

COMPREHENSIVE COMMUNITY CORRECTIONS ACT FOR LOCAL-RESPONSIBLE OFFENDERS AND PRETRIAL SERVICES ACT REPORT

July 1, 2008–June 30, 2009



Prepared February 2010



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Comprehensive Community Corrections Act for Local-Responsible Offenders and Pretrial Services Act Report

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This report has been prepared to keep stakeholders informed about the activities of local probation and pretrial services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (CCCA) and the Pretrial Services Act (PSA), and developments affecting their work.

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FY2009 LOCAL COMMUNITY-BASED PROBATION AND PRETRIAL SERVICES

Local community-based probation agencies were created in 1995 by the Comprehensive Community Corrections Act (CCCA, §9.1-173 COV). They were created to provide an alternative to incarceration for persons convicted of certain misdemeanors or non-violent felonies for which sentences would be 12 months or less in a local or regional jail. Local probation programs give courts the option of assuring that these types of offenders are held accountable without resorting to the use of institutional custody. There are now 37 local probation agencies operating in Virginia, serving 128 of 134 localities.

Pretrial services programs were first created in Virginia in 1989, pursuant to authorizing language in the Appropriations Act. In 1995, they were authorized by statute with the passage of the Pretrial Services Act (PSA, §19.2-152.2 COV). Pretrial services programs provide information and investigative services to judicial officers (judges and magistrates) to help them decide whether persons charged with certain offenses and awaiting trial need to be held in jail or can be released to their communities subject to supervision. In the latter case, the programs provide supervision and services to defendants as ordered by judicial officers. There are 30 pretrial services programs in Virginia; they serve 80 of 134 localities.

Local community-based probation and pretrial service caseloads continued to grow during FY2009. With no new community corrections or pretrial services agencies coming online in FY2009, and a decline in the rates of many crimes in Virginia, the continued caseload growth can be attributed to increased use of these services by judges and magistrates, and longer periods of supervision.

Although not required, many local governments provide matching funds or in-kind resources to support these agencies, recognizing, along with members of the judiciary, the important role that pretrial services and local community-based probation play in ensuring public safety. In addition, 26 of the 37 local probation agencies,

over 70%, have been collecting supervision/intervention fees to augment their operations. Unfortunately, even with fees, many local agencies still experience difficulty meeting increased workloads and system demands. The average daily caseloads (ADC) of most agencies significantly exceeded the minimum staff-to-defendant/offender ratio established by DCJS of 1:40 for pretrial supervision and the case management ratio of 1:60 for local probation supervision. Several local probation agencies *continue* to carry caseloads that exceed a ratio of **100** offenders on active supervision for each probation officer.¹

Despite the agencies' best efforts, the persistent strain of excessive caseloads and funding restrictions continue to have a negative impact in some localities. State funding in recent years has not kept pace with cost and caseload increases, and most localities have not been able to step in and bridge the gap. As a result, some agencies have had to reduce staffing, limit drug testing, cut back on needed staff training, and choose other strategies to cope with limited funding in the face of increasing costs. Notwithstanding these pressures, the directors and staff of these local agencies continue to maintain highly professional services and are committed to providing for public safety in their communities.

Pretrial Services

The Pretrial Services Act (PSA) became effective on July 1, 1995. The primary responsibilities of pretrial services agencies are to provide information to magistrates and judges to assist them with bail decisions (to release or detain defendants) and to provide supervision and services to defendants as ordered by a judicial officer. There are now 30 pretrial services agencies in Virginia, providing services in 80 of the 134 localities in the state. Many localities not funded for pretrial services continue to express interest in implementing them. Thirty-six localities are currently mandated² to provide pretrial services. Seven more will be mandated to provide services in 2012. However, without additional state funding for this purpose, and with local budget reductions, it is unlikely these services will be established.

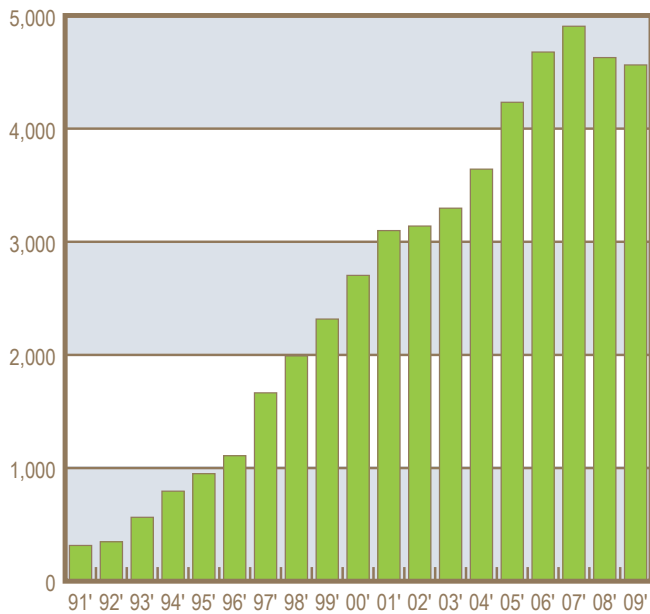
¹ Ratios are based on active cases only. Inactive and monitoring cases, which also consume agency resources, are not included in the calculations of active cases. The *minimum* ratio is a staffing benchmark set by DCJS for state funding.

² The mandate to provide these services is found in the *Code of Virginia* under §53.1-82.1 which requires the establishment of local probation and pretrial services for all jail projects approved or pending approval.



While the statewide average daily caseload (ADC) of pretrial services agencies was 1.4% lower in FY2009 compared to FY 2008, the potential for growth exists if more localities receive funding to implement new services, or expand on and improve existing services. As local jail populations grow, supervised pretrial release continues to be an important tool to assist localities in managing their jail populations by assessing risk and providing the judiciary with a viable alternative to jail.

PRETRIAL SERVICES AVERAGE DAILY CASELOAD

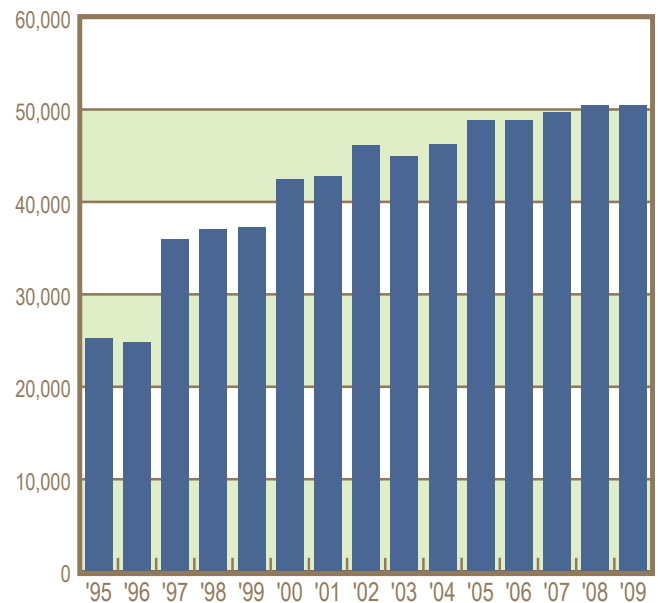


Placements on pretrial supervision decreased by 3.3% in FY 2009 compared to FY2008, from 18,523 to 17,903. During FY2009, 28.2% of defendants charged with misdemeanors and 41.2% of those charged with felonies had to meet a condition of a secure bond before being released to pretrial supervision, the same as in FY2008. While combining terms and conditions of bail – specifically, combining secure bond with pretrial supervision – is permitted by statute, the purpose of pretrial services in Virginia is to provide information to judicial officers to encourage the use of pretrial release (supervision) as a term of bail instead of a **secured bond**. Judicial officers' continued reliance on secured bond combined with pretrial supervision means that defendants are held responsible to two custodial

agents and makes both pretrial officers and bondsmen responsible for assuring defendants' appearance in court and for assuring public safety. This practice undermines the intent of pretrial services to *reduce the need for secure bond* and encourage the use of pretrial release supervision as a term of bail.

The greatest growth in pretrial investigations occurred between FY1996 and FY1997 when most of the newly established pretrial services agencies became fully operational. More recently, pretrial investigations have leveled off, decreasing slightly in FY 2009, with 50,254 investigations conducted compared to 50,444 in the previous year.³ This may be an indication that the agencies' maximum investigation capacity, given their current level of funding, has been reached.

PRETRIAL SERVICES INVESTIGATIONS



Defendants placed on pretrial supervision continue to have excellent success rates. Of the 7,971 misdemeanor placements closed during FY2009, over 87% (6,944) were successful, up slightly from FY2008. About 2.5% of them were closed due to a new arrest, up slightly compared to the previous year. The remaining closures were due to technical violations (3.9%), failure to appear (FTA) for court (3.5%), and other reasons (2.9%). The FTA and technical violations categories decreased slightly from FY2008. Of the 9,205 felony placements closed

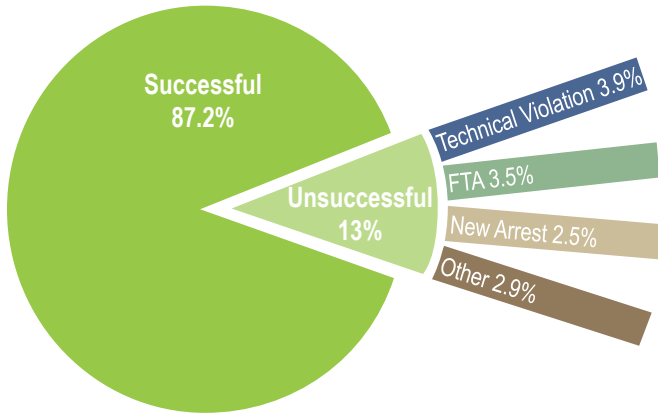
³ Data are from Pretrial Services Monthly Reports submitted to DCJS.



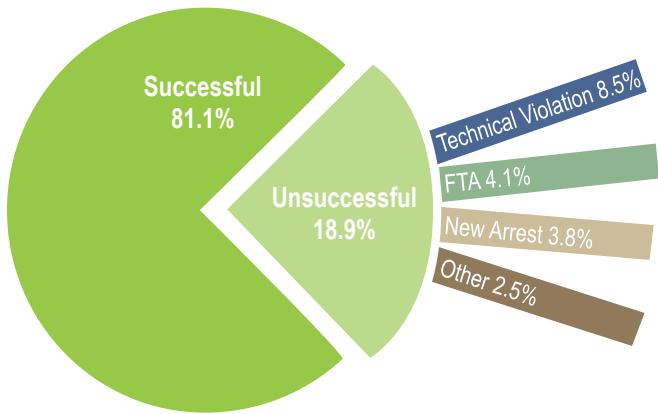
during FY2009, 81.1% (7,468) were successful, higher than in FY2008. About 3.8% of the felony placements were closed due to a new arrest; slightly higher than in FY2008. The remaining closures were due to technical violations (8.5%), FTA (4.1%), and other (2.5%), all reductions from FY2008.

PRETRIAL SERVICES CLOSURE TYPES⁴

MISDEMEANANT PLACEMENT CLOSURES



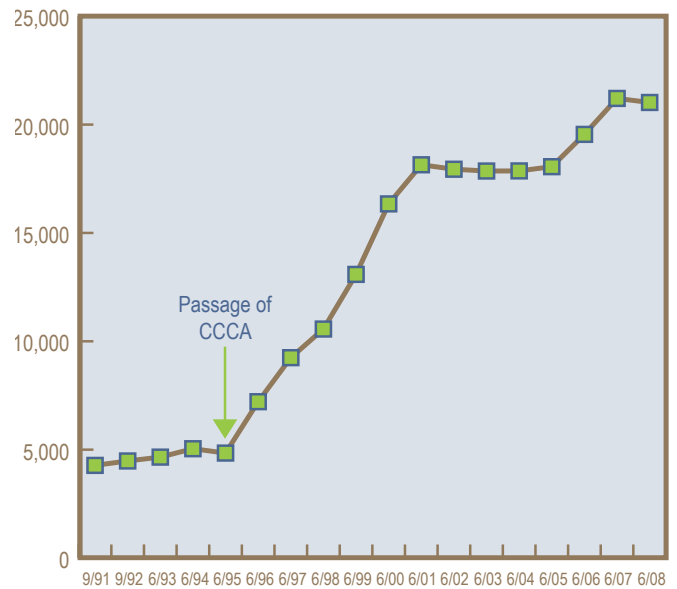
FELONY PLACEMENT CLOSURES



Local Community-Based Probation Supervision

Since the establishment of the CCCA, the number of offenders supervised by local probation agencies has almost tripled. Caseloads have increased approximately 315%, from 5,043 to 21,061. There are now 37 local probation agencies in operation, serving 128 localities. Four more localities are now mandated⁵ to provide local probation services; but without state funding for this purpose, the services will not be established.

COMMUNITY-BASED PROBATION CASELOADS



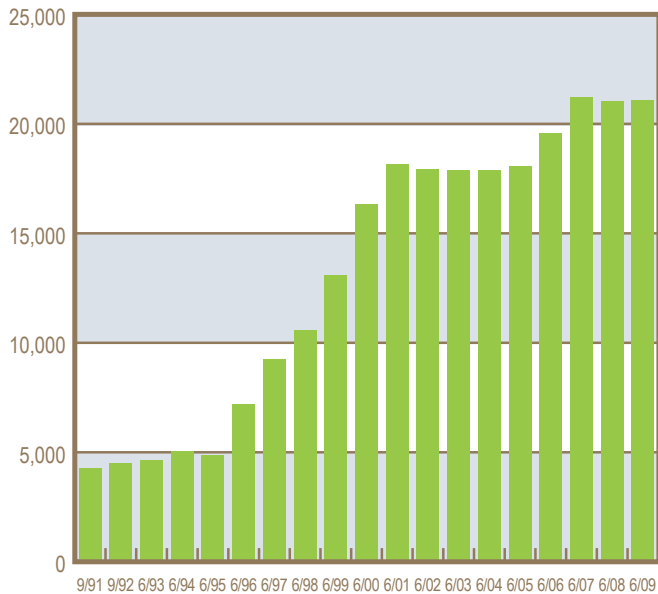
⁴ Other pretrial services closures not depicted include those closed as returned to sending jurisdictions. The number of these cases is considered to be too low to have any impact on overall closure calculations. Cases reinstated to supervision after a previous closure are backed out of the calculations.

⁵ The mandate to provide these services is found in the *Code of Virginia* under §53.1-82.1 which requires the establishment of local probation and pretrial services for all jail projects approved or pending approval.



Local probation supervision cases remained steady over the previous year. The ADC for FY2009 was 20,995 compared to 21,238 for FY2008, a 1.1% decrease.

COMMUNITY-BASED PROBATION CASELOADS (POINT IN TIME)

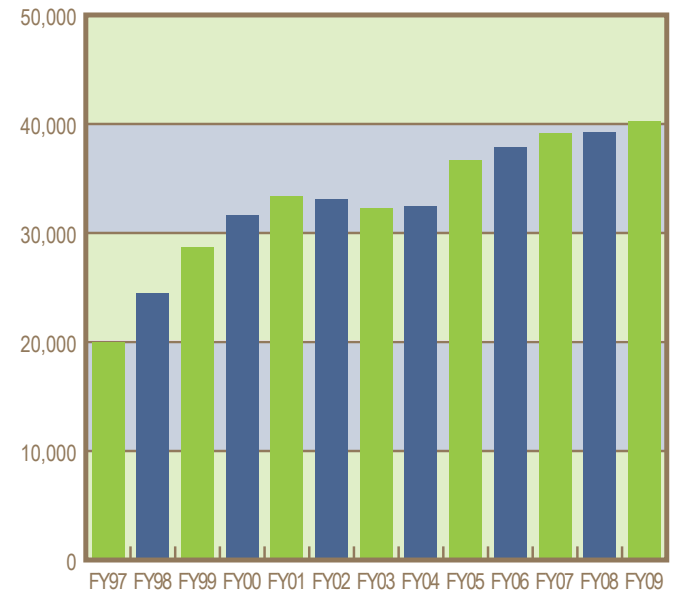


In addition to offenders under active supervision, on average, 581 offenders per month were reported to be in a “monitoring only” status. This is an increase of 14% over the previous year. Monitoring offenders is done as a courtesy to the judge, as these offenders do not meet the criteria for supervision by local probation agencies. “Monitoring only” cases include 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. “Monitoring only” is a service provided as directed by court order; it is not statutorily required.

On average, there were 4,306 offenders per month reported in “inactive” status,⁶ a slight decrease from FY2008. While there are fewer responsibilities associated with inactive and monitoring cases when compared to active cases, they still require staff resources. However, neither monitoring nor inactive cases are included in determining minimum probation officer-to-offender ratios or eligibility for state funding.

FY2009 statistics demonstrate continued strong judicial support for the CCCA based on the volume of placements and agency utilization. In FY2009, **the courts placed 40,264 offenders on local probation supervision,⁷** compared to 39,234 in FY 2008, an increase of 2.6%

COMMUNITY-BASED PROBATION COURT PLACEMENTS



The average length of supervision (ALOS) for misdemeanants is 6.1 months, just above the recommended average of 6 months. However, the average length of time under supervision for felons remains within the DCJS recommendation of twelve (12) months, at 9.4 months. The increase in time under supervision is due to the increase in domestic violence cases, longer treatment requirements associated with those cases, waiting lists for treatment, courts ordering longer periods of supervised probation than necessary for offenders, and increases in mandatory community service time. All of these require longer periods under supervision and result in higher caseloads.

The local community-based probation agencies continue to experience very good success rates with offender supervision. As with pretrial services, failures under supervision are offender failures and should not necessarily be considered failures of the supervising agency. Defendants and offenders are accountable for their behavior while under supervision. Failure to comply with the conditions of supervision results in removal from

⁶ 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.

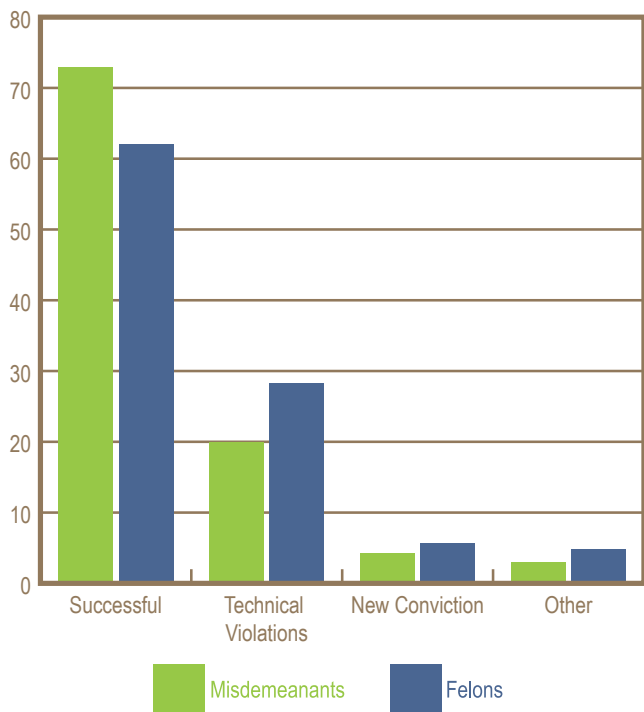
⁷ This is the actual number of offenders placed under supervision not the court placements which was 43,033 in FY2009 (41,957 in FY2008).



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 35,661 total misdemeanor placements closed during FY2009, 73% (25,929) were successful. Of the 1,656 total felon placements closed in FY2009, about 62% (1,027) were successful. The most common “unsuccessful” closures for both misdemeanor and felon placements continue to be due to technical violations of supervision; 20% (7,145) for misdemeanor and 28.3% (468) for felons. In FY2009, only 4.3% (1,520) of the misdemeanants and 5.7% (95) of the felon placements were closed due to a conviction for a new offense. Closures for “other” reasons were 3.0% (n=1,067) for misdemeanants and 4.9% (81) for felons.

LOCAL COMMUNITY-BASED PROBATION CLOSURE TYPES⁸



Local community-based probation agencies also tested offenders for substance use and placed offenders in a variety of substance abuse treatment programs and other types of programs throughout the year. Substance abuse services utilized included short-term detoxification, outpatient treatment, education, and other substance abuse counseling programs. Figures reported for FY2009 indicate:

- 16,312 Offenders assigned community service work
- 11,703 Offenders drug tested (does not include multiple tests)
- 5,118 Offenders placed in substance abuse education
- 3,744 Offenders placed in substance abuse counseling
- 3,780 Offenders ordered into anger management counseling
- 2,382 Offenders ordered into domestic violence counseling
- 1,959 Offenders ordered to attend shoplifting prevention sessions
- 1,418 Offenders screened for substance abuse problems
- 1,067 Offenders ordered to participate in Victim Impact Panels (VIP)
- 780 Offenders assessed or evaluated for substance abuse problems
- 618 Offenders ordered to attend financial responsibility sessions
- 404 Offenders evaluated for mental health issues
- 386 Offenders sent to parenting or fatherhood classes
- 291 Offenders ordered to attend mental health counseling
- 280 Offenders placed in employment counseling or training
- 238 Offenders tested for alcohol use
- 187 Offenders ordered to attend AA or NA meetings
- 188 Offenders ordered to attend marriage or family counseling
- 149 Offenders assessed for domestic violence issues
- 93 Offenders ordered to obtain their GED or attend school
- 76 Offenders ordered into sex offender treatment
- 70 Offenders placed in long term inpatient treatment
- 25 Offenders ordered to attend driver improvement courses
- 25 Offenders placed on electronic monitoring
- 9 Offenders placed in short term detoxification
- 2 Offenders placed in home detention
- 1,935 Offenders required to participate in some other service or program

⁸ 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 somewhat over reported.



All agencies placed offenders at work sites to complete community service. For FY2009, offenders performed 697,198 hours of community service work. At the minimum wage of \$6.55 per hour, this translates into just over \$4.56 million worth of community service work. However, this may be considered a conservative figure as local government pay scales would pay more than the minimum wage for the type of community services provided by the offenders. In addition to their required duties and responsibilities, most local 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 FY2009, agencies facilitated just over \$1.84 million in restitution payments and almost \$1.3 million in fines and costs. In total, *local probation agencies generated just over \$7.2 million in services and payments to communities.*⁹ This translates to a 32.8% return on the investment by the state (\$7.2 million/ \$21.9 million funded).

LEGISLATIVE ACTIVITY

Legislation

There were statutory changes affecting local community-based probation and pretrial services agencies that became effective in FY 2009. None were introduced on behalf of DCJS or the Virginia Community Criminal Justice Association (VCCJA). The Code of Virginia was amended as follows:

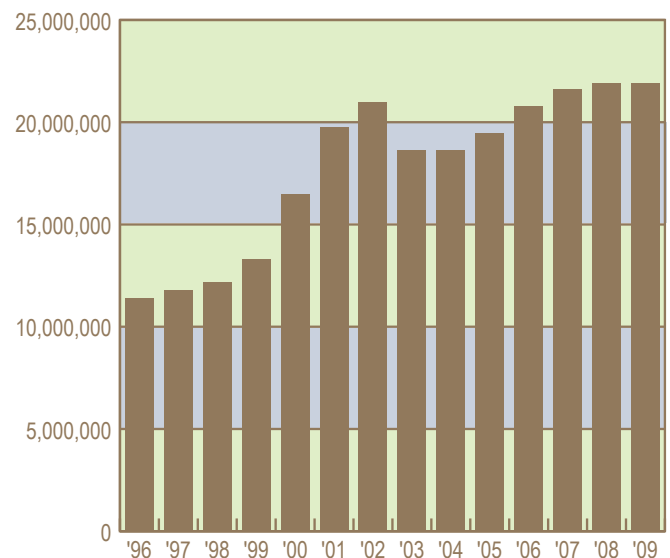
- §19.2-130, permits a court to initiate a proceeding to alter the terms and conditions of bail on its own motion when it considered bail excessive;
- §19.2-120 adds presumption of no bail for those charged a violation of assault and battery against a family or household member after having two previous convictions for assault and battery against a family or household member;
- §19.2-120.1 adds presumption of no bail for illegal aliens charged with certain crimes after having been identified by US Immigration and Customs Enforcement as being illegally present in the US;
- §19.2-319 allows the appellate court to either set bail or remand the matter to the circuit court for further action regarding bail as the appellate court directs when decision to deny bail by trial court is overruled by the Appeals or Supreme Court. This could extend the period of supervision for appeal cases in the circuit;
- §19.2-299.2 A. Adds substance abuse screening and or assessment for person convicted of second offense petit larceny;
- §9.1-902 redefines registry offenses, adds new offenses and prior conviction conditions to "Offenses requiring registry" on the sex offender registry;
- §8.01-226.8 adds "mowing rights-of-way or performing other landscaping maintenance tasks" to the list for community service under this qualified immunity statute; and
- §33.1-12.2 authorizes the Commissioner of VDOT to establish a community service landscaping program including maintenance tasks for roads and highways for which VDOT has responsibility for persons convicted on nonviolent misdemeanors who have received suspended sentences or probation.

Funding

The General Assembly appropriated \$21.9 million for FY 2009 operations under the CCCA and PSA.¹⁰

COMPREHENSIVE COMMUNITY CORRECTIONS AND PRETRIAL SERVICES ACT

APPROPRIATIONS HISTORY



⁹ Actual figures: \$4,566,647 of community service work, \$1,842,755 in restitution, \$1,297,271 in fines and costs, totaling \$7,706,673.

¹⁰ This report does not cover the timeframe that includes the additional \$1.5 million awarded to expand existing pretrial services agencies. This will be included in the FY2010 report.



While funding continues to be needed for treatment, it is more urgently needed for the expansion of supervision capacity and to reduce critically high caseloads and growing workloads. Increases in the number of cases in the previous seven years (reflecting expanded utilization and trust by the courts), increasing length of supervision (reflective of the treatment time required for substance abuse and domestic violence cases, increased requirements for community service, and longer probation sentences), 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), substantiate the need for additional resources in support of the current supervision capacity. Some agencies still have active offender-to-staff ratios of over 100:1 and many agency caseloads continue to grow. Additional supervision capacity is necessary to ensure community safety and the continued effective operations of the agencies.

EVIDENCE-BASED PRACTICES - PLANNING, DEVELOPMENT, AND IMPLEMENTATION

A sizable body of research conducted in the last 30 years has determined that programs, services, and practices that have been empirically tested and proven to work can be effective in reducing recidivism. To that end, ten local probation agencies have assumed the task of implementing Evidence-Based Practices (EBP).¹¹ The VCCJA formed a statewide EBP committee with members from each of the sites to focus on EBP issues specific to local probation and legal and evidence based practices (LEBP) specific to pretrial services. This committee meets every other month to discuss on-going issues and activities related to the successful implementation of EBP at the ten sites and to plan for the future expansion of EBP.

Their primary focus has been on the implementation of the statewide strategic plan and timeline for enhancing EBP throughout local probation and pretrial agencies. This includes forming partnerships with local service providers and the Department of Corrections (DOC)

Probation & Parole district offices, as well as the judiciary and city and county executives. Activities for FY 2009 included the continued use of appropriate risk/needs screening and assessment instruments for local probation, including an inter-rater reliability and validation process of the assessment instrument, as well as the development of supervision plans based on the results of the risk/needs assessment. A parallel process also occurred for pretrial as the EBP sites were involved in the re-validation of the Virginia Pretrial Risk Assessment Instrument (originally developed in 2003). In addition, the EBP committee and DCJS staff met twice with facilitators from the National Institute of Corrections (NIC). The first meeting was to review progress and update the strategic plan and the second was to develop a strategy for the imminent roll-out of EBP to 10 additional sites. Other activities included the continued development of a statewide EBP Road-Map and implementation plan, the development and implementation of various EBP trainings, and a continued effort to educate stakeholders on the importance of EBP and progress made by the ten EBP sites.

The Department of Criminal Justice Services, with federal grant funds from the Bureau of Justice Assistance (BJA), provided support for the following priority tasks that are part of this effort:

- Research to drive the development of bail/release recommendation guidelines based on the Virginia Pretrial Risk Assessment Instrument (VPRAI);
- Development of case classification and differential supervision guidelines for pretrial and local probation;
- Validation of the use of Offender Screening Tool and Modified Offender Screening Tool (OST/M-OST risk/needs screening and assessment instruments), on the local probation population;
- Development of EBP specific training curriculum for both pretrial and local probation;
- Assist with the development of evaluation and quality assurance activities in programs;

¹¹ The EBP pilot sites are Colonial Community Corrections in Williamsburg, Lynchburg Community Corrections and Pretrial Services, OAR-Jefferson Area Community Corrections Program in Charlottesville, Old Dominion Community Corrections in Winchester, Blue Ridge Court Services in Staunton, Chesterfield CC & PT Services, Hampton/Newport News Criminal Justice Agency, Henrico County Community Corrections, Piedmont Court Services in Mecklenburg, and Rappahannock Regional Jail Community Corrections in Fredericksburg.



- Upgrade the Pretrial and Community Corrections Case Management System (PTCC) case management system to capture needed data for evaluation.

With the support of VCCJA, the ten EBP sites and DCJS continue to make significant progress towards the implementation of EBP. In 2009, some noteworthy accomplishments included:

- Partnered with the Crime and Justice Institute to construct a “Road Map” which will be used for expanding EBP in Virginia and other states
- Provided training on the re-validated and revised Virginia Pretrial Risk Assessment Instrument (VPRAI), which is currently used by all 29 Pretrial Agencies
- Contracted with a national expert on pretrial to perform a research project on pretrial and bail practices
- Conducted an inter-rater reliability evaluation on the Offender Screening Tool (OST), and began a validation study of the instrument
- Completed the 2nd annual review of the EBP activities and action plan
- Provided training on Motivational Interviewing and Effective Communication to staff at all 10 EBP sites
- Continued efforts to perform quality assurance activities and evaluation across the 10 sites.
- Developed a strategy to train on supervision case planning at EBP sites

PTCC SOFTWARE AND COMMUNICATIONS INFRASTRUCTURE

During FY 2009, the DCJS Pretrial and Community Corrections Case Management System (PTCC) Support Group assisted multiple local agencies with end user training for the PTCC application, equipment purchase recommendations, and negotiations with their localities on issues related to software and hardware upgrades

The PTCC Support Group received and responded to over 200 requests for technical assistance in FY 2009. These requests dealt with every aspect of information technology, including networking, router maintenance and troubleshooting, troubleshooting hardware related issues, server support, project management, consultation prior to procurement of new laptops, desktops and servers, and contract negotiations with local technology support providers.

The Group also responded to specific PTCC application-related requests. These included ad hoc reporting, fixes for bugs found in the application, and minor application enhancements. An example of the latter is an enhancement to the monthly report to include additional “other” service placement type categories for probation and pretrial. In addition, customized reports were generated on an as needed basis. Noteworthy accomplishments in FY 2009:

- The PTCC application was upgraded statewide to version 2.6.29.
- The Other Service Placements Category list expanded.
- Began quarterly M/OST reports to the EBP sites
- Generated nearly 20 locality specific Ad-hoc reports and data requests.

The PTCC support group also assisted with multiple database migrations to new servers, and made recommendations on hardware purchases and technology solutions.

EDUCATION & TRAINING

Local Community-based Probation & Pretrial Services Agencies

In July and November of 2008 and March, 2009, a total of **56** new local community-based probation and pretrial services employees successfully completed the seven-day 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
- Offenders with Substance Abuse Issues
- Crisis Management (De-escalation)
- Street Smart (Officer Safety)



- Supervision Theory
- Standards of Supervision
- Overview of Pretrial Services/Screening/Interviewing
- Offenders with Mental Health Issues
- Liability Issues
- Community Service and Restitution
- Domestic Violence
- Ethics and Professionalism
- Courtroom Demeanor
- PTCC Toolbox (Pretrial and Community Corrections case management system)
- Virginia Criminal Information Network (VCIN) certification

Regional Trainings

Regional trainings were conducted which centered on *Mental Health and the Criminal Justice System*. Overall, 139 local community corrections and pretrial employees were trained at four (4) sites around the state by a panel of mental health professionals.

Judicial Training

The Supreme Court’s annual Pre-Bench Orientation Program for 2009 included a session on pretrial and local community-based probation services. DCJS was allotted 45 minutes to present on pretrial and local community-based probation services. Twenty-five (25) Judges representing the Juvenile and Domestic Relations, General District, and Circuit Courts were present at the training. This year DCJS collaborated with two local probation and pretrial services directors adding a local perspective during the time allotted for questions and answers. DCJS’ presentation included an overview of the plan to implement Evidence-Based Practices.

OTHER ACTIVITIES

Virginia Community Criminal Justice Association (VCCJA)

Over 260 participants attended the 12th Annual Virginia Community Criminal Justice Association (VCCJA) Training Conference, *Working Smarter for Safer Communities*, held in November, 2008.

Sponsored by VCCJA, with support from DCJS, the conference included a day of intensive courses covering four different topics. The general conference starting the next day included such topics as Addiction and Criminal Behavior and The Many Faces of Addiction, both by renowned trainer, Delbert Boone, followed by workshops on the Effects of a Prosecution/Probation Partnership in Handling Family Violence Cases; Probation and Parole in the Year 2020; Batterer’s Intervention Programs: Why They Work and Why They Don’t and Why it Matters; Substance Abuse, the Most Prevalent Drugs by Area; EBP Roadmap; Question, Persuade, Refer (QPR), for Suicide Prevention; High Performance Organizations; Evidence-based Roundtables; and Resiliency: Moving Forward. Election of officers and the annual awards presentations took place.

A Final Note

Consistently, over the course of the last several annual reports, we have suggested that:

- Safely divertible populations have not been “maxed out” but, more accurately, expansion and growth have been limited by the lack of additional state funding
- An infusion of new funds into this least costly part of the criminal justice system can result in the greatest expansion of system capacity at the lowest cost
- Expansion of capacity, anywhere in the system, reduces pressure on other parts of the system - particularly in the more expensive jails and prisons
- A substantial investment in local probation and pretrial services promises not just a cost-effective expansion of correctional capacity but, also, 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)

This year, as revenue shortfalls in Virginia are amplified and reinforced by national economic trends, the more costly, traditional approaches to criminal justice

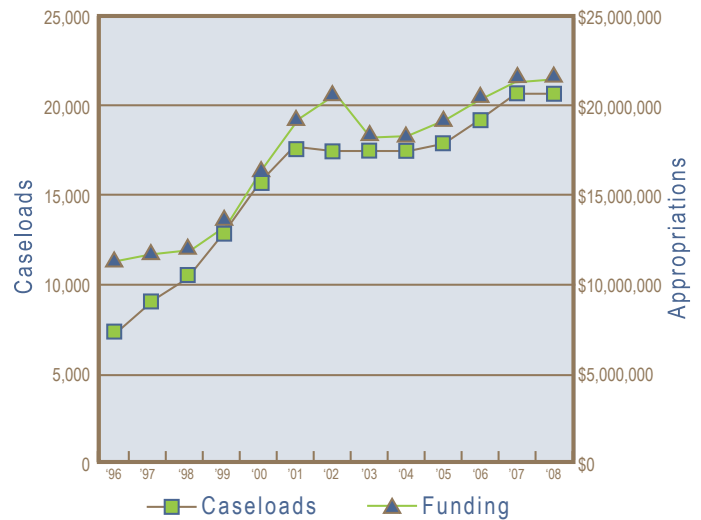


sanctions (prisons and jails) have become so expensive as to be difficult, even impossible, to sustain at current levels. Further, research shows that prison and jail time alone, while it may serve to satisfy a societal preference for punishment, does not change criminal thinking and behavior. This means that we will see many of these same offenders in our jails and prisons again - and again.

Local probation and pretrial services offers a more flexible capacity with expansion that is rapidly responsive to funding for new staff, without the excessive costs of “brick and mortar” round-the-clock coverage. Highly accurate risk assessment instruments now exist (and have been validated with Virginia offender and defendant populations) to assist in making better judgments about who can be punished in community settings without substantial risk to public safety and without the high costs of facility-based, 24/7 operations. Every effort should be made to identify those offenders, and especially those defendants, who can be safely supervised and sanctioned in the community. There remain six localities in Virginia that have no local probation services and 54 localities in Virginia that have no pretrial services. This is due to either the lack of funding or that they were not mandated to provide services so they elected not provide services or a combination of both. There is no locality in Virginia that has services at a level adequate to supervise all those who could be safely diverted.

For presentations to the Task Force on Alternatives for Non-Violent Offenders and to the House Appropriations and Senate Finance Joint Subcommittee on Public Safety, DCJS examined and documented historical funding/caseload trends. The following chart graphically documents and summarizes what we continue to assert - the local probation and pretrial services alternative programs, overseen by DCJS, are capped by the availability of resources not by a lack of safely divertible defendant and offender populations. Increased funding equals increased diversions.

CCCA/PSA APPROPRIATIONS HISTORY AND CCCA CASELOADS¹²



Until these less expensive programs are maximized and until jails hold only those individuals who pose an actual danger to the community, Virginia will continue to expend resources to protect its citizens from those who pose little threat. In fact, research tells us that over-supervising and unnecessary incarceration make behavior worse.

Despite a number of recent studies examining alternatives and searching for low cost “silver bullet” alternatives, the fact remains that investing in state and local community-based corrections is the best use of limited state dollars for the creation of correctional capacity. With existing infrastructure, enhanced by increasingly sophisticated and highly predictive risk instruments and fully engaged in the implementation of research based / evidence based practices, these programs can reduce crowding and save expensive construction and operational costs of facility based corrections. State probation and parole could divert and still sanction more offenders, safely, if additional staff were to be provided. Local pretrial and probation agencies, established under the CCCA, continue to be understaffed to accomplish maximum diversions in localities with established programs and, unlike state Probation and Parole, there remain unserved localities (courts in only 80 of 134 Virginia localities have access, often limited, to Pretrial services agencies).

¹² The increase in appropriations for FY 2001-2002 was due to additional funding for Substance Abuse Reduction Effort (SABRE) which was NOT allowed to be used to build capacity – rather, it was intended to be used for screening and assessment of pretrial defendants and probationers and to increase Substance Abuse treatment services for **probationers**. This funding was eliminated in FY 2003.



