

**Comprehensive Community Corrections Act  
And  
Pretrial Services Act**

**Annual Legislative Report  
July 2001 – June 2002**



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# Comprehensive Community Corrections Act for Local-Responsible Offenders And Pretrial Services Act

## **Annual Legislative Report** July 2001 – June 2002

As required by Item 465, paragraph C3 of the 2000 Appropriations Act, this report summarizes the efforts of the Department of Criminal Justice Services (DCJS) to continue the implementation and development of the Comprehensive Community Corrections Act for Local-Responsible Offenders (CCCA) and the Pretrial Services Act (PSA) for the period of July 1, 2001 to June 30, 2002. FY2002 year-end summary data is also included.

### **FY2002 Local Community-Based Probation and Pretrial Services**

Local community-based probation program populations began to level off while and pretrial services program populations continued to experience some growth during FY2002. With no new program starts in FY2002, the continued use and growth can be attributed to the increase in demand and judicial utilization within those localities with previously established programs. In light of the state budget situation, DCJS did not award the additional \$1 million of SABRE funds in the appropriation (Item 465, paragraph C.1.b. of the 2000 Appropriations Act). This resulted in a \$1 million reduction in the total anticipated funding for CCCA and PSA programs.

Of the total funds appropriated, the remaining \$1.5 million in SABRE funds awarded were used to provide substance abuse treatment and treatment capacity in local community-based probation and pretrial services programs. Funds were expended for screening, assessment, drug testing, supervision, and primarily for substance abuse treatment services.

Despite the realities of excessive caseloads and level funding, the directors and staff of these local programs continue to maintain highly professional services and to provide for public safety in their communities. The programs are constructively and collaboratively linked through the VCCJA and they work closely and positively with DCJS. With level funding for FY2002, localities were unable to offset some of the budget strain exerted by increased caseloads, overhead, personnel related costs (such as merit/COL raises and increased VRS and health insurance contributions), and the increased drug screening and assessment requirements (*Code of Virginia* §19.2-299.2).

It should be noted that several localities continue to contribute funding in support of these efforts. It is apparent that these localities and the judiciary recognize the important role that pretrial services and local community-based probation play in ensuring public safety. Unfortunately, local programs in some areas still experienced difficulty meeting increased demands. The average daily caseloads of most programs significantly exceeded the minimum ratio of 1:25 for pretrial supervision and the case management ratio of 1:50 for local community-based probation supervision. Several local community-based probation programs carried caseloads that exceeded a 1:100 ratio.<sup>1</sup>

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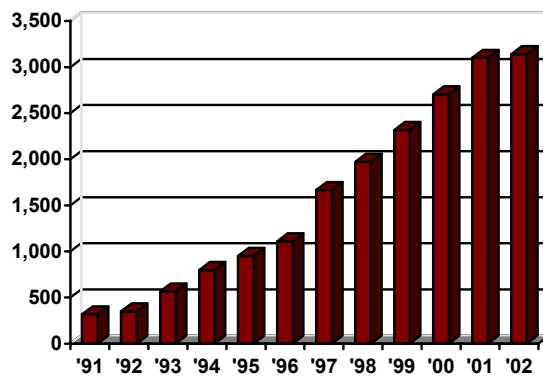
<sup>1</sup> Ratios are based on active cases only. Inactive and monitoring cases, which also consume program resources, are not included in the calculations of active cases. The minimum ratio is a staffing benchmark set by DCJS for state funding.

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### ***Pretrial Services Supervision***

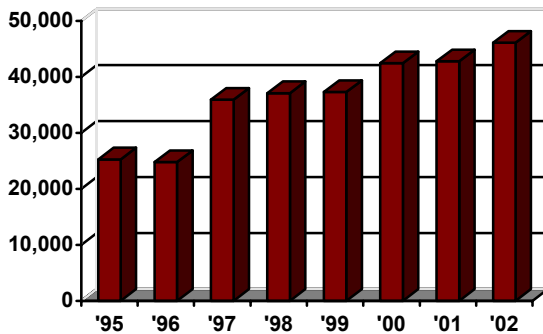
The average daily caseload (statewide) of pretrial defendants under supervision has increased by over 183% since the passage of the PSA. This increase is largely due to the fact that the number of agencies providing pretrial services has more than doubled since 1996. The average daily caseload increased by 3% within existing programs in the last year. The rise in caseloads is due to a 4.6% increase in placements to supervision (n=14,548 placements in FY2002). During FY2002, almost 20% of misdemeanor and 29% of felon defendants had to meet a condition of a secure bond before being released to pretrial supervision. This is a duplication of effort as pretrial officers then do the supervision on behalf of the bondsmen and it undermines the intent of pretrial services to reduce the need for secure bond.

**Pretrial Services Average Daily Caseload**



In terms of investigations, the largest growth period was between FY1996 and FY1997 when most of the newly established pretrial services programs became fully operational. Even so, pretrial investigations increased by almost 8% in FY2002, with 46,109 investigations conducted.<sup>2</sup>

**Pretrial Services Investigations**



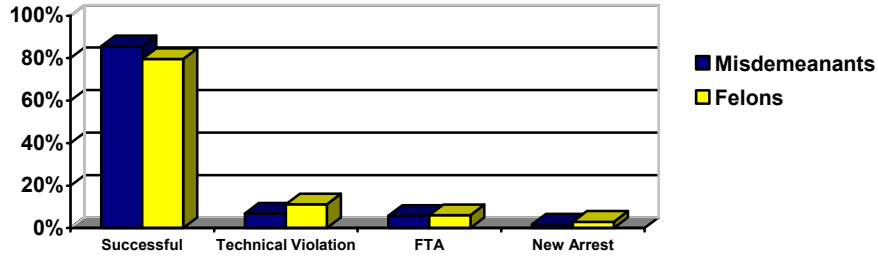
Pretrial services programs continue to have an excellent success rate. Of the 6227 misdemeanor cases closed during FY2002, 85.6% (n=5,329) were successful. About 1.7% of the cases were closed due to a new arrest. The remaining closures were due to technical violations (6.9%) and failure to appear for court (FTA, 5.8%). Of the 7,027 felony cases closed during FY2002, 79.6%

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<sup>2</sup> Data is from the manual Pretrial Services Monthly Report submitted to DCJS by Pretrial Services Agencies.

(n=5,592) were successful. About 3.0% were closed due to a new arrest. The remaining closures were due to technical violations (11.2%) and FTA (6.1%).

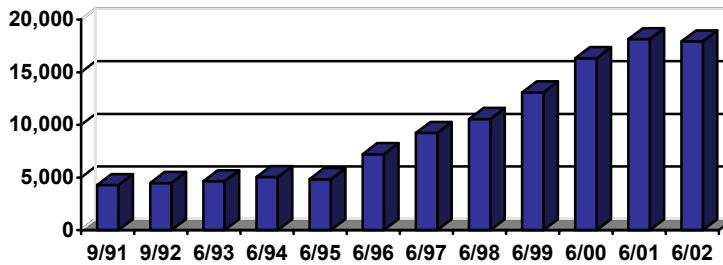
### Pretrial Services Closure Types <sup>3</sup>



### Local Community-based Probation Supervision

Subsequent to the establishment of the CCCA, the number of offenders under local community-based probation supervision has increased dramatically. Since the passage of the CCCA in late 1994, caseloads have increased approximately 254%.<sup>4</sup>

### Community-based Probation Caseloads (Point in Time)



Although the growth rate leveled this year relative to the dramatic increase experienced between FY1996 and FY2001, supervision numbers continue to be large. On June 30, 2002, there were 17,840 offenders under active supervision whereas there were 18,195 offenders under active supervision just one year earlier.<sup>5</sup>

In addition to the average caseload of offenders under active supervision, there was an average of 1,829 offenders per month reported in a “monitoring only” status.<sup>6</sup> There was also an average of

<sup>3</sup> Other pretrial services closures not depicted include those closed as returned to sending jurisdictions. The number of these cases is considered to be too low to have any impact on overall closure calculations. Cases reinstated to supervision after a previous closure are backed out of the calculations.

<sup>4</sup> Data is from the Community Corrections Monthly Report submitted to DCJS by Local Community-based Probation Agencies. The caseloads reported here are based on point in time figures.

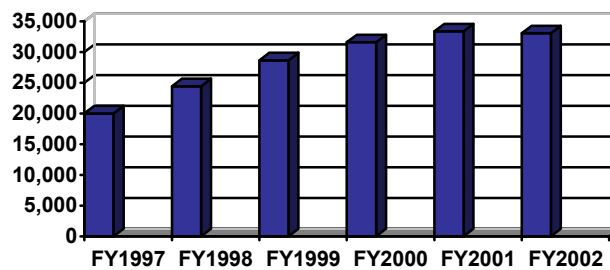
<sup>5</sup> Utilizing the beginning and ending figures reported on the Community Corrections Monthly Reports submitted to DCJS by Community Corrections Agencies, the average daily caseload was 17,866.

<sup>6</sup> “Monitoring only” cases are those cases that do not meet the criteria for CCCA, including those required to do community service in lieu of fines and costs. These cases are not held to the same supervision criteria as active cases nor are they included in caseload calculations. This is a service provided collaboratively to the judiciary but not statutorily required.

4,081 offenders per month reported in an “inactive” status.<sup>7</sup> Though reduced in comparison to active cases, agencies do have certain responsibilities regarding inactive and monitoring status cases that must be recognized. However, these cases are not currently included in determining minimum case manager to offender ratios.

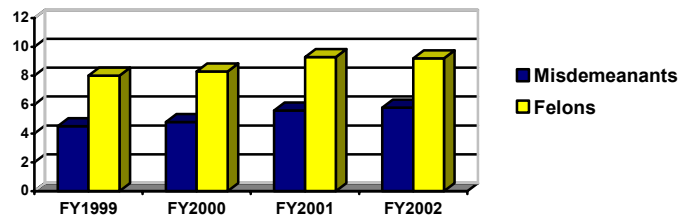
FY2002 statistics demonstrate continued judicial support for the CCCA through the volume of placements and program service utilization. In FY2002, the courts made 33,031 placements to supervision. This is only a slight decrease (1.6%) over last year’s placements to supervision than were made in FY2001 (n= 33,394). This is a true “offender count” and does not include multiple sentences to community-based probation supervision that may occur for an offender at any given time.

### Community-based Probation Court Placements



While the length of time under supervision for both felons and misdemeanants continues to be within the DCJS recommended averages of six (6) and twelve (12) months respectively, the length of time under supervision has increased significantly. As recently as FY2000, misdemeanants averaged only 4.8 months under supervision and felons averaged only 8.3 months. In contrast, the average length of supervision for misdemeanants had increased to 5.6 and 5.8 months in FY2001 and FY2002 respectively. The average length of supervision for felons increased to 9.3 and 9.2 months in FY2001 and FY2002 respectively. This increase in time under supervision is due to the increase in domestic violence cases, longer treatment requirements, and increases in mandatory community service time, all of which require longer periods under supervision and result in still higher caseloads.

### Community-based Probation Average Time Under Supervision in Months



Offenders supervised in the local community-based probation programs continue to experience a very good success rate. As with pretrial services, failures under supervision are offender failures and should not be considered failures of the program. Defendants and offenders are accountable for their behavior under supervision. Failure to comply with the conditions of supervision results

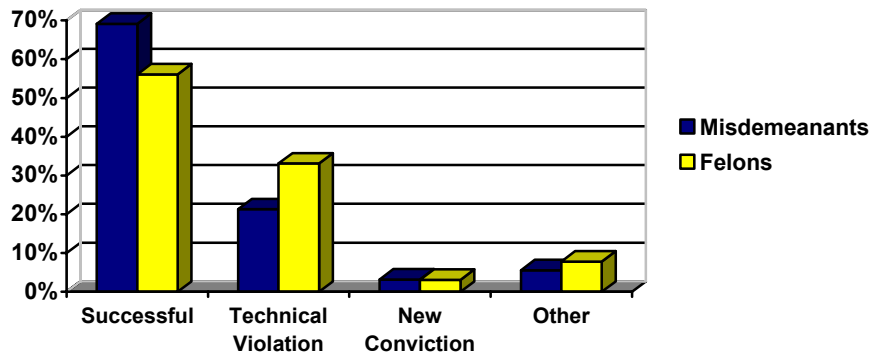
<sup>7</sup> The “inactive status” includes, but is not limited to, cases that are transferred out and reported active by another locality. These cases are not double counted as active or included in supervision day or average daily caseload calculations.

in removal from supervision, as the behavior is considered indicative of a potential for new criminality (this accounts for rate of failure due to technical violations).

Of the 33,121 misdemeanor cases closed during FY2002, 69.1% (n=23,157) were successful. The most common “unsuccessful” closures are those due to technical violations of supervision. In FY2002, 21.3% of all misdemeanor closures were due to technical violations. About 3.2% were closed due to a conviction for a new offense and the remaining 5.6% were closed for “other” reasons.<sup>8</sup>

Almost 56.1% (n=743) of the 1,325 felon cases closed during FY2002 were successful. As with the misdemeanor population, unsuccessful closures were largely due to technical violations. In FY2002, 33.1% of all felony cases closed were due to technical violations. About 3.1% were closed due to a conviction for a new offense. The remaining 7.8% were closed for “other” reasons.<sup>9</sup>

### Local Community-based Probation Closure Types <sup>10</sup>



Local community-based probation agencies also tested offenders for substance use and placed offenders in a variety of treatment programs throughout the year. Substance abuse services utilized included short-term detoxification, outpatient treatment, education, and other substance abuse counseling programs. Figures reported for FY2002 indicate:

- \* 10,621 Offenders were drug tested (does not include multiple tests)
- \* 3,765 Offenders were placed in substance abuse education
- \* 3,702 Offenders were placed in substance abuse counseling
- \* 69 Offenders were placed in short term detoxification
- \* 97 Offenders were placed in long term inpatient treatment
- \* 31 Offenders were placed on electronic monitoring
- \* 60 Offenders were placed in home detention
- \* 19,094 Offenders were assigned community service work
- \* 2,947 Offenders were ordered to pay restitution

<sup>8</sup> “Other” closures include closures due to new case information, death, and offenders removed from supervision by court action due to a previous offense or concurrent offense.

<sup>9</sup> Ibid.

<sup>10</sup> Community Corrections closures are based on those closed successfully, due to a technical violation, due to a new conviction, and for “other” reasons. Cases closed that are returned to sending jurisdictions are not included with “other” closures and are only counted once in the originating jurisdiction. However, cases reinstated to supervision after a previous closure have not been backed out. Therefore, closures due to technical violations and other reasons may be over reported.

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- \* 3,359 Offenders were ordered into anger management counseling
  - \* 4,377 Offenders were ordered into domestic violence counseling
  - \* 5,562 Offenders were required to participate in some other service or program

The “other” services ordered were quite varied. The most reported services included mental health evaluations, mental health counseling, family counseling, sex offender counseling, and shoplifting prevention.

All programs place offenders in work sites to complete community service. For FY2002, local community-based probation programs reported that offenders performed 747,418 hours of community service work. At the minimum wage of \$5.15/per hour, this translates into almost \$3.85 million dollars worth of community service work. Local community-based probation agencies also assist the courts and Commonwealth’s Attorneys by facilitating payments of fines, costs, and restitution owed by the offenders under their supervision. In FY2002, programs facilitated over \$1.45 million in restitution payments and over \$1.4 million in owed fines and costs. In total, *local community-based probation programs generated about \$6.7 million in services and payments to communities.*<sup>11</sup>

### ***Substance Abuse Reduction Effort (SABRE): Screening and Assessment***

DCJS and the local probation and pretrial services programs remained involved in the implementation and operation of the statewide Substance Abuse Screening and Assessment effort and the Governor’s Substance Abuse Reduction Effort (SABRE) initiative.<sup>12</sup> The Alcohol Safety Action Program (ASAP) and local community-based probation agencies are responsible for screening and assessing adult misdemeanants (*COV* §19.2-299.2). However, data from the *Substance Abuse Screening and Assessment Oversight Committee* indicated that nearly all of the screening and assessment of adult misdemeanants in FY2002 was performed by local community-based probation programs. This is a direct result of the types of sanctions imposed for Class 1 misdemeanor drug crimes.

The FY2002 budget (approved in FY2001) provided for \$2.5 million in SABRE funds for local probation and pretrial services programs. In light of the budget difficulties, DCJS awarded a continuing total of only \$1.5 million for the SABRE initiative to local pretrial and community-based probation programs to support, at current levels, substance abuse assessment, testing, and treatment. SABRE funds were originally carved out of a \$3.4 million appropriation legislatively targeted to increase staffing and operational budgets. These funds are needed to support investigation and supervision services in response to continuing increases in the number of defendants awaiting investigation at arraignment, increasing placements, and increasing daily caseloads.

During FY 2002 pretrial services and local probation programs conducted 23,058 substance abuse screenings. Screenings indicated that 34% (n= 7,850) of the defendants and offenders required further assessment for substance abuse problems. About 64% (n=4,989) of the assessments required were completed during the fiscal year. Of the total assessed, 99.7% (n=4,979) were placed in substance abuse education or treatment services during the year. The majority of these

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<sup>11</sup> Actual figures: 747,418 hours of community service work (\$3,849,202), \$1,450,692 in restitution, \$1,435,569 in fines and costs, totaling \$6,735,464. Figures are based on all programs reporting hours and collections for the fiscal year except a few that report figures based on cases closed (as opposed to actual collections during the year; however, since most cases close within a one-year window, no impact on the data is assumed).

<sup>12</sup> The Substance Abuse Screening and Assessment legislation took effect on January 1, 2000 for the local community-based probation programs and July 1, 2000 for the pretrial service programs.

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placements were offenders on local community-based probation. In addition to overextending resources within the local community-based probation and pretrial services programs, the demand for increased services from the treatment providers (for assessments and treatment) has begun to stress the available resources in the substance abuse treatment system.

On a statewide level, a great deal of collaboration occurred during FY2002 through the efforts of the *Substance Abuse Screening and Assessment Oversight Committee*. The Research Unit at DCJS completed a process evaluation of the screening, assessment and SABRE initiatives. The process evaluation recommended some changes and modification. However, due to the elimination of SABRE funds in FY2003, no action was taken.

## **Legislative Activity**

### ***Legislation***

Few legislative changes occurred during the 2002 General Assembly session that affected the local community-based probation and pretrial services programs. Language relating to membership in the Community Criminal Justice Boards was corrected to reflect changes that were inadvertently dropped in the 2000 session.

### ***Funding***

The General Assembly did not approve a budget for FY 2002 during the 2001 session. A total of almost \$21 million had been appropriated for FY2002 in the 2000 session. This included an additional \$1.0 million for the Governor's Substance Abuse Reduction Effort (SABRE) initiative. However, as indicated earlier, in light of the budget situation, DCJS did not award this additional \$1 million of SABRE funds.

While the SABRE funding was much needed for the continued expansion of treatment capacity, it could not be used for the much needed expansion of supervision capacity. Continuing increases in the number of cases in the previous five years (reflecting expanded utilization and trust by the courts), increasing length of stay (reflective of the treatment time required for substance abuse and domestic violence cases, and increased requirements for community service), and additional demands on the available supervision time of local program staff (SSI/ASI work; training on issues of substance abuse, domestic violence, MIS use), all argue the need for additional resources in support of expanding current supervision capacity. As mentioned earlier, some programs have staff-to-caseload ratios of over one hundred-to-one and many program caseloads continue to grow. Additional supervision capacity is necessary to ensure the continued effective operations of the programs and public safety.

## **CCCA & PSA Computer Networking**

### ***PTCC Software Development and Communications Infrastructure***

The Pretrial and Community Corrections Case Management System (PTCC) reached many milestones in both network infrastructure and software development.

Numerous upgrades to the software were made that resulted in the increased use of PTCC. During the past year there have been two rollouts of upgraded versions of PTCC. Speed issues related to the Court Report and Case Notes were resolved and included in the releases. Another



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major milestone was the completion of the original development objectives. The application is now complete to the original specifications and is entering into support and maintenance mode.

Upon completion of the original development, the project team began and completed an upgrade and conversion to SQL Server 2000 database. This upgrade has resulted in a significant improvement in data security and application performance including faster response time and general application functionality. The upgrade will also result in a decrease in database administration time, a decrease in development time for bug fixes, future enhancements, and an increase in programming flexibility. These benefits will result in long term cost savings over the life of the project. This upgrade was critical to the long-term viability of PTCC.

In an effort to reduce cost and increase efficiency, the network infrastructure was improved significantly by converting 16 dial-up connections to ISDN and upgrading 22 other sites to enable connections via frame relay and ISDN. By making the line conversions and upgrades, the cost of maintaining the network was reduced and our ability to support the over 450 end-users has increased significantly by allowing for more remote support work to be administered from DCJS.

Over the past fiscal year, DCJS provided regional training to instruct end-users on the use of PTCC, specifically on how to properly use PTCC to generate accurate data for the monthly report. Next fiscal year will be the first year DCJS will exclusively use data generated from PTCC for the monthly reports. Each month data from each locality is sent electronically to DCJS. The monthly report is included in this data exchange. An aggregate statewide monthly report is generated at DCJS. Programs are required to print and review PTCC generated monthly reports for their approval for accuracy. Introductory training of PTCC is no longer included in the DCJS Basic Skills agenda. A revised end-user manual was created and integrated into the PTCC help files. This provides step by step instruction on how to use the application. DCJS will continue to review and look to improve training for existing and new users of PTCC.

## **Pretrial Services Risk Assessment Development**

DCJS has almost completed the development of the Virginia Pretrial Risk Assessment Instrument for use by pretrial services programs across the Commonwealth of Virginia. Pretrial services programs' primary responsibilities are to provide information to judicial officers (magistrates and judges) to assist them with the bail decision (to release or detain a defendant pending trial) and to provide supervision and services as ordered by a judicial officer. The instrument was developed under the guidance of a Risk Assessment Advisory Committee made up of experienced and expert representatives from the local, state, and national levels.

The instrument utilizes nine risk factors to classify a defendant in one of five risk levels. The risk levels indicate the risk of failure (failure to appear for a scheduled court appearance or arrest for a new offense) for defendants pending trial. The risk factors include measures of criminal history, residence, employment, and substance abuse. Consideration was given during instrument development to ensure the instrument was not biased toward any group based on sex, race, or income. In addition, the instrument was shown to equitably classify defendants regardless of the community type in which the arrest occurred, ensuring that the instrument can be effectively applied statewide.

The Virginia Pretrial Risk Assessment Instrument will be completed by pretrial services staff and provided to judicial officers as part of the pretrial investigation report to assist them in making bail decisions such that: (1) "lower risk" defendants can be safely released into the community pending trial; (2) the risk of "moderate" and "higher" risk defendants can be minimized by utilizing appropriate release conditions, community resources, and/or interventions upon release;

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and (3) the “highest risk” defendants, those that present an unreasonable danger to the public or themselves or who are a high risk of failing to appear for court, can be detained pending trial. Improved bail decisions provide substantial benefits to the defendants, community, and the criminal justice system including increased public safety, protection of the presumption of innocence, expeditious court case flow, effective utilization of criminal justice and community resources, and a reduction in the potential for disparity in bail decisions.

A report detailing the research and instructions for the utilization of the instrument by Pretrial Services staff is scheduled for release in January 2003. Automation and integration of the instrument into the Pretrial and Community Corrections Case Management System (PTCC) is scheduled to be completed between January and April 2003. Statewide implementation and training for the instrument is planned for April through June 2003.

## **Education & Training**

### ***Local Community-based Probation & Pretrial Services Programs***

In September of 2001 and January and May of 2002, a total of 57 new local community-based probation and pretrial services employees successfully completed the weeklong Basic Skills course offered by DCJS. Once again these classes were held at the Roslyn Center in Henrico County. Topics included: an Overview of the Criminal Justice System; Substance Abuse Issues; Self-defense; Street Smart (Officer Safety); Supervision Theory; Standards of Supervision; Criminal History Investigation; Screening/Interviewing; Case Management Information System “Tips and Tricks;” Liability Issues; Community Service & Restitution; Domestic Violence; Sex Offender Issues and; Ethics and Professionalism.

In the spring of 2002 DCJS sponsored an in-service training on Staff Safety for local probation and pretrial personnel and other criminal justice professionals in Bristol, Virginia Beach, Chesterfield, and Woodbridge. DCJS contracted nationally acclaimed trainer Robert Thornton to provide these one-day workshops. The training covered such matters as liability issues, strategies for raising safety awareness, use of force continuum, dealing with aggressive behavior, safety issues in handling emotionally disturbed individuals, safety in the office and stress debriefing. In all, 181 criminal justice professionals received a certificate of completion for attending the training.

### ***Bail Reform Training***

There were no amendments made to any bail statutes during the 2002 session of the General Assembly. DCJS did contract with the Honorable Bruce D. Beaudin, Judge of the Superior Court of the District of Columbia, to present “Principles of Bail and Pretrial Services.” Judge Beaudin was the first director of the Washington, D. C. Pretrial Services Program, and started the Pretrial Services Resource Center and the National Association of Pretrial Services Agencies. The planning and curriculum design was completed in early April of 2002 and training at four regional sites was conducted for 115 pretrial program directors and investigators during the week of April 15 through April 19, 2002.

Following practice established in prior years, DCJS provided pretrial program directors and coordinators with copies of the amendments related to bail practices in the Supreme Court’s Magistrate Manual.

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## ***Judicial Training***

Minimal judicial training was provided in FY 2002. Judicial training related to substance abuse screening, assessment, testing and treatment was reduced due to the reduction and eventual demise of SABRE (Substance Abuse Reduction Efforts) funding. DCJS participated in the annual Pre-bench Training program conducted by the Supreme Court on April 9, 2002. Training on the principle elements of local pretrial and community-based probation services was provided to 17 new juvenile and domestic relations, district and circuit court judges.

In addition, although not training per se, DCJS' work as a member of the Committee on District Courts-Forms Advisory Committees presented an excellent forum to interact with district court judges, clerks of court, and magistrates. DCJS participated in both the April and August sessions as it has in the past several years. Through the medium of forms development, DCJS has an opportunity to inform judges and local court personnel of the nuances of pretrial and local community-based probation services and their relation to court practices. During the month of June 2002, DCJS also assisted the Technical Assistance Division of the Supreme Court with the development and implementation of forms and procedures for district court judges and clerks related to the sealing and preservation of confidentiality of local pretrial and community-based probation records. These procedures became effective July 1, 2002.

## **Other Activities**

### ***Virginia Community Criminal Justice Association (VCCJA)***

For the third year in a row, a record number of participants (over 200) attended the 5<sup>th</sup> Annual Virginia Community Criminal Justice Association (VCCJA) Training Conference, *Working Smarter for Safer Communities*, held on November 7<sup>th</sup> – 9<sup>th</sup> in Virginia Beach.

The VCCJA, together with the Bureau of Justice Assistance (BJA), the National Institute of Corrections (NIC), and DCJS sponsored this conference which focused on The ABC's of Marketing Your Program, a presentation by the Virginia Retirement System, Cultural Awareness and Diversity, Mental Health Challenges in Criminal Justice, Ethics and Professionalism in Criminal Justice and the Addictive Family. A workshop on Motivational Interviewing, the intensive training track, was sponsored by NIC. The keynote speaker, sponsored by SYVA, a division of Dade-Behring, presented a session on "Innovations in Drug Testing." Election of VCCJA officers and the annual awards presentations also took place at the conference.