington  
Mr. Robert C. Bobb, Richmond  
Senator Elmon T. Gray, Sussex  
Mr. H. Lane Kneedler, Attorney General's Office  
Speaker A. L. Philpott, Bassett  
Rev. George F. Ricketts, Sr., Richmond

### Issues Addressed

The Virginia State Crime Commission's 21-member Drug Study Task Force spent two years developing 65 anti-drug projects targeted at law enforcement and prosecution, treatment, corrections and drug prevention education in the schools and communities. A few projects could not be completed satisfactorily by December, 1990. SJR 205 directed the Commission to complete the following carry-over projects in 1991:

#### A. Pharmaceutical Drug Diversion

The Law Enforcement Subcommittee of the Drug Study Task Force began its study of pharmaceutical drug diversion in 1990. At that time, the subcommittee requested that a staff study be conducted in cooperation with the Virginia Department of State Police and Department of Health Professions. The Crime Commission agreed to retain a technical consultant to help the pharmaceutical drug diversion study group develop data resources and conduct statistical analyses to determine the extent of the pharmaceutical drug diversion problem in Virginia.

The pharmaceutical drug diversion study group, composed of Commission Staff Attorney Dana Schrad and three members each from the Department of State Police and Department of Health Professions, held two information-gathering conferences in 1990 and 1991 during the course of the study. On November 1, 1990, representatives from Virginia state agencies that gather pharmaceutical drug-related investigative information presented their data programs to the work study group. These data programs became the means for the technical consultant, Dr. Thomas Wan of MCV/VCU, to determine how data already gathered in Virginia may reveal trends in pharmaceutical drug use or diversion.

On April 23, 1991, the pharmaceutical drug diversion study group conducted a conference with representatives from several states to hear testimony on the types of pharmaceutical drug diversion interdiction programs that have been adopted in the United States. The group also heard testimony from health professionals, pharmacists and federal law enforcement agencies concerning their policy positions on different intervention programs.

Based on the data collected and monthly meetings to determine strategy, the pharmaceutical drug diversion study group concluded its study in August, 1991. The Department of State Police and the Department of Health Professions each submitted findings and recommendations to the Commission staff. Additionally, the Department of Health Professions compiled an extensive technical report on the data and research collected during the course of the study, which may be published as a resource document for other states. The recommendations from the pharmaceutical drug diversion study were developed from recommendations offered by the Department of State Police, Department of Health Professions and Crime Commission staff.

#### B. Drug Law Enforcement Efforts

The Virginia Department of State Police worked on a number of projects for the Crime Commission's Drug Study Task Force concerning drug law enforcement efforts. Many of the studies focused on the development and expansion of Virginia's multi-jurisdictional task force

program, which unites the Virginia State Police and a number of contiguous local jurisdictions in shared undercover drug investigations. As carry-over projects, the Department of State Police reported to the Drug Issues Subcommittee in 1991 on:

- 1 ) the development of semi-annual workshops for the multi-jurisdictional task force members to provide specialized training and allow networking of the state's 23 task forces;
- 2 ) the enhancement of the Virginia Narcotics Pointer Index System to improve the quality of drug investigative information on the system, and encourage its use by local law enforcement agencies;
- 3 ) the securing of federal grant funds to computerize each of the multi-jurisdictional task forces to improve their case management and information-gathering abilities;
- 4 ) the results of a manpower study of the state and local drug task forces;
- 5 ) the results of a study of task force target and case prioritization; and
- 6 ) the results of a study to determine the need for development of a state-wide pool of vehicles for undercover investigations.

#### C. Youth and Drug Gangs

The Law Enforcement Subcommittee of the Drug Study Task Force studied the problem of youth and drug gangs to determine the best way to prevent gang development in Virginia. A Commission staff survey in 1990 of local law enforcement agencies revealed only small pockets of gang activity, mostly located in the urban areas. The survey also revealed a lack of law enforcement training in gang identification and investigation.

In 1991, the Commission staff began working with the Norfolk Police Department, the only law enforcement agency in Virginia with an organized Youth Gang Unit. Investigators Patrick Dunn and Randy Crank recommended that training be offered in Virginia for local law enforcement agencies to learn how to identify and investigate gang activity. With assistance from the Drug Policy Office of the Governor, the Norfolk Police Department Youth Gang Unit now is working with the Department of Criminal Justice Services and the Department of State Police to develop and deliver training to state police and local law enforcement officers.

#### D. Substance Abuse Treatment in the Jails

During 1990, the Virginia State Crime Commission worked with the Department of Mental Health, Mental Retardation and Substance Abuse Services on the creation of a substance abuse treatment/jail services project. After study by the Commission and recommendation by the Department, the Department agreed to designate \$1.6 million in federal funds from the Alcohol, Drug Abuse and Mental Health Services Block grant to provide one substance abuse counselor to each of the state's 40 Community Services Boards. The boards established the substance abuse counselor positions specifically to provide treatment services to the local and regional jails. The Department of Mental Health in 1991 surveyed the Community Services Boards to develop a progress report for the Crime Commission. Follow-up training meetings were held with jail officials and the jail counselors in the five Health Service Area regions across Virginia. The

Boards, local jail sheriffs and regional jail administrators reported very positive progress and success with the jail services project.

The Department and the Community Services Boards, in planning for the 1992 fiscal year, agreed to designate \$641,281 in new federal funds to provide 18.5 additional substance abuse treatment counselor positions for the jail services project.

#### E. Coordination with the Office of the Governor

Since 1990, the Virginia State Crime Commission has been working with the Drug Policy Office of the Governor on the development of anti-drug strategies in Virginia and implementation of special projects and programs. Mr. Robert Northern, Special Assistant to the Governor for Drug Policy, has collaborated with the drug study staff of the Commission on development of and funding for state-wide School/Community Team Training for local education and community officials. This training program assists localities in developing drug prevention and intervention programs, particularly those targeted for high-risk youth. The Commission and Governor's Office worked together with Staunton Chief of Police Grafton Wells and Robert E. Lee High School Principal Charles Rembold to develop training and curricula for the PULSAR program. PULSAR is an interactive drug education and rehabilitation program for high-risk youth created in Staunton that now is being adopted by communities across Virginia.

The Governor's Drug Policy Office continues to involve the Crime Commission in development of state-wide anti-drug conferences and in coordination of policies concerning education, treatment and law enforcement. Many of the projects initiated by the Commission during its two-year task force study have been adopted by the executive branch agencies. The Governor's Drug Strategy, released in 1991, closely parallels the strategy developed by the Commission's drug study task force.

#### Recommendations

1. Professional education for health professionals should include information on appropriate prescribing practices that stresses prescribing medications only for legitimate needs, and make current and future prescribers of controlled substances aware of current research related to pain management and other appropriate uses of narcotic, analgesic and psychotropic medications. This education should be implemented in the state's medical schools, and should include proper dispensing practices for pharmacists. Professional education also should be made available in the current trends of pharmaceutical drug diversion to make health professionals more aware of diversion techniques and fraudulent practices, such as doctor shopping and prescription theft and forgery.
2. A comprehensive training program for the judiciary and Commonwealth's Attorneys should be developed on the impact of pharmaceutical drug diversion on Virginia's overall drug crime problem. Current training programs for law enforcement officers in Virginia on pharmaceutical drug diversion should include presentations at the in-service schools on the relationship between pharmaceutical drug diversion and the overall drug crime problem in Virginia.



The Department of Criminal Justice Services should evaluate the quality and appropriateness of the training provided for Department of Health Professions investigators, and report findings and recommendations to the Virginia State Crime Commission by December, 1992.

Educational efforts should be developed to promote better understanding of the appropriate use of prescription drugs and of the problem of pharmaceutical drug diversion, directed to the judiciary, the media and to the general public, as well as to authorized prescribers and dispensers of controlled substances and regulatory and enforcement personnel.

3. Existing data systems for estimating and detecting pharmaceutical drug diversion should be complemented with better use of Medicaid claims data and other emerging data sources, such as private and public drug utilization review systems, to foster a better understanding of the extent and characteristics of diversion. Coordination among the Department of Health Professions, Department of State Police, Department of Medical Assistance Services and other appropriate agencies regarding investigative information should be continued and enhanced.
4. The Virginia State Crime Commission, with the assistance of the Department of State Police and the Department of Health Professions, should monitor and evaluate the interactive point of sale program being implemented in other states. The data collected could be used to detect indiscriminate prescribing/dispensing, doctor shopping and possible invalid Drug Enforcement Agency (DEA) numbers. Evidence of cost-effectiveness, program efficiency of the existing programs in other states and privacy issues concerning confidential records should be documented and findings and recommendations reported to the Virginia State Crime Commission by December, 1992.
5. Code of Virginia §54.1-3405 should be amended to require the Department of Health Professions to report information which constitutes evidence of illegal distribution, possession or obtaining of controlled drugs to the Department of State Police for criminal investigation purposes.
6. The Code of Virginia should be amended to prohibit the release by the Department of Health Professions of medical and treatment records of health practitioners obtained from programs treating impaired practitioners.
7. Code of Virginia § 18.2-308.4 should be amended to extend the prohibition of possession of a firearm while in the illegal possession of all Schedule I and II controlled substances. Presently, only Schedule I and cocaine-related materials are included in this statute. Methamphetamine is a Schedule II drug of choice of outlaw motorcycle gangs, which have been shown to possess firearms that presently is not included in this Code section. Additionally, the section should be amended to replace "firearms" with "weapons as described in §18.2-308A."
8. Amend the Code of Virginia § 18.2-255 to extend the enhanced penalties for distribution to a minor to include distribution of Schedule IV and V drugs. Presently, this statute only

provides enhanced penalties for the illegal distribution of Schedule I through III drugs and marijuana to minors.

9. The Department of State Police should continue to conduct semi-annual training conferences for the multi-jurisdictional task forces in cooperation with the Virginia State Crime Commission. The conferences should be jointly planned to target training needs identified by the multi-jurisdictional task force members.
10. The Department of State Police should attempt to complete the computerization of the multi-jurisdictional task forces as scheduled in 1992, and submit a progress report to the Virginia State Crime Commission in 1992 on the computerization project.
11. The Virginia Department of Criminal Justice Services (DCJS) should develop a model curriculum addressing drug and youth gangs for Virginia's law enforcement officers.

DCJS should develop a standard curriculum which could be utilized on a statewide basis to enhance awareness of drug and youth gang activities and to suggest appropriate responses. Such instruction should be included in the Basic Law Enforcement Model Lesson Plan which serves as the core curriculum that must be successfully completed by all beginning state and local police officers and law enforcement deputy sheriffs. Additionally, DCJS should expand this basic curriculum in order to offer in-service instruction to state and local law enforcement officers already in the field.

12. The Department of Mental Health, Mental Retardation and Substance Abuse Services should develop training and technical assistance programs to enable the jail substance abuse counselors to deliver appropriate services to clients in the local and regional jails.
13. The Department of Mental Health, Mental Retardation and Substance Abuse Services should report to the Virginia State Crime Commission in 1992 on the continued progress of the jail services project, and offer findings and recommendations to the Commission for further improvement and development of the project.
14. The Virginia State Crime Commission, on behalf of the General Assembly, and the Drug Policy Office of the Governor should continue to work together to ensure coordination of anti-drug projects, avoid duplication of effort and promote efficient and effective use of state and local resources in anti-drug programs.
15. The Drug Policy Office of the Governor should report annually to the Virginia State Crime Commission on its programs, policies, legislation and anti-drug project expenditures and grants.
16. The Virginia State Crime Commission should report annually to the Drug Policy Office of the Governor concerning the Commission's anti-drug-related legislative reports and recommendations for the purpose of facilitating coordination of efforts.

## REPORT ON THE RELEASE OF INFORMATION ON JUVENILE FELONS

### Introduction

During the 1991 General Assembly session, Senator Elliot S. Schewel of Lynchburg successfully patroned Senate Joint Resolution No. 212, directing the Virginia State Crime Commission to study the release of information concerning juveniles charged with certain felonies. SJR 212 specifically requested that the Commission "study the expansion of the existing authority to release identifying information about juveniles and the instances under which such release would be in the public interest."

SJR 212 requested an examination of juvenile confidentiality laws to allow law enforcement agencies to release some information from confidential juvenile law enforcement records to the media without judicial approval. Law enforcement agencies have become frustrated by the local media's use of information on juvenile offenders, obtained from the public, when the police department could not officially release such information.

### Subcommittee Members

At the April 16, 1991 meeting of the Crime Commission, Chairman Senator Elmon T. Gray of Sussex selected Delegate Raymond R. Guest, Jr., to serve as Chairman of the Drug Issues Subcommittee studying the release of information concerning juveniles charged with certain felonies. The following members of the Crime Commission were selected to serve on the subcommittee:

Delegate Raymond R. Guest, Jr., Front Royal, Chairman  
Delegate James F. Almand, Arlington  
Mr. Robert C. Bobb, Richmond  
Senator Elmon T. Gray, Sussex  
Mr. H. Lane Kneedler, Attorney General's Office  
Speaker A. L. Philpott, Bassett  
Rev. George F. Ricketts, Sr., Richmond

### Issues Addressed

Through the course of the study, it was found that the local relationship among the media, the courts and law enforcement agencies is the determining factor in whether a problem exists concerning access to confidential juvenile information. Discussions with some juvenile court judges revealed the existence of local agreements with the media to attend juvenile court proceedings, on the condition that identifying information about the juvenile subject of the hearing would not be released publicly. However, juvenile public defenders in other locales reported concern over uncontrolled release or release without court permission of confidential juvenile information that caused irreparable damage for the juvenile and his or her family.

A review of Virginia law indicated that, on the narrow question posed in SJR 212, there is sufficient latitude in the present law to allow the release of some law enforcement and court record information to the media as concerns juveniles. Additionally, there does not appear to be a state-wide need at this time to relax juvenile confidentiality laws pertaining to release of information to benefit the media.

However, in "Pandora's box" fashion, this study has opened up questions on a much broader range of juvenile confidentiality issues. Most of the concerns heard by the Commission centered on the need for school officials to know more court and law enforcement information about young offenders who are in the schools. Additionally, school counselors who receive confidential information from students are not sure whether the right of the parents to know about their child is greater than the child's right to confide in a counselor.

Therefore, the recommendations from this study do not suggest changes in the law for the sake of providing more information to the media absent court approval. The major recommendation is further study by the Commission in 1992 of the "need to know" issue and the sharing between certain service agencies of confidential information concerning a juvenile offender.

#### Recommendations

1. The Virginia Press Association and the Virginia Broadcasters Association should provide information at annual association meetings to promote media understanding of juvenile confidentiality laws.
2. The Virginia Press Association and the Virginia Broadcasters Association should encourage the development of agreements between local media and juvenile court judges concerning media courtroom attendance and publication of identifying information from juvenile court proceedings.
3. Local sheriffs and police chiefs should meet with juvenile court judges within their jurisdictions to develop memoranda of agreement concerning the release of information pertaining to juvenile offenders.
4. The Virginia State Crime Commission, in conjunction with local law enforcement agencies, court service units, juvenile court judges, state and local education agencies and parent associations, should study juvenile confidentiality laws and the sharing of information concerning juvenile offenders among those agencies, and report to the Governor and General Assembly by December, 1992.

## FORMAL REPORTS PRESENTED TO THE CRIME COMMISSION

Not infrequently the Crime Commission will work jointly with other agencies, or ask other agencies to investigate certain issues and to report back to the Commission on their findings. In 1991, the Crime Commission received two formal reports arising from earlier Commission studies.

### VIOLENT CRIME AND WORKER'S SAFETY IN VIRGINIA CONVENIENCE STORES

Because convenience stores are a favorite target for perpetrators of violent crime, and therefore represent a significant risk to citizens of the Commonwealth, Delegate George Heilig, Jr., of Norfolk, asked the Commission in 1989 to investigate means of reducing this risk of crime for both workers and consumers in convenience stores. The Crime Commission in turn enlisted the assistance of the Crime Prevention Center in the Department of Criminal Justice Services who presented an interim report to the Commission in 1990. As a result of their findings, then Commission Chairman, Senator Elmon T. Gray, asked DCJS to continue their research and report back to the Commission in 1991. In December of 1991 the Crime Commission received the Department of Criminal Justice Services' final report on Violent Crime and Worker's Safety in Virginia Convenience Stores.

The study concluded that robberies in Virginia's convenience stores increased at a greater rate than they did nationally. Particularly disconcerting about this statistic is the propensity for homicide in crimes involving firearms. Indeed, the report noted that in Virginia convenience stores probably represent the most likely forum for workplace homicides.

Specifically, the report found that, while all convenience store clerks stand at significant risk of robbery, female clerks are at an increased risk of sexual assault as well because of the particular type of offender in convenience store crimes.

Convenience stores, the report stated, fall into two categories: high victimization stores and low victimization stores. But while those stores falling into the former group are reasonably easy to identify, it is more difficult to determine when a particular store is moving from the latter category to the former. Thus, a two-pronged approach would most effectively control this crime problem: first by introducing primary prevention measures in lower risk stores, and then adding enhanced measures in those stores most subject to the risk of violent crime. The best determinant of whether a store will suffer a robbery in the future, the report concluded, is whether it has been subject to an earlier robbery.

In accordance with the report's findings the following specific recommendations were offered:

1. Make implementation of the Incident Based Reporting system by the Virginia State Police and Department of Criminal Justice Services a top priority.

2. Have the Virginia Crime Prevention Center conduct a study of offenders convicted of committing violent crimes in Virginia's convenience stores.
3. Mandate a minimum set of security requirements for all convenience stores.
4. Mandate an enhanced set of security measures for convenience stores which have already been subjected to violent crime.

The Crime Commission adopted the first three recommendations but determined that mandate of higher security standards for certain stores should be looked at more carefully prior to implementation. Consequently, the Commission suggested that the last recommendation be studied further.

#### A PLAN FOR PROVISION OF SPECIAL EDUCATION SERVICES IN LOCAL JAILS

In 1989, Delegate Warren G. Stambaugh, of Arlington, sponsored HJR 283 requesting the Crime Commission to study the most effective means of delivering special education services to handicapped youth in Virginia's jails, consistent with the mandate of the Education of the Handicapped Act, 20 U.S.C. 1400 et seq. The need to review a means for providing these services came to light as a result of a complaint by a youth in the Richmond city jail who claimed he was entitled to special education during his incarceration.

Following its study of the federal and state laws governing the provision of special education services, and the existing mechanisms for service delivery in other states (only Massachusetts actually possessed a comprehensive plan), the Crime Commission recommended a plan for delivery of special education services to persons in local jails. One component of this included the development of a plan for coordination of services by the Virginia Department of Education, and the Department was requested to report back to the Crime Commission. In response, the Department of Education provided the Commission with regular updates on development of the plan and, in December 1991, delivered a report on its "Plan for Provision of Special Education Services to Youth Incarcerated in Local Jails."

The conclusions of the Department of Education were consistent with the earlier findings of the Crime Commission. The Department offered the following specific recommendations:

1. Virginia should proceed with the implementation of special education programs for eligible inmates incarcerated in local jails.
2. Funds should be appropriated by Virginia to local school divisions for all direct and indirect costs of providing special education to qualified inmates and for the provision of regular education services to inmates under age 18.
3. Implementation of services should begin as pilot programs in six localities during the 1992-1994 school year. The Department of Education should report back to the Crime Commission on the success of the pilot programs.

4. Additional special education positions should be funded for implementation of special education programs, consistent with the recommendations of the Department of Correctional Education.
5. The Commonwealth should, through the Compensation Board, address any security needs resulting from special education services by revising the current security staffing ratio.
6. Necessary space, accessible by inmates suffering disabilities, should be ensured upon revision of the Department of Education's *Minimum Standards for Jails and Lockups* and the *Guide for Minimum Standards in Design and Construction of Jail Facilities*.

### CRIME COMMISSION LEGISLATION PROPOSED IN THE 1992 SESSION

In the course of formal legislative studies, through public hearings, or from contacts related to any other of the myriad of Crime Commission activities, the Commission frequently develops proposals for legislative change. Following is a list of all Crime Commission bills and their disposition following the 1992 session of the Virginia General Assembly.

#### PASSED

HB 804                      Bail/bond process.  
Chief Patron:              Delegate Jean W. Cunningham

Arising from the Crime Commission's study on the pretrial detention process, this bill offered amendments to Sections 19.2-121, 19.2-123, 19.2-131 and 19.2-134 of the Code of Virginia clarifying these sections on the bail/bond process and establishing consistency in relation to Chapter 9, Title 19.2 of the Code of Virginia on Bail and Recognizances. Additionally, the bill amends Section 19.2-135 of the Code to allow all judicial officers (rather than judges only) the discretion to permit persons released pending trial to leave the state for good cause.

#### PASSED

HB 333                      Authority of police to serve emergency custody orders.  
Chief Patron:              Delegate V. Thomas Forehand, Jr.

The Crime Commission's 1991 study of the transportation of persons with mental illness found that local emergency mental health systems are highly dependent on effective collaboration among mental health providers, judicial officials, and law enforcement officers. The study concluded that there was a need to better define the roles of law enforcement officers to eliminate existing confusion about duties and thereby maximize the responsiveness and efficiency of emergency mental health services. This bill does so by amending Section 15.1-138 of the Code of Virginia to permit local police officers to serve emergency custody orders.

PASSED WITH AMENDMENTS

HB 334                      Time requirement for delivery of persons by sheriff to a hospital.  
Chief Patron:              Delegate V. Thomas Forehand, Jr.

Also arising from the Commission's study of transportation of the mentally ill, this amends Section 37.1-71 of the Code of Virginia to eliminate the requirement that persons certified for admission to a hospital be delivered by the sheriff "on the same day" of such certification. Because an individual could be certified at any point during a 24 hour time period but was required to be delivered prior to midnight of that day, this statute provided no uniform time limit and actually created unreasonable limits in certain cases. The amendment removes the arbitrary language and substitutes new language which requires that transport of the person commence no later than six hours after notification of the sheriff that such person has been certified.

PASSED WITH AMENDMENTS

HB 332                      Mandatory face-to-face evaluations for TDO's.  
Chief Patron:              Delegate V. Thomas Forehand, Jr.

This bill resulted from the Crime Commission's mentally ill transportation study. It requires that evaluations for temporary detention orders (TDO's) be done face-to-face by a designated mental health expert, except where the person subject to such an order has been personally examined within the previous seventy-two hours by an appropriate evaluator, or the individual represents a significant physical, psychological or medical risk to himself or others. Additionally, it expands the jurisdiction of police for service of emergency custody orders to a state-wide basis.

FAILED

HB 805                      Presence of victims in the courtroom during trial.  
Chief Patron:              Delegate Jean W. Cunningham

The Crime Commission received a public hearing request from advocates of crime victims to support a bill permitting victims to remain in the courtroom during a trial, even if such persons will act as witnesses in the trial. This bill would have created an exception to the rule excluding witnesses from the courtroom, yet provide an opportunity for the court to exclude the witnesses if their presence were determined to be detrimental to the trial process.



\*FAILED

SB 178                      Transportation of hazardous materials by the Division Forensic Science.  
Chief Patron:              Senator Elmo G. Cross, Jr.

The Division of Forensic Science offered a bill in public hearing before the Crime Commission which would exempt Forensic Sciences from regulations related to the transportation of hazardous materials. This bill would have achieved this objective with language designed to permit transport by the labs of certain evidence without normal packaging requirements.

\*Note: A subsequent determination was made by the Division of Forensic Sciences that existing law is in fact adequate to achieve the desired objective. Therefore, this bill was deemed to no longer be necessary.

PASSED WITH AMENDMENTS

HB 461                      Eligibility for the "boot camp" incarceration program.  
Chief Patron:              Delegate James F. Almand

Through the Crime Commission's continuing review of the boot camp program, which the Department of Corrections indicates has achieved initial success, it has become apparent that the program is underused and that space set aside for participants of the program is being underutilized. As a result the Crime Commission, in conjunction with the Department of Corrections, proposed this bill to alter certain criteria for admission to the program, which will expand eligibility while retaining the standards that allow it to operate effectively. The bill deletes the minimum age requirement for the program and stipulates that the maximum age limit applies to time of conviction rather than the time the offense is committed. It also eliminates a prior sentence as an adult to incarceration as a bar to participation in the program so long as the sentence was of 12 months or less and was served only in a jail.

PASSED

HJR 67                      Study of statutory fees for services by sheriffs.  
Chief Patron:              Delegate V. Thomas Forehand, Jr.

Requested by the Virginia Sheriffs Association in public hearing, this resolution asks the Crime Commission to study the fees charged statutorily for various tasks performed by sheriffs, such as service of civil process, service of warrants, and transportation of prisoners. The fees, at their current levels, may not be worth the costs of collecting them. The study resolution directs the Commission to determine the relative advisability of eliminating the fees altogether or, in the alternative, adjusting them to more accurately reflect the costs of the services performed.

PASSED WITH AMENDMENTS

HB 523 "Fire bomb" Definition.  
Chief Patron: Delegate W. Roscoe Reynolds

Because the existing statute failed to cover certain explosive materials in its ban on "fire bombs", the Division of Forensic Science came before the Crime Commission's public hearing in support of an amendment to Section 18.2-85 of the Code of Virginia. The bill effectively expands the scope of the statute by including in the "fire bomb" definition chemical compounds which are not individually flammable but which cause an explosive reaction when mixed.

PASSED

HB 336 Toll-free passage for sheriffs and deputies.  
Chief Patron: Delegate V. Thomas Forehand, Jr.

Various persons associated with law enforcement, the Department of Motor Vehicles and the Department of Transportation are permitted toll-free passage on the Chesapeake Bay Bridge-Tunnel and facilities of the Richmond Metropolitan Authority pursuant to Section 33.1-252 of the Code of Virginia. This bill expands the list to include sheriffs and their deputies who are engaged in official business.

CARRIED OVER TO 1993

HB 652 Crime Prevention Specialists.  
Chief Patron: Delegate Glen R. Croshaw

This bill arose from the joint study on convenience store worker safety by the Crime Commission and Department of Criminal Justice Services. The bill proposed the creation of Code of Virginia Sections 9-173.14, 9-173.15, and 9-173.16 to establish and provide for training of crime prevention specialists for each county, city and town in Virginia, to provide private citizens and businesses information on crime prevention, and to conduct inspections of convenience stores.

PASSED

HB 249 "Son of Sam" statute.  
Chief Patron: Delegate Julia A. Connally

Section 19.2-368.22 of the Code of Virginia was enacted to ensure that persons may not circumvent Virginia's "Son of Sam" law which requires that profits arising from an individual's criminal endeavors be made available to the victims of such crime. This bill amended Section 19.2-368.22 to correct a technical flaw in the statute, thereby allowing the statute to serve its intended purpose.

STRICKEN BY PATRON

HB 165                Written request for investigation of elected officials.  
Chief Patron:        Delegate Clifton A. Woodrum

Brought before the Crime Commission in public hearing, this bill would have amended Section 52-8.2 of the Code of Virginia to require a written request from the Governor, Attorney General or a grand jury for an investigation of an elected official by the State Police with respect to a potential criminal violation.

PASSED WITH AMENDMENTS

HB 382                Concurrent possession of firearms and illegal drugs.  
Chief Patron:        Delegate Raymond R. Guest, Jr.

Arising from the Crime Commission's study of pharmaceutical drug diversion, this bill amends Section 18.2-308.4 of the Code of Virginia to revise the statute that presently prohibits the concurrent possession of Schedule I drugs or cocaine and any firearm. The bill adds all Schedule II drugs as well and, as amended on the Senate floor, mandates a minimum two-year imprisonment for the first offense, and four years for the second or subsequent conviction, without possibility of probation or parole.

PASSED WITH AMENDMENTS

HB 383                Reporting requirement for DHP investigators.  
Chief Patron:        Delegate Raymond R. Guest, Jr.

This bill was derived from the study of pharmaceutical drug diversion. While Section 54.1-3405 of the Code of Virginia requires the Virginia State Police to notify the Department of Health Professions upon uncovering evidence of a violation of DHP regulations, the Code is silent about any reporting obligation of DHP. This bill requires DHP investigators to contact the Virginia State Police when they uncover evidence of violation of the Drug Control Act during the course of an inspection. Subsequent to introduction of this bill, and at the request of the patron, language was added to prevent substance abuse treatment records of impaired health professionals held by the Department of Health Professions from being accessed during the course of a State Police diversion investigation.

PASSED WITH AMENDMENTS

HB 384                Distribution of illegal drugs to a minor.  
Chief Patron        Delegate Raymond R. Guest, Jr.

This bill was also recommended in the report on pharmaceutical drug diversion, adding Schedule IV drugs to those listed in Section 18.2-255 of the Code of Virginia. The statute provides for an enhanced penalty for the illegal distribution of the specified drugs to a minor.

CARRIED OVER TO 1993

HB 385 Inhalation of noxious substances.  
Chief Patron Delegate Raymond R. Guest, Jr.

In public hearing before the Crime Commission the Forensic Science Advisory Board suggested the need for expansion of Section 18.2-264 of the Code of Virginia relating to inhalation of various substances. This bill would have added a number of items to the list of prohibited chemicals in that statute. The bill was carried over at the request of the patron.

FAILED

HB 386 Misdemeanor arrests.  
Chief Patron Delegate Raymond R. Guest, Jr.

This bill was requested by the Blue Ridge Chiefs of Police at a public hearing of the Crime Commission. The amendment to Section 19.2-81 of the Code of Virginia would permit arrest by a law enforcement officer for a misdemeanor offense observed by another officer. Under current law an officer may not conduct an arrest for a misdemeanor offense based solely on the observations of another law enforcement officer.

PASSED WITH AMENDMENTS

HB 549 Fees for courthouse maintenance.  
Chief Patron Delegate Joan H. Munford

Current Virginia law allows for a portion of the fees collected in criminal or traffic cases to be designated for courthouse maintenance costs. The Blue Ridge Chiefs of Police Association came before the Crime Commission in public hearing to request that the law be amended to allow towns that provide courthouse facilities also to benefit from this provision.

PASSED

HB 703 Laboratory Services Advisory Board membership.  
Chief Patron Delegate John J. Davies III

Because the position of Secretary-Treasurer of the State Board of Pharmacy has been abolished, the Division of Forensic Science requested amendment to Section 2.1-427 of the Code of Virginia to formally remove such person as a statutorily required member of the Laboratory Services Advisory Board.

PASSED

HB 704                      Laboratory Services Advisory Board membership.  
Chief Patron              Delegate John J. Davies III

Brought before the Crime Commission in public hearing, this bill amends Section 2.1-434.2 of the Code of Virginia to add the Executive Director of the Virginia Board of Pharmacy, or his designee, as a member of the Forensic Science Advisory Board.

PASSED WITH AMENDMENTS

HB 770                      Emergency control of telephone service.  
Chief Patron              Delegate Bernard S. Cohen

A request for this bill was made to the Crime Commission in public hearing. The bill repeals Section 18.2-50.1 of the Code of Virginia, and creates a new Section 18.2-50.2 allowing for diversion or control of phone lines in hostage or barricade situations. The purpose of this bill is to enable effective communication between the suspect and law enforcement officers while curbing inappropriate or dangerous communications by the suspect to outside parties

PASSED

HB 524                      Age limit for commitment of juveniles.  
Chief Sponsor              Delegate Roscoe Reynolds

The Virginia Commonwealth's Attorneys' Association pointed out the need for a change in Section 16.1-285.1 of the Code of Virginia to lower the commitment age of juveniles in order to make it consistent with existing age limits for transfer of a juvenile from Juvenile and Domestic Relations Court to Circuit Court. This bill amends Section 16.1-285.1 to accomplish this change.

PASSED

HB 161                      Evidentiary admission of certificates of analysis.  
Chief Sponsor              Delegate Clifton A. Woodrum

While Section 19.2-187 of the Code of Virginia has allowed for the introduction into evidence of certificates of analysis by qualified laboratories in criminal cases, there has been no previous provision for the introduction of this evidence in civil cases. The inability to use such evidence hinders drug asset forfeiture cases, which are civil proceedings. This bill remedies the defect by permitting the admission into evidence of certificates of analysis in such cases.

**PASSED**

HJR 149

Convenience store robberies.

Chief Sponsor

Delegate George Hellig

In 1991 the Crime Commission received a report from the Virginia Crime Prevention Center of the Department of Criminal Justice Services concerning the dangers and causes of violent crime in Virginia's convenience stores. One of the recommendations of this report was that a study be conducted to determine the nature of this offender population. This resolution requests the Crime Prevention Center to determine the prevalence of arrests for violent crime at convenience stores, the costs of arresting and detaining these offenders, the characteristics of these offenders and means for reducing the risk of such crime.

**FUTURE EVENTS: CRIME COMMISSION ACTIVITIES FOR 1992**

Just as 1991 represented a particularly busy year for the Crime Commission, the Commission will be inundated with projects for the coming year as well. Many of these will be continuing activities from 1991, pursuant both to formal resolutions of the General Assembly and recommendations of the Commission itself. Despite copious work efforts on the part of the Crime Commission and its staff, judicious and deliberate consideration of some issues necessitated carry-over studies for 1992. A number of legislative resolutions were also passed during the 1992 Session requesting studies of the Commission.

A study on the pretrial detention process in Virginia in 1990 yielded a bill in reform of various sections of the Code of Virginia governing bail/bond statutes. In 1991 the Crime Commission looked again at this Chapter of the Code (Chapter 2, Title 19.2) and, in conjunction with the Executive Secretary's Office of the Virginia Supreme Court, recommended some additional changes. The Crime Commission determined the need for substantial revision to Article 2 of this Chapter and recommended appropriate review and proposals for amendment in time for submission of a bill to the 1993 Session of the General Assembly.

The completed study on the feasibility of requiring reimbursement of costs by jail inmates offered a mechanism for a recovery program. However, the Commission found a need for considering more carefully the policy question of who should be subject to the provisions of such a program and concluded that it would be prudent to study this aspect of the program further before any actual recommendation for implementation was made.

Two-year studies on reducing recidivism in Virginia's jails and prisons, and meeting the special needs of the incarcerated female population, were begun in 1991 and will be completed in the coming year. Substantial progress was made in the first year of these studies, which are addressed in the Crime Commission's "Task Force Report on Recidivism and Women's Correctional Issues," a summary of which may be found in the pages of this annual report.

Additionally, as a corollary to the study on correctional issues effecting women, Delegate Marian Van Landingham asked the Crime Commission to examine the current application of Section 53.1-151 of the Code of Virginia to determine whether the "three-time loser" statute may be utilized inappropriately in certain cases, and to develop corrective amendments to the

statute where necessary. Ambiguous language in the present wording of the statute leaves the Department of Corrections to interpret the law because the courts do not identify persons who may be subject to its provisions.

Formal study resolutions passed by the 1992 session of the General Assembly include HJR 14, patroned by Delegate Harry J. Parrish, requesting the Crime Commission to review laws governing good time allowances and early release of inmates from state and local correctional facilities. Because there are a number of interconnected factors which affect an inmate's early release (including classification, discretionary and mandatory parole, and good time), and the application of these factors impact differently depending upon whether an inmate serves his sentence in a state or local facility, this resolution directs the Commission to determine how these various provisions effect early release and report to the Governor and 1993 session of the General Assembly.

Delegate V. Thomas Forehand, Jr., of Chesapeake, sponsored HJR 67, requesting the Crime Commission to review the array of fees mandated by §§ 14.1-105 and 14.1-111 of the Code of Virginia and to determine whether such fees should be eliminated or updated. These fees relate to various services performed by sheriffs and their deputies, but have not been revised for a number of years. Consequently, in many cases the cost of recovering the fees exceeds the value of doing so. The Crime Commission is directed to report to the Governor and 1993 session of the General Assembly on its findings.

Over the past two years the Crime Commission has been looking into the effects of violent crime in Virginia's convenience stores and seeking means of reducing such crime and the hazards it represents to citizens of the Commonwealth. As a result of the extensive research conducted on violent crime in convenience stores, Delegate George H. Heilig, Jr., of Norfolk, sponsored HJR 149 requesting the Department of Criminal Justice Services' Virginia Crime Prevention Center, in cooperation with the Crime Commission, to study offenders who commit such crimes. The need for this study was raised among the Crime Prevention Center's recommendations to the Crime Commission in its December, 1991 report on convenience store worker's safety.

In expanding upon the focus of research on crime in convenience stores, Delegate Jerrauld C. Jones, of Norfolk, sponsored an amendment in the nature of a substitute to HJR 72 calling for an examination of crime on the premises of all businesses in the Commonwealth. This resolution was originally sponsored by Delegate William P. Robinson, Jr. of Norfolk. The amended resolution requests the Crime Commission to study the prevalence of criminal activity against patrons of businesses and the duties of owners and operators to protect patrons, the burden placed on public law enforcement in the absence of certain security measures, and the remedies and responses of law enforcement to urban violence. Additionally, the Commission is asked to evaluate the advisability of forming citizen review boards in response to these issues, and to report back to the Governor and 1993 session of the General Assembly on its findings and recommendations.

In 1991 the Crime Commission reviewed policies governing the release of juvenile records in certain limited circumstances. HJR 131, sponsored by Delegate Howard E. Copeland, of Norfolk, requests the Crime Commission, in cooperation with the Youth Services Commission,

to consider appropriate methods of obtaining access to juvenile records on persons attempting to purchase a firearm in Virginia, and to report its recommendations to the Governor and 1993 session of the General Assembly.

Based upon the initial success that Virginia's boot camp program appears to be enjoying, Delegate Franklin P. Hall, of Richmond, sponsored HJR 162, asking the Crime Commission to consider the feasibility of a local pilot boot camp program in the City of Richmond. The existing program on the state level for young offenders convicted of nonviolent crimes was originally endorsed by the Crime Commission in its 1989 study on shock incarceration. In the 1992 General Assembly Session, a Crime Commission bill amending the Code of Virginia to permit greater participation in the program was passed. HJR 162 requests that the Commission report back by December 1, 1992, on the adaptability of this type of program on the local level and the fiscal impact of implementing and operating a local boot camp.

Delegate Glenn R. Crowshaw, of Virginia Beach, sponsored HJR 166 requesting the Crime Commission to study Chapter 10.1 of Title 2.1 of the Code of Virginia, commonly known as the "Police Officers Bill of Rights," for consideration of the feasibility of extending its terms to deputy sheriffs as well. While some sheriffs already provide certain of these provisions to deputies, the status of sheriffs as constitutional officers calls into question the appropriateness of applying such a scheme to deputies by law. The Crime Commission is to consider the adequacy of the Police Officers Bill of Rights and other remedial avenues of due process which may be available for appointees of constitutional officers, and to submit recommendations to the Governor and 1993 General Assembly.

Because of the rapid changes in the criminal justice system over the past decade, including increased gang violence, enhanced capabilities for DNA analysis and law enforcement officers' exposure to infectious diseases, Senator Robert C. Scott, of Newport News, sponsored SJR 53 directing the Crime Commission to study current law enforcement training standards and their adequacy. The resolution calls for the Crime Commission to review and offer recommendations on the need for improved delivery of training, and the costs of providing this training and building necessary facilities. The Commission is to complete its work in time to submit findings and recommendations to the Governor and 1993 Session of the General Assembly.

In addition to these formal studies, the Crime Commission will maintain constant review of the many projects which it has overseen in recent years and will continue to assist the multitude of agencies involved in implementing or benefiting from recommendations arising from these activities. As can be seen in the recitation of Commission endeavors in the past, these frequently require additional study, legislative modifications or other attention as the effectiveness of programs are evaluated and circumstances change.

The Crime Commission will also continue, and expand where necessary, the regular and extensive efforts to educate and inform the public on criminal justice issues affecting us all, and remain vigilant in its commitment to identify future trends in criminal justice. Any persons interested in expressing concerns or suggestions are encouraged to contact the Crime Commission. All persons are invited to attend Crime Commission meetings and are welcome to contact Commission offices for additional information.



## **APPENDIX A**

### **LIST OF 1991 MEETING DATES**

Annual Breakfast Meeting  
January 15, 1991

Ritual Crime Task Force  
March 15, 1991

Full Crime Commission Meeting  
April 16, 1991

Ritual Crime Task Force  
May 22, 1991

Drug Issues Subcommittee Meeting  
May 22, 1991

Corrections Subcommittee Meeting  
June 13, 1991

Full Commission Meeting  
June 26, 1991

Drug Issues Subcommittee Meeting  
July 10, 1991

Ritual Crime Task Force Meeting  
August 14, 1991

Drug Issues Subcommittee Meeting  
August 14, 1991

Corrections Subcommittee Meeting  
August 29, 1991

Full Crime Commission Meeting  
October 22, 1991

Corrections Subcommittee Meeting  
October 22, 1991

Legislative Subcommittee Meeting  
November 12, 1991

Drug Issues Subcommittee Meeting  
December 3, 1991

Full Crime Commission Meeting  
December 10, 1991

## APPENDIX B

§ 9-125

CODE OF VIRGINIA

§ 9-126

### CHAPTER 20

#### VIRGINIA STATE CRIME COMMISSION

Sec.

9-125. Commission created; purpose.

9-126. Membership; appointment; terms; vacancies; chairman; expenses.

9-127. Studies and recommendations generally.

9-128. Studies of operations, etc., of law-enforcement agencies.

9-129. Cooperation with agencies of other states.

9-130. Commission to refer cases of crime or official misconduct to appropriate authorities.

Sec.

9-131. Executive director, counsel and other personnel.

9-132. Reports to Governor and General Assembly.

9-133. Publication of information.

9-134. Powers enumerated.

9-135. Construction of chapter.

9-136. Cooperation of other state agencies.

9-137. Disclosure of certain information by employee a misdemeanor.

9-138. Impounding of certain documents.

**§ 9-125. Commission created; purpose.** - There is hereby created the Virginia State Crime Commission, hereinafter referred to as the Commission. The purpose of the Commission shall be, through the exercise of its powers and performance of its duties set forth in this chapter, to study, report and make recommendations on all areas of public safety and protection. In so doing it shall endeavor to ascertain the causes of crime and recommend ways to reduce and prevent it, explore and recommend methods of rehabilitation of convicted criminals, study compensation of persons in law enforcement and related fields and study other related matters including apprehension, trial and punishment of criminal offenders. The Commission shall make such recommendations as it deems appropriate with respect to the foregoing matters, and shall coordinate the proposals and recommendations of all commissions and agencies as to legislation affecting crimes, crime control and criminal procedure. The Commission shall cooperate with the executive branch of government, the Attorney General's office and the judiciary who are in turn encouraged hereby to cooperate with the Commission. The Commission will cooperate with governments and governmental agencies of other states and the United States. (1972, c.766.)

The numbers of §§ 9-125 through 9-138 were assigned by the Virginia Code Commission, the numbers in the 1972 act having been 9-117 through 9-130.

Law Review. - For survey of Virginia law on criminal law for the year 1971-1972, see 58 Va. L. Rev. 1206 (1972).

**§ 9-126. Membership; appointment; terms; vacancies; chairman; expenses.** - The Commission shall be composed of thirteen members: six shall be appointed by the Speaker of the House of Delegates from the membership thereof; three shall be appointed by the Privileges and Elections Committee of the Senate from the membership of the Senate; three shall be appointed by the Governor from the State at large; and the Attorney General of Virginia shall serve as an ex officio member with full voting privileges. One-half of the initial appointments made by the Speaker of the House of Delegates, and two-thirds of the initial appointments made by the Governor and by the Privileges and Elections Committee of the Senate shall be members of the Virginia State Crime Commission created by House Joint Resolution No. 113 of the 1966 Regular Session of the General Assembly and continued by subsequent legislative action. The term of each appointee shall be for four years; with the exception of the Attorney General whose membership on the Commission shall be concurrent with his term as Attorney

General of Virginia. Whenever any legislative member fails to retain his membership in the House from which he was appointed, his membership on the Commission shall become vacated and the appointing authority who appointed such vacating member shall make an appointment from his respective House to fulfill the vacated term. The Commission shall elect its own chairman annually. Members of the Commission shall receive compensation as provided in §14.11-18 of the Code of Virginia and shall be paid their necessary expenses incurred in the performance of their duties. Provided, however, that all such expense payments shall come from existing appropriations to the Virginia Crime Commission. (1972, c. 766; 1974, c. 527; 1979, c. 316.)

**§ 9-127. Studies and recommendations generally.** - The Commission shall have the duty and power to make studies and to gather information and data in order to accomplish its purposes as set forth in § 9-125, and in connection with the faithful execution and effective enforcement of the laws of the State with particular reference but not limited to organized crime and racketeering, and to formulate its recommendations to the Governor and the General Assembly. (1972, c. 766.)

**§ 9-128. Studies of operations, etc., of law-enforcement agencies.** - At the direction or request of the legislature by concurrent resolution or of the Governor, the Commission shall, or at the request of any department, board, bureau, commission, authority or other agency created by the State, or to which the State is a party, the Commission may, study the operations, management, jurisdiction, powers and interrelationship of any such department, board, bureau, commission, authority or other agency, which has any direct responsibility for enforcing the criminal laws of the Commonwealth. (1972, c. 766.)

**§ 9-129. Cooperation with agencies of other states.** - The Commission shall examine matters relating to law enforcement extending across the boundaries of the State into other states; and may consult and exchange information with officers and agencies of other states with respect to law enforcement problems of mutual concern to this and other states. (1972, c. 766.)

**§ 9-130. Commission to refer cases of crime or official misconduct to appropriate authorities.** - Whenever it shall appear to the Commission that there is reasonable cause, for official investigation or prosecution for a crime, or for the removal of a public officer for misconduct, the Commission shall refer the matter and such information as has come to its attention to the officials authorized and having the duty and authority to conduct investigations or to prosecute criminal offenses, or to remove such public officer, or to the judge of an appropriate court of record with recommendation that a special grand jury be convened. (1972, c. 766.)

**§ 9-131. Executive director, counsel and other personnel.** - The Commission shall be authorized to appoint and employ and, at pleasure remove, an executive director, counsel, and such other persons as it may deem necessary; and to determine their duties and fix their salaries or compensation within the amounts appropriated therefor. (1972, c. 766.)

**§ 9-132. Reports to Governor and General Assembly.** - The Commission shall make an annual report to the Governor and the General Assembly, which report shall include its recommendations. The Commission shall make such further interim reports to the Governor and the General Assembly as it shall deem advisable or as shall be required by the Governor or by concurrent resolution of the General Assembly. (1972, c. 766.)

**§ 9-133. Publication of information.** - By such means and to such extent as it shall deem appropriate, the Commission shall keep the public informed as to the operations of organized crime, problems of criminal law enforcement in the State and other activities of the Commission. (1972, c. 766.)

**§ 9-134. Powers enumerated.** - With respect to the performance of its functions, duties and powers subject to limitations contained herein, the Commission shall be authorized as follows:

a. To maintain offices, hold meetings and functions at any place within the Commonwealth that it may deem necessary;

b. To conduct private and public hearings, and to designate a member of the Commission to preside over such hearings;

c. Pursuant to a resolution adopted by a majority of the members of the Commission, witnesses attending before the Commission may be examined privately and the Commission shall not make public the particulars of such examination. The Commission shall not have the power to take testimony at private or public hearings unless at least three of its members are present at such hearings ;

d. Witnesses appearing before the Commission at its request shall be entitled to receive the same fees and mileage as persons summoned to testify in courts of the State, if such witnesses request such fees and mileage. (1972, c. 766.)

**§ 9-135. Construction of chapter.** - Nothing contained in this chapter shall be construed to supersede, repeal or limit any power, duty or function of the Governor or any department or agency of this State, or any political subdivision thereof, as prescribed or defined by law. (1972, c. 766.)

**§ 9-136. Cooperation of other state agencies.** - The Commission may request and shall receive from every department, division, board, bureau, commission, authority or other agency created by this State, or to which the State is a party or any political subdivision thereof, cooperation and assistance in the performance of its duties. (1972, c. 766.)

**§ 9-137. Disclosure of certain information by employee a misdemeanor.** - Any employee of the Commission who shall disclose to any person other than the Commission or an officer having the power to appoint one or more of the Commissioners the name of any witness appearing before the Commission in a private hearing except as directed by the Governor, or court of record or the Commission, shall be guilty of a misdemeanor. (1972, c. 766.)

**§ 9-138. Impounding of certain documents.** - Upon the application of the Commission or duly authorized member of its staff, the judge of any court of record may impound any exhibit or document received or obtained in any public or private hearing held in connection with a hearing conducted by the Commission, and may order such exhibit to be retained by, or delivered to and placed in custody of the Commission, provided such order may be rescinded by further order of the court made after five days' notice to the Commission or upon its application or with its consent, all in the discretion of the court. (1972, c. 766.)