

**Comprehensive Community Corrections Act and Pretrial Services Act**

# **ANNUAL REPORT TO THE LEGISLATURE**

**July 2003–June 2004**

**Prepared November 2004**



**DEPARTMENT OF CRIMINAL JUSTICE SERVICES**  
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# Comprehensive Community Corrections Act and Pretrial Services Act

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*As required by Item 432, paragraph C3 of the 2002 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, 2003 to June 30, 2004. FY2004 year-end summary data is also included.*



Prepared by

**Virginia Department of Criminal Justice Services**

**Correctional Services Section of the Division of Programs and Services**

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# ANNUAL REPORT TO THE LEGISLATURE

## FY2004 LOCAL COMMUNITY-BASED PROBATION AND PRETRIAL SERVICES

Local community-based probation populations remained level while pretrial services populations continued to experience some growth during FY2004. With no new community corrections or pretrial services program components started in FY2004, the continued use and growth can be attributed to the increase in demand and judicial utilization within those localities with previously established agencies and an increase in length of supervision. For this fiscal year, the total funding for Comprehensive Community Corrections (CCCA) and Pretrial Services Act (PSA) agencies remained level and equivalent to FY 2000 funding levels.

Many localities find it necessary to contribute funding in support of these efforts. In addition, many local community-based probation agencies<sup>1</sup> have begun collecting intervention fees to maintain their agency's operations (20 of 37 agencies in FY2004). 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 agencies in some areas still experienced difficulty meeting increased demands. The average daily caseloads of most agencies significantly exceeded the minimum staff to defendant/offender ratio of 1:25 for pretrial supervision and the case management ratio of 1:60 for local community-based probation supervision. Several local community-based probation agencies continue to carry caseloads that exceeded a ratio of 1:100.<sup>2</sup>

Despite the pressures of excessive caseloads and an overall net reduction in funding, the directors and staff of these local agencies continue to maintain highly professional services and to provide for public safety in their communities. However, despite their best efforts, the strain of excessive caseloads and funding reductions are beginning to have a negative impact in some localities. The agencies are constructively and collaboratively linked through the Virginia Community Criminal Justice Association (VCCJA) and they work closely and positively with DCJS. With only level funding for FY2004, most localities were unable to offset the budget strain exerted by increased caseloads, overhead, personnel related costs (such as merit/cost of living raises and increased retirement and health insurance contributions), and the drug screening and screening requirements (*Code of Virginia* §19.2-299.2). Some agencies have had to reduce staffing, limit drug testing, cut back on needed training, and choose other strategies to cope with level funding despite increasing costs.

## PRETRIAL SERVICES

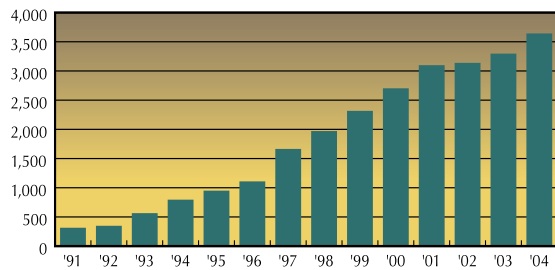
The average daily caseload (statewide) of pretrial defendants under supervision has increased by over 228% since the passage of the PSA. This increase is largely due to the fact that the number of agencies providing pretrial services has more than doubled since 1996. The average daily caseload (ADC) increased by 10.5% since last year. The ADC was 3,642 in FY2004 whereas the ADC was 3,297 in FY2003.

<sup>1</sup> Pretrial services agencies may not collect intervention fees.

<sup>2</sup> Ratios are based on active cases only. Inactive and monitoring cases, which also consume agency 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 AVERAGE DAILY CASELOAD



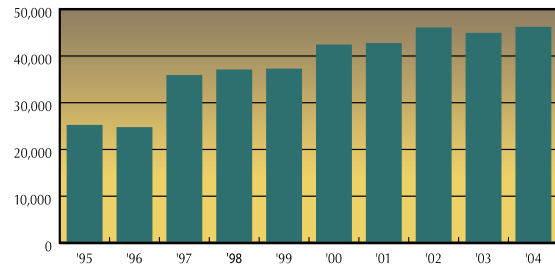
Placements on pretrial supervision increased by 8.6% (n=15,969 placements in FY2004 and n=14,709 in FY2003). During FY2004, 23.9% of misdemeanor and 36.2% of felon placements had to meet a condition of a secure bond before being released to pretrial supervision. ***This is a duplication of effort as pretrial officers then conduct supervision on behalf of the bondsmen and it undermines the intent of pretrial services to reduce the need for secure bond.***

In terms of pretrial investigations, the largest growth period was between FY1996 and FY1997 when most of the newly established pretrial services agencies became fully operational. Pretrial investigations are leveling off with 46,236 investigations conducted in FY2004, an increase of 2.9% over the previous year.<sup>3</sup>

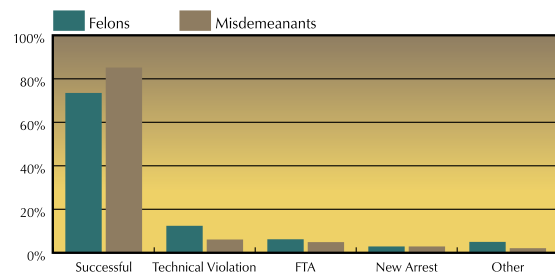
Pretrial services agencies continue to have an excellent success rate. Of the 6,560 misdemeanor placements closed during FY2004, 85.2% (n=5,591) were successful. About 1.6% of the placements were closed due to a new arrest. The remaining closures were due to technical violations (6.1%), failure to appear for court (FTA, 4.9%) and

other (2.1%). Of the 7,808 felony placements closed during FY2004, 73.5% (n=5,739) were successful. About 2.9% placements were closed due to a new arrest. The remaining closures were due to technical violations (12.4%), FTA (6.2%), and other (5.0%).

## PRETRIAL SERVICES INVESTIGATIONS



## PRETRIAL SERVICES CLOSURE TYPES<sup>4</sup>



## LOCAL COMMUNITY-BASED PROBATION SUPERVISION<sup>5</sup>

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 246%.<sup>6</sup>

<sup>3</sup> Data are from automated Pretrial Services Monthly Reports submitted to DCJS.

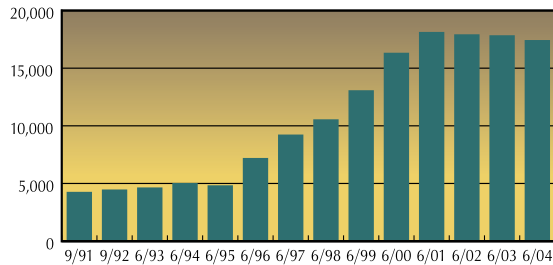
<sup>4</sup> Other pretrial services closures not depicted include those closed as returned to sending jurisdictions. The number of these cases is considered to be too low to have any impact on overall closure calculations. Cases reinstated to supervision after a previous closure are backed out of the calculations.

<sup>5</sup> Some figures reported in previous reports have been excluded in this year's report as the CCCA and PSA agencies have transitioned from manual reporting to automated monthly reporting and some figures are no longer available.

<sup>6</sup> Data are from automated Community Corrections Monthly Reports submitted to DCJS by Local Community-based Probation Agencies. The caseloads reported here are based on point in time figures.

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## COMMUNITY-BASED PROBATION CASELOADS (POINT IN TIME)



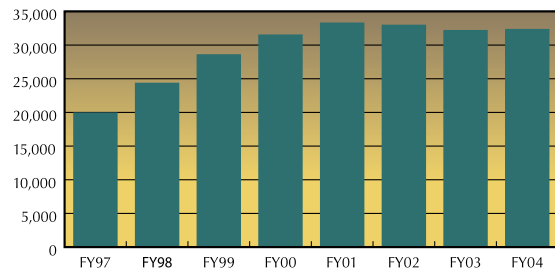
Although the growth rate is no longer increasing this year relative to the dramatic increase experienced between FY1996 and FY2001, supervision numbers continue to be substantial. On June 30, 2004, there were 17,862 offenders under active supervision whereas there were 17,857 offenders under active supervision just one year earlier.<sup>7</sup>

In addition to the average caseload of offenders under active supervision, there was an average of 769 offenders per month reported in a “monitoring only” status.<sup>8</sup> There was also an average of 3,133 offenders per month reported in an “inactive” status.<sup>9</sup> While there are fewer responsibilities associated with inactive and monitoring cases when compared to active cases, they still have certain responsibilities which take staff resources. However, these cases are not currently included in determining minimum case manager to offender ratios.

FY2004 statistics demonstrate continued strong judicial support for the CCCA through the volume of placements and program service utilization. In FY2004, the courts made 32,402 placements to supervision. This

is only a slight increase (0.5%) in placements to supervision than were made in FY2003 (n= 32,252).<sup>10</sup>

## COMMUNITY-BASED PROBATION COURT PLACEMENTS



The average length of supervision continues to increase. However, the average length of time under supervision for both misdemeanants and felons continues to be within the DCJS recommendation of six (6) and twelve (12) months, respectively. 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 has increased to 5.8 months in FY2004. The increase in time under supervision is due to the increase in domestic violence cases, longer treatment requirements, waiting lists for treatment, and increases in mandatory community service time, all requiring longer periods under supervision and resulting in higher caseloads.

<sup>7</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 17,441.

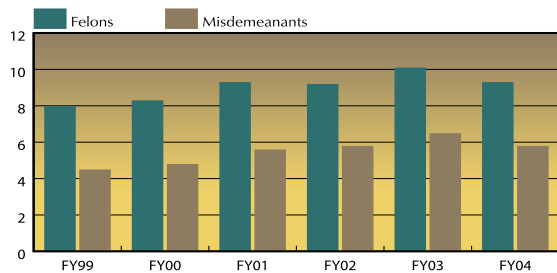
<sup>8</sup> “Monitoring only” cases are those cases that do not meet the criteria for CCCA, including those required to do community service in lieu of fines and costs. These cases are not held to the same supervision criteria as active cases nor are they included in caseload calculations. This is a service provided collaboratively to the judiciary but not statutorily required.

<sup>9</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.

<sup>10</sup> The slight increase may be due in part to the fact that all agencies are now using the automated case management system which is more precise in counting placements than before.

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## COMMUNITY-BASED PROBATION AVERAGE TIME UNDER SUPERVISION IN MONTHS

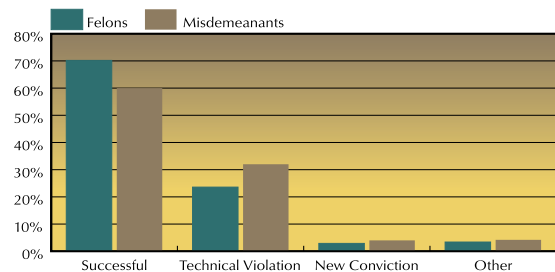


The local community-based probation agencies continue to experience a very good success rate with offender supervision. As with pretrial services, failures under supervision are offender failures and should not be considered failures of the agency. Defendants and offenders are accountable for their behavior under supervision. Failure to comply with the conditions of supervision results in removal from supervision, as the behavior is considered indicative of a potential for new criminality (this accounts for the rate of failure due to technical violations).

Of the 31,018 total misdemeanor placements closed during FY2004, about 70.2% (n=21,769) were successful. Of the 1,501 total felon placements closed in FY2004, almost 60% (n=897) were successful. The most common “unsuccessful” closure for both the misdemeanor and felon placements continue to be those due to technical violations of supervision, 23.6% (n=7,314) for misdemeanor and 32% (n=481) for felons. In FY2004, 2.9% (n=895) of the misdemeanants and 4.0% (n=60) of the felon placements were closed due to a conviction for a new offense. Closures for “other” reasons were

3.4% (n=1,040) for misdemeanants and 4.2% (n=63) for felons.<sup>11</sup>

## LOCAL COMMUNITY-BASED PROBATION CLOSURE TYPES <sup>12</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 FY2004 indicate:

- 16,002 Offenders were assigned community service work
- 7,930 Offenders were drug tested (does not include multiple tests)
- 3,201 Offenders were ordered into anger management counseling
- 3,145 Offenders were placed in substance abuse counseling
- 2,711 Offenders were ordered into domestic violence counseling
- 2,614 Offenders were placed in substance abuse education

<sup>11</sup> The difference in closure figures from previous years is due to the fact that all agencies are now using the automated case management system which allows for more closure choices and counts placement closures not case closures.

<sup>12</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 modestly over reported.

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- 1,020 Offenders were ordered to attend shoplifting prevention sessions
- 327 Offenders were ordered to attend financial responsibility sessions
- 138 Offenders were ordered into sex offender treatment
- 86 Offenders were placed in long term inpatient treatment
- 23 Offenders were placed in short term detoxification
- 20 Offenders were placed in home detention
- 9 Offenders were placed on electronic monitoring
- 3,911 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, and family counseling.

All agencies place offenders in work sites to complete community service. For FY2004, local community-based probation agencies reported that offenders performed 710,505 hours of community service work. At the minimum wage of \$5.15/per hour, this translates into a little over \$3.66 million dollars worth of community service work. However, this can be considered a very conservative figure as local government pay scales would pay more than the minimum wage for the type of community services provided by the offenders. 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 FY2004, agencies facilitated over \$1.56 million in restitution payments and almost \$1.46 million in owed fines and costs. In total, **local community-based probation agencies generated over \$6.6 million in services and payments to communities.**<sup>13</sup>

## LEGISLATIVE ACTIVITY

### Legislation

One of the primary outcomes of the 2003 legislative session was the introduction of new statutes outlining the Duties and Responsibilities of Local Probation and Pretrial Services Officers which became effective July 1, 2003. A presentation on the requirements under these statutes was made to program directors and coordinators at a May 16, 2003, meeting of VCCJA in preparation for FY2004.

There were several legislative changes that occurred during the 2003 General Assembly session that affected local community-based probation and pretrial services agencies during FY2004. VCCJA, again, was instrumental in getting legislation introduced on behalf of local community-based probation and pretrial services agencies. Amendments introduced on behalf of the VCCJA amended the statute permitting offenders on deferred proceedings for underage purchase or possession of alcohol to be placed on local probation. Amendments were made to several statutes which clarified the permitted access to hard copy and automated juvenile records by local pretrial and probation services agencies. In addition, local program records were made confidential and not accessible under the Freedom of Information Act (FOIA). DCJS was included in an amendment to the Drug Offender Assessment Fund statute as a recipient of these funds on behalf of local programs for assessment and

<sup>13</sup> Actual figures: 710,505 hours of community service work (\$3,659,101), \$1,559,303 in restitution, \$1,461,373 in fines and costs, totaling \$6,679,777.

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treatment services. One final legislative change, related to Community Criminal Justice Board (CCJB) membership, passed which could lead to weakened CCJB authority.

## **Funding**

The General Assembly appropriated a little over \$18.6 million for FY2004 operations for CCCA and PSA during the 2003 session. This is a return to the FY2000 funding level.

While funding continues to be needed for treatment, it is more urgently needed for the expansion of supervision capacity/reduction of caseloads (in fact, action of the General Assembly in 2004 increased funding for new positions for local probation agencies, but incorporated a requirement for increased caseloads). 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 agency staff (screening and assessment 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 agencies continue to have staff-to-caseload ratios of over one hundred-to-one and many agency caseloads continue to grow. Additional and ongoing supervision capacity is necessary to ensure community safety and the continued effective operations of the agencies.

## **PTCC SOFTWARE AND COMMUNICATIONS INFRASTRUCTURE**

The Pretrial and Community Corrections Case Management System (PTCC) was primarily in support mode during the FY2004 fiscal year. Currently, PTCC has over 450 users and each user has direct access to

the PTCC Help Desk either by telephone or email. During FY2004, the PTCC Help Desk processed over 1,815 requests for help and technical assistance. Almost half of the requests to the Help Desk were related to technical issues regarding the PTCC software application. Other requests included networking, hardware, printing, and other software related issues. The support teams also installed new servers at 16 locations, in addition to configuring new workstations. Several main and satellite offices were moved and/or added with limited or no network communications interruption.

A new version of PTCC was released that included the Virginia Pretrial Risk Assessment Instrument (VPRAI) along with minor upgrades and bug fixes. Onsite training was provided to all the participating PSA localities. Additional onsite training was provided to Virginia Beach, Richmond, Arlington, and Chesapeake.

## **VIRGINIA PRETRIAL SERVICES RISK ASSESSMENT INSTRUMENT (VPRAI)**

The Virginia Pretrial Risk Assessment Instrument (VPRAI) was developed by DCJS in 2003 for use by pretrial services agencies throughout Virginia. The VPRAI is an objective research-based instrument that assists pretrial services officers in the performance of their duties by identifying a defendant's level of risk of failure (failure to appear and/or new arrest) if released pending trial. Virginia has the only statewide research-based pretrial risk assessment instrument in the nation. Because it is (1) research based, (2) devised for statewide (not jurisdictional-specific) use, (3) designed specifically for pretrial risk measurement, and (4) focused on non-discriminatory factors, the VPRAI has drawn significant national attention and has been "presented" at a number of national criminal justice conferences and meetings (American Probation and Parole Association, International Community Corrections Association, and the National Association of Pretrial Services Agencies).



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During FY2004, DCJS successfully implemented the VPRAI to almost every pretrial services agency in Virginia. The implementation strategy targeted two groups, pretrial officers and local criminal justice stakeholders.

Pretrial officers received onsite training and in addition formal presentations were made to each local CCJB. This process did uncover unanticipated training and technical needs that prevented the full implementation of the VPRAI. As a result three localities were not approved by DCJS to use the VPRAI. These localities will receive intensive support, technical assistance, and training from DCJS during the next fiscal year and it is anticipated that all 30 pretrial services agencies will have VPRAI implemented and established in their day to day operations.

Other observations made by DCJS during the VPRAI implementation phase have resulted in additional projects that are targeted to enhance pretrial services. It was identified that training resources were sorely needed and it became apparent that the accuracy of the client risk assessment using VPRAI was dependent on the quality of the pretrial officer's investigation. In an effort to improve training and the quality of investigations, DCJS began the development of a Pretrial Services Manual. This manual will include a Pretrial Resource and Training Guide, Pretrial Investigation Guide, and the VPRAI Training Manual. Upon completion of this project, each pretrial officer will be provided a copy and training will be offered.

## EDUCATION & TRAINING

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

In July and November of 2003 and March of 2004, a total of 49 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; Overview of Pretrial Services, Pretrial Screening/Interviewing; Liability Issues; Community Service & Restitution; Domestic Violence; Mental Health Issues; and, Ethics and Professionalism.

In the spring of 2004, DCJS sponsored an in-service training on Co-Occurring Disorders for local probation and pretrial personnel and other criminal justice professionals in Chesterfield, Woodbridge and Norfolk. Senior Clinician with Chesterfield County's Day Reporting Center-Dual Treatment Track, Shawn Johnson, presented these one-day workshops. The training covered such matters as the characteristics of this population and how prevalent it is in the criminal justice system; how people with co-occurring disorders get involved with the criminal justice system; why are we concerned about this population; the special attributes of women and people of color in this population; methodologies that work best with this population; how to develop an integrated system to work with this group; and, how to best supervise the mentally ill offender. Certificates of completion were distributed to attendees.

### *Judicial Training*

A fair amount of judicial training was provided in FY2004. DCJS participated in the annual Pre-Bench Training program conducted by the Supreme Court on March 29 and 30, 2004. Training on the principle elements of local pretrial and community-based probation services was provided to 31 new juvenile and domestic relations, district and circuit court judges. During the year, DCJS began a program-by-program comprehensive training on the new VPRAI. As part of this training, presentations on how the instrument

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was developed and its purposes were made to 27 CCJBs. It is estimated that between 55 and 60 judges, both members and non-members of these local boards were in attendance. Although not training, the District Court Forms Advisory Committee of the Committee on District Courts holds two one-to-two-day work sessions annually. There are six to eight judges, four magistrates and six to eight clerks of court on this Committee. These sessions on developing new court forms present an excellent venue for discourse with judicial officers on the operations, requirements, and needs of pretrial and local probation services.

## OTHER ACTIVITIES

### *Virginia Community Criminal Justice Association*

A record number of participants attended the 7th Annual Virginia Community Criminal Justice Association (VCCJA) Training Conference, Working Smarter for Safer Communities, held on November 13th-14, 2003, in Charlottesville.

The NIC, BJA, DCJS, and VCCJA sponsored this conference together with corporate sponsor, Bank of America. The conference focused on Survival Communications and Conflict Resolution, Implementation of the VPRAI, Supervisor Liabilities, Current Legislative Studies, Building Effective Domestic Violence Coalitions in Your Community, Key Elements in Effective Case Supervision, National Pretrial Standards from ABA and NAPSA, Tutorial on the new Transfer Guidelines for Local Probation and Pretrial agencies, and Issues in Pain Management and Pharmaceutical Drug Diversion. Fahy Mullaney, President of Pacesetter Group and national speaker of some renown presented in a plenary session on the dynamics of change and a workshop on the Ethics of Excellence. Election of officers and the annual awards presentations also took place at the conference.

### *Community Partnerships Conference: Community Orientated Justice (COJ)*

The 9th Annual Community Partnerships Conference, a combination of Community-Oriented Justice and the Virginia Crime Analysis Network Conference, was held on April 26-28, 2004, in Virginia Beach.

DCJS sponsors the conference. The conference included a track specific to local probation and pretrial agencies with workshops on Staff Recruitment, Managing Local Criminal Justice Systems, and Pretrial Services. There were over 170 participants at this conference and over 35% were from local community-based probation and pretrial service agencies or from their CCJB.

## A FINAL NOTE

Throughout this report, it is evident that local probation caseloads, pretrial caseloads, pretrial investigations, and even the benefits of community services, enhanced collection of fines and restitution have all reached a plateau. That the rapid growth in these areas in the late 1990s paralleled the increased provision of state funding and quality resources suggests that divertible populations have not been "maxed out," but rather that growth has been capped by state funding. This further suggests that an infusion of funds into the least costly part of the criminal justice and corrections system will result in the greatest expansion of system capacity at the lowest cost. Expansion of capacity-anywhere in the system-reduces pressure on all other parts of the system: jails and prisons. Therefore, a measured but substantial investment in community corrections, both in local probation and pretrial services and in state probation and parole, promises not just a cost-effective expansion of correctional capacity, but also a long term cost avoidance as research-based interventions are applied to abort criminal careers at the right time (early) and in the right place (the community).