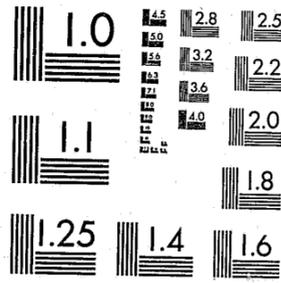


CP SENT
4-20-82

National Criminal Justice Reference Service

ncjrs

This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504.

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U. S. Department of Justice.

National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

5/4/82

Virginia Community Diversion Incentive Act

81095



Regulations Adopted by
Virginia Board of Corrections
on August 12, 1980

✓
 THE VIRGINIA COMMUNITY DIVERSION
 INCENTIVE ACT
 Title 53 Chapter 5.4
 The State Code of Virginia

REGULATIONS

U.S. Department of Justice 81095
 National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by
Boobie L. Huskey, Manager
VA. Youth & Community Services
 to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

Approved, August 12, 1980
 State Board of Corrections

THE VIRGINIA COMMUNITY DIVERSION
 INCENTIVE ACT

REGULATIONS

Table of Contents

	<u>Page</u>
I. Introduction.....	1
II. Program Authority.....	3
III. Policy Statement.....	3
IV. Compliance with State and Federal Regulations.....	3
V. Organization of the Program.....	6
A. Organizational Chart.....	4
B. Department of Corrections.....	5
C. Organizational Responsibilities.....	6
VI. Funding Authority and Limitations.....	8
VII. Funding Allocation Procedures.....	9
A. Program Eligibility.....	9
B. Client Eligibility.....	9
C. Funding Categories.....	12
D. Criteria for Application, Review and Funding.....	15
E. The Review Process.....	19
VIII. Community Corrections Resources Board Regulations.....	21
A. Local Appointments.....	21
B. Composition.....	21
C. Purposes.....	22
D. Required Program Responsibilities.....	22
IX. Administration and Finance Regulations.....	25
A. Administrative.....	25
B. Financial.....	26
C. Facilities.....	27
D. Personnel.....	27
E. Purchasing.....	27

Table of Contents (cont'd)

	<u>Page</u>
X. Administrative Review, Program Evaluation, and Certification.....	28
A. Administrative Review.....	28
B. Program Evaluation.....	28
C. Certification.....	29
XI. Appendices	
A. H.B. 896 the Community Diversion Incentive Act of 1980.....	31
B. Department of Corrections Regional Offices.....	33
C. Proposed System for Identification of Divertable Population.....	36

THE COMMUNITY DIVERSION INCENTIVE ACT

1980 Regulations

I. Introduction

The Community Diversion Incentive Act (The Act) authorizes the Director of the Virginia Department of Corrections to provide direct funding which would enable counties and cities or combinations thereof to develop, establish and maintain community diversion programs for the purpose of providing the judicial system with sentencing alternatives for certain non-violent offenders who may require less than institutional custody but more than probation supervision (State Code, Chapter 5.4, Title 53, Section 53-128.16). This legislation, and the following Regulations, will allow the local government(s), the judiciary, and citizens to develop program alternatives which are appropriate for their community and which meet the special needs of the diverted felon. Work release and restitution centers, intensive community supervision and treatment, and group residential care programs are only a few of the options which communities could develop through voluntary participation.

The inherent flexibility of this Act and its direct funding mechanism would hopefully provide localities the incentive for becoming involved in responding to the problem of crime. The only restrictions are that these state funds be expended for programs incorporating certain minimum activities, operating within applicable state Minimum Standards, and that the funds

can not be used for capital expenditures.

The Act mandates that each locality participating "shall be represented on a Community Corrections Resources Board", Section 53-128.19. This voluntary citizen based body will be the key component for any community diversion program. The Board will receive referrals from the Circuit Court Judge, obtain diagnostic evaluations as necessary, and provide nonbinding recommendations to the Judge regarding the offenders ability to benefit from an alternative to institutionalization. At the time that the Board recommends a diversion they shall have developed an individualized treatment plan and a behavioral contract with the offender.

The intent of the Act and the Regulations is to place decision making authority and fiscal control of community corrections programs in localities wishing to assume the responsibility. Although each locality will be required to create a Community Corrections Resources Board the form and nature of their programs may vary widely according to the type of offender and resources available. The Department of Corrections will provide technical assistance to any locality requesting it in the areas of community organization and resource mobilization, program development and evaluation.

The regulations that follow are based on existing Federal and State requirements, the Virginia Community Diversion Incentive Act, applicable Minimum Standards, and accepted

administrative procedures used by State and local government.

II. Program Authority

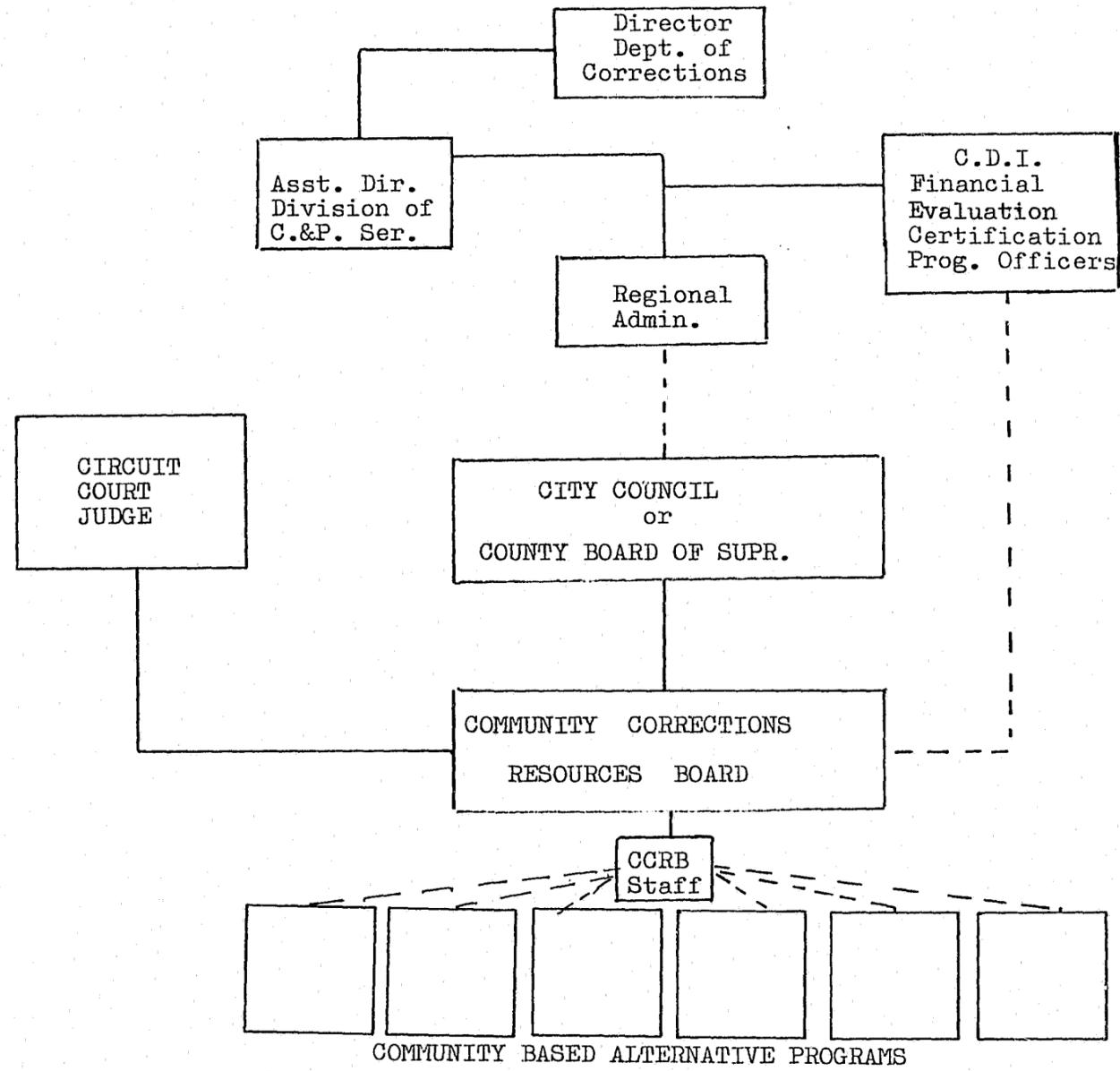
Authority for the operation of this program and funding of application is to be found in Chapter 5.4, Title 53, Sections 53-128.16 - 53.128.21 of the Code of Virginia, the Community Diversion Incentive Act of 1980.

III. Policy

These Regulations reflect the intent of the Community Diversion Incentive Act, and the procedures as approved by the Department of Corrections. The Regulations were approved by the Board of Corrections on August 12, 1980.

IV. State and Federal Regulations

Localities awarded funds under the Community Diversion Incentive Act shall insure that programs using said funds comply with applicable State and Federal Regulations.



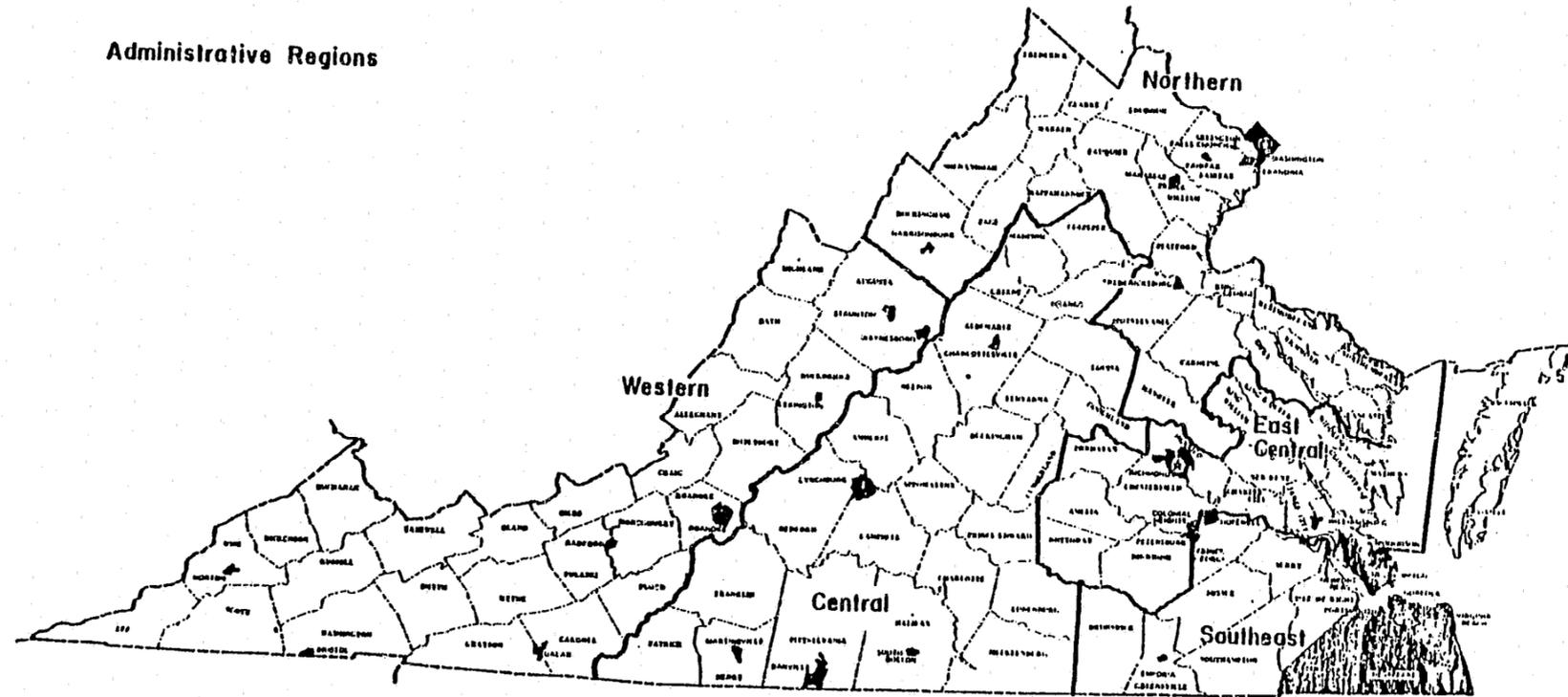
V.
A.

ORGANIZATION
COMMUNITY DIVERSION INCENTIVE ACT

4.

5. Virginia Department of Corrections

Administrative Regions



V B

1978



V. Organization of the Program

C. Responsibilities

1. The Authority for awarding funds under this Act lies with the Director of the Department of Corrections pursuant with Section 53.128.17 of the Act and these Regulations as approved by the Board of Corrections.
2. Responsibility for the administration of the programmatic and financial aspects of the Act will lie with the Assistant Director for Community and Prevention Services through the Regional Administrators and other staff that they may designate.
3. Responsibility for the establishment of financial procedures including monitoring and audit will lie with the Assistant Director for Finance through the Finance Officer assigned to the Community Diversion Incentive Program.
4. Accountability for the use of Act funds at the community levels lies with the local unit of government designated as administering the funds and cannot be delegated to another public or private agency.
5. The Chief of Operations for the Division of Community and Prevention Services or his designee will aid the Assistant Director, Community and Prevention Services,

7.

in all matters that pertain to the Act at the state-wide level.

6. The Regional Administrator will serve as the principal contact with communities wishing to receive funds under the Act. Their responsibilities include technical assistance in such areas as the development of Community Corrections Resources Boards and monitoring of the on-going programs using Act funds. They will also serve as the principal contact with the Departmental Finance Officer responsible for financial issues regarding the program.
7. Responsibility for coordinating the appointments to the Community Corrections Resources Board will lie with the local unit of government applying for the funds. This will include notifying the local Judge and the Regional Office for the Department of Corrections, Division of Community and Prevention Services regarding the number of appointments needed and the procedures to be followed.
8. Responsibility for clients in a community diversion program will lie with the coordinator for the Community Corrections Resources Board. This responsibility will include coordinating work of the local CCRB with the local judiciary, serving as liaison to the Department of Corrections Regional Office,

8.

handling restitution payments, receiving or monitoring receipt of funding, monitoring offender progress in individual plan, and maintenance of individual client records.

VI. Funding Authority and Limitations

A. State Code

1. Funds were appropriated for the implementation of House Bill 896, the Community Diversion Incentive Act, by the House Appropriations Committee with final approval on March 31, 1980.
2. This amendment provides a general fund appropriation, for the two years of the 1980-1982 biennium, to provide direct incentive funds to localities for implementation of the Community Diversion Incentive Act.

VII. Funding Allocation Procedures

A. Program Eligibility

1. Reference to State Code - Chapter 5.4, 53.128.17.

a. "The Director of the Department of Corrections is authorized to assist a county or city or combination thereof to develop and enter into contracts to establish, pursuant to the provisions of this chapter, community diversion programs...."

b. The principal administrative officer of a locality must submit a Letter of Intent to apply for Community Diversion Incentive Act funds to the Regional Administrator of the Department of Corrections, Division of Community and Prevention Services within thirty (30) days of receipt of Request for Proposal. This letter shall include a statement indicating the locality's understanding that prior to final award of funds (Regulations, VII, C., b., 1.) a Community Corrections Resources Board shall have been formed.

B. Client Eligibility

1. Reference to State Code - Chapter 5.4, 53-128.16.

a. A primary thrust of the Community Diversion Incentive Act is to enhance local participation in community based corrections. The

selection of eligible clients is vital to any successful community diversion program. Eligibility standards should be established in each participating community to detail which non-violent offenders they are willing to divert. These standards should have the endorsement of significant members of the criminal justice community including judges, police, commonwealth's attorneys, corrections officials, local governing bodies and administrators, and community organizations to insure that a cross section of individuals representing the community agree.

b. For assistance in determining potentially divertable offenders the Department of Corrections has designed a Proposed System for Diagnostic Identification and Classification of Divertable Population (Appendix D). While not a mandatory classification system this proposed system will give local CCRB members unfamiliar with the corrections system a good picture of the range of offenders presently being

handled by the State and some guidance as to the offense categories that might best benefit from a community based corrections program.

- c. Technical assistance in utilizing the Proposed System for Identification of Divertable Population (Appendix D) will be provided by the Department of Corrections, Division of Community and Prevention Services Regional Office.
- d. Although clients may be eligible, they may not be suitable. Suitability is the judgement that the Community Corrections Resources Board makes of offenders based on a complete review of their criminal and social history and should be as objective as possible. Ideally, those offenders whose situation lends itself to restitution would be suitable clients.
- e. Those felons convicted of non-violent crimes as defined by the CCRB and sentenced to the Department of Corrections shall be eligible. These should be clients who can not best be served by supervised probation, direct referral to other social agencies, fines or other less restrictive dispositions.

- f. Those felons sentenced to local jails will not be eligible for entry into a community diversion program.
- g. The locality will not have any restrictions as to age, race, sex or religion for eligible adult felons assigned to the CCRB provided local facilities are available.

C. Funding Categories

- 1. Reference to State Code - Chapter 5.4, 53-19.18.
 - a. "The Director is authorized to provide direct incentive funding to such localities to establish, operate, or purchase community diversion programs and services."
 - b. The Community Diversion Incentive Act of 1980 will provide funding for a local CCRB to hire two staff positions for the first one (1) year of operation. Any further such funding will be contingent upon a Department of Corrections assessment of the statewide funding mechanism. The two staff positions eligible for funding and their required responsibilities are as follows:

1) Coordinator

The responsibilities for this position should include:

- a. Coordinate the work of the CCRB with local judiciary.
- b. Serve as liaison with Department of Corrections Regional Office.
- c. Handle arrangements for local Purchase of Service Agreements.
- d. Handle restitution payments.
- e. Monitor offender progress in individual plans.
- f. Receive and/or monitor receipt of funds from DOC.

2) Clerk Typist

The responsibilities for this position should include:

- a. Provide typing support for Coordinator and CCRB.
 - b. Answer telephone.
 - c. Other duties as assigned.
1. Although funding approval will be made on the basis of a locality's proposal no funds can be received until the Department of Corrections Regional Office

receives notification and documentation that a Community Corrections Resources Board has been formed.

2. Staff support funding request shall not exceed \$30,000.
- c. The Community Diversion Incentive Act of 1980 will provide client service funding for each participating program based on projections by the applicant of a total number of diagnostic evaluations and diversion to be handled in the first full year (12 months) of a program. The formula for arriving at this amount will utilize a specific dollar amount for each diagnostic evaluation of a post-sentenced Court referred felon and each Court approved diversion to the CCRB. Any further such funding will be contingent upon availability of funds and the submission of second program year projections and an expenditure plan.
- 1) Diagnostic evaluation funding will be in the amount of \$400 each.
 - a. In projecting the total number of diagnostic evaluations the applicant can not exceed a 3 to 1 ratio of diagnostic evaluations to diversions.

2) Diversion funding will be in the amount of \$3,600 each.

3) In the event that a program's first full year (12 months) will extend past June 30, 1981, it will be required that the program submit to the Regional Administrator a Letter of Intent to continue at least 30 days prior to this date in order to receive uninterrupted state funding in the new State Fiscal Year that will begin July 1, 1981.

D. Criteria for Application, Review and Funding

1. The Community Diversion Incentive Act of 1980 will establish a framework within which localities in concert with the judicial system can develop and improve community based correctional services so that certain non-violent offenders might be effectively diverted from both prison and further criminal activity. The framework as defined by the program selection criteria is firm enough to satisfy statutory requirements and meet applicable Minimum Standards but, yet, flexible enough to allow localities considerable discretion in

their responses to crime. Further it is important that diversionary programs be specific to the offenders' needs and be cost effective in their service delivery. The program selection criteria and their supporting rationales as set out below are designed to insure both structure and flexibility.

2. The program selection criteria and their rationales are as follows:
 - a. Written approval of the Chief Circuit Judge(s) is essential since there will be no diversion without judicial action. The judge(s) is also required to appoint one-half of the locally appointed (excluding the appointment by the Department of Corrections Regional Office) members to the Community Corrections Resources Board (CCRB).
 - b. An ordinance/resolution of the local governing body(s) is irrefutable evidence of a locality's official interest. It is also the device by which a locality withdraws from participation.
 - c. Acceptance of fiscal responsibility by the locality is inherent in the Department's obligation to insure the appropriate use

of public funds in accordance with sound financial practices and the law. This responsibility shall be evidenced by:

1. Separate fund account
 2. Annual audit
 3. Designated fiscal officer
- d. A clearly defined program of rehabilitative services and the agreement to comply with applicable standards as may be prescribed by the State Board of Corrections are both specified in the statute. The Department's mission is to promote positive behavioral change and the application of at least minimally acceptable services is essential to that end.
- e. Documentation from community resources which indicates program need, support and the avoidance of service duplication further confirms the existence of a rehabilitation service program and tends to commit community resources to active participation in the program. This support shall be evidenced by:
- 1) Current agreements
 - 2) Anticipated support letter including such items as:

- a. There is a need for such a program
 - b. The program will not duplicate an existing program
 - c. The letter writer is supportive
 - d. The letter writer will cooperate
- f. Statement of need in terms of people requiring service, current programmatic capacity to serve them, and probable effect on probation caseload establishes baseline data for program monitoring and evaluation. The statute specifically states (Chapter 5.4 Section 53.128.17) that "use of supervised probation for offenders not be decreased...and this law shall not be utilized in lieu of supervised probation" it is also necessary in setting the priority of funding awards and in defining the target population as prescribed in the statute.
3. Where the above criteria appear equal among two or more programs, preference will be given to those applications best documenting:
 - a. Sound management design
 - b. Demonstration potential
 - c. Positive community based corrections impact
 - d. Community input and support
 4. In any fiscal year, funding is subject to availability of funds as determined by appropriations from the General Assembly.

E. Review Process

1. Regional Review

- a. All Community Diversion Incentive proposals in a particular region will be received by the Regional Administrator.
- b. A Regional Review Committee in each region will review and make recommendations for funding of those proposals from that Region. Recommendations and copies of all proposals will be sent to the Central Review Committee in Richmond.
- c. The Regional Review Committee will be composed of at least:
 - 1) One representative from the Department of Corrections Community and Prevention Services Regional Office.
 - 2) One representative of the Department of Corrections from outside of the Region.
 - 3) One lay citizen from a community not applying for funds under the Act.

2. Central Review

- a. All Community Diversion Incentive program applications and recommendations for funding from the Regional Review Committees will be sent to the Central Review Committee in Richmond.

- b. The Central Review Committee will review the recommendations and make final recommendations for funding to the Director, Department of Corrections.
- c. The Central Review Committee will be composed of at least:
 - 1) One representative from the central office of the Division of Community and Prevention Services.
 - 2) One representative from the Division of Program Development and Evaluation.
 - 3) One representative from the Division of Finance.
 - 4) Not more than four (4) representatives from the criminal justice community not employed by the Department of Corrections.
 - 5) Not more than four (4) lay citizens not employed in the field of criminal justice.
- d. The Director of the Department of Corrections will have final authority to approve or disapprove funding proposals and set any special conditions.

VIII. Community Corrections Resources Board Regulations

A. Local Appointments

1. Reference State Code, Chapter 5.4, Section 53-128.19
2. The local document creating a Community Corrections Resources Board must indicate that the Board is empowered to conduct (or purchase) diagnostic evaluations and make diversion recommendations to the local Circuit Court Judge based on a treatment plan.

B. Composition

1. Reference State Code, Chapter 5.4, Section 53-128.19
2. The intent of the Community Diversion Incentive Act is clearly to allow for local decision making in the formation of a Community Corrections Resources Board. The Board size is to be determined locally but shall have an equal number of appointments made by the county or city governing body or combination thereof and the local Circuit Court Judge serving the jurisdiction and one appointment by the Regional Administrator from the Community and Prevention Services Regional Office of the Department of Corrections.
3. The appointment of local citizens on the CCRB will ensure that they are aware of and involved in coming to grips with the problem of crime in their community.

The membership of the CCRB should, as a body be selected from target groups who can provide knowledge in the following specific areas:

- a. Work Release/Restitution
- b. Rehabilitation Services
- c. Security
- d. Community Resources

C. Purposes

1. Reference State Code, Chapter 5.4, Section 53-128.16
2. The law shall be interpreted and construed so as to effectuate the following purposes:
 - a. To allow individual localities greater flexibility and involvement in responding to the problem of crime in the communities;
 - b. To provide more effective protection of society and to promote efficiency and economy in the delivery of correctional services;
 - c. To provide increased opportunities for offenders to make restitution to victims of crimes through financial reimbursement or community service;
 - d. To permit communities to operate programs specifically designed to meet the rehabilitative needs of selected offenders rather than placing such offenders in programs which may be inappropriate; and
 - e. To provide appropriate post-sentencing alternatives in addition to probation supervision in localities for certain offenders with the goal of reducing the incidence of repeat offenders.

D. Responsibilities

1. Reference State Code, Chapter 5.4; Section 53-128.21.

2. It shall be the responsibility of community corrections resources boards to:
- a. Provide for the purchase or development of community services and programs for use by the courts in diverting offenders from correctional institution placements.
 - b. Assist community agencies and organizations in establishing and modifying programs and services for offenders on the basis of an objective assessment of the community's needs and resources.
 - c. Evaluate and monitor community programs and services to determine their impact on offenders.
 - d. Provide a mechanism whereby all offenders with needs for services will be linked to appropriate services.
 - e. Attempt to resolve agency policies and procedures that make it difficult for offenders to receive services.
 - f. Upon referral to the board of individual offenders by the circuit court, determine if an appropriate, rational behavioral contract can be developed with the offenders for participation in a community diversion program (See VIII.D.3 below).
 - g. Provide the judge of the referring circuit court the findings and recommendations of the board made on individual offenders pursuant to subsection 6. hereof (Community Diversion Incentive Act of 1980).
3. For the purposes of these Regulations a rational behavioral contract shall be defined as follows:
A written agreement between the referred offender and the Community Corrections Resources Board stating the offenders voluntary participation in

the program and the conditions which are mutually agreed to by both parties as a part of this participation.

IX. Administration and Finance Regulations

A. Administrative

1. The Community Corrections Resources Board (CCRB) or the principal administrative officer where appropriate, shall establish written procedures for the program.
2. The CCRB, or the principal administrative officer where appropriate, shall ensure that the program is operated with written administrative policies which are in conformity with the Code of Virginia and other applicable regulations and policies including, but not limited to:
 - a) Department of Corrections
 - b) Title VI of the 1964 Civil Rights Act
 - c) State and/or local health and fire regulations
 - d) Workmen's Compensation
 - e) OSHA regulations
 - f) Other federal, state or local regulations
3. The CCRB, or the principal administrative officer where appropriate, may delegate administrative authority within established policies to suitable existing administrative structures and/or to the Coordinator of the CCRB.
4. The CCRB Coordinator must maintain individual client records including:
 - a) Pre-Sentence Report (PSI)
 - b) All Diagnostic Evaluation information
 - c) Court Order of Diversion
 - d) Treatment Plan
 - e) Progress Reports

f) Exit Summary

g) All written correspondence regarding client

5. Program records regarding clients must be maintained in a centralized and systematic manner and be available for monitoring or data analysis by the Department of Corrections at any reasonable time and place.
6. Program data collection must be compatible with Department of Corrections data collection needs (See Regulations IX; 4. and X., B., 4.).

B. Financial

1. An estimated expenditure plan (budget) shall be included in each application. Such application must be submitted to the Regional Administrator 60 days prior to the beginning of each funding period. No awards will be binding on the Commonwealth of Virginia until certification of fund availability is made on the application by the Financial Officer assigned to the Community Diversion Incentive Program.
2. The locality's or one of the localities' (in the case of multi-locality programs) accounting system and procedures shall be used as the accounting system for the CCRB. A separate fund (accounting entity) must be established for each Chapter 5.4 award.
3. Request for funds and Department of Accounts Invoice form DA-02-038 shall be submitted quarterly to the Regional Administrator for draw down of grant funds 45 days prior to the beginning of each quarter. The Regional Administrator shall indicate his approval by signing the gold agency copy and forwarding to the Supervisor for Community Diversion Incentive Accounting 30 days before the beginning of the quarter.
4. The quarterly report shown in the Appendix shall be submitted to the Regional Administrator within 30 days after the end of the quarter.

5. In the event of program closure or the termination of State funds, if a locality has an unexpended balance based on projected clients they have not served then these funds must be returned to the Department of Corrections within 30 days.
6. The locality shall be liable to the Commonwealth for full repayment of funds in the event of their use for any purpose other than that stated in the award. This includes loss of monies as a result of unlawful acts of the employees of the locality and members of the Community Corrections Resources Board.
7. The CCRB financial records must be maintained a minimum of three years. Unaudited records must be maintained a minimum of five years.
8. The CCRB financial records shall be audited annually by the localities internal auditors. The localities external auditors shall include the CCRB in their audit of the locality. Records shall be made available upon demand to the Department of Corrections for unannounced examination at the discretion of the Department.

C. Facilities

1. The Community Corrections Resources Board shall be located so that it is reasonably accessible to the circuit court and local community services.

D. Personnel

1. Each CCRB shall adopt personnel pay scales and fringe benefits for similar or comparable positions not to exceed those of the sponsoring locality or one of the sponsoring localities in the event of multi-locality boards.

E. Purchasing

1. The locality or one of the localities' purchasing policies and procedures shall govern purchasing of supplies, materials, equipment and services. In any event, the CCRB shall periodically review purchases made to insure bids and purchases are awarded on an impartial basis.

X. Administrative Review, Program Evaluation, and Certification Regulations

A. Administrative Review

1. The Coordinator of the CCRB shall submit a quarterly report to the Regional Administrator within 30 days after the end of a quarter. The report shall include:
 - a. Financial information (See Appendix C.)
 - b. Program information (See Appendix C.)

B. Program Evaluation

1. The CCRB will maintain a Monitoring System which will provide on-going, consistent information on the clients served by the board, as well as program resources and operations (See Regulations, IX., A., 4.).
2. A mechanism for self-assessment or Process Evaluation will be instituted by the CCRB and the Coordinator of the CCRB will keep a copy of the self-assessment in the office file.
3. The CCRB will institute a mechanism for an Impact Assessment of program efforts in order to establish the overall effects of the program.
4. The format for the Monitoring System, Process Evaluation and Impact Assessment will be determined by the Department of Corrections and implemented by the individual CCRB with the technical assistance of the Regional Office of the Division of Community and Prevention Services.

C. Certification

1. Informal

- a. The Department of Corrections has developed several sets of generic standards for both existing programs and possible new programs to be developed with CDI funding. Standards have been developed for Adult Residential

programs (Halfway Houses), Work Release programs, Restitution programs, and Purchase of Service programs. It is envisioned that the standards can be used for separate single programs, or in various combinations, depending on the program being set up. It will be these standards which a community program will be required to meet as it becomes operational. It is envisioned that during the demonstration period no CDI programs will undergo a formal certification procedure although informal visits with adherence to standards and written feedback to the CCRB Coordinator may occur periodically.

2. Formal

- a. The certification team shall recommend either a continuation, a provisional continuation, or discontinuation of funding of the CCRB based on compliance with applicable Minimum Standards for the Community Diversion Incentive Act of 1980. In the event of a recommendation for discontinuation, specific reasons shall be cited.

An Act to amend the Code of Virginia by adding in Title 53 a chapter numbered 5.4, consisting of sections numbered 53-128.16 through 53-128.21, establishing the Community Diversion Incentive Act.

[H 896]

Approved MAR 22 1980

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 53 a chapter numbered 5.4, consisting of sections numbered 53-128.16 through 53-128.21, as follows:

CHAPTER 5.4.

COMMUNITY DIVERSION INCENTIVE ACT.

§ 53-128.16. *Purpose and intent.*—It is the intention of this law to enable localities to develop, establish and maintain community diversion programs to provide the judicial system with sentencing alternatives for certain nonviolent offenders who may require less than institutional custody but more than probation supervision.

The law shall be interpreted and construed so as to effectuate the following purposes:

1. To allow individual localities greater flexibility and involvement in responding to the problem of crime in the communities;
2. To provide more effective protection of society and to promote efficiency and economy in the delivery of correctional services;
3. To provide increased opportunities for offenders to make restitution to victims of crimes through financial reimbursement or community service;
4. To permit communities to operate programs specifically designed to meet the rehabilitative needs of selected offenders rather than placing such offenders in programs which may be inappropriate; and
5. To provide appropriate post-sentencing alternatives in addition to probation supervision in localities for certain offenders with the goal of reducing the incidence of repeat offenders.

§ 53-128.17. *Authority of Director.*—The Director of the Department of Corrections is authorized to assist a county or city or combination thereof to develop and to enter into contracts to establish, pursuant to the provisions of this chapter, community diversion programs to provide the judicial system with sentencing alternatives for those offenders sentenced to incarceration but who may require less than correctional institution placement as defined in § 53-19.18. The Director is authorized to provide direct incentive funding to such localities to establish, operate, or purchase community diversion programs and services. Such funding shall be used for the development or improvement of community-based services for offenders who may be diverted from correctional institutions, but shall not be used for capital expenditures.

It is the intention of this law that the use of supervised probation for offenders not be decreased by the use of the sentencing alternatives authorized herein. Contracts entered into under provisions of this law shall not be utilized in lieu of supervised probation.

§ 53-128.18. *State Board to prescribe minimum standards.*—The State Board of Corrections is authorized and directed to prescribe standards for the development, operation, and evaluation of programs and services authorized by this chapter.

§ 53-128.19. *Community corrections resources boards.*—Each county and city participating in a community diversion program shall be represented on a community corrections resources board. The board shall include an equal number of appointments to be made by the county or city governing body or combination thereof and shall include in its membership two persons appointed by the circuit court judge serving the jurisdiction or jurisdictions participating on the board and one person appointed by the regional office of the Department of Corrections serving the jurisdiction or jurisdictions participating on the board from the employees of the regional office.

§ 53-128.20. *Withdrawal from program.*—Any participating county or city may, at the beginning of any calendar quarter, by ordinance or resolution of its governing authority, notify the Director of its intention to withdraw from the community diversion program. Such withdrawal shall be effective the last day of the quarter in which such notice is given.

§ 53-128.21. *Responsibilities of boards.*—It shall be the responsibility of community corrections resources boards to:

1. Provide for the purchase or development of community services and programs for

use by the courts in diverting offenders from correctional institution placements.

2. Assist community agencies and organizations in establishing and modifying programs and services for offenders on the basis of an objective assessment of the community's needs and resources.

3. Evaluate and monitor community programs and services to determine their impact on offenders.

4. Provide a mechanism whereby all offenders with needs for services will be linked to appropriate services.

5. Attempt to resolve agency policies and procedures that make it difficult for offenders to receive services.

6. Upon referral to the board of individual offenders by the circuit court, determine if an appropriate, rational behavioral contract can be developed with the offenders for participation in a community diversion program.

7. Provide the judge of the referring circuit court the findings and recommendations of the board made on individual offenders pursuant to subsection 6. hereof.

President of the Senate

Speaker of the House of Delegates

Approved:

Governor

DEPARTMENT OF CORRECTIONS REGIONAL OFFICES
Division of Community and Prevention Services

Mr. Eugene C. Morgan
Region I - Western (703) 982-7186
5306-A Peters Creek Road
Executive Park
Roanoke, Virginia 24019

Mr. Fred E. Jordan
Region II - Central (804) 528-6225
P. O. Box 108
Lynchburg, Virginia 24505

Mr. Austen C. Micklem, Jr.
Region III - Northern (703) 591-9422
Fifty Sixty-Six Building
11150 Main Street
Fairfax, Virginia 22030

Mr. W. E. Boldin
Region IV - East Central (804) 745-0600
302 Turner Road
Richmond, Virginia 23225

Mr. C. Ray Mastracco
Region V - Southeast (804) 539-8755
P. O. Box 1177
Suffolk, Virginia 23434

Proposed System for Identification of Divertable Population

This system is based on types of offenses divided into three categories according to criteria indicating; those who should be diverted, those who could be diverted depending on the circumstances and those who should not be diverted.

Category I (Divert)

Criteria for assignment to this category include those offenders whose crime was of a non-personal and victimless nature, whose primary need is treatment as opposed to security and whose needs can be better met in the community. This category includes offense classifications which violate the public peace.

Category I (Could be Diverted)

Criteria for assignment to this category include all those in Category I, but also such considerations as first-vs-numerous offenses, criminal act-vs-criminal lifestyle, community perceptions of the crime, and actual nature and circumstances. This category includes offense classifications such as burglary, larceny, stolen vehicle, embezzlement and bribery.

Category II (Do Not Divert)

Criteria for assignment to this category include those offenders whose crime involved bodily threat with a criminally defined weapon, premeditation and who present a need for security and treatment. This category includes offense classifications such as homicide, kidnapping, robbery, arson, dangerous drugs and sexual assault.

It is important to note that final judgment on the divertability of a specific offender to the C.D.I. program will be left to the local circuit court judge at the points of Judicial review.

On the following page is suggested Criteria Guidelines for assignment into one of the three categories.

CRITERIA GUIDELINES

Proposed System for Identification of Divertable Population

Divert (Category I)

1. Non-personal
2. Victimless
3. Needs better met in community
4. Community perceptions could support non or less secure setting
5. Primary need is treatment, not security and treatment
6. Financially motivated crime where restitution would apply.

Could Divert (Category II)

1. First-vs-numerous offenses
2. Criminal act-vs-criminal lifestyle
3. Actual nature and circumstances
4. Community attitude

Do Not Divert (Category III)

1. Bodily threat with criminally defined weapon
2. Premeditation indicated
3. Primary need is security and treatment
4. Community attitudes require incarceration

END