

VIRGINIA STATE CRIME COMMISSION

U.S. Department of Justice
National Institute of Justice

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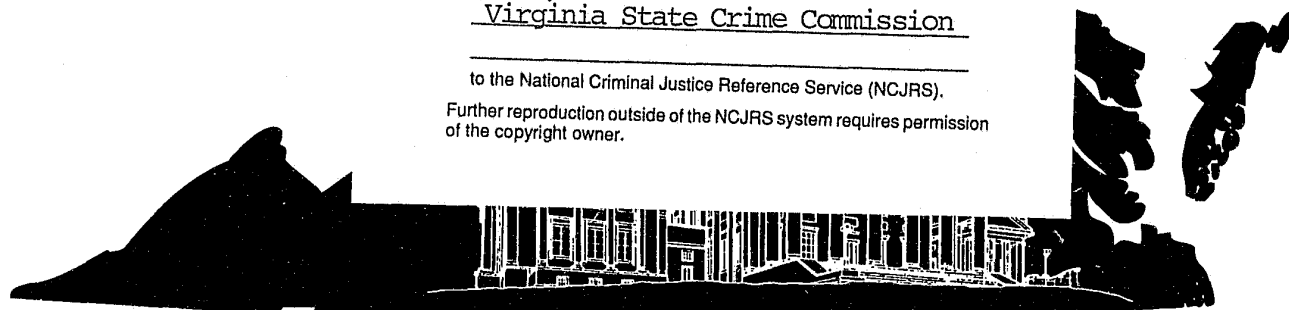
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1992 ANNUAL REPORT

General Assembly Building
Richmond, Virginia

142573

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The A. L. Philpott Law Enforcement Scholarship

In honor of the late A. L. Philpott, and out of 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



COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

General Assembly Building

FREDERICK L. RUSSELL
EXECUTIVE DIRECTOR

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ROBERT F. HORAN, JR.
GEORGE F. RICKETTS, SR.

ATTORNEY GENERAL'S OFFICE
H. LANE KNEEDLER

April 20, 1993

**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, 1992 as mandated in §9-132 of the Code.

Respectfully,

**Robert B. Ball, Sr.
Chairman**

RBB:sc

Members of the Virginia State Crime Commission 1992

From the Virginia Senate:

Elmo G. Cross, *Vice Chairman*
Virgil H. Goode, Jr.
Edgar S. Robb

From The House of Delegates:

Robert B. Ball, Sr., *Chairman*
James F. Almand
Jean W. Cunningham
V. Thomas Forehand, Jr.
Raymond R. Guest, Jr.
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

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I. INTRODUCTION

In 1992, the Virginia State Crime Commission continued to aggressively pursue its legislative mandate to investigate and report on all areas of public safety. The Commission addressed a wide range of criminal justice issues through both formal studies and working with various state and local agencies to resolve specific problems. Recognizing that criminal justice issues are only a part of a larger societal focus, the Commission continues to draw upon the expertise of professionals from the fields of education, mental health, social services and a plethora of other areas to provide a comprehensive approach to criminal justice planning. Private groups and individuals provided a great deal of assistance in many of the research projects and are always welcome to communicate their concerns and ideas to the Commission.

The Commission serves as a conduit between the various areas of the criminal justice system, the public and the members of the General Assembly. Through its subcommittee meetings and public hearings, the Commission provides a forum to discuss problems and potential solutions. These settings provide a wonderful opportunity to address critical issues in a positive, proactive fashion.

The Commission continued its work in all areas of the criminal justice system focusing on the issues of prevention, law enforcement and corrections. This annual report will discuss each of the formal studies, the legislative agenda and plans for the next year.

The diverse work of the Commission, the multitude of issues addressed, the substantive research and the cooperative efforts to solve problems reflect the positive attitude and concern that Commission members have for the citizens of Virginia. The accomplishments reflected in this report required the cooperation of many groups and individuals all of which are working to make Virginia a better and safer place to live.

II. MEMBERSHIP, STAFF AND OFFICES

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 his/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 to perform its duties.

MEMBERS OF THE COMMISSION

Delegate Robert B. Ball, Sr., Henrico, Chairman
Senator Elmo G. Cross, Jr., Hanover, Vice-Chairman
Delegate James F. Almand, Arlington
Mr. Robert C. Bobb, Richmond
Delegate Jean W. Cunningham, Richmond
Delegate V. Thomas Forehand, Jr., Chesapeake
Senator Virgil H. Goode, Jr., Rocky Mount
Delegate Raymond R. Guest, Jr., Front Royal
Mr. Robert F. Horan, Jr., Fairfax
Mr. H. Lane Kneedler, Richmond
Rev. George F. Ricketts, Sr., Richmond
Senator Edgar S. Robb, Charlottesville
Delegate Clifton A. Woodrum, Roanoke

COMMISSION STAFF

Frederick L. Russell, Executive Director
Sylvia A. Coggins, Executive Assistant

Grant Funded Positions

Dana G. Schrad, Staff Attorney
Susan A. Bass, Research Analyst

Special Projects

D. Robie Ingram, Staff Attorney

During the past year, the Commission also employed Michael P. Maddox as a staff attorney to assist on several studies. Gina L. Ford was employed under a federal grant as a secretary, and Maryann C. Jayne served as an intern.

The committed efforts of Pat Harris, Crime Prevention Center Manager, and Dr. Jay Malcan, Crime Prevention Analyst, with the Department of Criminal Justice Services, in reporting to the Crime Commission on violent crime in conveniences stores is greatly appreciated. The Commission would also like to recognize the substantial work of Dr. Lissa Power-Cluver, who directed the Department of Education's research and development of a plan for providing special education services to incarcerated youth which the Commission continues to monitor.

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 the General Assembly Building, 910 Capitol Street, Suite 915, Richmond, Virginia 23219. The offices are open to all inquiries during regular business hours, with extended hours during sessions of the General Assembly and as otherwise required. The Commission offices may be reached by telephone at (804) 225-4534 and by facsimile at (804) 786-7872.

III. COMMISSION/STAFF ACTIVITIES

In addition to its role of providing formal research on specific topics, the Crime Commission serves as a focal point for criminal justice issues in Virginia. Commission staff regularly participates in numerous conferences, training sessions and other activities to keep abreast of new developments in the Virginia criminal justice system and to stay closely in tune with the needs of the system and the quality of service provided to the public.

As the Commission's work load increases, so do the requests for appearances and presentations. Staff attended conferences sponsored by the Virginia State Sheriffs Association, Virginia Association of Chiefs of Police, Blue Ridge Association of Chiefs of Police, FBI National Academy Association, Virginia Association of Commonwealth Attorneys, Virginia Crime Prevention Association, Governor's Drug Treatment Summit and other state and local criminal justice groups. Staff has also lectured or made presentations at law enforcement training seminars and before meetings of state and local agencies. Site visits to law enforcement and criminal justice agencies in all areas of Virginia are regularly conducted by staff members to seek local experience and perspectives. When specific needs dictate that additional information is needed for a project, staff has traveled to sites outside of Virginia to review programs that might be beneficial to the citizens of Virginia.

In order to maintain contact with the general public, Commission staff provides information on a regular basis to all members of the media for use in television shows and newspapers articles.

Members of the Crime Commission staff also serve on various criminal justice advisory groups. In 1992, 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, the Task Force on Substance Abuse Services for the Offender, the Department of Corrections/Virginia Parole Board Sex Offender Task Force, and the Criminal History Records Improvement Task Force.

Staff provided assistance to the Governor's Violent Crime Task Force, the Lt. Governor's Commission on the Reduction of Sexual Assault Victimization and the Virginia Crime Prevention Association's Crime Prevention Standard Colloquium.

In 1992, Dana Schrad received a recognition award from the Virginia Network for Victim and Witnesses of Crime for providing legislative services in support of victim's rights. Mr. Russell was recognized by the Virginia Crime Prevention Association for his assistance with the development of crime prevention legislation.

The staff has dedicated itself to maintaining a continuing working relationship with all areas of the criminal justice system and continues to see its roles as a unifying force pulling together available resources to best serve the Commonwealth.

IV. FORMAL CRIME COMMISSION STUDIES

Introduction

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 attention. 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 1992 Crime Commission studies, including any findings and recommendations made by the Crime Commission pursuant to these studies.

SENATE JOINT RESOLUTION 53 REPORT ON: LAW ENFORCEMENT TRAINING

Senator Robert C. Scott sponsored Senate Joint Resolution 53 (1992), directing the Crime Commission to study law enforcement training, including current standards and technology, the need for improved delivery of training and the costs of implementing new standards and erecting appropriate facilities. The Crime Commission's Subcommittee II, chaired by Delegate James F. Almand, conducted the study of law enforcement training.

During the course of the study, Commission staff conducted site visits to training academies, reviewed the results of a national survey of directors of law enforcement training and standards and organized a meeting of local law enforcement executives. The data collected was carefully documented and analyzed in the subcommittee's final report.

On the basis of this information, the subcommittee acknowledged that instructor support is critically needed at the state level for the Department of Criminal Justice Services (DCJS) and at each of the nine regional training academies. In response, the subcommittee recommended that general funds be used to provide one paid, full-time instructor to each of the regional academies; establish a cadre of specialized core instructors; and create a position at the DCJS responsible for conducting and periodically updating the

job task analyses which dictate criminal justice training. In addition, the subcommittee designated several issues pertaining to professionalism, ethics and training delivery for further study. Upon consideration of the findings and recommendations of the subcommittee, the Crime Commission concurred with the subcommittee's conclusions.

Subcommittee Members

James F. Almand of Arlington, Chairman
Robert C. Bobb of Richmond
Jean W. Cunningham of Richmond
Virgil H. Goode, Jr., of Rocky Mount
Raymond R. Guest, Jr., of Front Royal
H. Lane Kneedler of Richmond
Edgar S. Robb of Charlottesville
Clifton A. Woodrum of Roanoke

Issues Addressed

Based upon the requirements of SJR 53, the following issues and objectives were addressed by the Commission during the course of this study:

- Review current law enforcement training standards and technology;
- Assess the need for improved delivery of training to state and local law enforcement officers; and
- Determine the costs of implementing new standards and erecting appropriate facilities.

The Commission pursued the following activities in furtherance of the above-mentioned objectives:

- Review findings and recommendations of previous training studies;
- Conduct site visits to selected regional and independent training academies across the Commonwealth;
- Review training programs in other states; and
- Develop legislative, budgetary and/or administrative recommendations.

Findings and Recommendations

Finding I

The total FY92 budget allocation for the nine regional training academies was \$1,125,409. With variances across the Commonwealth, this amount provides between 22 and 51 percent of the funding for each academy. As such, local jurisdictions are responsible for matching the state's contribution with the remaining 49 to 78 percent. The current appropriation from the general fund does not provide funding for full-time instructors, specialized instructors or job validated training.

Consequently, the general fund appropriation must be increased or a consistent funding source must be identified to address the spiraling demands of the criminal justice training system. The subcommittee considered alternatives to a general fund appropriation, including collection of consolidated sheriffs' fees and a .25 percent assessment on all liability insurance premiums. However, the subcommittee concluded that the general fund is the most appropriate source of funding for criminal justice training.

Recommendation 1: Additional funding, in the amount of \$1,619,614, should be appropriated from the general fund to the Department of Criminal Justice Services to provide nine full-time instructors and a cadre of specialized core instructors for the regional academies and to create a position within the Department responsible for conducting and revalidating criminal justice job task analyses at regular intervals.

Finding II

The results of the 1987 Study of Virginia's Criminal Justice Training Delivery System conducted by Gallagher Research Services and Future Directions II: A Framework for the 90's produced by the Criminal Justice Services Board Committee on Training in 1991, identify instructor support and resources as a primary need. In addition, these needs have been consistently addressed in budget submissions by the Division of Training and Standards. Instructor support is critically needed at the state level for DCJS and at each of the regional academies. Full-time instructors at all regional academies would provide consistency, uniformity, and quality assurance; ensure instructor availability for scheduled classes; reduce the amount of instruction time for the academy director; allow for more program development; and reduce demand on member agencies to provide instructors. Additionally, specific persons would be responsible for lesson plan development and updating and management of the quality and consistency of testing.

Recommendation 2: Provide one paid, full-time instructor for each of the nine regional academies at a cost of \$365,436 per year.

Recommendation 3: Establish a cadre of specialized core instructors who would travel statewide to provide instruction in such topical areas as legal issues, use of force and forensics at a cost of \$1,199,291 for the first year and \$1,119,291 for the second year of the biennium.

Finding III

Criminal justice training in Virginia utilizes a job task analysis to examine the requirements of a position in order to determine the necessary knowledge, skills and abilities required for minimal job performance. The most recent job task analysis for law enforcement officer training was completed in 1982.

Consequently, the resulting training mandates fail to adequately address the changes which have occurred in the criminal justice system over the past decade. The increased incidence of drug trafficking and gang violence, HIV-infected populations, DNA analysis capabilities and enhanced 911 emergency response are all factors which should be reflected in the training objectives. Furthermore, this situation poses a considerable liability concern for training providers and local criminal justice agencies.

The resources need to be made available for conducting initial job task analyses for every entry-level position for which training is mandated. In addition, the ability to periodically revalidate previously conducted job task analyses is critical to ensure appropriate training is being required and to identify any needed revisions to mandated entry-level training programs.

Recommendation 4: Provide one position, along with the necessary resources, assigned to the Department of Criminal Justice Services with the sole responsibility of ensuring that job task analyses are conducted at regular intervals so that training is current and relevant to the job tasks which are being performed. The cost associated with this recommendation would be \$54,887 for the first year and \$50,887 for the second year of the biennium.

Finding IV

There has been considerable discussion concerning a central training facility for specialized training. State-owned land in eastern Henrico County, known as the Elko Tract, is the location for a proposed Public Safety Complex. This facility would provide a state-of-the-art driver training facility, and DCJS would be able to offer some specialized training at this location.

The construction of this facility was initially proposed by the Secretary of Transportation and Public Safety. In addition, this proposal has been previously endorsed by the Virginia Association of Chiefs of Police and the Virginia State Sheriffs Association. Furthermore, it was recommended by the Criminal Justice Services Board in its report on the training delivery system in Virginia. Preplanning and master plan studies have been completed on the development of the Public Safety Complex. During the 1989 General Assembly

Session, monies were appropriated to conduct architectural and engineering infrastructure design and construction. However, the 1990 General Assembly postponed any funding for this project.

A single facility where specialized training needs could be addressed through a standardized delivery system would significantly enhance quality control and availability. The facility would provide cost savings by bringing specialists to one location.

Recommendation 5: Support the **concept** of a centralized driver training facility to be constructed at the Elko Public Safety Complex, or other suitable location. It is estimated that such a facility would cost \$4,200,000 to construct and at least \$100,000 annually to operate.

Issues Identified for Further Study

Issue 1: Ethical Standards/Decertification

Sufficient training should be made available to ensure that solid ethical standards are reinforced so that officers can be better prepared to make difficult decisions during the performance of their duty. Furthermore, when officers do not make good decisions or their performance no longer merits the authority which has been vested in them to enforce the law, there is presently no avenue for revoking that authority.

Additionally, the Virginia Association of Chiefs of Police recently adopted a resolution requesting a joint study between the Crime Commission and the Department of Criminal Justice Services to "explore strategies for the implementation of an administrative process for decertifying police officers."

Issue 2: Evaluation Criteria

A competency examination administered at the conclusion of basic training would measure an officer's acquisition of required knowledge, skills and ability. This assessment would facilitate the application of skills learned in the training environment to the actual work environment and ensure uniformity in training across the Commonwealth.

Issue 3: Health and Wellness Program

Criminal justice officers need to maintain a satisfactory level of general health and physical fitness so that job related work can be performed efficiently and without personnel shortages caused by excessive use of sick leave or injury. At present, there are no minimum physical requirements or physical training mandates prescribed in the Code.

Recommendation 6: The Virginia State Crime Commission should conduct a study of professionalism and service delivery in the law enforcement training system. The following topics should be addressed:

- A. Ethical standards/decertification
- B. Pre-employment (physical agility, literacy and attitudinal/psychological) and standardized testing
- C. Physical fitness requirements and training
- D. Feasibility of a centralized training facility

Conclusion

In light of current budget constraints, the Commission decided to seek funding for the 20 instructor positions during the 1994 legislative session. However, Delegate Robert B. Ball, Sr. and Senator Elmo G. Cross did sponsor budget amendments during the 1993 session to provide funding to create a position at the Department of Criminal Justice Services responsible for conducting job task analyses. Funding for the position was approved by the General Assembly but will be delayed until December 1, 1993 due to general fund shortages.

Senator Virgil S. Goode patroned Senate Joint Resolution 273 requesting that the Crime Commission study professionalism and service delivery in the law enforcement training system. SJR 273 encompasses the issues identified for further study in the final report on Law Enforcement Training (Senate Document 28, 1993).

HOUSE JOINT RESOLUTION 14
REPORT ON:
GOOD CONDUCT ALLOWANCES FOR PRISONERS
IN LOCAL CORRECTIONAL FACILITIES

The study, authorized by House Joint Resolution 14 (HJR 14), patroned by Delegate Harry J. Parrish, sought to determine and correct the disparities in treatment of parole eligible and parole inmates held in local jails.

Subcommittee Members

Reverend George F. Ricketts, Sr., Chairman
Senator Elmo G. Cross, Jr.
Delegate V. Thomas Forehand, Jr.
Delegate Raymond R. Guest, Jr.
Mr. H. Lane Kneedler
Senator Edgar S. Robb

Issues Addressed

- A. Whether good conduct computations for parole eligible inmates should be conducted in-house by the jailers responsible for those inmates rather than be conducted (as they are now) by the Department of Corrections.
- B. Whether the disparity in time served by similarly sentenced felons (or parole eligible inmates) and misdemeanants (locally responsible - with twelve months or less to serve) should be reduced by increasing the "good time allowance" for locally responsible inmates to two days for each day served instead of one day for each day served.
- C. Whether the disparity in initial good time earned by jail-sentenced felons (15 days for 30 served) and prison-sentenced felons (20 days for 30 served) should be removed.

Findings

- A. "Local inmates" serve more time than similarly sentenced felons.

§53.1-116 provides for one day of good time for each one day served by an inmate who is ineligible for parole pursuant to §53.1-151, 152, and 153. This rule encompasses local inmates serving time for, e.g., a misdemeanor (12 month sentence or less). (This also would seem to encompass those persons ineligible for parole because their crimes are so numerous or wanton as to deny them parole, though there is no indication that the statute has been applied that way.)

Because of mandatory parole provisions, an inmate who is sentenced to a year in prison for a felony and classified in Class II (20 days for 30) can expect to serve approximately 3.6 months in jail.¹ However, a misdemeanor sentenced to twelve months and exhibiting good behavior can only earn one day for one and will spend six months in jail. In 1989, the Commission on Prison and Jail Overcrowding (COPJO) recommended amending the law to provide for two days for each one day served by jail inmates serving twelve months or less instead of the then current law which allowed 15 days for 30. The General Assembly passed a compromise provision in 1990 which is the current law (one day for one).

B. Parole eligible inmates in local jails initially receive less good time than their counterparts in prison.

§53.1-116 provides for 15 days of good time for each 30 days served by an inmate who is eligible for parole. This rule encompasses those prisoners who are serving more than twelve months due to a combination of misdemeanors or of misdemeanors and felonies or felonies alone, who may or may not be "state responsible." §53.1-201 sets forth the good conduct allowance (GCA) levels established for state responsible inmates. A Class II inmate earns 20 days for each 30 served upon initial classification in the department and until his behavior suggests a higher or lower classification. Thus, a prisoner held in jail earns at most 15 days for 30 days good behavior whereas a similarly situated prisoner held in prison earns at least 20 days for each such 30 days served.

C. Good Time Allowance computations are confusing to and distant from parole eligible jail inmates.

The Code sections defining the good time computation and parole are difficult to understand for both inmates and jail personnel. The computation itself is complex and relies on a considerable amount of data from many sources concerning the inmate. The Department of Corrections is responsible for determination of parole eligible inmate release dates based upon their statutory parole eligibility and good time allowances even though the inmates are governed by the rules and regulations of another institution (the jail). A possible inmate perception is that the jail staff are not key figures in the good time process and have little control over release dates.

D. There is a significant time lag between the jail's review of the good conduct allowance for a state responsible inmate and the receipt of a recomputed release date.

In addition to the fairness issue associated with the different methods of computation of good time for local and state inmates, there is an immediate determination of a release date made for a local inmate because the good time computation is done by the jailer. However, because the computation is not

¹Final Report of the Commission on Prison and Jail Overcrowding, p. 45, 1989.

done by the jail for a state-responsible inmate, the recomputed release date is not available to the inmate until as much as six to eight weeks after the assessment is made by the jailer that the inmate is eligible for a different classification. In some cases, the delay is longer.

Recommendations

That §53.1-116 be amended to a) remove the disparity between the terms served by parole ineligible inmates and similarly classified parole eligible inmates, and b) to remove the discrepancy in initial good time allowance given to jail-sentenced parole eligible inmates and prison-sentenced inmates.

That the Department of Corrections periodically report to the Crime Commission the status of any review of, or improvement to, the good conduct allowance computations, specifically with reference to computations performed for jail-sentenced inmates.

Conclusion

After a comprehensive review and lengthy discussion of draft legislation designed to meet the above recommendations, it was decided that legislation would not be introduced at this time. Commission staff was directed to continue to monitor the issue and elicit reports from the Department of Corrections concerning improvements or changes in the good time computations. (House Document 50,1993)

**HOUSE JOINT RESOLUTION 67
REPORT ON:
FEES ASSESSED BY SHERIFFS**

The study authorized by House Joint Resolution 67 (1992), patroned by Delegate V. Thomas Forehand, Jr., sought, as its primary objective, to determine the continued usefulness of certain fees (set forth in §§14.1-105 and 14.1-111) intended to be charged by sheriffs for their services. Many of the fees are not charged at all because it is unclear who the payor is intended to be. Many are not collected because the amounts are simply too small to justify the collection or because the intent of the Code section is difficult to ascertain or conflicts with another.

Subcommittee Members

Reverend George F. Ricketts, Sr., Chairman
Senator Elmo G. Cross, Jr.
Delegate V. Thomas Forehand, Jr.
Delegate Raymond R. Guest, Jr.
Mr. H. Lane Kneedler
Senator Edgar S. Robb

Issues Addressed

The mandate set forth in House Joint Resolution 67 asked the Crime Commission to "determine the advisability of either eliminating the fees or adjusting them to more accurately reflect the true costs of the services." The staff identified the following three major issues:

- A. As to each of the enumerated fees, whether it is presently collected, and how frequently;
- B. Whether and to what degree each of the fees reflects the actual cost of performing the service; and
- C. Whether the fees, individually, are reasonably collectible.

Findings and Recommendations

The subcommittee, at its final meeting, reviewed the results of the surveys, heard testimony from the staff, the Sheriff's Association and some of Virginia sheriffs and concluded that the following amendments to the fee structure should be made.

1. Amend §14.1-105 as follows:

§14.1-105. Process and service fees generally. - The fees shall be as follows:

- a) For service on any person, firm or corporation, a declaration in ejectment, order, notice, summons or any other civil process, except as herein otherwise provided, and for serving on any person, firm, or corporation any process when the body is not taken and making a return thereof, the sum of five dollars.
- b) For summoning a witness or garnishee on an attachment, *five* dollars.
- c) For serving on any person an attachment or other process under which the body is taken and making a return thereon, five dollars.
- d) Delete (*For receiving and discharging a person in jail, four dollars.*)
- e) Delete (*For carrying a prisoner to or from jail and every mile of necessary travel, an amount equivalent to the necessary toll and ferry charges incurred by the officer, if any, and such reimbursement for his daily mileage as prescribed in §14.1-5, which shall be charged and taxed as a part of the court cost.*)
- f) For serving any order of court not otherwise provided for, *five* dollars.
- g) For serving a writ of possession, *five* dollars.
- h) For levying an execution or distress warrant or an attachment, *five* dollars.
- i) For serving any papers returnable out of state, *fifty* dollars.
Such fees shall be allowable only for services provided by such officers in the circuit courts. However, for services set forth under paragraphs (3), (7) and (8), the designated fees shall be paid in both the circuit and district courts.

2. Amend §14.1-111 to read essentially as follows:

§14.1-111. Sheriffs fees in criminal cases. - A fee of ten dollars shall be charged by the sheriff to a defendant found guilty in a criminal case coming before a circuit court a) as costs for serving a warrant or summons other than on a witness when no arrest is made, or b) as costs for making an arrest upon a misdemeanor or felony charge.

3. Amend §14.1-93 to raise the fee for return on writ of fieri facias when no levy is made from fifty cents to one dollar.

4. Repeal §14.1-94.

5. Amend §14.1-95 to raise the fee for levy on tangible property when no sale is made from three to five dollars.
6. Make New Section 14.1-95.1 - Fee for levy on cash, etc., by writ of fieri facias. - When a levy is made upon current money, bank notes or goods or chattels of a judgment debtor pursuant to §8.01-478, the officer shall be allowed a fee of four dollars.
7. Amend §14.1-108 as follows:

§14.1-108 Commission on forthcoming bond. - The commission to be included in a forthcoming bond, when one is taken, shall be 5%. (*Omit remainder of the sentence.*) Such commission. . .
8. Repeal §14.1 - 109.
9. Amend §14.1-178.1 to raise the fee for service of a copy of an order entering judgment from one dollar twenty five cents to five dollars.
10. Amend §55-248.31:1 to raise the fee for delivery of a notice to a tenant from two to four dollars.

Conclusion

As a result of the study, Senate Bill 857 was introduced by Senator Virgil H. Goode, Jr., of Rocky Mount. The bill passed the Senate but was defeated in the House. (House Document 49, 1993)

**House Joint Resolution 72:
Report on:
Business Premises Liability and Urban Violence**

During the 1992 General Assembly session, the House and Senate Rules Committees approved the merger of HJR 72, patroned by Delegate William P. Robinson, Jr., of Norfolk, with HJR 220, patroned by Delegate Jerrauld C. Jones of Norfolk. The merger of the two study resolutions resulted in HJR 72, which addressed the issues of urban violence and business premises liability.

Commission staff met with Delegate Jones and Delegate Robinson during the course of the study to receive patron input, and met with legislative staff of the Norfolk and Richmond City Managers' Offices. Commission staff also participated in the joint Richmond/Norfolk legislative planning meeting held in Williamsburg, and attended "The Conference on Addressing Violent Crime Through Community Partnerships," sponsored by the City of Norfolk and the Federal Bureau of Investigation in May, 1992, in Norfolk. Commission staff, along with staff from the Governor's Office, Attorney General's Office and state agency crime prevention programs, represented Virginia at the Regional Drug Policy Conference in Newark, New Jersey, in July, 1992, sponsored by the President's Office on Drug Control Policy.

The Virginia Trial Lawyers Association was instrumental in assisting the Commission in its review of the issue of business premises liability. Commission intern Maryann C. Jayne reviewed and summarized three citizen review panel models. Steve Squire, librarian for the Department of Criminal Justice Services, provided invaluable assistance in acquiring research materials on citizen review panels and community policing. The National Institute of Justice also provided research materials on community policing programs.

Subcommittee Members

At the April 21, 1992 meeting of the Crime Commission, Chairman Robert B. Ball, Sr., of Henrico selected Delegate James F. Almand to serve as Chairman of Subcommittee II studying business premises liability and urban violence. The following members of the Crime Commission were selected to serve on the subcommittee:

Delegate James F. Almand, Arlington, Chairman
Mr. Robert C. Bobb, Richmond
Delegate Jean W. Cunningham, Richmond
Senator Virgil H. Goode, Rocky Mount
Delegate Raymond R. Guest, Jr., Front Royal
Mr. H. Lane Kneedler, Attorney General's Office
Senator Edgar S. Robb, Charlottesville
Delegate Clifton A. Woodrum, Roanoke

Issues Addressed

Based upon the requirements of HJR 72, the following issues and objectives were presented to the Subcommittee for consideration:

- Determine whether present law in Virginia should be changed to allow crime victims injured on business premises to pursue a civil remedy against negligent business property owners/operators;
- Develop findings and recommendations concerning community policing;
- Develop findings and recommendations concerning citizen review panels.

The Commission pursued the following activities in furtherance of the above-mentioned objectives:

- Received testimony from business property crime victims and trial attorneys about business premises liability issues;
- Reviewed the available research on community policing and citizen review panels;
- Developed administrative and legislative recommendations on the issues of business premises liability, community policing and citizen review panels.

Findings and Recommendations

Subcommittee II held three meetings to address the issues in HJR 72, and approved the subcommittee's report on October 27, 1992. The full Commission reviewed and approved the subcommittee's report, including its findings and recommendations, at its November 17, 1992 meeting.

The findings and recommendations are as follows:

Finding 1: The concept of business premises liability has been developed in case law, and so far no state has enacted a law imposing a duty on a business owner to provide a safer environment to protect patrons from criminal injury. Undoubtedly, if a statute were passed that imposed this duty on businesses, business owners would have to assume the costs of implementing certain safety enhancements and carrying additional insurance coverage. However, patrons may be more likely to favor businesses that make an effort to provide a safer business environment.

Recommendation 1: At present, there is insufficient support for an amendment to the Code of Virginia to provide a statutory civil remedy for business patrons injured by a criminal act on a business premises. In the

alternative, the Department of Criminal Justice Services Crime Prevention Center should develop recommendations to create incentives that encourage businesses to make voluntary safety improvements to their business properties for the benefit of their patrons and invitees.

Finding 2: The community policing, or problem-oriented policing, model provides an alternative approach for law enforcement agencies to develop better relationships with their communities, promote professional policing practices that help private citizens solve problems and encourage a greater commitment to crime prevention and greater public accountability of the police agency.

Recommendation 2: The Department of Criminal Justice Services should provide training for supervisors and line officers in how to plan and implement community policing in a law enforcement agency.

Finding 3: Citizen panels that review the practices and policies of law enforcement agencies, and review the decisions of police peer review panels, offer distinct advantages and disadvantages for communities. Evaluation research concerning the success or failure of citizen review panels cannot be generalized to other communities with unique characteristics, problems and needs.

Recommendation 3: Communities should consider the advantages and disadvantages of citizen review panels for police agencies before implementing such panels, and consider alternative means for fair and public review of police response practices and policies, such as peer review systems that are subject to public inspection.

Conclusion

The Crime Commission is continuing its efforts to improve crime prevention efforts within the business community. A conference on convenience store security, hosted by Delegate George H. Heilig, Jr., of Norfolk has been scheduled for May, 1993 in Norfolk. The Commission in 1993 will look at the development of community policing training for law enforcement agencies. Delegate William P. Robinson, Jr., patron of the HJR 72 study, has requested the Commission in 1993 to continue its study of police conduct and disciplinary issues. The Commission will study the use of police disciplinary procedures in Virginia, looking specifically at due process concerns, the confidentiality of police review procedures and personnel files and the use of polygraph examinations in police personnel practices. (House Document 65, 1993)

HOUSE JOINT RESOLUTION 131
REPORT ON:
ACCESS TO JUVENILE RECORDS FOR THE PURCHASE OF
FIREARMS

During the 1992 General Assembly session, the House and Senate Rules Committees approved HJR 131, patroned by Delegate Howard Copeland of Norfolk. HJR 131 directed the Crime Commission, in cooperation with the Commission on Youth, to study the feasibility of accessing juvenile records in order to prohibit an adult who committed a felonious offense as a juvenile from subsequently purchasing a firearm.

Commission staff worked with Delegate Copeland during the course of the study to receive patron input, and met with staff from the Department of Youth and Family Services, the Virginia Supreme Court, the Virginia State Police and the Virginia Firearms Association, Inc. Commission staff also presented progress reports on the HJR 131 study to the Virginia Commission on Youth, the Juvenile Justice Delinquency Prevention Advisory Committee, the Governor's Task Force on Violent Crime and the Interagency Records Committee.

Daniel Phelps, Agent, Richmond Office, of the U.S. Dept. of the Treasury, Bureau of Alcohol, Tobacco and Firearms, was instrumental in providing federal laws and regulations related to firearms purchases. Dr. John Schuiteman of the Department of Criminal Justice Services contributed research assistance related to federal and state firearms purchase laws. Lt. Lewis Vass provided invaluable assistance to staff in reviewing Virginia State Police criminal background check policies and procedures, and in drafting proposed legislation. The Virginia Commission on Youth offered its expertise in juvenile policy in receiving study progress reports, and reviewing and commenting on the final report and recommendations.

Subcommittee Members

At the April 21, 1992 meeting of the Crime Commission, Chairman Robert B. Ball, Sr., of Henrico selected Delegate James F. Almand to serve as Chairman of Subcommittee II studying access to juvenile records for the purchase of firearms. The following members of the Crime Commission were selected to serve on the subcommittee:

Delegate James F. Almand, Arlington, Chairman
Mr. Robert C. Bobb, Richmond
Delegate Jean W. Cunningham, Richmond
Senator Virgil H. Goode, Rocky Mount
Delegate Raymond R. Guest, Jr., Front Royal
Mr. H. Lane Kneedler, Attorney General's Office
Senator Edgar S. Robb, Charlottesville
Delegate Clifton A. Woodrum, Roanoke

Issues Addressed

The resolution directed the Virginia State Crime Commission, in cooperation with the Virginia Commission on Youth, to look at the issue of access to juvenile court records for consideration in firearms purchases, which are regulated by both federal and state laws. The study did not address restricting access to firearms by juveniles. Presently, juveniles are prohibited by law from purchasing firearms before the age of 21, with the exception of rifles and shotguns, which can be purchased after the age of 18. The study was directed at those adult firearms purchasers who committed felonious offenses as juveniles, and are adjudicated in juvenile court. Because of certain reporting and expungement laws, these persons are allowed to purchase firearms as adults because the firearms background check would not reveal the juvenile record of felonious offenses.

Code of Virginia §19.2-390 requires circuit and district courts to "make a report to the Central Criminal Records Exchange (CCRE) of any conviction of any person charged with a felony." Juvenile and domestic relations courts do not report routinely to the CCRE.

The Virginia State Police operate the CCRE to facilitate background checks on adult gun purchasers in accordance with state and federal laws. If Juvenile and Domestic Relations Courts reported convictions or adjudications of felonious offenses to CCRE, then adults with such serious offenses on their juvenile records could be prohibited from purchasing most firearms.

The practical issue of how to get this information to CCRE was difficult but not impossible to solve. The more critical issue was one of policy: should these juvenile court records, which have a confidential status that cloaks them from public view, be accessed by the CCRE and the Virginia State Police to carry out the intent of the federal and state firearms purchases laws? Firearms transaction laws do not distinguish between whether the felonious offense that prohibits purchase of a gun occurred as a juvenile or as an adult. Additionally, a felony conviction in circuit or federal court will prohibit an adult from purchasing a firearm until such time as he or she successfully appeals to a circuit court judge for a restoration of civil rights.

Since the expungement law in Code of Virginia §16.2-306 calls for a juvenile's juvenile court record to be wiped clean at a certain age, then reporting juvenile court records to the CCRE would not trigger the gun purchase prohibition as the law dictates. In other words, the juvenile's record would be expunged before or soon after he becomes eligible to purchase a firearm. Therefore, to facilitate the intent of HJR 131, the Virginia General Assembly would have to agree to carve out another exception to the expungement law. Not only would the law have to be changed to require Juvenile and Domestic Relations Courts to report to the CCRE any adjudications for felonious offenses by a juvenile, the expungement law also would have to be changed to allow the felonious offense adjudication to remain active in the CCRE to prohibit a firearm purchase by this person once he becomes an adult. Such recommendations for

changes in the law had to be balanced against Virginia's present policy of pursuing more rehabilitative than punitive approaches for juveniles dealt with through the juvenile court system. On the other hand, the federal and state firearms transactions laws, which prohibit the purchase of a firearm by anyone who has been convicted of a crime punishable by a year's incarceration, must be respected and enforced.

The study was done in cooperation with the Virginia Commission on Youth. A final report and recommendations were presented to the Commission on Youth and the Crime Commission in December, 1992.

Recommendations

Subcommittee II held three meetings to address the issues in HJR 131, and approved the subcommittee's report on October 27, 1992. The full Commission reviewed and approved the subcommittee's report, including its findings and recommendations, at its December 10, 1992 meeting.

Recommendation 1: Amend §19.2-390 to require the clerks of court of the Juvenile and Domestic Relations District Courts to forward to the Central Criminal Records Exchange the adjudications of those juveniles found guilty of the felonious offenses enumerated in §16.1-299. (NOTE: During the 1993 General Assembly session, House Bill 593 as amended required that the records of 15-year-old or older juveniles who were adjudicated for felonious offenses would be forwarded to the Central Criminal Records Exchange. The bill was not amended to include 13 or 14-year-old juveniles who were adjudicated for one of the enumerated offenses in §16.1-299.)

Recommendation 2: Create a new Code section requiring the Virginia State Police Central Criminal Records Exchange to lift automatically at age 29 the prohibition on the right to purchase firearms imposed on any person as a result of an adjudication for certain felonious acts as a juvenile.

Recommendation 3: Amend §16.2-299 to require local law enforcement agencies to collect fingerprints of juveniles within the purview of this statute and forward copies to the Juvenile and Domestic Relations Court of jurisdiction, to be forwarded with the disposition to the Central Criminal Records Exchange upon a finding of guilt by the court.

Recommendation 4: Amend §16.1-306, the juvenile record expungement law, to allow an exception to expungement, and keep active until age 29 the records of those juveniles found guilty of the felonious offenses enumerated in §16.1-299 for the purpose of prohibiting the purchase of a firearm.

Recommendation 5: Amend §§18.2-308.2 and 18.2-308.2:1 to include persons prohibited from purchasing firearms due to a juvenile record of a felony.

Conclusion

During the 1993 General Assembly session, Delegate Howard Copeland amended his carry-over legislation from 1992, House Bill 593, to substitute the proposed legislation from the Crime Commission's House Joint Resolution 131 study. House Bill 593 amended §§16.1-299, 16.1-306, 18.2-308.2, 18.2-308.2:1, 19.2-388 and 19.2-390 of the Code of Virginia to prohibit an adult from purchasing a firearm if he had been found guilty of a felonious offense while a juvenile. The bill received technical amendments, and was approved by the House and Senate. House Bill 593 was enrolled and sent to the Governor for signing during the 1993 legislation session. However, the Governor chose not to sign House Bill 593, stating that House Bill 1600 more completely met the intent stated in House Bill 593. House Bill 1600 was patroned by Delegate James Almand, who chaired the Crime Commission's study of access to juvenile records. (House Document 71, 1993)

HOUSE JOINT RESOLUTION 162
REPORT ON:
THE FEASIBILITY OF IMPLEMENTING
LOCALLY OPERATED BOOT-CAMP PROGRAMS

House Joint Resolution 162 (1992), sponsored by Delegate Franklin P. Hall, directed the Crime Commission to "study the feasibility of implementing a locally operated boot camp program in the City of Richmond for non-violent juvenile offenders." Additionally, HJR 162 directed the Commission "to review the Department of Corrections boot camp program for its adaptability to a local juvenile center, detention home or any other facility for the secure detention of a juvenile offender; determine the criteria for assessing the need for a locally operated boot camp program; and review the fiscal impact of implementing and operating a locally operated boot camp program." The Crime Commission's Subcommittee III, chaired by Reverend George F. Ricketts, Sr. , conducted the study of juvenile boot camps.

During the course of the study, Commission staff conducted site visits to detention facilities and programs in Louisiana, Tennessee and Virginia. In addition, an informal study group was established to share information and discuss program proposals.

At its initial meeting, Subcommittee III drafted and unanimously adopted a resolution which supports the concept of local juvenile boot camp programs and the establishment of a local pilot program. The resolution recognizes that such a program may be established under existing law, provided that the Board of Youth and Family Services approves the guidelines for such a program. Subsequent research conducted by Commission staff revealed that, according to the preliminary results of a national study, the jury is still out regarding the effectiveness of existing boot camp programs. However, the Commission did identify several components which, when emphasized in a single program, enhance the chances for juvenile rehabilitation but fall short of a traditional boot camp program. Such "alternative" juvenile programs are being put into action across the nation by both private and public sector service providers. The Commission endorsed a program model that would incorporate discipline, education, treatment, vocational training, life skills training, community involvement, special recognition and hard labor in a regimented schedule of daily activities. Additionally, the program would provide aftercare services to insure the smooth transition of the juvenile into the community upon release.

Subcommittee Members

George F. Ricketts, Sr., of Richmond, Chairman
Elmo G. Cross, Jr., of Hanover
V. Thomas Forehand, Jr., of Chesapeake
Raymond R. Guest, Jr., of Front Royal
H. Lane Kneedler of Richmond
Edgar S. Robb of Charlottesville

Issues Addressed

Based upon the requirements of HJR 162, the following issues and objectives were addressed by the Commission:

- Review the Department of Corrections boot camp program for its adaptability to a local juvenile learning center, detention home or any other secure juvenile detention facility;
- Determine the criteria for assessing the need for a locally operated boot camp program;
- Review the fiscal impact of implementing and operating such a program; and
- Develop a model pilot boot camp program for nonviolent juvenile offenders for implementation in the City of Richmond that, if successful, could be replicated in other localities.

The Commission pursued the following activities in furtherance of the above-mentioned objectives:

- Review juvenile boot camp programs in other states;
- Conduct site visits to other states with established juvenile boot camp programs and/or bring evaluators in from those states to address the Commission;
- Examine preliminary evaluations conducted by the Virginia Department of Corrections of its boot camp program;
- Examine evaluations conducted of such programs in other states;
- Determine the effectiveness of a local boot camp program for juveniles with respect to deterrence; rehabilitation; reduction of facility overcrowding; and reduction of recidivism; and
- Develop legislative, budgetary and/or administrative recommendations as necessary.

Findings and Recommendations

Finding I

Boot camp programs for juvenile offenders have just recently emerged; as a result, recidivism rates for juvenile boot camp participants have not yet been calculated. However, the National Institute of Justice has been tracking the development of formal boot-camp/shock incarceration programs for young

adult offenders. Although results indicate that recidivism rates are difficult to compare across different programs, rearrest rates are no higher or lower for formal boot camp participants than rates for offenders who serve a longer period of time in a traditional prison or who serve time on probation. Nonetheless, professionals and practitioners in the juvenile justice system agree there are several program components which are clearly effective toward the rehabilitation of juvenile offenders.

Recommendation #1: The Virginia State Crime Commission should endorse an alternative program for juveniles which could be locally adapted and implemented and would emphasize the following components: discipline; structure; education; life skills training; treatment; vocational training; physical labor; community involvement; special recognition; and aftercare.

Finding II

An alternative program, such as the one described in Recommendation #1, could be developed to provide services for juvenile offenders who are not addressed by current programming. For instance, according to study group participants, special programming is critically needed in the City of Richmond for young, black males convicted of drug dealing. As a result of overcrowding in secure detention facilities and limited resources to support non-residential programs, this group of offenders is often neglected. In addition, study group participants asserted that it is this same population of young males who are later re-arrested for more serious and violent offenses such as malicious wounding and murder.

Recommendation #2: Localities should consider developing alternative programs to address targeted groups of juvenile offenders.

Finding III

During the course of this study, Commission staff collected an enormous amount of data on more than a dozen alternative and traditional boot-camp programs developed nationwide for juveniles offenders. Furthermore, Commission representatives made on-site visits to several nationally recognized programs. Based on the information gathered by way of literature reviews, personal interviews, study group meetings and site visits, Commission staff identified Associated Marine Institutes, Inc. and Corrections Corporation of America as private sector service providers, dedicated to the rehabilitation of juvenile offenders, that have developed and implemented programs which successfully incorporate the key components delineated in the proposed program outline.

Recommendation #3: The Virginia State Crime Commission recommends that private sector service providers be considered by any locality seeking to provide alternative juvenile programming.

Finding IV

Localities in Virginia have three options by which detention services for juveniles may be accessed. First, participating localities are either part of a commission or, as with the City of Richmond, are the singular users of detention facilities. Pursuant to Code of Virginia § 16.1-315, "the governing bodies of three or more counties, cities or towns may provide for the establishment of a joint or regional citizen juvenile detention home, group home or other residential care facility commission." Secondly, a locality may have an agreement with a participating locality or localities to access a facility, in which case the locality seeking services usually pays a higher per diem rate than participating jurisdictions. Thirdly, a locality may not have a definitive option and must "shop" for available space when a child is in need of detention.

With the exception of the City of Richmond, the responsibility for the operation of detention facilities in Virginia rests with the city manager or an assistant city manager. In the case of commission-operated facilities, the city manager or an assistant city manager from each of the participating localities shares this responsibility.

By custom, the Richmond Juvenile Detention Center management is under the authority of the Chief Judge of the Richmond Juvenile and Domestic Relations Court. The salaries and benefits packages for detention center staff are paid by the City of Richmond; however, detention staff appointments are made by the Chief Judge. Though detention center staff are paid as city employees, because they are appointed by the Chief Judge of the Juvenile Court, they cannot be made accountable to the City Manager's Office nor are they included in the city grievance procedure. This unique structure provides inherent conflicts for facility personnel and may have contributed to concerns regarding facility management that were expressed by city officials at the outset of this study.

The City of Richmond is now in the final stages of developing plans for a new 60-bed detention center which will replace the present facility. Consequently, Richmond Juvenile Court representatives recognize the importance of shifting facility management responsibility to the City Manager's Office but, to avoid delays with that process, do not wish to do so until the new detention facility is on-line.

Recommendation #4: Upon completion of the new detention center facility, the Richmond City Manager should meet with the Chief Judge of the Richmond Juvenile and Domestic Relations Court to discuss separation of powers issues and to determine the most efficient and effective management option for the operation of the facility.

Conclusion

The Crime Commission did not recommend legislation in its final report on the feasibility of implementing locally operated boot camps for juvenile offenders. However, Delegate Franklin P. Hall successfully sponsored House Bill 2193 (1992) which clarifies that localities and commissions may utilize boot camp programs in their juvenile detention homes. The Crime Commission was able to provide background information to the Richmond City Manager's office to assist with Delegate Hall's legislation. (House Document 54, 1993)

HOUSE JOINT RESOLUTION 166
REPORT ON:
"POLICE OFFICERS' BILL OF RIGHTS"

The study, authorized by House Joint Resolution 166 (1992), patroned by Delegate Glenn R. Croshaw, sought, as its primary objective, to determine the feasibility of extending the "Police Officers' Bill of Rights" to Virginia deputy sheriffs. Because the necessity for consideration of the second and third issues was dependent upon the determination of the primary issue, the subcommittee limited the scope of the study to only the primary study issue.

The legal research determined that the sheriff/deputy relationship in Virginia is steeped in history and is unique insofar as the two are deemed "as one" on the basis of a presumed requirement of trust and confidence.

Subcommittee Members

Delegate V. Thomas Forehand, Jr., Chairman
Mr. Robert C. Bobb
Senator Virgil H. Goode, Jr.
Mr. Robert F. Horan, Jr.
Reverend George F. Ricketts, Sr.

Issues Addressed

A. Whether to redefine "Police Officer" to include sheriff's deputies. "Police Officer" is defined for the purposes of the Chapter (Chapter 10.1 (§2.1-116.1 et seq.) of Title 2.1 of the Code of Virginia) as essentially any law enforcement officer of any local or state police force except "the sheriff's department of any county or city."

B. Whether deputy sheriffs should be accorded the full panoply of procedural guarantees offered by the "Police Officers' Bill of Rights". The Chapter accords a police officer "minimum rights" per §2.1-116.9 (but requires the department to promulgate more thorough grievance procedures) or allows him to avail himself of local governing body grievance procedures to redress grievances based on matters which could lead to his dismissal, demotion, suspension or transfer.

C. Whether to offer a property right in employment to deputy sheriffs. The rights accorded police officers under the Chapter are deemed a property right in continued employment which cannot be taken without Fourteenth Amendment due process. Hummelbrand v. Harrison, 484 F. Supp. 803 (W.D. Va. 1980). The implicit rationale for denying sheriff's deputies those rights available under Chapter 10.1 of Title 2.1 is set forth in the study resolution as follows: "deputy sheriffs serve concurrently with and at the pleasure of their principal." In other words, deputies are considered political appointees. Inasmuch as police officers

are "ordinary" (and, thus, vested employees by virtue of the Chapter) employees as opposed to "at-will" appointees of Constitutional officers, the rationale is inapplicable to them.

D. Whether deputy sheriffs are denied equal protection: As a result of the exclusion of sheriff's deputies from the procedural guarantees, similarly situated law-enforcement officers (i.e., deputies and police officers) are treated quite differently re expectation of continued employment. The difference in treatment is quite logical when comparing a small, "intimate" sheriff's department to a metropolitan police department; however, the difference fades as the size of a sheriff's department increases and functions more like a metropolitan police department.

Legal Findings

Finding I

Overview of Current Law:

Under the Virginia Constitution, Article VII, § 4, a sheriff is a constitutional officer elected by the people.

Under settled Virginia caselaw, he serves independent of state and municipal governments; however, he is subject to statutory constraints of the general law or special act. Sherman v. City of Richmond. And he and his deputy are deemed to have a close and confidential relationship, considered historically to be "as one." Miller v. Jones cited in Whited v. Fields.

Virginia Code Section 15.1-48 provides that "Any [such] deputy may be removed from office by his principal." This has been universally interpreted as a right to at-will discharge without resort to any sort of grievance procedure or "due process." The right to at-will discharge fosters and preserves the close relationship. Virginia caselaw acknowledges no property interest in continued employment for a sheriff's deputy.

An exception to this accepted holding is found in Angle v. Overton. In that case, the Virginia Supreme Court held that where a sheriff's deputy took advantage of existing binding grievance procedures, the sheriff was bound by the outcome, despite the historically recognized right to at-will discharge. This decision is regarded by the federal courts interpreting it to have been based on administrative law or estoppel rather than upon an ostensible property interest in continued employment.

Another exception to this rule is found in both Branti v. Finkel and Elrod v. Burns, U.S. Supreme Court cases which stand for the proposition that pure patronage discharges are unconstitutional and deprive the discharged party of his First Amendment right to political expression if his position is not "properly conditioned upon his allegiance to the political party in control of the county government." Branti. Even though no Virginia court has yet

reached this issue per se (although both cases are widely discussed), it would appear that if a deputy were discharged purely because of his party affiliation, without more, he would retain his entitlement to employment.

Finding II

Changes in Current Law Required to Include Sheriff's Deputies within "Police Officers' Bill of Rights":

1. Amend the Police Officers' Bill of Rights (Chapter 10.1 of Title 2.1) to include sheriffs' deputies, thereby creating for them a right to due process and a property interest in their employment..
2. Amend §15.1-48 to remove or amend language providing that a deputy may be removed from office by his principal - because this section is interpreted to confer the right to discharge a deputy at-will and would be in conflict with a grievance procedure which affords due process rights and creates a property interest in employment.
3. Amend §2.1-116.1 to redefine police officer to include deputy sheriffs.

Finding III

Result of the Above Statutory Changes:

1. The relationship between sheriff and deputy would arguably be redefined. Current cases acknowledge that a sheriff is absolutely liable civilly and criminally for the acts of his deputies. In other words, the sheriff and deputy are as one. The amendments would necessarily create a more traditional employer/employee relationship.
2. A sheriff would hire his deputies on the basis of their qualifications to do the job. He would not select, nor would he be allowed to select, his deputies on the basis of their loyalty, trust or mere party affiliation. An incoming Republican would possibly be required to retain his Democratic staff. (Depending upon interpretation of Branti and Elrod in Virginia, the prohibition against firing on the basis of political affiliation may already be existing law. However, even if Branti and Elrod do describe the current state of the law, a deputy who actively campaigns against the ultimately elected sheriff might still be subject to discharge under §15.1-48. Campaigning actively against your superior is not likely to be construed as maintaining the "as one" relationship. Furthermore, such activity may not be protected by Branti even if a deputy sheriff is deemed an appropriate political appointment. [See, Caveat, below.]
3. A sheriff could not fire a deputy without cause (or proof of wrongdoing). A deputy would have an opportunity for redress of grievances against him and would have an opportunity to contest what could otherwise be a wrongful discharge by a sheriff based upon uncontestable or unsubstantiated charges.

4. A small sheriff's office with only a few deputies (and which functions pursuant to the "as one" relationship between sheriff and deputy) would be placed on an equal footing with a large metropolitan sheriff's office which performs all the functions of a large police department (rather more impersonally). Virginia courts wrestling with the overall issue acknowledge a difference (and value) in the relationship of deputies in a small, as opposed to large, sheriff's office.

At least one of the questions for the Commission to answer was, then, whether that small office relationship (requirement?) of trust and loyalty with its concomitant potential for abuse should be either preserved as-is or replaced with a traditional employer/employee relationship which essentially nullifies the requirement of trust and loyalty.

Caveat

It is noteworthy that Branti v. Finkel arose in New York and involved the political patronage dismissal of two assistant public defenders by the newly appointed chief public defender who was a member of the opposing political party. The court ruled that such discharge was inappropriate re assistant public defenders but specifically reserved judgment on the issue of such dismissal re assistant prosecutors, a point echoed by the Fourth Circuit in U.S. v. Gregory. This reservation of judgment on whether an assistant prosecutor is a legitimate political appointment could extend as well to sheriff's deputies.

Recommendation/Conclusion

The Commission made no recommendation for change in the law inasmuch as hiring and firing of deputies is uniquely within the province of the sheriff and derivative of the unique nature of the sheriff/deputy relationship. (House Document 25, 1993)

HOUSE JOINT RESOLUTION 422
REPORT ON:
SPECIAL NEEDS AND CONDITIONS OF
INCARCERATED WOMEN

The study authorized by House Joint Resolution 422 (1991), sponsored by Delegate Marian Van Landingham, sought as its primary objective to study the conditions of incarcerated women and to make recommendations to improve both current conditions and the possibility for a meaningful rehabilitation.

Subcommittee Members

Delegate V. Thomas Forehand, Jr., Chairman
Delegate Robert B. Ball, Sr.
Senator Elmo G. Cross, Jr.
Mr. Robert F. Horan, Jr.
Reverend George F. Ricketts, Sr.
Delegate Clifton A. Woodrum

Delegate Forehand appointed Rev. George F. Ricketts, Sr., to chair the Task Force on Recidivism and Women's Correctional Issues. The following persons served:

Rev. George F. Ricketts, Sr. Chairman
Delegate Robert B. Ball, Sr.
Delegate Gladys B. Keating
Delegate Marian Van Landingham
Jean W. Auldridge
B. J. Brown Devlin
Ann Hart
Cynthia Holley
Tom Karwaki
Jim Mustin
Scott Richeson
Johanna Schuchert
Janet Welch
Susie White

Issues Addressed

The following specific issues were identified for research and consideration:

1. Whether the health and treatment needs of incarcerated women are being met and, if not, what deficiencies exist.
2. Whether educational/vocational training programs for female inmates are conducive to providing satisfactory employment opportunities upon release.

3. Whether the extent and quality of contact currently permitted female inmates and their minor children is sufficient.
4. Whether unique conditions present in the female inmate population suggest other needs that remain unaddressed.

Findings

Research in response to our designated study issues uncovered findings that can be grouped, respectively, in two ways:

- Fundamental and concrete deficiencies in correctional facilities for women that require short term responses.
- Specific cultural characteristics indicative of the need for innovative long-term programmatic approaches to women in corrections.

Psychological and physical medical care, recreational opportunities, visitation policies and educational/vocational programs should be improved to assure both that the unique needs of women are met and that they enjoy comparable opportunities to similarly situated males in state and local facilities.

At the same time, new approaches to administering female correctional programming should be considered. Substantial benefit in this regard may accrue from joint efforts by corrections and non-profit organizations. An example of the success in this direction can already be seen in the MILK program in Virginia and a number of other non-profit endeavors in other states. Specific emphasis should be placed on parenting skills and expanded parent-child interaction, enhanced life-skills training, and special attention to self-esteem and over-dependency problems.

Consistent with these general conclusions, and based on the research and analysis referenced in this report, the following specific findings were made:

1. Medical treatment at VCCW and some local institutions, specifically with regard to gynecological care, is not sufficiently comprehensive.
2. Inmates with mental health conditions requiring segregation are housed inappropriately at VCCW.
3. Vocational training at VCCW is neither sufficiently diverse, nor widely enough available, to provide most inmates adequate skills to gain employment upon release from prison.
4. Demographic/cultural differences apparent between male and female inmates impact significantly upon both their behavior during incarceration and chances for success upon release. Because female inmates have been subjected to a system designed primarily for men, these distinctions remain largely unaddressed.

- a) Addictive behavior, including drug addiction, is more severe among female inmates than among males inmates.
- b) Women inmates are typically less aggressive than male inmates.
- c) The effect of separation from minor children is substantially greater for female inmates.

Recommendations

As noted already, this study was conducted congruent with a study of family and community ties of state and local inmates. Thus, while recommendations of that study regarding contact between inmates and their families (including children) are not echoed here, they are endorsed as being consistent with the findings of this study as well. Also referenced in this report was the study of Virginia's Commission on Youth, addressing the needs of children of incarcerated parents (pursuant to HJR 218) and encompassing issues relevant to this study as well.

1. That funding be appropriated by the General Assembly for adequate staff to provide expanded recreational, educational, psychological and substance abuse treatment, volunteer/religious, and family contact services at VCCW for FY 1993-94.
 - a) That the Department of Corrections review the level of increased funding necessary to provide for regular outside recreation, and family visitation, for all women (all custody levels) at VCCW, as well as other programming and report to the Crime Commission by December 1992 on the most cost-effective means of implementing these services. Deliberations should include consideration of partial fencing of the facility in conjunction with the most cost efficient use, and increase, of correctional staff.
2. That the American College of Obstetrics and Gynecology guidelines with regard to gynecological care be strictly adhered to in all correctional facilities holding female inmates.
3. That the Director of DOC shall designate a full-time employee within the Director's Office whose function it is to address issues and concerns peculiar to the female inmate. Policy and programming with regard to female inmates in state corrections should not be limited to administrators within VCCW (particularly since additional facilities are being planned for these inmates). The need for long-term planning for female inmates, and joint efforts between corrections and the community in addressing the needs of this segment of the population, can be best served by establishing such a position.

4. That construction of a new state correctional facility for women be accomplished in a timely fashion, which facility shall encompass comprehensive programs for substance abuse treatment of all female inmates needing and desiring treatment, as well as appropriate facilities for mental health care of all female inmates, and other services deemed necessary for the female offender.
5. That the Department of Corrections and the Department of Correctional Education jointly undertake a comprehensive approach to vocational programs for female offenders, with an expansion of vocational training and work release slots based upon a review of the needs and opportunities for women upon release.
6. That local correctional facilities housing both a male and female population provide comparable opportunities for educational and vocational training, and that these institutions explore the potential for significantly expanded work release opportunities for the female offender.

Conclusion

Commission staff is continuing to monitor the Department of Corrections' response to the recommendation made in this study. The executive director has met with the chairman of the Board of Corrections to discuss implementation strategies and will continue to work with the Department of Corrections staff to continue the dialogue on these issues. (House Document 24, 1993)

HOUSE JOINT RESOLUTION 429
REPORT ON:
IMPROVING FAMILY AND COMMUNITY TIES
OF INCARCERATED PERSONS

The study authorized by House Joint Resolution 429 (1991), sponsored by Delegate Gladys B. Keating, sought, as its primary objective, to study the 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.

Subcommittee Members

Delegate V. Thomas Forehand, Jr., Chairman
Delegate Robert B. Ball, Sr.
Senator Elmo G. Cross, Jr.
Mr. Robert F. Horan, Jr.
Reverend George F. Ricketts, Sr.
Delegate Clifton A. Woodrum

Delegate Forehand appointed Rev. George F. Ricketts, Sr., to chair the Task Force on Recidivism and Women's Correctional Issues. The following persons served:

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

A. What obstacles exist to effective contact and communication between inmates and their family member, and how can they best be alleviated?

B. How would support services for inmates and their families be strengthened to maintain unity and maximize opportunities for success of inmates reentering society?

C. How may volunteerism be enhanced to further the goals of improved community ties and related services?

Findings

1. Large numbers of persons with family members incarcerated in Virginia state correctional facilities are unable to visit them because they lack the means for transportation.
2. Waiting times for visitors are often lengthy in state and local correctional institutions, and visits in many cases are cut short, as a result of extended processing times and crowded visiting facilities.
3. Correctional staff members in some institutions are inadequately trained to deal with the public, and with visitors in particular.
4. Relatively few accommodations are made for child visitors at most correctional institutions in Virginia.
5. Restrictions against bringing items into visiting rooms at Department of Corrections institutions are unnecessarily harsh as they pertain to legal documents (relating to family legal affairs), to the detriment of fundamental family relations.
6. Telephone restrictions unreasonably deter communications between inmates and family members - legitimate complaints about deficiencies in phone service are not accorded adequate priority.
7. Potential volunteers for services to state and local inmates remain untapped because financial resources to recruit, organize and train them are insufficient.
8. Volunteer attempts at providing services to inmates in Virginia's jails and prisons suffer due to the lack of an effective, coordinated and sustained system of communication between community organizations and many correctional institutions. Such a mechanism is the building block for increased efficiency in using volunteers and providing essential transitional services to inmates as they leave corrections and reenter society.

Recommendations

Much in the way of community contacts with prisoners and support services for them and their families must come from the community itself and cannot be legislated. Many efforts can be facilitated, however, and obstacles can be

removed. The following recommendations are intended to encourage family and community involvement with the state and local inmate population, thereby maximizing the opportunities for effective reentry of inmates to society and a corresponding reduction in recidivism. Accordingly, we recommend the following:

1. That the General Assembly consider in its budget deliberations the potential need for funding for family related programming for inmates and relatives identified in this report. In particular, consistent with other budget priorities the General Assembly should consider:

- a) Establishing a program providing matching grant funds for not-for-profit organizations supplying transportation for prison visitation and related support services to family members of inmates in Virginia's Correctional system. The purpose of the program would be to ensure the opportunity for visitation throughout the Commonwealth, to the degree that these services can feasibly be made available. Criteria for receiving grants should include (but not be limited to):

Level of need for services in the respective region,
Evidence of ability to fulfill the need,
Evidence of community support and ability to raise funding for services.

- b) Providing grant funding to not-for-profit organizations for the provision of new (currently non-existent) pre-release and post-release services for inmates in state or local correctional facilities. Such services may include counseling, vocational/educational training, job assistance, housing assistance, life-skills training, and other related services designed to facilitate inmates' transition to the community.

2. That an advisory board be established by the Virginia Board of Corrections to coordinate effective volunteer efforts within the Department of Corrections. The board should meet at least quarterly, acting to identify resources and to develop strategies for enhancing effective use of volunteers in Virginia's prisons. The board's membership shall be composed of a minimum of 12 members, to include a sitting judge from the Commonwealth, a member of the Board of Corrections, persons drawn from the business/professional community, the religious community, not-for-profit organizations providing corrections' oriented services to inmates and their families, at least one family member of an inmate or an ex-offender, and the Director of the Department of Corrections and the Director of the Department of Correctional Education shall serve as ex officio members.

3. That (DOC) departmental policy with regard to Community Advisory Boards (CABs) be amended to allow for membership of three family members (of inmates) on each CAB. Further, that in addition to the present reporting requirements, the board shall report twice yearly to the warden its

recommendations for institutional change, to which the warden shall provide written response by the next scheduled meeting date of the board. This would substantially improve the effectiveness of CABs by providing badly needed input of family members and the institutional administration.

4. That state and local correctional policy provide for visitation and other family related programs which encourage greater and higher quality interaction between inmates and family members.

- a) That visitation rooms and processing areas in both state and local correctional facilities be permanently staffed by persons who receive special training and preparation for interacting with inmates and family members.
- b) That all available resources (including outside areas) be fully utilized to maximize visitation opportunities.
- c) That DOC institutions develop designated areas within visiting facilities (not already possessing them) that allow for appropriate parent/child interaction.
- d) That state and local correctional facilities implement programs for enhanced parent/child interaction.
- e) That family members of inmates be permitted to retain (during their visit) documents involving business, financial, legal or other affairs with which the inmate is concerned, in the case of contact visits. And that, where visits are non-contact, family members be permitted to convey such materials to the inmate (through corrections officials) so as to allow consultation between them during the course of their visit.
- f) That DOC policy be amended to extend the (automatic cut-off) limit for phone conversations to 30 minutes in all DOC institutions.

5. That the Virginia State Crime Commission undertake a study to determine the level of need, and availability (both within correctional institutions and the community) of, transitional services for released inmates, and complete its work in time to submit findings to the Governor and the 1994 Session of the General Assembly.

As stated in the first recommendation, immediate funding for these services should be made available. Though the need for additional services has been firmly established, the extent of that need has yet to be determined. A comprehensive investigation into existing resources should be made to determine how great the deficit.

Conclusion

Because of the similar nature of this study and HJR 422, Commission staff will continue to monitor the efforts of the Department of Corrections and will work to implement all recommendations within fiscal and security constraints. Studies to be conducted in 1993 on alternatives to incarceration and treatment issues will impact the recommendations made in the report on HJR 429 and will be considered in planning implementation strategies. (House Document 26, 1993)

V. STUDIES PRESENTED TO THE CRIME COMMISSION

REPORT ON VIOLENT CRIMES IN CONVENIENCE STORES: ANALYSES OF CRIMES, CRIMINALS AND COST

by
Virginia Crime Prevention Center
Department of Criminal Justice Services

This study, authorized by House Joint Resolution 149 and patroned by Delegate George H. Heilig, Jr., of Norfolk, sought to analyze the cost and motives of crimes occurring in Virginia's convenience stores and make recommendations to reduce the incidence of these crimes.

Issues Addressed

- A. What is the frequency and type of crime occurring at Virginia convenience stores?
- B. What strategies can be developed to reduce both the frequency and severity of convenience store crime?

Findings

Correctional Costs:

1. During 1991, there were 148 convictions for exclusively robbing a convenience store in Virginia.
2. The 148 exclusive convenience store robbery convictions represented 17% of all 1991 convictions for robbery, while convenience store robbery accounted for only 8.4% of all robberies in Virginia.
3. The median length of pre-trial confinement in jail for a convenience store robber was 105 days at a direct cost to the state of \$3,150.
4. It is estimated that this group of convenience store robbers spent a total of 12,600 days of pre-trial detention in jail which directly cost the state \$378,000.
5. The median sentence for a convicted convenience store robber was 10 years, and it is estimated that each robber will serve 4 1/2 years in prison at a cost in 1991 dollars of \$76,500 for the commitment.
6. It is estimated that convenience store robbers convicted in 1991 will serve a total of 648 years in prison at a cost of \$11 million dollars.

7. Total correctional costs (jail, prison and parole) for convenience store robbers convicted in 1991 are expected to exceed \$12 million dollars.

8. It is estimated that the total number of offenders presently serving time in Virginia prisons for exclusively robbing a convenience store exceeds 500.

9. This analysis suggests Virginia is spending between \$12 million and \$14 million per year for its correctional handling of offenders convicted of committing a violent crime in a convenience store.

10. A new cohort of convenience store robbers that is larger and more costly can be expected to be convicted every year if present trends continue.

Scope of Victimization:

1. Robbery of convenience stores has risen 38% nationally and 51% in Virginia for the period 1985-1991.

2. While over half of Virginia's localities reported no violent crimes in convenience stores for the years 1988 and 1989, 65 localities reported 1,020 violent crimes in their stores. The 1,020 crimes reported to a DCJS survey for the two year period included;

- 6 Homicides
- 4 Abductions
- 6 Rapes
- 7 Other Sexual Assaults
- 12 Malicious Woundings
- 62 Attempted Robberies
- 923 Robberies

3. For the period 1980-1988 in Virginia, 45 retail workers were murdered on the job compared to 17 law enforcement officers.

4. Research indicates that one out of every 100 armed robberies will result in a homicide.

5. Homicide rates established by the convenience store industry conservatively predict that Virginia will experience at least three homicides in its stores each year if levels of victimization remain the same.

6. Evidence suggests there are two distinct groups of criminals victimizing convenience stores: robbers and sex offenders.

7. Of the 1,020 crimes reported to DCJS:

69% occurred between 9:00 p.m. and 5:00 a.m.;
88% took place while a lone clerk was on duty;
63% of the lone clerks were women;
Physical force was inflicted on 129 clerks and customers;
27 people were shot, stabbed or sexually assaulted at the stores.

8. Ten Virginia localities accounted for 65% of Virginia's convenience store robberies in 1991.

9. Virginia and national studies have indicated approximately 20% of convenience stores experienced at least one violent crime during a two year period.

10. Virginia and national studies have indicated 7% of convenience stores experienced multiple violent crimes during a two year period.

11. Prior robbery rate is the strongest predictor of future robbery rate

12. The bulk of violent crimes in Virginia's convenience stores occurs at a small number of stores and is suffered by a disproportionately small number of Virginia's localities.

Indicators for Prevention Strategies:

1. Research with convicted offenders suggests they employ identifiable preferences and dislikes related to security measures when selecting convenience stores as targets.

2. Industry experience indicates store design and the introduction of security measures reduces rates of violent crime.

3. Two clerks on duty during the third shift does seem to have an effect on reducing the robbery rate for stores that have experienced multiple robberies.

4. When comparing stores with a history of being robbed, one-clerk stores were robbed at rates 1.77 to 3.6 times that of two-clerk stores during the third shift.

5. Two states have enacted statewide legislation or regulations, and several cities have adopted ordinances requiring security measures at convenience stores.

Recommendations

The implementation of the Incident-Based Reporting (IBR) system should be a high priority for state and local law enforcement agencies. Recognizing the vital importance of crime-incident data for crime analysis and policy development, The Virginia State Crime Commission should study the feasibility of accelerating the transition to IBR by state and local law enforcement agencies.

The Crime Commission should continue its legislative support of crime prevention strategies that address the unique distribution of violent crimes in Virginia's convenience stores. Efforts should focus on maximizing the potential for protecting employees and customers, while not unduly burdening localities or the industry.

Conclusion

While no specific legislation was suggested from the study, a continuing dialogue between the business sector, crime prevention personnel and the law enforcement community hopefully will result in new approaches to deal with the problems of convenience store crime. Delegate George H. Heilig, Jr. of Norfolk is sponsoring a conference on convenience store safety in May, 1993 to continue to address this issue. Commission staff will participate in the conference and will work with all involved parties to seek solutions to this problem. (House Document 30, 1993)

VI. LEGISLATION PROPOSED

On October 27, 1992, the Crime Commission held its annual public hearing to receive requests from individuals, professional associations and interested groups concerning potential legislation for the 1993 General Assembly session. After a thorough review of each request, the Legislative Subcommittee recommended the following items be introduced in the Crime Commission's legislative package.

House Bill 1549

Delegate Raymond R. Guest, Jr.
Passed

This bill amends §19.2-187.01 - to add the federal Postal Inspection Service to the list of labs with presumed chain of custody (also proposed by Virginia Sheriffs Association) and define the term "Division" as used in the statute to refer to any or all of the Division's (four) regional laboratories.

House Bill 1550

Delegate Raymond R. Guest, Jr.
Passed

This bill amends §19.2-188.1 to delete reference to the Division of Consolidated Laboratories. This section relates to the testing and analysis of controlled substances and the Division of Consolidated Laboratories does not conduct tests on controlled substances

Additionally, this bill amends §19.2-310.2 to delete reference to the Division of Consolidated Laboratory Services.

House Bill 1551

Delegate Raymond R. Guest, Jr.
Passed/with amendments

This bill amends §18.2-268.7 to allow the Director or his designee to sign certificates of analysis of criminal evidence.

House Bill 1703

Delegate James F. Almand
Passed

This bill amends §8.01-156 to provide that sheriffs not be required to store personal property as a result of evictions.

House Bill 1855
Delegate Glenn Croshaw
Passed

This bill amends the Code by adding in Chapter 27 of Title 9 numbered 1.5, consisting of sections numbered 9-173 and 9-173.15 to establish crime prevention specialists.

House Bill 2009
Delegate Raymond R. Guest, Jr.
Passed/with substitute

This bill adds a new section to create an exception to the Rules of Court governing discovery and subpoenas duces tecum. In Ellis v. Commonwealth (1992), the Virginia Court of Appeals relied on Rules 3A:11 and 3A:12 to honor a request by the defendant for copies of a wide range of documentation, including proprietary computer programs, from the Division of Forensic Science.

House Bill 2104
Delegate Clifton A. Woodrum
Passed

This bill allows the Attorney General to appoint a designee to serve in his or her capacity on the Crime Commission.

House Bill 2105
Delegate Clifton A. Woodrum
Passed

This bill allows for audits of sheriffs' funds to be conducted by designated certified public accountants other than the Auditor of Public Accounts. In addition, separate accounts are established for funds received on (i) an account of a locality and for fees as provided by law and (ii) for prisoner trust accounts. This bill also removes the limit on prosecution for what constitutes embezzlement of sheriff's funds.

House Bill 2106
Delegate Clifton A. Woodrum
Withdrawn

This bill would have clarified that a state prisoner who is convicted of a crime committed while incarcerated in a state correctional facility shall not serve any portion of his sentence for that crime in a local correctional facility.

House Bill 2107

Delegate Clifton A. Woodrum
Passed/with amendments

This bill requires transfer of a convicted felon from jail to prison in accordance with existing codified schedule (within 60 days of order of commitment) notwithstanding any pending action by the Parole Board regarding alleged parole violations.

Senate Bill 857

Senator Virgil H. Goode, Jr.
Failed

This bill would have raised certain fees assessed by sheriffs, ranging from \$1.25 to \$4, to \$5. In addition, this bill combined a list of minuscule fees charged in criminal cases into one \$10 fee for service of a warrant, or summons or an arrest (charged as costs against the guilty defendant) and allows a new fee of \$4 for a levy pursuant to a writ of fieri facias. The bill would also have repealed certain fees which are either uncollectible or archaic (e.g., \$4 for receiving and discharging a person from jail).

Senate Bill 805

Senator Kenneth W. Stolle

House Bill 1450

Delegate Glenn R. Croshaw

Both measures passed

These identical bills authorize the establishment of stores or commissaries in local jails and parallel the 1992 authorization for the same in regional jails. In addition, these bills authorize the sheriff to be the purchasing agent for the commissary and to prescribe the expenditure, within the facility, of the net profits derived from the operation of the store for educational, recreational or other beneficial purposes.

Senate Joint Resolution 273

Senator Virgil H. Goode, Jr.
Passed

This resolution directs the Crime Commission to study professionalism and service delivery in the law enforcement training system and to address issues including ethical standards and decertification, pre-employment and standardized testing, physical fitness requirements and training, and the feasibility of a centralized training facility.

BUDGET AMENDMENTS

Patrons: Delegate Woodrum and Senator Robb
Failed

Authorized special education programs in local jails on a pilot basis for an additional year to remain in compliance with a directive from the U. S. Department of Education Office of Civil Rights.

Patrons: Delegate Jean Cunningham and Senator Robb
Failed

Funding for additional substance abuse counselors for local and regional jails through staffing in the Community Services Boards.

Patron: Senator Elmo G. Cross and Delegate Robert B. Ball
Partially Funded

Support budget amendment to begin replacement of evidential breath testing equipment. The Division of Forensic Science has developed a six year plan for replacing all 220 evidential breathalyzer instruments.

Patrons: Delegate Robert Ball and Senator Elmo Cross
Funding delayed until December 1, 1993

Funding for one full-time position at the Department of Criminal Justice Services responsible for conducting and periodically re-validating job task analyses to ensure that law enforcement officers training objectives are current and relevant.

VII. FUTURE EVENTS: CRIME COMMISSION ACTIVITIES FOR 1993

The workload of the Commission continues to increase with the passage of numerous study resolutions offered during the 1993 General Assembly. In addition, the Commission has received several formal requests to review specific problems or assist other study groups or commissions. Staff will continue to monitor recommendations made in several 1992 studies and assist in implementing these recommendations where possible.

Formal study resolutions passed by the 1993 Session of the General Assembly included HJR 523 patroned by Delegate James Almand, of Arlington. This resolution asks the Crime Commission to study improvements in the criminal justice system and to develop a comprehensive plan for improving the present system. The resolution discusses the public perception that the criminal justice system is failing to provide an acceptable level of public safety and recognizes that crime and the fear of crime has a major impact upon the quality of life. Using the resources of state institutions and the private sector, the resolution request a plan to regain the confidence of the public and to move the criminal justice system into the next century.

Delegate Jean W. Cunningham of Richmond patroned HJR 617 which requests that the Commission oversee a study by the Department of Criminal Justice Services Crime Prevention Center and the Virginia Crime Prevention Association to develop a program to recognize localities that implement crime prevention strategies. The study should develop standards for recognitions, a mechanism for application and review as well as methods to encourage community participation in the program.

Delegate Bernard S. Cohen of Alexandria patroned HJR 631 which asks the Commission to study alternatives to incarceration. The study shall consider, among other things, available technologies to enhance penal and educational treatment and employment options for inmates; increased diversion for first-time or nonviolent offenders; increased involvement of the public sector, and improving the availability of programs to inmates.

Delegate Alson H. Smith, Jr. of Winchester patroned HJR 676 requesting the Department of Corrections, in cooperation with the Crime Commission, to study and evaluate current and future needs for habilitation and rehabilitation programs. Specifically, this study wants to evaluate the current needs for programs, the nature and design of programs, legal issues that may arise over custody and control of inmates, the delegation of authority between state agencies and the costs associated with these programs.

Senator Virgil H. Goode, Jr. of Rocky Mount patroned SJR 273, requesting the Crime Commission to study training and certification of law enforcement officers. This study grew from the 1992 study of training standards. The current resolution addresses service delivery, ethical standards, decertification, pre-employment and standardized testing, physical fitness requirements and the feasibility of a centralized training facility.

Senator Edgar S. Robb of Charlottesville patroned SJR 262 which requests the Crime Commission to analyze drug offender cases and to review alternatives to prison and jail for drug offenders. The issues of volume-related offenses, recidivism, the availability of special training for judges and attorneys working with drug cases and other factors. The resolution also asks the Commission to review any alternatives to incarceration that might be successfully used to divert drug offenders.

Senator Richard L. Saslaw of Annandale patroned SJR 333 which asks the Crime Commission to study the need to adopt a criminally negligent homicide statute. Under current law a criminal conviction for involuntary manslaughter can be attained for an unintended killing only upon proof of gross, wanton disregard for human life. The statute under study would create a standard of negligence greater than simple negligence but less than that involved for involuntary manslaughter.

In addition to the above formal studies, Lt. Governor Donald S. Beyer, Jr. has ask the Commission to review several issues and report to the Commission on the Reduction of the Incidence of Sexual Assault. These issues include the use of polygraph examination in cases of child sexual assault victims, the payment of the costs related to recovery of physical evidence in sexual assault cases, the issue of consent as an element of sexual assault crimes, and a review of the statues concerning abduction of children for the purpose of sexual assault.

Delegate Marian VanLandingham of Alexandria has asked the Commission to survey incarceration services being offered by private organizations and to determine, if possible, the cost effectiveness of these programs.

Delegate William P. Robinson, Jr. of Norfolk has asked the Commission to continue to review the issues of police conduct and disciplinary procedures. The Commission will specifically review due process concerns, the confidentiality of personnel files and the use of polygraph examinations in police personnel practices.

The Commission staff will continue to monitor all aspects of the criminal justice system and will assist in any way possible to further the improvement of public safety services.

VIII. ACKNOWLEDGEMENTS

The Crime Commission would be unable to accomplish its numerous activities 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
Commission on Youth
Commonwealth's Attorneys Training and Services Council
Department of Correctional Education
Department of Corrections
Department of Criminal Justice Services
Department of Education
Department of Mental Health, Mental Retardation
and Substance Abuse Services
Department of State Police
Department of Youth and Family Services
Division of Forensic Science
Division of Legislative Automated Systems
Division of Legislative Services
Federal Bureau of Investigations
House Appropriations Committee Staff
National Institute of Justice
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
Supreme Court of Virginia
U. S. Bureau of Alcohol, Tobacco and Firearms
Virginia Association of Chiefs of Police
Virginia Association of Community Services Boards
Virginia Commonwealth University
Virginia Correctional Association
Virginia Crime Prevention Association
Virginia Firearms Association, Inc.
Virginia Medical Society
Virginia Parent/Teacher Association
Virginia Parole Board
Virginia Pharmaceutical Association
Virginia Probation and Parole Officers' Association
Virginia Sheriffs Association
Virginia State Lodge of the Fraternal Order of Police
Virginia Trial Lawyers Association

IX. MEETINGS HELD IN 1992

Annual Breakfast Meeting
January 10, 1992

Full Commission
April 21, 1992

Subcommittees I, II and IV
May 26, 1992

Subcommittee III
June 23, 1992

Full Commission and Subcommittee IV
July 21, 1992

Subcommittees I, II and III
August 25, 1992

Subcommittees II, III and IV
September 22, 1992

Full Commission and Subcommittee II
October 27, 1992

Legislative Subcommittee
November 10, 1992

Full Commission and Subcommittee III
November 17, 1992

Full Commission
December 8, 1992

X. CRIME COMMISSION PUBLICATIONS

1993

Access to Juvenile Records for the Purchase of Firearms
House Document #71

Fees Assessed by Sheriffs
House Document #49

Good Conduct Allowances for Prisoners in Local Correctional Facilities
House Document #50

Improving Family and Community Ties of Incarcerated Persons
House Document #26

Law Enforcement Training
Senate Document #28

Police Officers' Bill of Rights
House Document #25

Special Needs and Conditions of Incarcerated Women
House Document #24

Studies of Business Premises Liability and Urban Violence
House Document #65

The Feasibility of Implementing Locally Operated Boot-Camp Programs
House Document #54

Violent Crimes in Convenience Stores:
Analysis of Crimes, Criminals and Costs
House Document #30

1992

Carry-over Projects of the Drug Study Task Force
Senate Document #25

Offender Reimbursement to Local Jails
House Document #30

Release of Information on Juvenile Felons
Senate Document #22

Task Force Study of Ritual Crime
House Document #31

Transportation of Persons with Mental Illness
House Document #43

Virginia Plan for Drug-Free Schools
House Document #47

1991

Laws Governing Local Jails
House Document #24

Pretrial Detention Decision Making Process
Senate Document #19

Interim Report on the Task Force Studying Ritual Crime

Task Force Report on Drug Trafficking, Abuse and Related Crime
Senate Document #11

1990

Education of Handicapped Jail Inmates
House Document #16

Interim Report on Drug Trafficking, Abuse and Related Crime
Senate Document #30

Nondetectable Firearms and Court Security
House Document #10

Shock Incarceration - Boot Camp Prisons
House Document #9

Transportation of Juveniles
House Document #55

Victims and Witness of Crime
House Document #62

Youthful Offender Act
House Document #43

1989

Asset Seizure and Forfeiture
House Document #7

Building Code Security Needs
House Document #12

Court Appearance Waiver
Senate Document #5

Drug Testing of Arrestees
House Document #9

Part-Time, Volunteer and Auxillary Law Enforcement
House Document #10

Private Security
House Document #11

Victims and Witnesses of Crime
House Document #8

1988

Firearms and Ammunition
Senate Document #9

Law Enforcement Compensation
Senate Document #7

Law Enforcement Uniforms and Car Markings
Senate Document #8

Victims and Witnesses of Crime
House Document #10

XI. CRIME COMMISSION AUTHORITY

VIRGINIA CODE §9-125 et. seq.

§ 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.)

§ 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.)