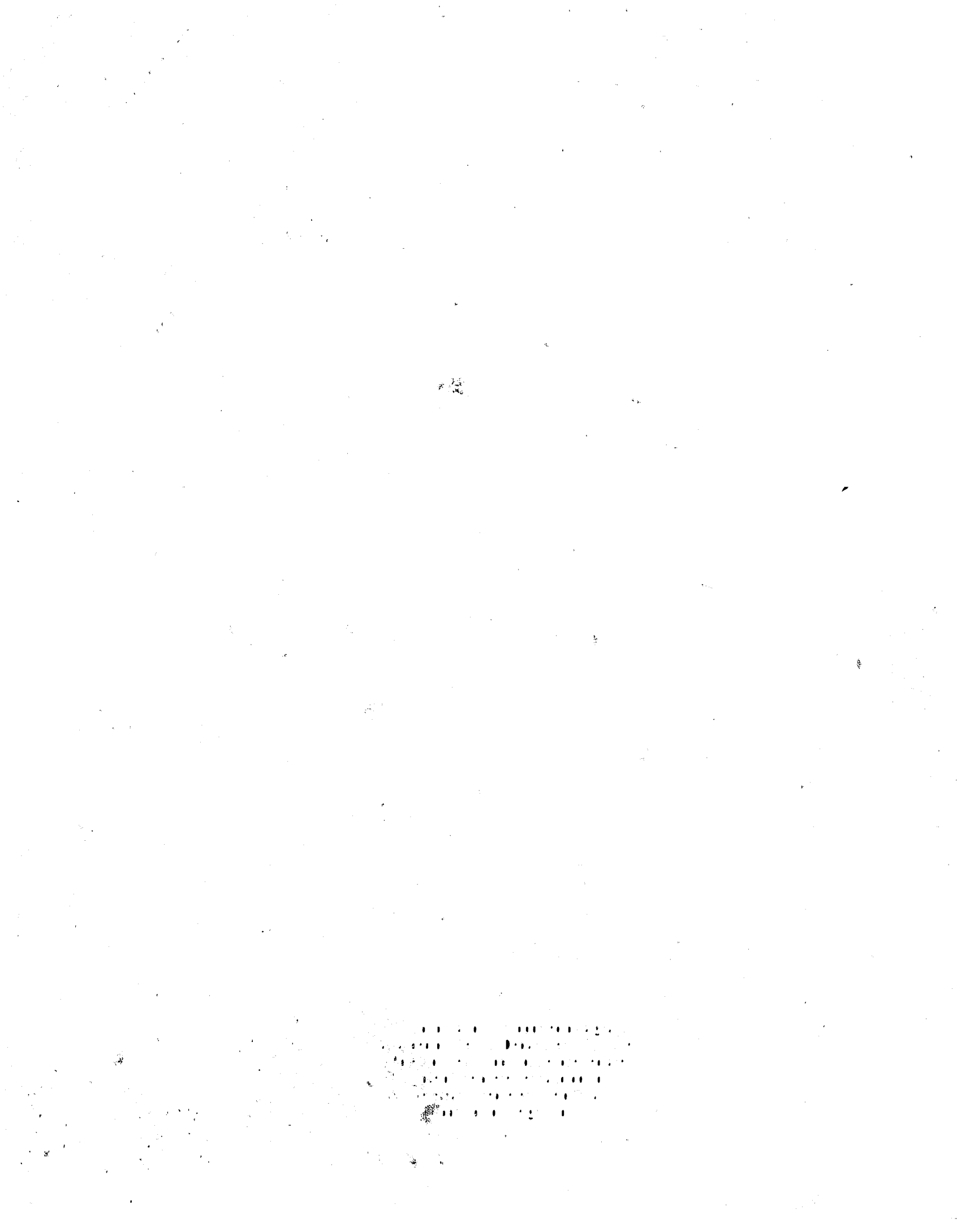


133241

Drug & Violence
Law Enforcement





Drugs in Virginia: A Criminal Justice Perspective

133241

U.S. Department of Justice
National Institute of Justice

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Commonwealth of Virginia



Department of Criminal
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October 1991

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The mission of the Criminal Justice Research Center is to provide accurate and comprehensive data and research to guide strategic, policy, and budgetary decision-making on criminal justice issues, polices and programs. The Center is responsible for the coordination, collection, statistical analysis and interpretation of system-wide data on crime and criminals in Virginia.

This report is the fourth in a series of related crime reports issued by the Virginia Department of Criminal Justice Services. Previous reports are *Felony Justice in Virginia, 1986*; *Violent Crime in Virginia*; and *Voluntary Sentencing Guidelines: Pilot Program Evaluation*. A forthcoming report will examine guns and crime in Virginia.

We welcome your comments and questions.
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ACQUISITIONS

Introduction

Illicit drug abuse among our citizenry is, without question, one of the most pressing concerns for our political leaders, government officials, and professionals from the medical, mental health, social services, and criminal justice fields. Drug abuse exacts a personal and economic toll on people in all segments of society, be they young or old, black or white, male or female, rich or poor. This toll affects not only those who use drugs, but society as a whole through reduced productivity, increased medical costs, broken families, and fear of the violence associated with trafficking in drugs. The gravity of our nation's drug abuse problem was highlighted in 1989 when, for the first time in history, the President of the United States made a nationwide television address on the issue of drugs and their threat to society and appointed a federal drug "czar" to lead the "war on drugs."

The problem of drug abuse can be viewed from several perspectives - it can be viewed as a social problem, a medical problem, a mental health problem, and as a criminal justice problem. To be successful, any strategy designed to combat drug abuse must recognize that all these diverse facets of the problem must be adequately addressed. Successful strategies for dealing with drug abuse must also be grounded in a thorough understanding of the problem. This understanding must be based on comprehensive information on the nature and scope of the problem as viewed from each of the perspectives mentioned above. The purpose of this report is to provide this type of comprehensive information on drug abuse in Virginia as seen from a criminal justice perspective.

It has been conservatively estimated that our nation currently spends over \$10 billion a year arresting, convicting, and incarcerating drug offenders. Every component of the criminal justice system has been severely affected by the escalation in drug arrests and prosecutions. This report provides for the first time a comprehensive overview of exactly what is occurring in the Virginia criminal justice system as it combats the problem of drug crime.

This report is unique in several ways. First, it provides an examination of the entire criminal justice system's response to drug crime. It describes the number and types of drug arrests made by the police, where drug arrests are most likely to occur, who is most likely to be convicted of a drug offense, how persons arrested for drug offenses are processed, convicted and sentenced by the courts, and how long convicted drug offenders are actually incarcerated. Second, this report draws on information from a wide range of data sources covering many years to provide a more comprehensive picture of drug crime in Virginia

than has previously been published. Information covering more than a decade was extracted from more than a dozen state and federal automated criminal justice databases and is presented in a visually accessible graphic format. Finally, much of the information in this report has never before been extensively analyzed and presented and consequently fills a serious void in our previous knowledge on the subject of drug crime.

Most of the criminal justice system's drug enforcement and prosecution efforts target drugs defined by the Federal Controlled Substances Act (CSA) as Schedule I and Schedule II drugs. Schedule I drugs are defined as drugs with a high potential for abuse and no accepted medical value. Examples of these drugs are heroin, LSD (d-lysergic acid diethylamide), marijuana, and mescaline. Schedule II drugs are defined as drugs with a high potential for abuse which do have some limited medical use. Examples of these drugs are amphetamines, cocaine, methadone, and PCP (phencyclidine). Schedule I and II drugs are considered to have a higher potential for abuse than Schedules III, IV, V, and VI drugs. Because Virginia statutory law provides the same penalties for all offenses involving both Schedule I and II drugs, the criminal justice system gathers and reports information on these violations as Schedule I/II crimes. The criminal justice system also devotes considerable attention to the enforcement and prosecution of offenses involving marijuana. Although marijuana is defined by the Federal Controlled Substances Act as a Schedule I drug, Virginia law does not classify marijuana within a particular drug schedule. Also, offenses involving marijuana in Virginia carry less harsh penalty structures than offenses involving Schedule I/II drugs. However, crimes involving all Schedule I/II drugs and those involving the sale of one-half ounce or more of marijuana are all considered felony level offenses in Virginia (i.e., those punishable by one year or more in prison).

This report focuses on offenses involving Schedule I/II drugs and marijuana because these drugs are involved in almost all known drug crime in Virginia. For purposes of brevity, this report will often describe statistics for the "sale" of these drugs. The term "sale" is a shorthand description of the legal definition of this crime. Specifically, Virginia law forbids the illegal manufacturing, selling, giving, or distributing of a controlled substance or possessing with intent to do any of the aforementioned.

This report is divided into three sections. The first section describes the nature of drug crime in Virginia: how many drug arrests are made, where in the Commonwealth drug arrests are

made, and what types and amounts of drugs are involved. The second section describes the people who are arrested and convicted for drug crimes: their demographic characteristics, how these characteristics have changed over time, and their prior criminal and drug abuse histories. The third section describes how Virginia's criminal justice system has dealt with persons arrested for drug crimes: how long it takes to prosecute drug offenders, what types of sentences they receive, what amount of prison sentences are actually served, and how these offenders are affecting the prison population. Virginia arrest statistics presented in this report may include arrests made by federal law enforcement officials. However, Virginia conviction and sentencing data presented does not include drug offenders arrested in Virginia and processed in federal courts.

This report presents the best available information on drug crime which has been gathered by Virginia's criminal justice agencies during the past decade. However, the information analyzed for this report does carry certain limitations. Because of the covert nature of drug use and sales, it is not possible to accurately gauge the total amount of drug crime using criminal justice data. The number of reported drug arrests, for instance, does not measure all illegal drug activity over a given period, but rather measures only those who were detected and apprehended. Consequently, criminal justice data on drugs can sometimes be open to conflicting interpretations. For example, a decrease in drug arrests could imply a drop in drug use, or a shift in some law enforcement resources away from drug enforcement, or increased sophistication of drug offenders in concealing their activities, or some combination of all of these. Interpretation problems such as these are common when only one indicator of the drug crime problem is available. However, this report's use of multiple drug databases drawn from all segments of the criminal justice system over time do collectively illustrate clear trends that can effectively guide more informed policy decision-making by governmental officials.

To make sound and effective decisions on the many complex and difficult issues facing Virginia's criminal justice system as it confronts the problem of drug crime, policy-makers must be provided with reliable and comprehensive information which is objectively analyzed and clearly presented. With this as our objective, the Criminal Justice Research Center respectfully submits this report.

Summary of Selected Findings

■ The composition of drug arrests has changed dramatically over the past decade. In 1980, crimes involving marijuana accounted for approximately 80% of all drug arrests while crimes involving a Schedule I/II drug made up only 8% of drug arrests. In 1990, crimes involving marijuana accounted for only about 40% of all drug arrests while crimes involving a Schedule I/II drug made up over 50% of drug arrests (pg. 2).

■ The arrest rate for drug crimes involving a Schedule I/II drug increased dramatically in the late 1980s but slowed considerably in 1990. Arrest rates for the sale of a Schedule I/II drug increased by 280% from 1986 to 1989, but increased by only 1% in 1990. Arrest rates for possession of a Schedule I/II drug increased by 389% from 1986 to 1989, then abruptly declined by 22% in 1990 (pg. 2).

■ During the past decade, Virginia's drug arrest rate has been lower than the national average and compared favorably with that of several bordering states (pg. 5).

■ Although the urban and densely populated localities in the Commonwealth generally were found to have the highest total drug arrest rates, the localities with the five highest arrest rates were not those typically thought of as large metropolitan areas (pg. 7).

■ Cocaine, in both the powdered and crack form, was involved in more than two-thirds of the felony drug cases examined. Slightly more than one-half of the powdered cocaine seizure cases involved one gram or less of the drug, while most of the crack cocaine cases involved even smaller amounts—typically one-eighth of a gram (pg. 16).

■ The age and racial profile of drug offenders has shifted considerably over the past decade. In 1982, juveniles accounted for less than 1% of all arrests for the sale of a Schedule I/II drug, but by 1990 juveniles comprised 10% of these arrests. In 1985, the majority of those convicted for the possession of a Schedule I/II drug were white (58% white, 42% non-white). By 1989, the racial composition of these drug offenders had reversed itself and the majority were non-white (26% white, 74% non-white) (pg. 24).

■ Although the majority of drug offenders showed evidence of drug abuse, only about one-quarter of them had ever been in a drug treatment program. Rates of drug abuse were also high among those convicted of violent and property crimes (pg. 26).

■ Upon release from prison, the majority of convicted drug felons were rearrested for another crime and over 40% were convicted of a new offense. Previously incarcerated drug offenders were most likely to be rearrested for a new crime within their first six months of freedom (pg. 32).

■ Virginia's recidivism rate for drug offenders released from prison in 1983 was lower than that for most of the other states that report this information (pg. 37).

■ Of every 100 offenders arrested for the sale of a Schedule I/II drug in 1988, 40 received a prison sentence. Of every 100 offenders arrested for the possession of a Schedule I/II drug in 1988, only 11 received a prison sentence (pg. 41).

■ Dramatic increases in drug arrests have adversely affected the amount of time required for the courts to process cases. In 1989, an average of 30 weeks was required to process a drug case from arrest to sentencing. This represents a 14% increase (or one month) over the processing time required in 1985 (pg. 42).

■ The prison incarceration rate for those convicted of selling a Schedule I/II drug has been steadily increasing. Prison incarceration rates for these offenders increased from 57% in 1985 to 79% in 1989. By contrast, the prison incarceration rate for those convicted of possession of a Schedule I/II drug has been steady with the majority of these offenders receiving a non-prison term (pg. 46).

■ Juries consistently imposed longer sentences than judges for all types of felonies except first-degree murder, and the differences in sentence length were greatest in drug cases. The average jury sentence length for sale of Schedule I/II drugs was more than double that of judges. Jury sentence lengths for sale of marijuana were about 75% higher than those of judges (pg. 48).

■ First-time incarcerated Schedule I/II drug dealers released from prison in 1990 served on average only about one year, or 17% of their imposed sentences. This is a 50% decrease in time served as compared to the time served for first-time Schedule I/II drug dealers released in 1986. Marijuana dealers released in 1990 served more time in prison than Schedule I/II drug dealers (pg. 50).

■ While new prison commitments more than doubled from 1985 to 1989, drug commitments increased nearly seven-fold. In 1984, less than one in ten new prison commitments was a drug offender; in 1990, more than one of every four new commitments was a drug offender. Cocaine-related offenders were the single largest category of newly committed offenders (pg. 55).

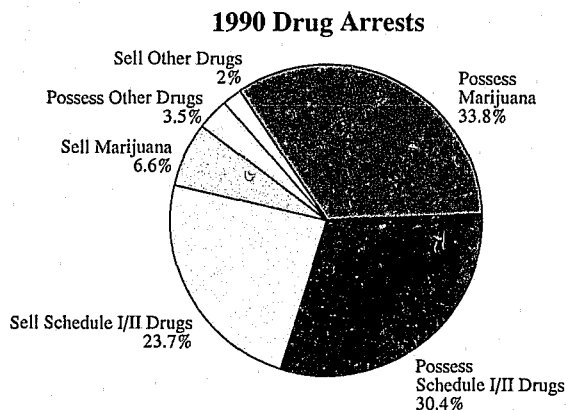
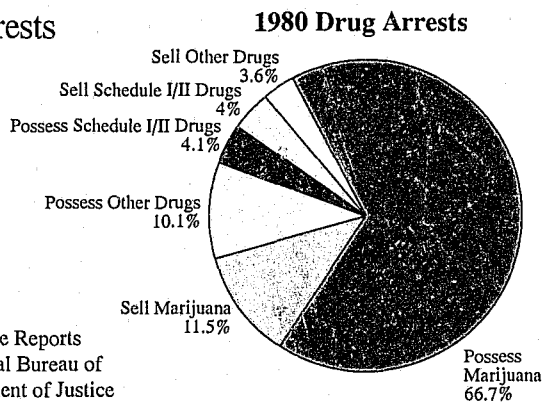
■ Discretionary parole grant rates for first-time drug offenders were much higher than those for first-time violent and other nonviolent offenders. In 1990, the parole grant rate for these drug offenders was 82%, as compared to about 63% for other nonviolent offenders and only about 23% for violent offenders. Virginia's discretionary parole grant rate for drug offenders has also been steadily increasing over the past several years. Discretionary parole grant rates for first-time drug offenders increased from 58% in 1985 to 82% in 1990 (pg. 59).





Display 1

Types of Drug Arrests (1980 & 1990)



Data Source: Uniform Crime Reports
for the United States, Federal Bureau of
Investigation, U.S. Department of Justice

Displays 1 & 2: Drug Arrest Trends in Virginia

It is impossible to count the total number of instances involving the illegal manufacture, sale or possession of drugs in Virginia. Many, perhaps most, of these instances go undetected. Nevertheless, drug policies cannot be formulated unless there is some measure of the extent of drug crime in the Commonwealth. One commonly used indicator of drug crime is data on arrests made for drug offenses. Data on the types of drugs seized in arrests provides information on what types of drugs are being illegally manufactured, sold and used in Virginia. Data on the number of arrests provides information about the prevalence of drug crime in the state. Although drug arrest data provides useful and necessary information, the data must be interpreted cautiously when making inferences about all drug crime in Virginia. Arrest data is an imprecise measure of illegal drug activity for several reasons, the most obvious one being that arrest data provides information on only offenses for which someone was arrested. It provides no information about offenses which remain undetected. Additionally, changes in arrest data over time may reflect changes in the priorities and resources of law enforcement agencies, rather than changes in the types and numbers of drug offenses actually being committed.

■ Display 1 presents the types of drug arrests made in Virginia in 1980 and in 1990 as a percentage of all drug arrests. The most dramatic change in arrests from 1980 to 1990 is the sharp decrease in the percentage of arrests involving marijuana and the corresponding sharp increase in the percentage of arrests involving Schedule I/II drugs. In 1980, arrests for the possession and sale of marijuana combined accounted for nearly 80% of all drug arrests, whereas by 1990 they accounted for only about 40% of all such arrests. Conversely, in 1980 arrests for possession and sale of

Schedule I/II drugs accounted for less than 10% of all drug arrests, whereas by 1990 they accounted for more than 50% of all such arrests. The percentage of arrests for possession and sale of other drugs (i.e., hallucinogens, amphetamines, synthetics, etc.) also decreased during this period, from nearly 14% of all drug arrests in 1980 to about 5% percent of all such arrests in 1990. As will be seen throughout this report, the rapid increase in arrests for Schedule I/II drug crimes and corresponding decrease in arrests for other drug crimes during the 1980s coincided with the introduction of crack cocaine and the beginning of the war on drugs.

■ Display 2 presents arrest rates for the sale of marijuana and Schedule I/II drugs and for the possession of marijuana and Schedule I/II drugs for each year from 1980 through 1990. Rates shown are arrests per 100,000 population. Yearly rates are not presented for other drugs which were included in Display 1 because they represented a relatively small percentage of drug arrests. Caution should be used when comparing data on the drug sales and drug possession graphs due to differences in the vertical scales used on each graph.

■ The drug sales graph shows that arrest rates for the sale of marijuana declined slightly over the ten-year period. Rates for the sale of Schedule I/II drugs increased slowly during the period 1980 to 1986, then sharply increased by 280% from 1986 to 1989. This increase abruptly slowed in 1990. From 1988 to 1989 the arrest rate for sales increased by 48%, whereas from 1989 to 1990 the arrest rate increased only by 1%. The drug possession graph shows that arrest rates for possession of marijuana declined by about one-third over the ten-year period. Rates for the possession of Schedule I/II drugs increased slowly during the period 1980 to 1986, then sharply increased by 389% from 1986 to 1989 before declining by about 22% in 1990.

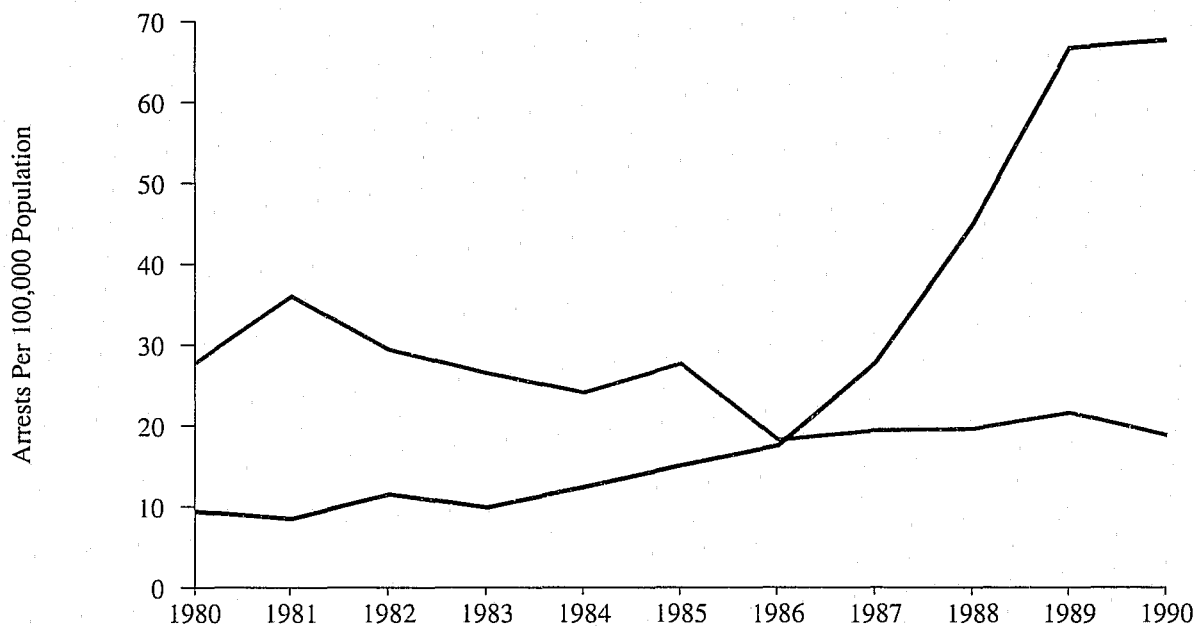
■ There are several possible explanations for the decrease in arrest rates for sale and possession of marijuana and the simultaneous increase in arrest rates for sale and possession of Schedule I/II drugs. During the 1980s the use of Schedule I/II drugs, particularly crack cocaine, became an increasing concern. Government at all levels allocated more resources to the drug problem in general as part of the drug war. Particular emphasis was placed on apprehending users and sellers of Schedule I/II drugs. As a result, arrest rates increased during the 1980s. Simultaneously, fewer resources were available to devote to the apprehension of marijuana offenders.

■ There are also several possible explanations for the leveling off or decreases of arrest rates for sale and possession of both marijuana and Schedule I/II drugs in 1990. One explanation is that use of these drugs has declined, but it is impossible to determine this given the previously mentioned cautions about interpreting changes in drug arrest data as changes in the level of illegal drug activity. It is also possible that increased law enforcement attention to this problem has caused activity involving these drugs to become more difficult to detect. For example, law enforcement's successful prosecution of "open air" drug markets may have forced drug dealers and users indoors where they are difficult to detect and arrest.

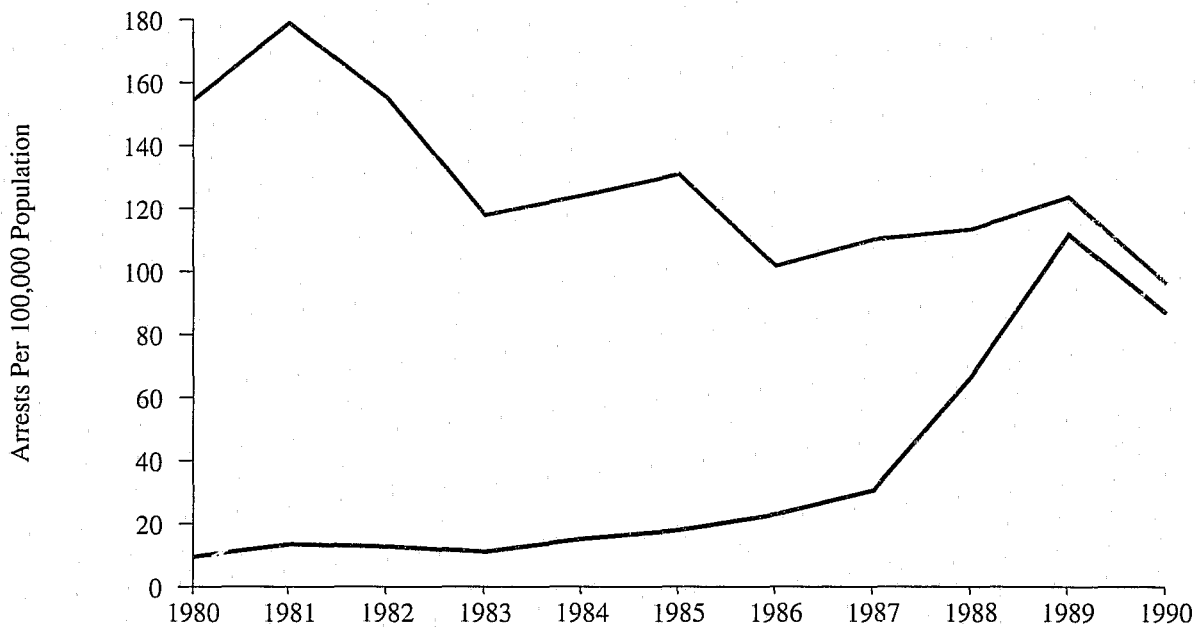
■ The dramatic increase in arrests for drug crimes has obvious implications for criminal justice policies and practices in the state. Increases in the number of drug arrests may lead to similar increases in the number of drug cases to be processed by the courts and in the number of individuals who will be incarcerated in jails and prisons. The dramatic increases in "hard" drugs has particularly important implications for the corrections system because, as will be seen later in this report, the courts are more likely to impose prison sentences for offenses involving these drugs than for offenses involving other drugs.

Display 2

Arrest Rates - Drug Sales (1980 -1990)



Arrest Rates - Drug Possession (1980-1990)



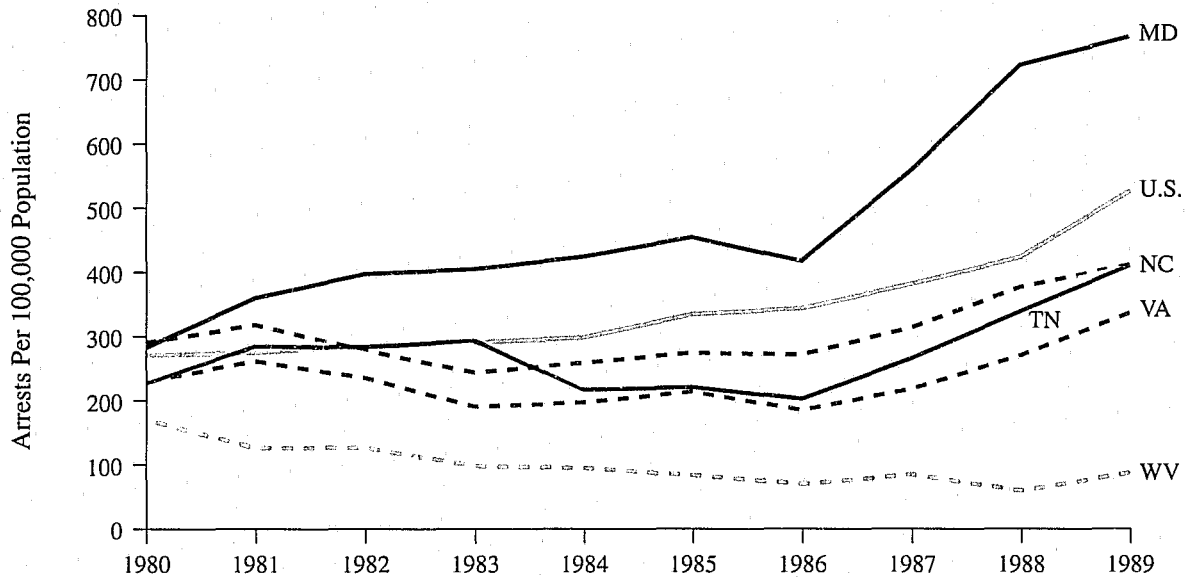
Marijuana
 Schedule I/II Drugs

Data Source: Uniform Crime Reports for the United States, Federal Bureau of Investigation, U.S. Department of Justice

Display 3

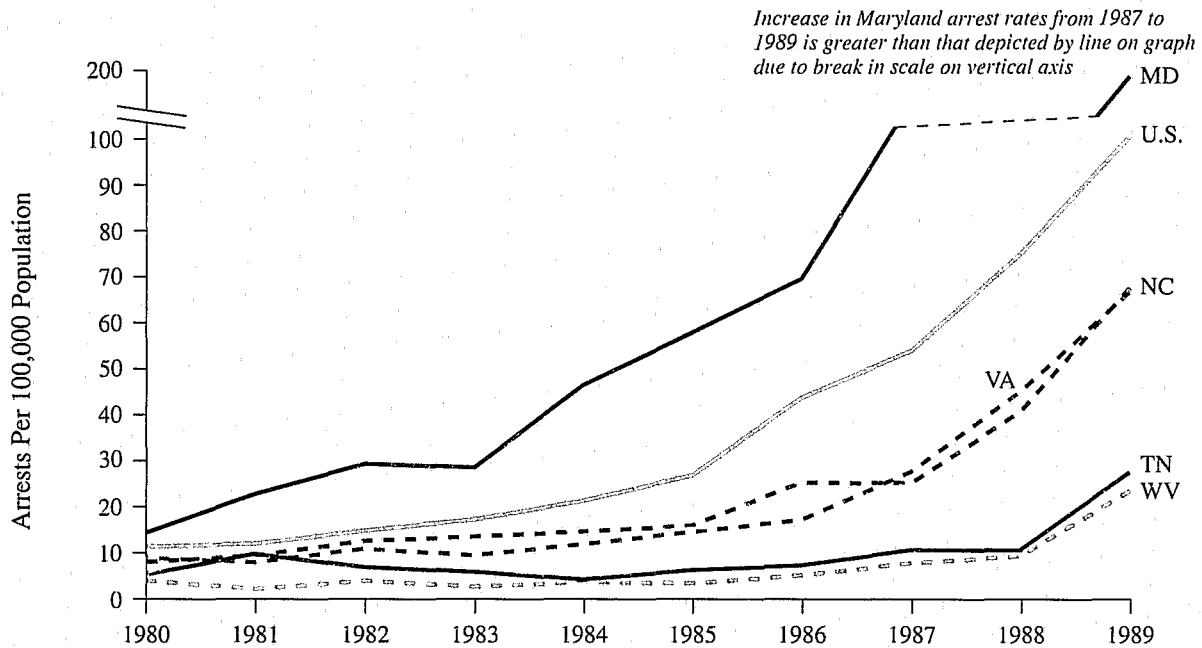
Arrest Rates - All Drugs (1980 - 1989)

Virginia, Border States* and U.S.



Arrest Rates - Sale of Schedule I/II Drugs (1980 - 1989)

Virginia, Border States* and U.S.



*Kentucky excluded due to incomplete data

— Maryland — United States - - - North Carolina — Tennessee
 - - - Virginia - - - West Virginia

Data Source: Uniform Crime Reports for the United States, Federal Bureau of Investigation, U.S. Department of Justice; Crime in Virginia, Uniform Crime Reporting Section, Virginia Department of State Police

Display 3: Arrest Rates for Virginia, Border States and the U.S.

The previous display showed alarming increases in Virginia's arrest rates for drug sales and possession over the last five years. One way to gain some perspective on these changes is to compare Virginia's arrest rates for drug crimes to the United States overall, and to those of its neighboring states. Comparisons such as these permit an assessment of the extent to which the drug problem in Virginia is comparable to that in other states.

■ Display 3 shows the arrest rate (per 100,000 population) for all drug crime, from 1980 through 1989, for Virginia, the U.S. as a whole, and four states which border Virginia: Maryland, North Carolina, Tennessee and West Virginia.¹ Data for 1990 is not included here, since this data was unavailable for states other than Virginia.

■ Compared with the other states and the U.S., Virginia's drug arrest rate for all drugs was the second lowest in every year from 1980 to 1989; only West Virginia showed a lower rate. The Virginia rate remained well below the national average throughout the decade.

■ As shown in Display 2, Virginia experienced a dramatic upswing in total drug arrests beginning in 1986. Display 3 reveals that this same pattern occurred in almost all of the states and the U.S. The sharpest rise occurred in Tennessee, whose arrest rate doubled from 1986 to 1989. Both Maryland and Virginia increased by about 80%, while rates for the U.S. and North Carolina increased by about 50% over the three-year period. Virginia's arrest rate increased by an average of 21% per year from 1986 through 1989.

■ West Virginia is the only state whose arrest rates have not increased over the decade. In fact, West Virginia's arrest rates declined steadily from 1980 through 1986, and dropped again between 1987 and 1988. The pattern for West Virginia changes, however, when the most serious drug crime, sale of Schedule I/II drugs, is considered.

■ The observed increase in Virginia's drug arrest rates after 1986 was largely due to arrests for Schedule I/II drugs (see Display 2). Display 3 shows arrest rates for Virginia, the U.S. and bordering states for sale of a Schedule I/II drug. This display shows even more dramatically the rapid rise in arrest rates which occurred in the latter part of the decade. In general, the rise seems to begin earlier for Schedule I/II arrests than for overall drug arrests. The U.S., for example, experienced a 62% increase in arrest rates from 1985 to 1986, its largest of the time period.

■ Arrest rates for sale of Schedule I/II drugs increased significantly after 1985 for all states and the entire U.S. In all cases, the arrest rate in 1989 was at least triple that in 1986. West Virginia showed the highest increase of all the states examined: in 1989, West Virginia's arrest rate for sale of Schedule I/II drugs was almost seven times higher than it was in 1985. Virginia experienced the next highest increase, with the 1989 arrest rate being over four times the 1985 rate. In 1987 and 1988, Virginia led all states examined in the percentage increase in the arrest rate for sale of Schedule I/II drugs. Arrest rates for Tennessee and West Virginia more than doubled from 1988 to 1989.

■ Overall, Maryland showed the highest arrest rates for sale of a Schedule I/II drug.² Among the states examined, Virginia's rate was about average for all years from 1980 through 1989. Once again, West Virginia's rate was the lowest of all the states examined. The explanation for these states' relative rankings undoubtedly relates to their degree of urbanization. In 1989, for example, about 95% of Maryland's population lived in cities and suburban counties (about half of Maryland's citizens lived in Baltimore and its surrounding counties). By contrast, only 53% of West Virginia's residents lived in urban areas.³ Metropolitan areas, with their higher population density and greater concentration of the economically disadvantaged, tend to exhibit high crime rates. Virginia was the second most urbanized state of those examined: in 1989, 80% of the Commonwealth's citizens lived in urban areas. Given this, Virginia's relatively low total drug arrest rate, compared with its bordering states, provides cause for optimism.

■ The growth in arrest rates from 1980 to 1989 for all border states and the U.S. is startling. For the U.S. as a whole, arrest rates for sale of a Schedule I/II drug in 1989 were almost nine times larger than what they were in 1980. Maryland showed the largest increase, with 1989 rates over 13 times larger than 1980 rates. By contrast, Virginia's arrest rate in 1989 was seven times larger than what it was in 1980.

■ Sale of Schedule I/II drugs appears to underlie the pattern of arrest rates over the years. This category of drug crime, however, represents only about 24% of all drug offenses. Looking at arrest rates for all drug crime could lead one to underestimate the extent to which rates have been increasing. As law enforcement resources are shifted toward more serious crime, arrests for sale of Schedule I/II drugs may be the best single indicator of the extent of the drug problem and the response of the criminal justice system.

■ As noted in the previous display, interpretation of drug arrest data is difficult. Specifically, it is impossible to distinguish between changes in the degree of criminal activity and changes in the level of law enforcement activity. The high degree of uniformity in the increase in arrest rates across all the states examined suggests that this data does in fact reflect changing drug crime rates.

■ The Federal Anti-Drug Abuse Act, passed in 1986, provided for the disbursement of federal anti-drug abuse funds to the states. Since federal fiscal year 1987, Virginia has received almost \$27 million, which has been matched by the state and localities with approximately \$9 million. It would be expected that at least part of the rise in drug arrest rates is due to these increased resources available for law enforcement. It should be noted, however, that in Virginia, fiscal year 1987 monies were not actually provided to the localities until early in calendar year 1988. As the displays show, the rise in drug arrests began earlier than this, suggesting that the Drug Abuse Act was an appropriate response from the federal government to alarming increases in drug crime rates.

■ Later in this report, the legislative responses of the 50 states to the drug problem will be compared and contrasted. While the states vary in the methods by which they are attempting to deal with the situation, it is apparent from the current display that drug crime is a national problem, and that the extent of the problem in Virginia is similar to that of other states. Virginia's policy-makers can therefore ally themselves with those in similar positions in the federal government and other neighboring states in an effort to develop strategies to deal with the growing drug problem in the state.

1. Complete data for Kentucky was unavailable, therefore Kentucky has been excluded.

2. Note the break in the vertical axis scale on the graph depicting arrest rates for the sale of Schedule III drugs.

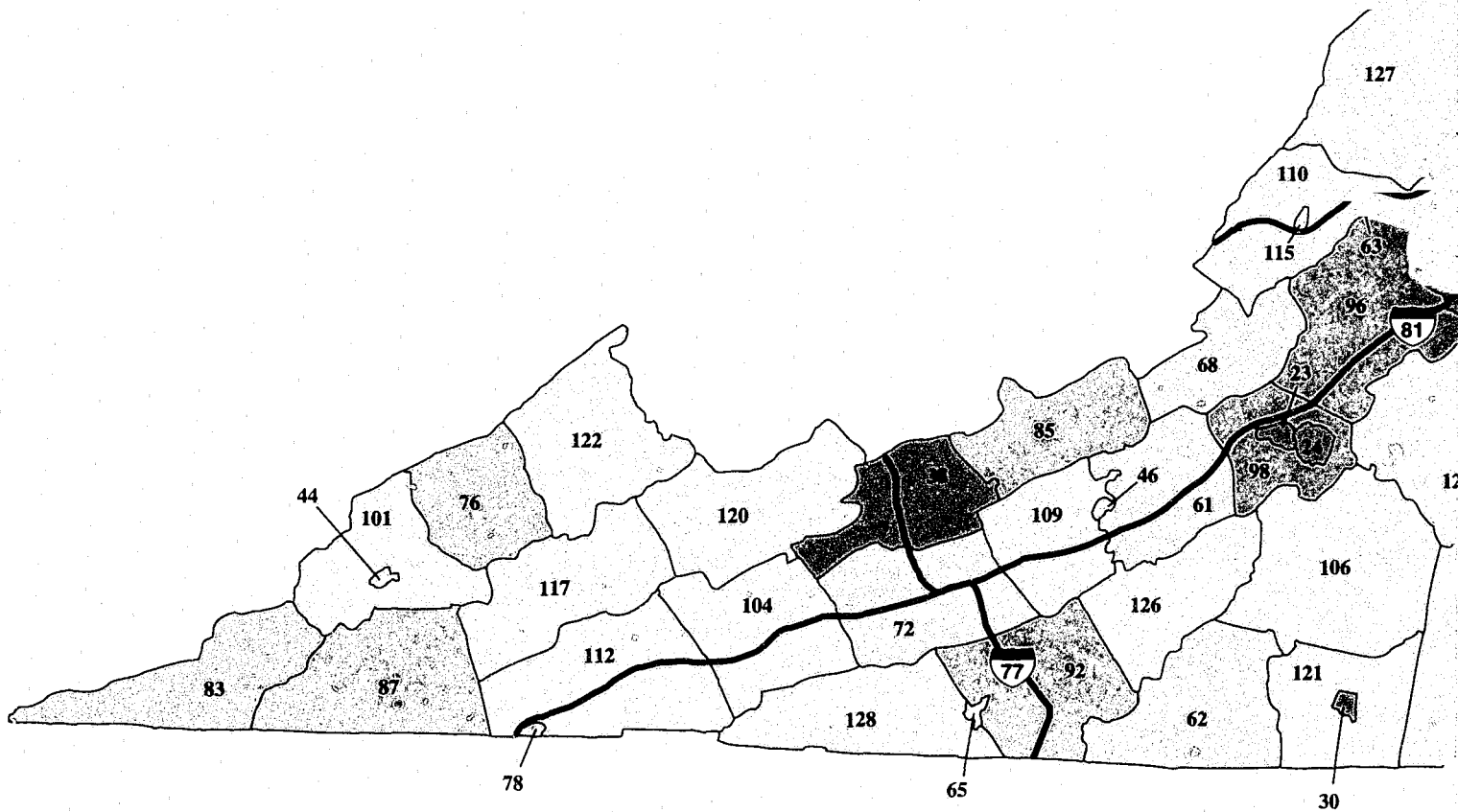
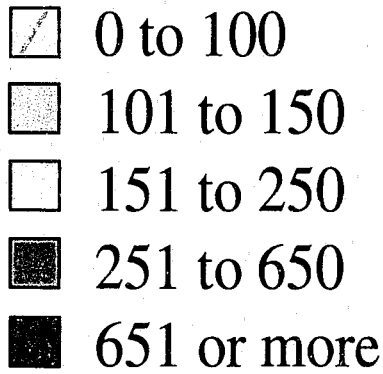
3. The figures are based on July 1, 1989 Bureau of the Census provisional estimates, as reported in *Crime in the United States: 1989*, U.S. Department of Justice, 1990.

Display 4

Drug Arrest Rate Map

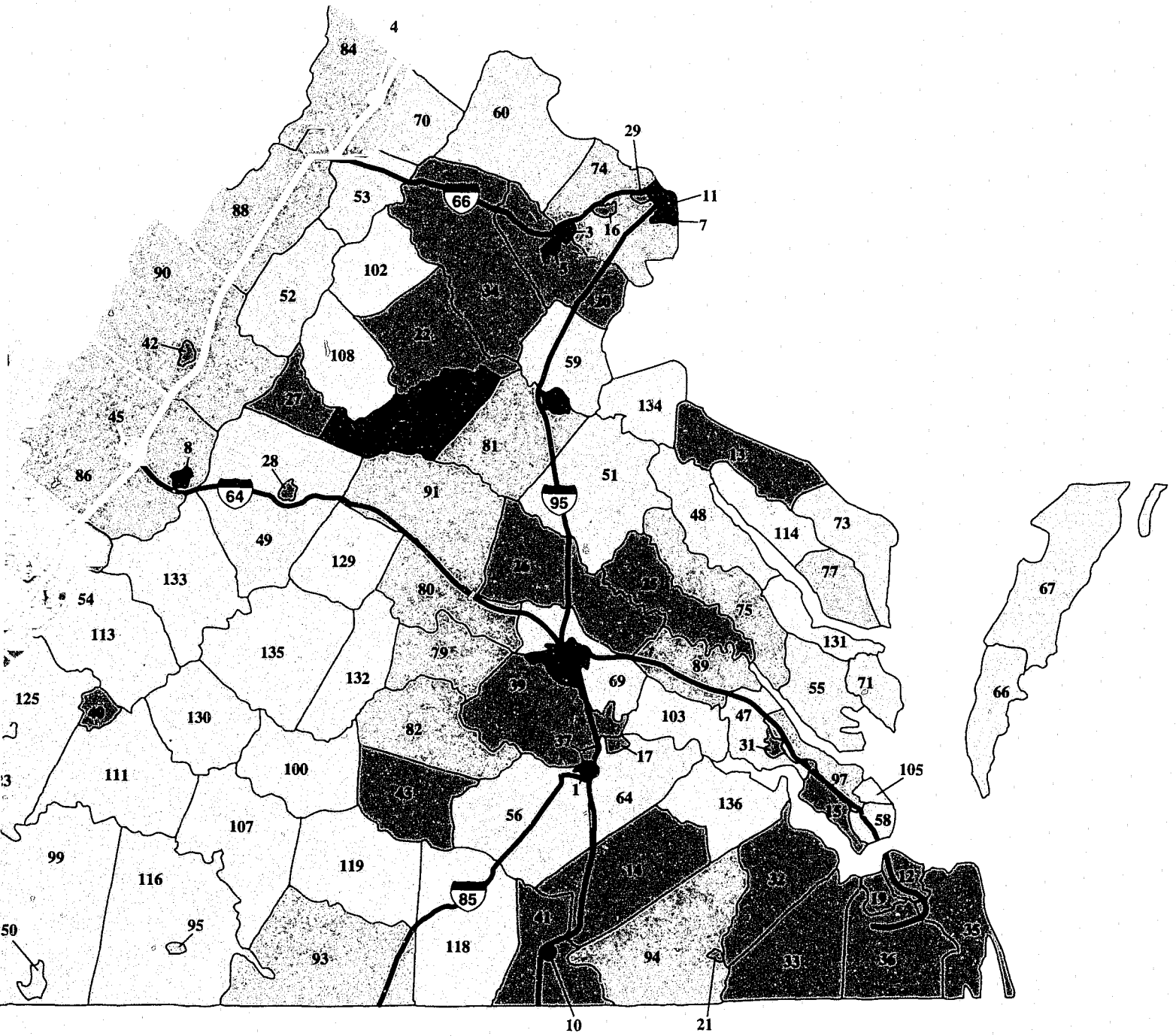
Display 4 - Drug Arrest Rates Across Virginia (198

Drug Arrests Per 100,000 Population



The numbers designating each jurisdiction represent that jurisdiction's overall drug crime arrest rate rank among Virginia's 136 counties and cities.

8 - 1990)



during 1988-90

Data Source: Crime in Virginia, Uniform Crime Reporting Section, Virginia Department of State Police

Displays 4 & 5: Drug Arrest Rates for Virginia Localities

Display 3 demonstrated how comparing drug arrest rates across states provides some perspective on the drug problem in Virginia. Similarly, comparing drug arrest rates for different Virginia localities and determining their relative rates can provide a better understanding of drug crime in the Commonwealth. For example, this type of information can allow state policy-makers to ensure that resources are provided to the areas where they are most needed.

Displays 4 and 5 present arrest rates for drug crimes in Virginia localities. The arrest rates used in both displays are arrests per 100,000 population and are based on a three-year average (1988-1990). A three-year average rate provides a more stable measure of drug crime arrests than rates based on a single year of data. The use of arrest rates, rather than number of arrests, allows drug arrests in highly populated localities to be compared with those in smaller localities using a standardized measure.

■ The map in Display 4 illustrates how each of Virginia's 95 counties and 41 independent cities rank on their arrest rates for all drug crimes when compared to all 136 localities in the state. For example, the city of Petersburg, with the highest arrest rate of 2,016 per 100,000 people, ranks number 1 on the map, while Surry County, with an arrest rate of only 10 per 100,000 people, ranks number 136 on the map. Colors on the map indicate where each locality falls when the arrest rates are divided into five groups. Darker colors indicate higher arrest rates. Each of the first four groups represents about 25% of Virginia's localities, while the fifth group represents the 11 localities with the highest arrest rates. Arrest rates based on residential population figures may appear inflated for areas which have large influxes of nonresidents such as tourists, commuters, military personnel, or students.

■ Overall, the urban and densely populated localities had the highest total drug arrest rates. However, the localities with the top five rankings were not those typically thought of as large metropolitan areas. These five were, in order of rank, Petersburg, Fredericksburg, Manassas Park, Winchester and Manassas. Additionally, some highly populated areas, such as Fairfax County, had relatively low overall drug arrest rates. Generally, localities in the northern, central, and eastern regions of the state had the highest drug arrest rates, and those in the western and southwestern regions had the lowest drug arrest rates. Counties such as Buckingham (135th), Nelson (133rd), Grayson (128th), Bath (127th), Floyd (126th) and Buchanan (122nd) had some of the lowest drug arrest rates in the Commonwealth.

■ Other communities with relatively high rankings included the cities of Richmond (6th), Alexandria (7th), Waynesboro (8th), Orange County (9th), and the city of Emporia (10th). Some localities such as Alexandria and Orange County have high drug arrest rates due, in part, to special drug task forces which have targeted "open-air" or "drive-by" drug markets. Many of these task forces were federally funded under the Anti-Drug Abuse Act of 1986 and involve local, state, and federal law enforcement agencies. Some of these task forces have multi-jurisdictional authority, which allows information and resources to be shared among several localities. Other communities with relatively high drug arrest rankings that use special task forces include Westmoreland County (13th), the cities of Salem (23rd) and Roanoke (24th) and Hanover County (26th).

■ Localities with high drug arrest rates are often located adjacent to Interstate highways. Many of the Virginia localities with high drug arrest rates are traversed by Interstates 95, 64 and, to a somewhat lesser extent, Interstate 81. Some law enforcement officials believe that proximity to an interstate or other major highway increases drug arrest rates because these highways are used by drug dealers to transport drugs across the country. Localities along the interstates may serve as convenient drop-off or transport points for drug traffickers, and therefore some drug activity may spill over into localities which otherwise would not have a major drug problem.

■ Display 5 provides a more detailed breakdown of drug arrest rates for Virginia localities. Localities are divided into four population size groups: less than 12,000 people, 12,000-25,000 people, 25,000-100,000 people and more than 100,000 people. Grouping localities by population size allows for easier comparisons of arrest rates among localities of similar size. Each locality's arrest rate and relative ranking is shown for all drug crimes combined and for each of the four most common drug crimes: sale of Schedule I/II drugs, possession of Schedule I/II drugs, sale of marijuana and possession of marijuana. Each locality's arrest rate and ranking is shown in two ways: first, its rank within its population group and, second (in parentheses), its rank compared to all other localities in the state. By presenting arrest rates for specific drug offenses, it is possible to demonstrate which types of offenses contribute most to the locality's overall drug arrest rate.

■ Generally, the urban areas of the state have the highest arrest rates for Schedule I/II drug offenses. This finding is consistent with other research and law enforcement intelligence which identifies inner-city neighborhoods as target areas for peddling hard drugs such as

crack cocaine and heroin. With few exceptions, the localities which ranked highest in overall drug arrest rates also ranked highest for arrests involving Schedule I/II drugs. Of the seven localities which ranked highest in overall drug arrest rates, five also ranked the highest for arrest rates involving Schedule I/II drugs.

■ Although overall drug arrest rates were low for counties in the west and south, their arrest rates for manufacturing, distributing and selling marijuana were among the highest in the state. Bland county, which ranked 38th for overall drug arrest rate, ranked first in the state for the rate of marijuana sales. Similarly, the counties of Craig and Lee ranked fourth and ninth, respectively, in arrest rates for marijuana sales arrests. These high rates may reflect the fact that rural and mountainous localities such as these provide growers and distributors with the land and seclusion they seek for the production of marijuana. Central and Southside localities such as the city of Emporia (ranked 2nd), and Charlotte, Greenville, Sussex and Dinwiddie counties also had high marijuana sales arrest rates.

■ Arrest rates for possession of marijuana were high for localities in the northern, central and eastern regions of the state. Localities with colleges and universities, such as Lexington and Harrisonburg, almost always had higher marijuana possession arrest rates than other localities. Such communities provide drug dealers with the opportunity to sell drugs to large numbers of young people within a concentrated area. There are other factors which, depending on the locality, may produce high arrest rates for marijuana possession. For example Salem, ranked 9th for this offense, routinely makes drug enforcement sweeps at concerts or other special events held at the local civic center.

■ Displays 4 and 5 reveal several clear patterns regarding drug arrest rates in Virginia. The highest drug arrest rates occurred in localities in the densely populated urban areas of Virginia's "Golden Crescent," which stretches from northern Virginia southeast to the Virginia Beach region. With few exceptions, the less populated rural localities of the state had lower drug arrest rates. High drug arrest rates may also be associated with high violent crime arrest rates. Of the twenty localities with the highest drug arrest rates, ten also had the highest violent crime rates as shown in *Violent Crime in Virginia*. Further information about the link between drug crime and other types of crime is presented later in this report.

Display 5

Drug Arrest Rates (1988-1990) Localities With Populations Less Than 12,000

Locality	All Drug		Sell Schedule I/II		Sell Marijuana		Possess Schedule I/II		Possess Marijuana	
	Rate	Rank*	Rate	Rank*	Rate	Rank*	Rate	Rank*	Rate	Rank*
Amelia	132.89	23 (82)	22.78	14 (67)	45.56	5 (14)	15.19	17 (78)	49.36	28 (93)
Bath	52.02	36 (127)	13.00	26 (93)	13.00	23 (86)	6.50	33 (108)	19.51	36 (125)
Bedford City	58.97	35 (125)	5.36	34 (117)	.00	38 (131)	.00	35 (127)	53.61	26 (89)
Bland	281.92	9 (38)	10.07	30 (102)	125.86	1 (1)	40.27	10 (46)	100.68	14 (50)
Buena Vista	202.16	13 (54)	.00	39 (131)	25.27	13 (49)	.00	35 (127)	176.89	6 (21)
Charles City	91.18	27 (103)	30.39	11 (54)	5.07	34 (123)	10.13	24 (93)	45.59	29 (98)
Charlotte	85.55	29 (107)	17.11	21 (81)	39.92	6 (19)	8.55	28 (100)	19.96	35 (123)
Clarke	169.54	18 (70)	14.87	23 (86)	23.79	15 (54)	20.82	15 (63)	98.15	16 (53)
Clifton Forge	182.94	15 (63)	74.53	6 (27)	13.55	22 (83)	6.78	32 (105)	81.31	18 (64)
Covington	76.50	32 (115)	13.50	25 (91)	.00	38 (131)	.00	35 (127)	63.00	21 (75)
Craig	172.12	17 (68)	31.29	10 (51)	86.06	3 (4)	.00	35 (127)	54.76	24 (85)
Cumberland	40.99	39 (132)	8.20	31 (107)	8.20	31 (116)	4.10	34 (117)	20.50	34 (121)
Emporia	698.15	2 (10)	76.16	4 (24)	101.55	2 (2)	209.44	2 (10)	310.99	2 (8)
Essex	230.41	12 (48)	78.04	3 (23)	22.30	17 (59)	11.15	23 (89)	100.34	15 (51)
Falls Church	337.33	7 (29)	17.04	22 (82)	20.44	18 (66)	129.48	4 (18)	149.93	10 (31)
Fluvanna	44.51	37 (129)	13.91	24 (89)	5.56	33 (122)	8.35	29 (101)	16.69	38 (130)
Franklin City	394.11	4 (21)	128.51	2 (14)	25.70	12 (48)	154.22	3 (15)	85.68	17 (61)
Galax	179.26	16 (65)	.00	39 (131)	9.69	27 (105)	9.69	25 (95)	150.19	9 (30)
Greene	351.95	6 (27)	17.42	19 (79)	10.45	25 (100)	66.21	7 (31)	254.38	3 (10)
Greenville	270.06	10 (41)	17.31	20 (80)	38.08	7 (24)	69.24	6 (29)	145.41	11 (32)
Highland	59.63	34 (124)	11.93	28 (98)	11.93	24 (92)	.00	35 (127)	35.78	31 (107)
King George	30.33	40 (134)	3.79	37 (123)	3.79	36 (127)	15.16	18 (79)	7.58	39 (134)
King William	380.17	5 (25)	67.09	7 (28)	33.54	9 (30)	55.91	9 (41)	176.11	7 (22)
King and Queen	145.14	21 (75)	3.63	38 (124)	14.51	20 (79)	7.26	31 (103)	119.74	13 (42)
Lancaster	143.17	22 (77)	74.57	5 (26)	17.90	19 (69)	23.86	13 (61)	26.84	33 (117)
Lexington	193.34	14 (57)	19.33	16 (75)	4.83	35 (126)	14.50	20 (81)	154.67	8 (27)
Lunenburg	69.85	33 (119)	11.18	29 (99)	13.97	21 (81)	.00	35 (127)	44.71	30 (99)
Madison	85.37	30 (108)	23.55	13 (66)	8.83	30 (112)	14.72	19 (80)	29.44	32 (114)
Manassas Park	1331.50	1 (3)	18.95	17 (76)	56.86	4 (10)	298.52	1 (7)	696.55	1 (1)
Mathews	166.93	19 (71)	30.35	12 (55)	34.15	8 (29)	37.94	11 (49)	60.70	22 (78)
Middlesex	42.14	38 (131)	7.66	32 (111)	7.66	32 (118)	7.66	30 (102)	19.15	37 (126)
New Kent	119.39	24 (89)	18.37	18 (77)	24.49	14 (53)	9.18	26 (98)	64.29	20 (71)
Northumberland	160.70	20 (73)	32.14	9 (49)	9.64	28 (107)	64.28	8 (34)	51.42	27 (92)
Norton	249.87	11 (44)	22.05	15 (68)	29.40	11 (36)	22.05	14 (62)	139.63	12 (33)
Poquoson	90.57	28 (105)	12.08	27 (97)	3.02	37 (129)	12.08	21 (86)	54.34	25 (86)
Rappahannock	93.35	26 (102)	.00	39 (131)	10.37	26 (103)	15.56	16 (77)	67.42	19 (69)
Richmond Co.	77.30	31 (114)	63.66	8 (29)	.00	38 (131)	9.09	27 (99)	4.55	41 (136)
South Boston	107.34	25 (95)	4.67	36 (120)	9.33	29 (109)	32.67	12 (58)	60.67	23 (79)
Surry	10.54	41 (136)	5.27	35 (118)	.00	38 (131)	.00	35 (127)	5.27	40 (135)
Sussex	499.05	3 (14)	159.83	1 (11)	32.62	10 (31)	75.02	5 (25)	231.59	4 (12)
Williamsburg	327.54	8 (31)	5.70	33 (114)	22.79	16 (56)	11.39	22 (88)	205.07	5 (16)

* Rank within population group (Rank within entire state)

Display 5 cont.

Drug Arrest Rates (1988-1990) Localities With Populations Greater Than 12,000 and Less Than 25,000

Locality	All Drug		Sell Schedule I/II		Sell Marijuana		Possess Schedule I/II		Possess Marijuana	
	Rate	Rank*	Rate	Rank*	Rate	Rank*	Rate	Rank*	Rate	Rank*
Alleghany	82.55	31 (110)	.00	35 (131)	4.86	36 (125)	12.14	24 (85)	63.13	23 (74)
Appomattox	42.41	35 (130)	2.65	32 (128)	15.90	30 (74)	2.65	32 (120)	18.55	34 (127)
Bristol	141.06	23 (78)	34.81	17 (48)	38.47	9 (22)	5.50	30 (115)	43.97	27 (101)
Brunswick	72.66	32 (118)	2.08	33 (129)	24.91	23 (50)	6.23	28 (111)	39.45	28 (104)
Buckingham	21.10	37 (135)	7.91	27 (110)	.00	36 (131)	.00	35 (127)	13.19	37 (132)
Caroline	218.48	17 (51)	49.50	13 (36)	29.02	16 (38)	73.40	8 (27)	59.74	24 (81)
Colonial Heights	282.61	13 (37)	27.48	19 (61)	27.48	20 (42)	70.65	9 (28)	153.08	9 (28)
Dickenson	143.28	22 (76)	3.45	31 (125)	36.25	12 (26)	5.18	31 (116)	63.87	21 (72)
Dinwiddie	197.77	19 (56)	75.34	12 (25)	21.97	27 (61)	65.92	11 (32)	20.40	33 (122)
Fairfax City	491.41	7 (16)	79.15	11 (22)	41.23	7 (18)	92.35	6 (22)	220.97	8 (13)
Floyd	54.83	33 (126)	.00	35 (131)	24.67	24 (51)	.00	35 (127)	24.67	32 (119)
Fredericksburg	1552.85	1 (2)	261.83	2 (4)	46.11	5 (13)	778.90	1 (2)	462.73	3 (5)
Giles	129.45	26 (85)	9.66	25 (104)	38.64	8 (21)	9.66	26 (96)	63.76	22 (73)
Goochland	136.38	25 (80)	12.18	23 (96)	12.18	33 (89)	19.48	21 (67)	87.67	17 (58)
Grayson	46.34	34 (128)	4.03	30 (122)	22.16	26 (60)	2.01	34 (123)	16.12	36 (131)
Hopewell	474.20	8 (17)	175.22	5 (8)	36.16	13 (27)	73.70	7 (26)	119.59	14 (43)
Isle of Wight	308.80	12 (32)	142.31	8 (13)	37.59	11 (25)	33.56	18 (57)	88.61	16 (57)
Louisa	114.82	28 (91)	26.62	20 (62)	28.29	17 (39)	9.98	25 (94)	46.59	26 (97)
Manassas	790.87	3 (5)	177.46	4 (7)	20.96	29 (64)	185.84	5 (13)	332.56	5 (7)
Martinsville	333.82	11 (30)	168.79	6 (9)	22.50	25 (57)	60.01	13 (36)	82.52	18 (62)
Nelson	31.66	36 (133)	.00	35 (131)	10.55	34 (99)	2.64	33 (121)	18.47	35 (128)
Northampton	178.44	21 (66)	88.03	10 (21)	21.41	28 (63)	35.69	16 (54)	30.93	30 (112)
Nottoway	256.05	14 (43)	31.17	18 (52)	31.17	14 (34)	69.02	10 (30)	120.23	13 (41)
Orange	714.96	5 (9)	143.63	7 (12)	47.88	4 (12)	261.73	3 (8)	244.17	7 (11)
Page	213.30	18 (52)	11.06	24 (100)	26.86	22 (44)	34.76	17 (56)	134.30	12 (37)
Patrick	184.48	20 (62)	5.65	28 (115)	43.30	6 (16)	16.94	23 (74)	101.65	15 (48)
Powhatan	138.55	24 (79)	24.58	21 (64)	29.05	15 (37)	20.11	20 (66)	53.63	25 (87)
Prince Edward	94.45	30 (100)	47.22	15 (40)	13.22	32 (84)	5.67	29 (113)	28.33	31 (116)
Radford	239.14	16 (46)	36.79	16 (46)	57.48	2 (8)	6.90	27 (104)	135.66	10 (35)
Rockbridge	443.64	9 (18)	1.82	34 (130)	38.18	10 (23)	40.00	14 (47)	358.18	4 (6)
Salem	385.64	10 (23)	5.51	29 (116)	27.55	19 (41)	19.28	22 (68)	305.76	6 (9)
Scott	123.85	27 (87)	8.08	26 (109)	28.27	18 (40)	1.35	35 (126)	79.42	19 (65)
Southampton	109.26	29 (94)	24.07	22 (65)	7.41	35 (120)	37.04	15 (51)	38.89	29 (106)
Staunton	239.58	15 (45)	49.01	14 (38)	27.23	21 (43)	24.50	19 (60)	134.77	11 (36)
Waynesboro	730.66	4 (8)	128.09	9 (15)	63.14	1 (6)	64.95	12 (33)	465.46	2 (4)
Westmoreland	515.78	6 (13)	213.43	3 (5)	15.56	31 (75)	208.98	4 (11)	68.92	20 (68)
Winchester	1315.33	2 (4)	275.55	1 (2)	53.28	3 (11)	455.19	2 (3)	487.16	1 (2)

* Rank within population group (Rank within entire state)

Display 5 cont. **Drug Arrest Rates (1988-1990) Localities With Populations Greater Than 25,000 and Less Than 100,000**

Locality	All Drug		Sell Schedule I/II		Sell Marijuana		Possess Schedule I/II		Possess Marijuana	
	Rate	Rank*	Rate	Rank*	Rate	Rank*	Rate	Rank*	Rate	Rank*
Accomack	173.79	18 (67)	60.36	5 (30)	8.33	39 (114)	55.15	9 (42)	47.87	30 (94)
Albemarle	222.17	10 (49)	8.10	38 (108)	9.11	37 (111)	37.45	14 (50)	157.89	5 (26)
Amherst	77.67	38 (113)	9.14	37 (106)	9.14	36 (110)	11.42	28 (87)	46.83	31 (96)
Augusta	124.47	23 (86)	9.48	36 (105)	10.74	30 (97)	9.48	32 (97)	90.35	15 (56)
Bedford Co.	60.30	44 (123)	16.24	27 (85)	13.14	22 (85)	.77	44 (127)	29.38	40 (115)
Botetourt	104.40	28 (96)	27.75	17 (60)	35.68	7 (28)	6.61	33 (106)	34.36	36 (109)
Buchanan	68.43	43 (122)	4.75	41 (119)	20.91	15 (65)	3.80	39 (118)	20.91	42 (120)
Campbell	80.58	36 (111)	7.64	39 (112)	4.86	42 (124)	11.11	29 (90)	54.88	27 (84)
Carroll	114.58	26 (92)	16.88	25 (83)	21.71	14 (62)	6.03	37 (112)	62.72	23 (77)
Charlottesville	340.24	4 (28)	99.98	3 (19)	17.74	18 (70)	153.99	2 (16)	62.89	22 (76)
Culpeper	387.60	2 (22)	51.00	7 (34)	11.48	28 (95)	132.60	3 (17)	175.95	4 (23)
Danville	221.99	11 (50)	42.16	8 (42)	1.98	44 (130)	35.57	16 (55)	136.36	6 (34)
Fauquier	300.14	6 (34)	164.17	2 (10)	43.39	4 (15)	36.16	15 (53)	52.79	29 (91)
Franklin Co.	86.24	34 (106)	10.05	35 (103)	10.88	29 (96)	15.91	24 (75)	40.19	33 (103)
Frederick	130.30	22 (84)	13.59	30 (90)	12.79	23 (87)	18.39	20 (70)	81.54	18 (63)
Gloucester	199.41	13 (55)	29.29	13 (56)	39.43	6 (20)	20.28	17 (64)	103.65	11 (47)
Halifax	76.23	39 (116)	28.03	16 (59)	25.78	10 (46)	5.61	38 (114)	16.82	44 (129)
Hanover	363.39	3 (26)	35.40	11 (47)	43.14	5 (17)	49.23	10 (43)	216.27	2 (14)
Harrisonburg	269.15	8 (42)	40.60	9 (43)	10.44	32 (101)	17.40	21 (71)	177.50	3 (20)
Henry	68.79	42 (121)	13.30	31 (92)	8.67	38 (113)	1.73	42 (124)	25.44	41 (118)
James City	238.52	9 (47)	32.01	12 (50)	10.33	33 (104)	91.90	5 (23)	99.12	13 (52)
Lee	132.80	21 (83)	14.05	29 (88)	57.46	3 (9)	6.38	36 (110)	53.63	28 (88)
Loudoun	188.63	15 (60)	14.28	28 (87)	15.14	20 (77)	48.89	11 (44)	71.82	20 (67)
Lynchburg	272.40	7 (40)	39.82	10 (44)	22.34	13 (58)	56.81	8 (40)	129.16	7 (40)
Mecklenburg	113.58	27 (93)	16.87	26 (84)	20.24	16 (67)	20.24	18 (65)	55.11	26 (83)
Montgomery	187.64	16 (61)	29.05	14 (57)	25.72	11 (47)	12.38	26 (83)	116.68	8 (44)
Petersburg	2016.34	1 (1)	606.41	1 (1)	72.13	1 (5)	850.49	1 (1)	474.73	1 (3)
Pittsylvania	95.35	31 (99)	12.83	33 (95)	11.71	26 (93)	12.27	27 (84)	55.76	25 (82)
Prince George	182.27	17 (64)	21.73	19 (69)	9.66	34 (106)	59.15	7 (37)	86.91	16 (59)
Pulaski	83.82	35 (109)	20.00	23 (73)	14.29	21 (80)	10.48	31 (92)	29.53	39 (113)
Roanoke Co.	103.71	30 (98)	4.27	42 (121)	10.67	31 (98)	18.78	19 (69)	65.30	21 (70)
Rockingham	118.07	25 (90)	2.94	44 (127)	3.52	43 (128)	15.86	25 (76)	92.23	14 (55)
Russell	75.56	40 (117)	3.19	43 (126)	26.61	9 (45)	2.13	41 (122)	35.12	35 (108)
Shenandoah	121.25	24 (88)	10.92	34 (101)	15.29	19 (76)	6.55	34 (107)	86.30	17 (60)
Smyth	90.69	33 (104)	21.16	20 (70)	8.06	40 (117)	17.13	23 (73)	33.25	37 (110)
Spotsylvania	135.49	20 (81)	20.63	21 (71)	11.69	27 (94)	42.64	12 (45)	59.83	24 (80)
Stafford	190.50	14 (59)	12.90	32 (94)	7.62	41 (119)	61.55	6 (35)	104.33	10 (46)
Suffolk	308.41	5 (33)	91.26	4 (20)	11.96	25 (91)	96.30	4 (21)	106.37	9 (45)
Tazewell	68.97	41 (120)	6.76	40 (113)	9.47	35 (108)	10.82	30 (91)	33.13	38 (111)
Warren	211.32	12 (53)	55.82	6 (31)	11.96	24 (90)	39.87	13 (48)	101.01	12 (49)
Washington	79.95	37 (112)	25.95	18 (63)	31.56	8 (33)	2.81	40 (119)	19.64	43 (124)
Wise	94.29	32 (101)	17.63	24 (78)	24.53	12 (52)	1.53	43 (125)	44.46	32 (100)
Wythe	165.67	19 (72)	20.55	22 (72)	57.79	2 (7)	6.42	35 (109)	74.49	19 (66)
York	104.13	29 (97)	28.19	15 (58)	19.57	17 (68)	17.22	22 (72)	39.15	34 (105)

* Rank within population group (Rank within entire state)

Display 5 cont.

Drug Arrest Rates (1988-1990) Localities With Populations Greater Than 100,000

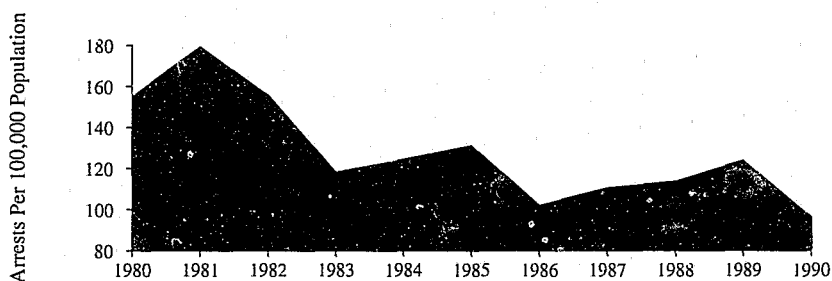
Locality	All Drug		Sell Schedule I/II		Sell Marijuana		Possess Schedule I/II		Possess Marijuana	
	Rate	Rank*	Rate	Rank*	Rate	Rank*	Rate	Rank*	Rate	Rank*
Alexandria	734.43	2 (7)	270.48	1 (3)	10.39	11 (102)	361.56	1 (4)	52.87	11 (90)
Arlington	610.91	3 (11)	115.96	5 (18)	8.24	12 (115)	306.90	3 (6)	133.67	8 (38)
Chesapeake	298.60	10 (36)	30.48	13 (53)	12.37	10 (88)	107.02	7 (19)	131.77	9 (39)
Chesterfield	273.09	11 (39)	19.45	14 (74)	17.23	6 (72)	36.67	12 (52)	178.25	4 (19)
Fairfax Co.	149.94	14 (74)	46.75	11 (41)	5.86	13 (121)	30.13	13 (59)	43.82	13 (102)
Hampton	191.31	12 (58)	51.66	7 (33)	23.02	4 (55)	58.06	11 (39)	47.83	12 (95)
Henrico	171.83	13 (69)	51.95	6 (32)	91.75	1 (3)	12.47	14 (82)	8.15	14 (133)
Newport News	497.86	5 (15)	122.69	3 (16)	32.19	2 (32)	190.32	5 (12)	151.24	7 (29)
Norfolk	557.62	4 (12)	48.47	10 (39)	1.70	14 (131)	236.16	4 (9)	200.53	2 (17)
Portsmouth	427.30	6 (19)	120.12	4 (17)	16.81	7 (73)	173.61	6 (14)	94.14	10 (54)
Prince William	403.25	7 (20)	49.08	9 (37)	15.01	8 (78)	84.16	9 (24)	209.81	1 (15)
Richmond City	750.42	1 (6)	193.89	2 (6)	30.34	3 (35)	317.77	2 (5)	200.05	3 (18)
Roanoke City	382.99	8 (24)	37.28	12 (45)	17.29	5 (71)	100.66	8 (20)	157.94	6 (25)
Virginia Beach	298.75	9 (35)	50.91	8 (35)	13.64	9 (82)	58.28	10 (38)	172.47	5 (24)

* Rank within population group (Rank within entire state)

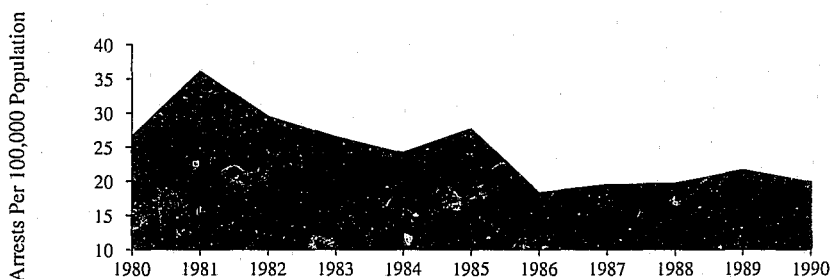
Display 6

Arrest Rates for Drug Crimes (1980-1990)

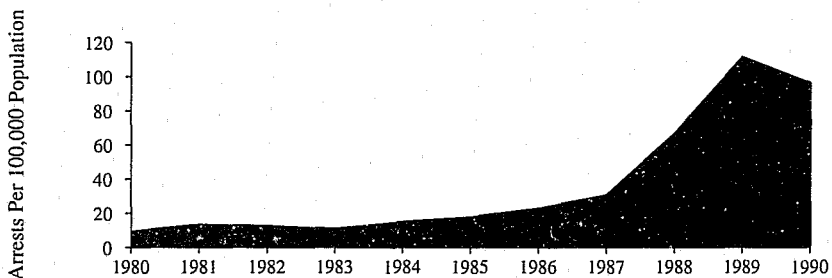
Possess Marijuana



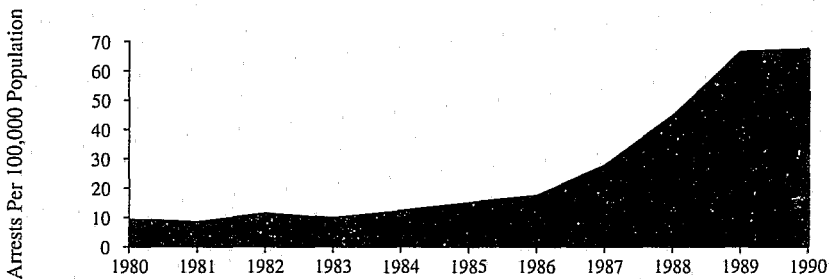
Sell Marijuana



Possess Schedule I/II Drugs



Sell Schedule I/II Drugs



Displays 6 & 7: Drug Crime and Other Crime in Virginia

There is abundant evidence that drug use is often associated with other forms of crime. What is not evident is exactly how the two are associated. Some believe that a clear causal link exists. They argue that drug use causes other crimes: users commit crimes because they need money to buy drugs, or because drugs decrease inhibitions or stimulate aggressiveness, and drug merchants use violence to establish their territories. Others believe that there is not a causal link between drug use and other types of crime. They argue that, with some notable exceptions, drug use and involvement in crime are often two different but overlapping characteristics of people who are a part of the criminal subculture. If drug use causes other forms of crime, policy makers could attack other forms of crime through policies which are aimed at reducing drug use. Conversely, if there is no causal link between the two, then efforts to reduce other forms of crime should be targeted directly at these crimes rather than targeted indirectly through drug reduction efforts. To examine the relationship between drug crime and other crime in Virginia, trends for drug crime rates and non-drug crime rates are compared in the following displays.

■ Displays 6 and 7 present data for four different drug offenses and for four different non-drug offenses in Virginia from 1980 to 1990. Display 6 presents arrest rates (per 100,000 population) for four drug offenses: possession of marijuana, sale of marijuana, possession of a Schedule I/II drug, and sale of a Schedule I/II drug. Display 7 presents offense-reported rates (per 100,000 population) for four non-drug offenses: larceny, burglary, robbery, and homicide. Arrest rates, rather than offense-reported rates, are used as a measure of drug crime offenses because offense-reported rates are not available for drug crimes. Offense-reported rates are used as a measure of non-drug crime offenses because arrest data generally under-report the number of offenses. Note that the scales differ on the vertical axis of each chart.

■ POSSESS/SELL MARIJUANA: Overall arrest rates for both possession and sale of marijuana declined by about one-third during the 1980s, with most of the decline occurring from 1981 through 1986. Arrest rates rose slightly from 1986 to 1989, but then declined again in 1990. Throughout the 10-year period, arrest rates for possession of marijuana remained from five to seven times greater than arrest rates for sale of marijuana.

Data Source: Uniform Crime Reports for the United States, Federal Bureau of Investigation, U.S. Department of Justice

■ **POSSESS/SELL SCHEDULE I/II DRUGS:**

Unlike marijuana, arrest rates for both possession and sale of a Schedule I/II drug increased dramatically during the 1980s. From 1987 to 1989, arrest rates for possession of a Schedule I/II drug more than tripled and arrest rates for sale of a Schedule I/II drug more than doubled. The sharp increase ceased during 1990 when arrest rates for possession declined and arrest rates for sales leveled off. Throughout the 10-year period, arrest rates for possession were greater than arrest rates for sales.

■ **LARCENY:** Overall offense rates for larceny increased by about 40% from 1980 to 1990. Rates increased in every year except for 1981 and 1982, which saw slight drops in offenses reported. The greatest jumps occurred during a steady increase which occurred from 1987 through 1990.

■ **BURGLARY:** Overall offense rates for burglary decreased by about 40% from 1980 to 1990. The sharpest decrease occurred from 1980 to 1985. The rate leveled off and slightly increased from 1986 to 1988, then decreased in 1989 and 1990.

■ **ROBBERY:** Overall offense rates for robbery were about the same in 1980 and in 1990, but the rates varied in the years between 1980 and 1990. The rate increased in 1981, decreased from 1982 through 1985, then increased from 1986 through 1988. Rates decreased in 1989, then rose sharply in 1990.

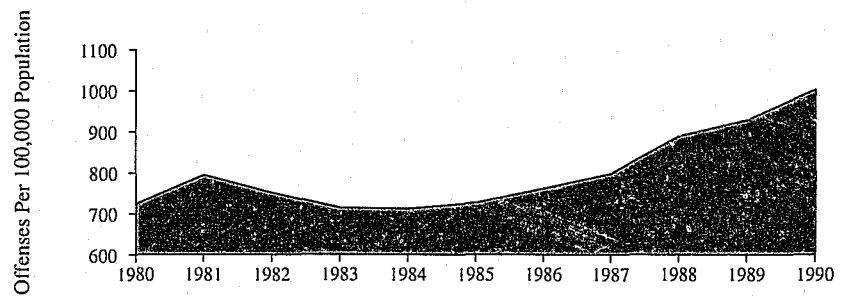
■ **HOMICIDE:** Like robbery, the homicide offense rates in 1980 and 1990 were about the same, but the rate varied in the years between 1980 and 1990. With the exception of the year 1984, homicide rates generally declined in the first half of the 1980s. Beginning in 1986, the rate then increased through 1990.

■ A comparison of drug arrest rates and non-drug offense rates in Virginia from 1980 to 1990 tends to support the view that increases in drug crime are associated with increases in other forms of crime as well. Increases in rates of reported larceny, robbery and homicide during the latter half of the 1980s parallel increases in arrest rates for possession and sale of Schedule I/II drugs during this period. Prior criminological research has shown that individuals who use "hard" drugs are often associated with "predatory" crimes such as robbery and homicide. However, there also were differences between the drug crime and non-drug crime rate trends. Crimes rates for both Schedule I/II drug crimes and larceny, robbery and homicide increased during the latter 1980s, but the pace of this increase was much greater for the drug crimes than for the non-drug crimes. Additionally, burglary rates declined during this period.

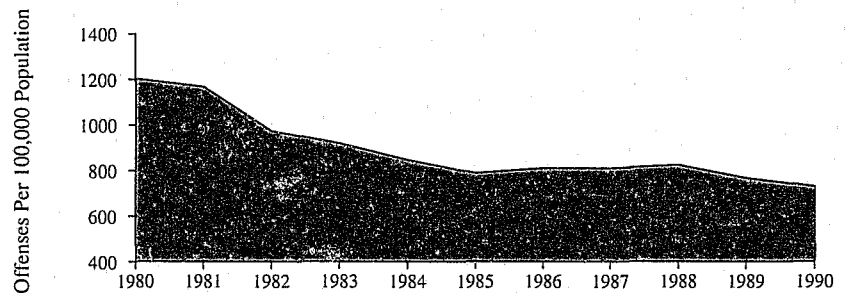
Display 7

Offense Rates for Non-Drug Crimes (1980-1990)

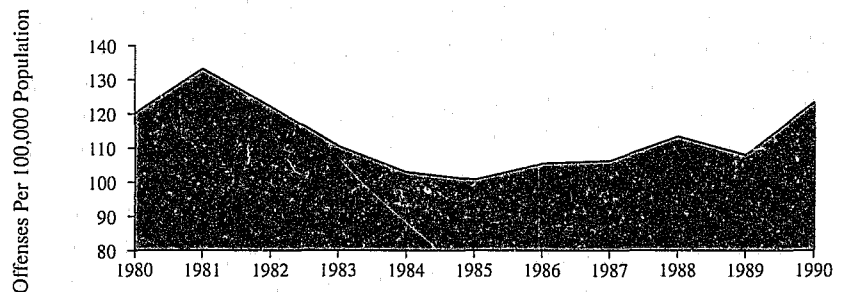
Larceny



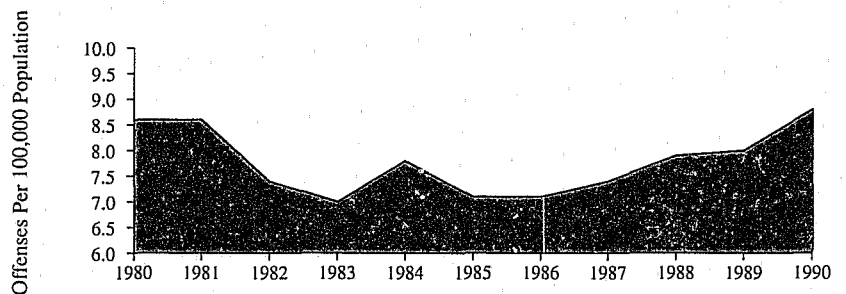
Burglary



Robbery



Homicide

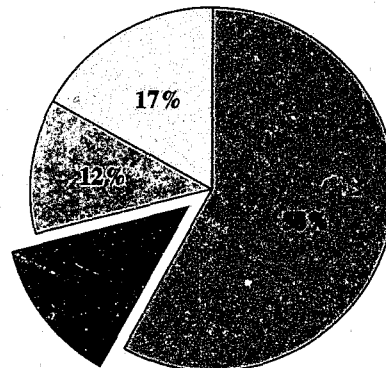


Data Source: Uniform Crime Reports for the United States, Federal Bureau of Investigation, U.S. Department of Justice

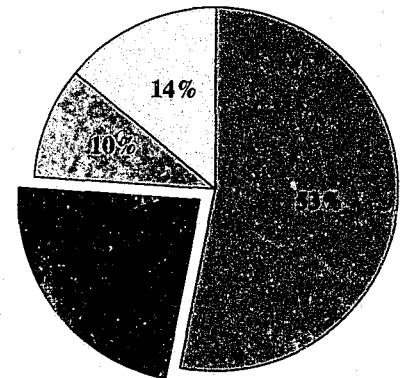
Display 8

Virginia Felony Arrests and Convictions (1985 & 1989)

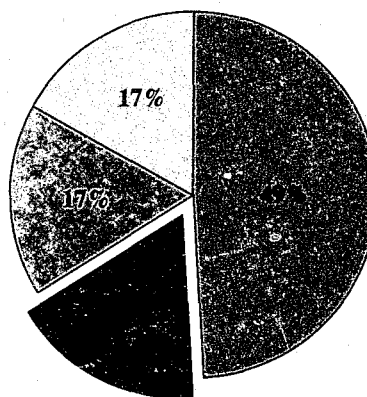
1985 Felony Arrests



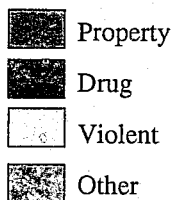
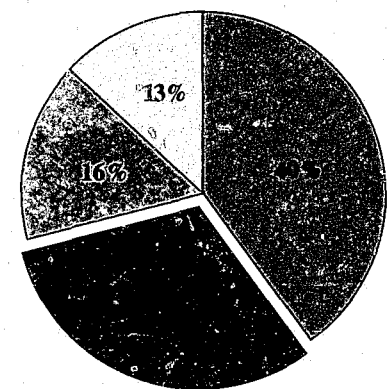
1989 Felony Arrests



1985 Felony Convictions



1989 Felony Convictions



Data Sources: Offender Based Transaction Statistics (OBTS) database, Virginia Department of State Police; Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Displays 8 & 9: Felony Arrests and Convictions in Virginia and the U.S.

The criminal justice system operates in an environment of limited resources. Policy makers must therefore make the difficult decisions of how to allocate those resources. Virginia has witnessed a significant increase in the attention focused on the arrest and conviction of drug crime offenders. Today, drug crimes constitute a substantially larger proportion of total felony arrests and convictions than they did just five years ago. However, in a limited resource environment, any policy that shifts resources toward drug enforcement may reduce resources available to respond to non-drug crime. Display 8 compares Virginia's felony arrests and convictions in 1985 and 1989 for violent, property, drug, and other offenses. Display 9 focuses on felony convictions, comparing Virginia and U.S. figures for 1986 and 1988.

■ Drug crimes accounted for 13% of all felony arrests in Virginia during 1985. They accounted for a smaller percentage of arrests than either violent or property crimes. Arrests for violent offenses comprised 17% of felony arrests in 1985, while 58% of arrests were for property offenses. The "other" category, 12% of all arrests, includes such felonies as arson, weapon offenses, probation violations, and escapes. By 1989, drug crimes accounted for nearly 25% of all felony arrests in Virginia. While fewer arrests in 1985 were made for drug offenses than violent offenses, by 1989 drug crimes accounted for a significantly larger proportion of arrests than violent crimes. The proportion of felony arrests attributable to property offenses also decreased during the five-year period, from 58% in 1985 to 53% in 1989.

■ In 1985, violent crimes accounted for 17% of all felony arrests and 17% of all felony convictions. Proportionately, drug crimes accounted for a larger share of convictions than arrests. Drugs crimes accounted for 13% of all felony arrests but 17% of all felony convictions. Although 58% of all felony arrests were for

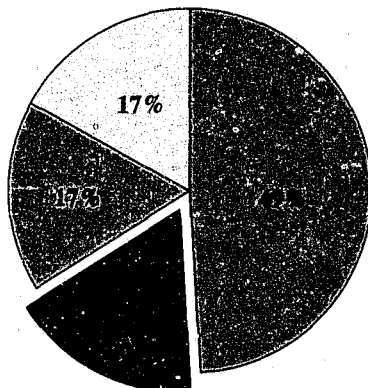
property crimes, they constituted only 49% of all felony convictions. By 1989, violent crimes accounted for 14% of all felony arrests and 13% of all felony convictions. Drug crimes made up 23% of all felony arrests and 31% of all felony convictions. Property crimes accounted for 53% of all arrests and 40% of all convictions.

■ Drug offenses are taking up a larger proportion of the conviction pie chart than the arrest pie chart. While Virginia's felony arrests are becoming more focused on drug crimes over time, drug offenders are also getting convicted at a higher rate than violent and property offenders. The increase in convictions experienced for drugs may be the result of increased sophistication of law enforcement efforts in investigating drug crimes (for example, multi-jurisdictional task forces, sophisticated surveillance equipment, networks of informants). If police officers and prosecutors can make stronger cases, conviction rates should increase. The increased conviction trend for drug offenses found in Virginia is also seen on the national level.

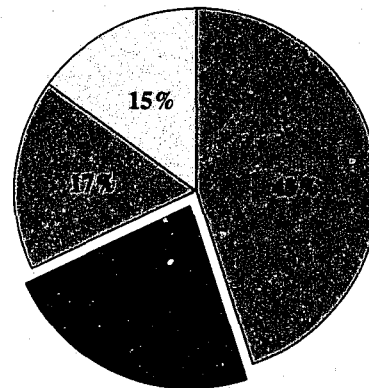
Display 9

Virginia and United States Felon Convictions (1986 & 1988)

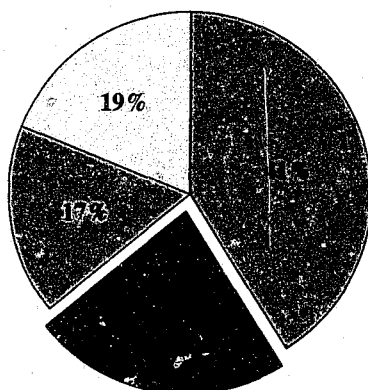
Virginia 1986 Felony Convictions



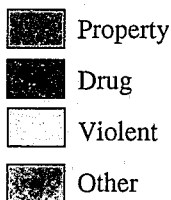
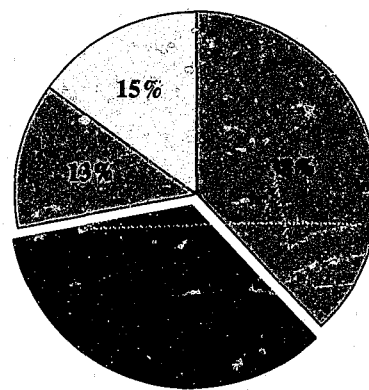
Virginia 1988 Felony Convictions



U.S. 1986 Felony Convictions



U.S. 1988 Felony Convictions



Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections; Felony Sentences in State Courts, 1986 and 1988, Bureau of Justice Statistics, US Department of Justice

■ By examining Virginia convictions over time, one can determine when the shift in convictions took place. In 1985 and 1986, the proportion of all convictions attributable to drug, violent, and property crimes remained constant. Between 1986 and 1988, Virginia experienced a 35% increase in the proportion of convictions attributable to drug crimes. Between 1988 and 1989, that proportion increased by 35% again. The slice of Virginia's conviction pie representing drug crimes nearly doubled during a four-year period (1986-1989).

■ Display 9 presents a comparison of convictions in Virginia and the nation in 1986 and 1988. National data is based on a sample study of felony convictions conducted by the Bureau of Justice Statistics (BJS). The BJS felony conviction data was available only for these two years. In 1986, felony drug crimes accounted for 17% of Virginia's convictions and 23% of convictions in the United States. In 1988, felony drug crimes increased to 23% of Virginia's convictions and 34% of U.S. convictions. Thus, the United States experienced a more substantial increase in the proportion of convictions attributable to drug

crimes between 1986 and 1988 than Virginia. Comparisons with the U.S. average, however, should be made with caution since it is likely that the U.S. figures are heavily influenced by trends in our most populous states.

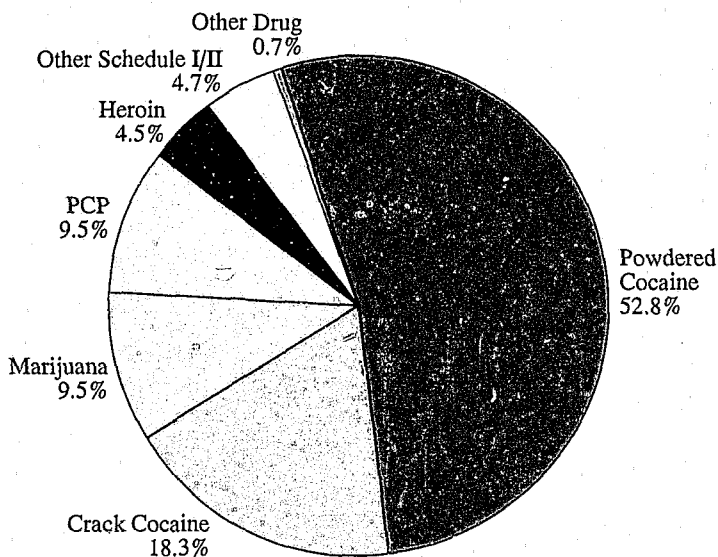
■ In Virginia as well as the nation, violent crimes and property crimes accounted for a smaller proportion of total convictions in 1988 than in 1986. Felony drug cases are obviously consuming a greater share of prosecutorial caseloads. In 1985, one out of every six convictions in Virginia was for a drug crime. In 1989, one out of every three convictions was for a drug crime. This indicates that the court system has focused more of its resources on processing drug crime cases.

■ If the courts are devoting more of their resources to dealing with drug offenders, they may be less able to devote resources to other types of offenders, specifically property and violent crime offenders. These latter groups of offenders, however, represent a serious problem for the criminal justice system. Results of a 1989 BJS report on recidivism show that offenders released from prison for property and

violent crimes were more likely to be rearrested, reconvicted, and reincarcerated than drug offenders. Of offenders released from prison in 1983, 68% of property offenders and 60% of violent offenders were rearrested within three years, whereas only 50% of drug offenders were rearrested. However, drug offenders in Virginia do not have markedly lower rearrest rates than some violent offenders. Thus, nationally, but not necessarily in Virginia, the tremendous surge in arrests and convictions for drug offenders may, to some degree, turn the focus of the criminal justice system away from those groups of offenders most likely to recidivate.

Display 10

Types of Drugs Involved in Virginia Felony Drug Convictions (1988 - 1989)



Data Source: Pre-Sentence Investigation (PSI) Reports, Virginia Department of Corrections

Displays 10 & 11: Drugs Involved in Virginia Felony Drug Convictions

Public perceptions of drug crime are often shaped by media reports of arrests or "busts" involving large quantities of drugs. Although these arrests receive a great deal of media coverage, they represent only a fraction of the total number of drug arrests. The vast majority of drug arrests involve "street level" amounts measured in grams or ounces rather than in pounds or tons. Although they receive less public attention, these much more frequent arrests involving relatively small drug amounts create the greatest burden on the resources of the criminal justice system. Information about the types and amounts of drugs involved in drug crimes is useful to policy makers and criminal justice practitioners for several reasons. Law enforcement officials can use this data to tailor drug detection and interdiction strategies to target specific drug use and trafficking problems. Similarly, the courts and corrections systems must respond differently when processing offenders involved with different types and amounts of drugs. Proposed legislation featuring increased penalties for drug crimes often targets offenses which involve specific amounts of drugs. Information about the types and amounts of drugs also has implications for the design of drug treatment programs. Displays 10 and 11 describe the types and amounts of drugs involved in Virginia drug cases. They are based on a sample of 3,404 cases in which an offender was convicted for a felony drug offense during 1988-1989. This analysis represents the first time that data on specific types and amounts of drugs involved in Virginia felony cases has been extracted, analyzed and published.

■ Display 10 shows that cocaine, in both the powdered and crack form, was involved in more than two-thirds of all felony drug cases. Powdered cocaine was involved in about 53% of the cases and crack cocaine in about 18% of the cases.¹ Crack cocaine, a less expensive form of powdered cocaine, became very popular during the 1980s due to its low price and the reported intense "high" felt by its users.

■ Marijuana was involved in about 9% of all drug felony cases. Felony marijuana cases are cases which involved the manufacture, distribution or sale of more than one-half ounce of marijuana. Phencyclidine, commonly known as PCP, was also involved in about 9% of all felony drug cases.

■ Heroin was involved in about 4% of all felony drug cases. Other Schedule I/II drugs were involved in almost 5% of all felony drug cases. Other Schedule I/II drugs include drugs such as LSD, methamphetamine and amphetamines. Other drugs were involved in slightly less than 1% of all felony drug arrests.

■ Display 11 presents a distribution of the amounts of drugs seized in the felony drug cases involving powdered cocaine, crack cocaine, marijuana and heroin. Phencyclidine seizure amounts are not shown because the drug is usually mixed with other drugs in a way which makes its quantity difficult to measure. Quantities for other drugs presented in Display 10 are not included because they represented such a small amount of the total felony drug cases examined. When examining the drug seizure amounts in this display, note that "spikes" occur which indicate that these drugs

are often seized in certain specific amounts. These frequently occurring amounts reflect the amounts in which these drugs are typically "packaged" and "marketed" to drug distributors and users. Caution should be used when comparing drug amounts in different graphs due to the different horizontal scales used.

■ Slightly more than one-half of the powdered cocaine seizure cases involved one gram or less of the drug. Of these, about 60% involved one-quarter gram or less. Cocaine is often seized in one-quarter gram amounts because this amount is a common unit of measure among cocaine users. One-quarter gram units, commonly referred to as a "quarter," currently have a street value of about \$25.00. Crack cocaine seizures typically involved smaller amounts than seizures involving powdered cocaine. As seen in the display, the most common amount seized was one-eighth gram, an amount commonly referred to as a "dime," "rock" or "hit" and having a current street value of about \$10.00. Crack cocaine is smoked rather than sniffed or injected like powdered cocaine.

■ About one-half of the marijuana seizures involved four ounces or less of the drug. Slightly more than 12% of the cases involved 1 to 5 pounds, and slightly more than 17% of the cases involved more than 5 pounds. Currently, domestically grown marijuana has a street value of about \$100.00 to \$160.00 per ounce. Heroin seizure amounts were most often one-eighth gram or less, an amount commonly referred to as a "fix," which has a current street value of \$25.00 to \$30.00.

■ The amounts of drugs which are involved in felony drug convictions will vary depending on a number of factors. A law enforcement policy decision to focus on particular types of drug offenders can have an impact on the quantities of drugs which will be seized at arrest. A focus on the apprehension of drug users will likely result in small drug seizure amounts, whereas a focus on drug traffickers will likely result in larger seizures. Efforts to reduce the drug supply at the national level can also affect the amounts of drugs which are involved in Virginia felony drug conviction cases.

■ The wholesale and retail prices of illicit drugs can also vary depending on law enforcement initiatives, as well as consumer demand, inflation, and the types of drugs currently being used. Based on national retail prices assigned by law enforcement experts over the past ten years, the cost of heroin has remained relatively stable while the price of marijuana has more than doubled. Although the reported use of cocaine has increased in the past ten years, prices for this drug have decreased substantially during this time. This may in part be due to the introduction of crack cocaine, a popular but relatively inexpensive form of cocaine.

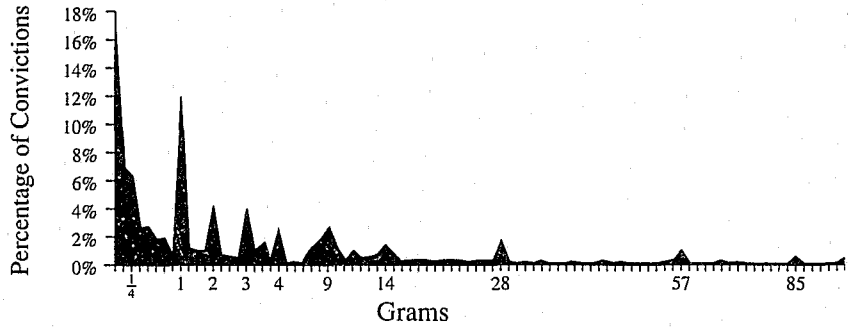
■ Beginning in 1990, Virginia's Pre-Sentence Investigation (PSI) database has included data on types and amounts of drugs involved in felony drug conviction cases. This type of data will provide valuable information for future drug crime studies.

1. Pre-Sentence Investigation (PSI) Reports maintained by the Virginia Department of Corrections are the data source for this analysis. In these reports, crack cocaine is sometimes referred to simply as cocaine. Therefore, the powdered cocaine percentages probably include some unknown amounts of crack cocaine.

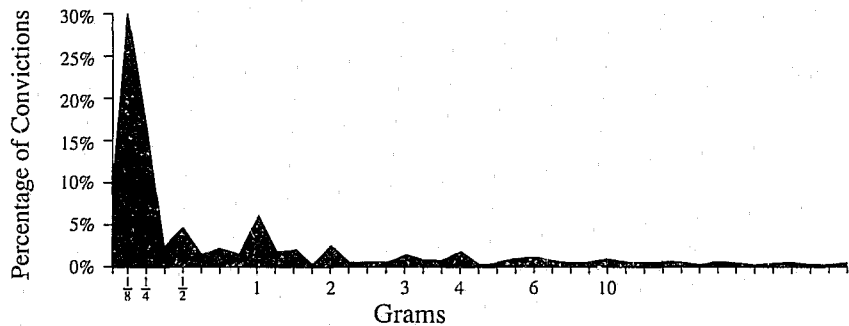
Display 11

Amounts of Drugs Involved in Virginia Felony Drug Convictions (1988 -1989)

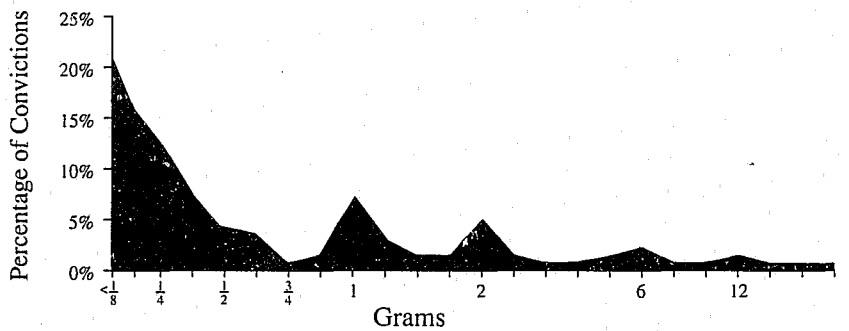
Powdered Cocaine



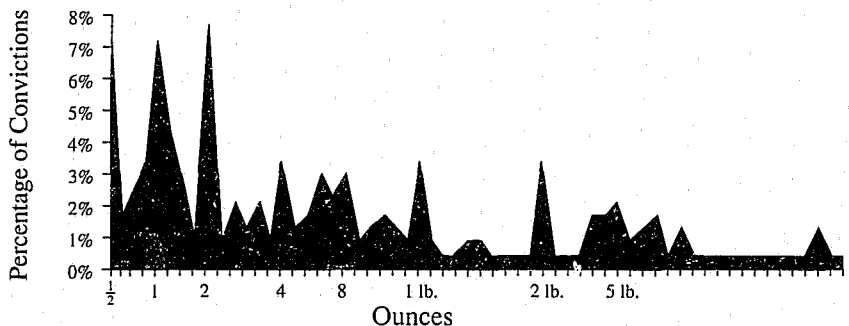
Crack Cocaine



Heroin



Marijuana



Data Source: Pre-Sentence Investigation (PSI) Reports, Virginia Department of Corrections



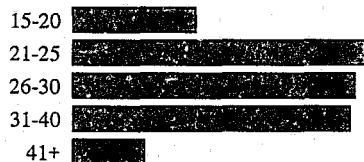


Section
The Drug Criminals

Display 12

Demographic Profile of Offenders Convicted of All Drug Felonies (1987 - 1989)

Age



Gender



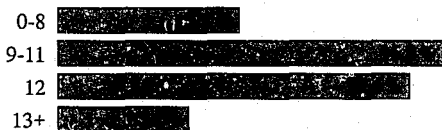
Race



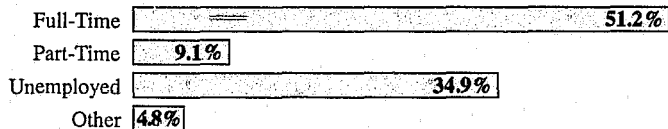
Marital Status



Years of Education



Employment



Alcohol Abuse



Heavy Alcohol Use Claimed



Military Service



Family Felony Convictions



Mental Health Treatment



Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Display 12: Demographic Profile of Virginia Offenders Convicted of All Drug Felonies

Effective drug policies cannot be formulated unless policy makers have access to information about the individuals that these policies will be directed towards. Drug policies in the Commonwealth encompass a wide range of areas—law enforcement, adjudication, sentencing, corrections, education and prevention, and treatment. In each of these areas, policies must be tailored toward the characteristics of the groups they address. For example, adjudication and disposition procedures are different for young offenders and older offenders. Educational programs designed to prevent drug use must be designed around the educational level of those participating in these programs. Similarly, drug treatment programs may have to deal differently with individuals depending upon their educational level and prior drug experience. Correctional programs such as former Governor Baliles' Literacy Incentive Program, aimed not just at drug offenders but offenders in general, were inspired in part by the realization that convicted offenders included a significant number whose lack of reading skills was an obstacle to succeeding in society. Improving our understanding of the characteristics of those who are drug offenders may improve our ability to understand the larger nature of the drug problem. With this information, the Commonwealth may be able to develop more effective programs to identify those at risk before they become involved with drugs. It also may be able to develop more effective programs to identify and apprehend those who illegally use or distribute drugs.

Display 12 presents a demographic profile of all felony drug offenders convicted and sentenced in Virginia over the three-year period 1987-1989. Characteristics of these offenders are in some cases contrasted with characteristics of Virginia's general population or characteristics of violent offenders described in *Violent Crime in Virginia*. It should be noted that this profile describes only drug offenders who have been convicted; it may or may not represent an accurate profile of all drug offenders because it does not include those who use or sell illegal drugs and are not detected and apprehended.

■ Drug offenders are generally young. About 40% of convicted drug offenders are between 15 and 25 years old. By contrast, only about 16% of Virginia's general population is in this age group.

■ Drug offenders are predominantly male. About 84% of convicted drug offenders are male; only 16% are female.

■ A disproportionate number of convicted drug offenders are non-white. Nearly 60% of all convicted drug offenders are nonwhite. By contrast, less than 25% of Virginia's general population is non-white.

■ About 20% of convicted drug offenders are married. By comparison, about 63% of the U.S. population over age 18 is married.

■ Convicted drug offenders are generally undereducated. More than one-half have less than a high school education. About one-third have a high school education, and about one-tenth have some education beyond high school.

■ Convicted drug offenders are also over-represented among the unemployed. More than one-third were unemployed and about one-tenth were employed part-time. Only a little more than one-half of these offenders were employed full-time.

■ One-fifth of convicted drug offenders were judged to display evidence of alcohol abuse. Probation officers judged offenders to be alcohol abusers if their normal social functioning had been disrupted by alcohol use. Nearly 13% of offenders stated that they were heavy alcohol users when asked if they were occasional, moderate or heavy users.

■ About 15% of convicted drug offenders have prior military experience. This figure is considerably less than the 24% of all violent offenders who have prior military experience. The lower figure for drug offenders may be somewhat due to the larger proportion of females (who typically have no military experience) among drug offenders than among violent offenders.

■ Nearly one-third of convicted drug offenders had a family member with one or more prior felony convictions. About one-third of convicted violent offenders also had a family member with one or more prior felony convictions. Prior criminological research has indicated that frequently more than one member of the same family engages in criminal activity.

■ About 15% of convicted drug offenders have either been referred to or have received psychiatric or psychological services. This is only about one-half of the rate for violent offenders.

■ These findings show that, as a group, convicted drug felony offenders are similar to convicted violent offenders. They also show that, as a group, convicted drug felons can be typified as young, non-white males with relatively little education and high levels of unemployment. They may have problems with alcohol abuse and many come from families with other members who have one or more previous felony convictions. However, as will be seen in the following display, a closer examination of offender characteristics shows that there may be more than one profile of the "typical" felony drug offender.

Display 13

Demographic Profile of Specific Drug Felons (1987 - 1989)

	Possess Schedule I/II Drug (N = 5573)*	Sell Schedule I/II Drug (N = 4059)*	Sell Schedule I/II Drug Accom. (N = 509)*	Sell Marijuana (0.5 oz. to 5 lbs.) (N = 920)*	Sell Marijuana (greater than 5 lbs.) (N = 110)*	Obtain Drugs by Fraud (N = 363)*
Age						
15-20	10.7%	14.7%	12.7%	9.5%	5.5%	1.1%
21-25	28.5	28.7	31.3	29.6	18.2	13.6
26-30	28.6	25.1	26.3	26.7	20.9	28.4
31-40	27.1	24.2	25.4	23.2	41.8	43.9
41+	5.1	7.2	4.3	11.0	13.6	13.0
Gender						
Male	83.7	86.6	83.7	84.9	87.6	45.8
Female	16.3	13.4	16.3	15.1	12.4	54.2
Race						
Non-White	60.5	64.6	52.5	26.2	18.1	5.2
White	39.5	35.4	47.5	73.8	81.9	94.8
Marital Status						
Single	83.7	82.9	84.0	69.8	54.6	58.7
Married	16.3	17.1	16.0	30.2	45.4	41.3
Years of Education						
0-8	16.7	17.3	18.5	20.4	15.4	10.1
9-11	36.4	38.6	37.6	36.9	25.0	27.4
12	34.6	32.7	30.9	33.5	34.6	31.2
13+	12.3	11.4	13.0	9.2	25.0	31.3
Employment						
Full-Time	54.1	45.9	56.2	58.0	69.5	43.9
Part-Time	8.6	9.9	9.2	8.4	6.7	7.2
Unemployed	33.1	39.1	30.5	25.9	18.1	41.7
Other	4.1	5.0	4.1	7.7	5.7	7.2
Alcohol Abuse						
Yes	21.8	19.4	18.4	18.8	14.7	20.8
No	78.2	80.6	81.6	81.2	85.3	79.2
Heavy Alcohol Use Claimed						
Yes	12.8	12.9	10.4	10.8	7.7	13.2
No	87.2	87.1	89.6	89.2	92.3	86.8
Military Service						
Yes	15.5	14.6	13.2	13.7	13.6	10.2
No	84.5	85.4	86.8	86.3	86.4	89.8
Family Felony Convictions						
Yes	30.4	33.4	27.2	29.7	20.4	22.4
No	69.6	66.6	72.8	70.3	79.6	77.6
Mental Health Treatment						
Yes	13.6	13.9	14.5	17.5	18.1	50.0
No	86.4	86.1	85.5	82.5	81.9	50.0

Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

* N represents the number of cases.

Display 13: Demographic Profile of Virginia Offenders Convicted for Specific Drug Felonies

The previous display suggests that convicted drug offenders as a group had certain predominant characteristics: they were predominately young males, disproportionately non-white, and largely undereducated and underemployed. However, a closer examination of drug offender characteristics may reveal that this group is not as homogeneous as it might first appear. For example, there may be differences in the profiles of offenders based on the type of drug offense for which they were convicted and sentenced. If this is true, policy makers, in addition to having access to information about drug offenders in general, also must have access to more specific information about offenders involved in specific types of drug offenses. This would allow them to develop enforcement, adjudication, corrections, education and treatment programs that target individuals involved with specific types of drugs or offenses. Display 13 presents a demographic profile of offenders convicted and sentenced for six specific felony drug offenses in Virginia over the three-year period 1987-1989. The six drug offenses examined are possession of a Schedule I/II drug, sale of a Schedule I/II drug, sale of a Schedule I/II drug for accommodation,¹ sale of one-half ounce to five pounds of marijuana, sale of more than five pounds of marijuana, and obtaining drugs by fraud (mainly prescription fraud).

■ Generally, offenders convicted for Schedule I/II drug offenses were younger than those convicted for marijuana or obtaining drugs by fraud offenses. The youngest offender age group, those 15-20, accounted for a larger portion of those convicted of the sale of Schedule I/II drugs than for possession of these drugs (possibly because minors, when compared to adults, are less likely to be adjudicated for drug possession charges). By contrast with these offenders, more than one-half of offenders convicted of selling more than five pounds of marijuana or obtaining drugs by fraud were over age 30.

■ As with drug offenders in general, most of those convicted for specific types of drug offenses were overwhelmingly male. The significant exception was offenders convicted for obtaining drugs by fraud; more than one-half of these offenders were female.

■ There were clear racial differences between offenders convicted of Schedule I/II drug offenses and those convicted of marijuana sales and obtaining drugs by fraud. More than

one-half of those convicted of Schedule I/II drug offenses were non-white, but only about one-quarter or less of those convicted of other drug offenses were non-white. More than 80% of those convicted of selling more than five pounds of marijuana were white, and 95% of those convicted of obtaining drugs through fraud were white.

■ Offenders in all groups were more often single than married, but the proportion of married and single offenders varied according to the type of offense for which they were convicted. Less than 20% of those convicted of Schedule I/II drug offenses were married, whereas 45% of those convicted for selling more than five pounds of marijuana were married.

■ More than one-half of those convicted of a Schedule I/II drug offense or selling less than five pounds of marijuana had less than a high school education. By contrast, more than 60% of those convicted of selling more than five pounds of marijuana or obtaining drugs by fraud had a high school education. One-quarter of offenders convicted of selling more than five pounds of marijuana had some college education.

■ Between 20% and 40% of all the offenders examined were unemployed. The greatest proportion of unemployed was among those convicted of obtaining drugs by fraud (almost 42%), whereas the smallest proportion of unemployed was among those convicted of selling more than five pounds of marijuana (slightly more than 18%).

■ With the exception of those convicted of selling more than five pounds of marijuana, about 20% of all offenders displayed evidence of alcohol abuse. About 15% of those convicted of selling more than five pounds of marijuana displayed evidence of alcohol abuse. From 10% to 13% of most drug offenders stated that they used alcohol heavily. Paralleling the above finding regarding evidence of alcohol use, the offenders convicted of selling more than five pounds of marijuana were the least likely (about 8%) to state that they used alcohol heavily.

■ Overall, relatively few (10% to 15%) of the offenders examined had prior military experience.

■ Offenders convicted of selling Schedule I/II drugs were the most likely (about one in three) to have a family member with one or more prior felony convictions. Offenders convicted of selling more than five pounds of marijuana were the least likely (about one in five) to have a family member with a prior felony conviction.

■ Generally, only between 13% and 18% of the drug offenders had either been referred to or had received psychiatric or psychological services. The significant exception was offenders convicted of obtaining drugs by fraud. Fully one-half of these offenders had either been referred to or had received psychiatric or psychological services.

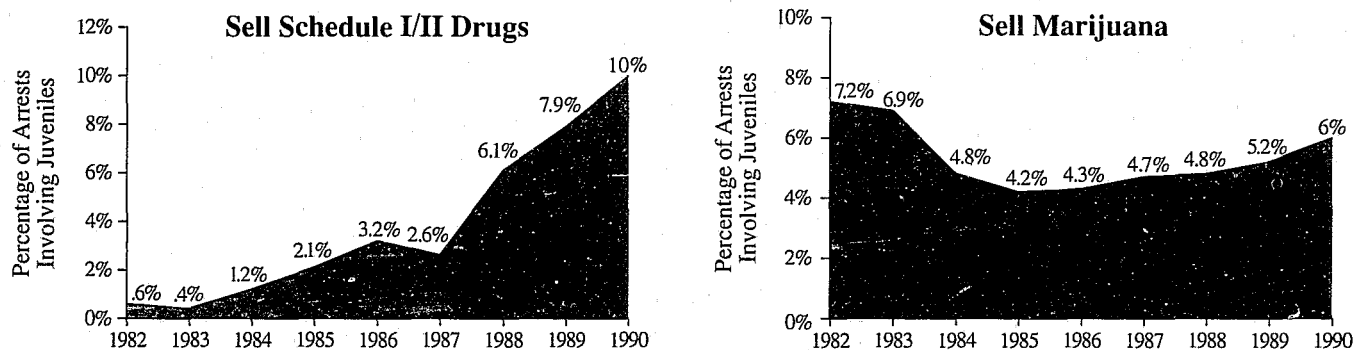
■ These findings suggest that there are distinct relationships between some drug offense types and the characteristics of those convicted for these offenses. For example, those convicted for the possession or sale of a Schedule I/II drug tend to be young, single non-white males who are unemployed and relatively undereducated. Those convicted of selling more than five pounds of marijuana tend to be older, white males who are more likely to be married, more educated and employed on a full-time basis than those convicted of Schedule I/II drug offenses. They are also less likely to have problems with alcohol or to have received mental health treatment. Those convicted of obtaining drugs by fraud tend to be educated, white females who have undergone mental health treatment. They are less likely than other offenders to be employed or to have prior military service.

■ The fact that there are such diverse "sub-groups" of drug offenders indicates that drug policies and programs must be shaped by information about the individuals who make up these groups. Policies and programs which fail to recognize and account for these differences are obviously less likely to be successful than those that do recognize and account for them.

1. Accommodation is sale without intent to profit. It is often cited as a mitigating factor when determining punishment rather than as a separate offense.

Display 14

Percentage of Drug Arrests Involving Juveniles (1982 - 1990)



Data Source: Crime in Virginia, Uniform Crime Reporting Section, Virginia Department of State Police

Displays 14 & 15: Changing Demographics of Virginia Drug Offenders

Recently there have been numerous initiatives in Virginia to address drug abuse among juveniles.¹ These include education and prevention programs such as DARE (Drug Abuse Resistance Education) and CADRE (Commonwealth Alliance for Drug Rehabilitation Education). Additionally, the General Assembly has recently enacted laws which enable judges to deny driving privileges to juveniles who abuse drugs, provide specific penalties for distributing drugs on or near school property, and increase penalties for persons using juveniles or minors to aid in the dealing or distribution of drugs.

There is some evidence which suggests that drug abuse among juveniles may be declining. A 1987 U.S. Department of Health and Human Services survey, for example, indicated that the reported use of some illegal drugs among high school and college age youth had declined when compared to use reported in prior years.

One way of examining changes in juvenile involvement with drugs in Virginia is to look at changes in juvenile arrests for drug offenses. Display 14 presents trends in juvenile arrests for the sale of Schedule I/II drugs and the sale of marijuana in Virginia from 1982 through 1990. Juvenile arrests in each year are presented as a percentage of all (i.e., juvenile plus adult) arrests for these offenses.

■ Juvenile arrest trends for the sale of Schedule I/II drugs show an increasing proportion of juvenile offenders among all offenders arrested for the sale of these drugs. In 1982, juveniles accounted for less than 1% of all such arrests. Beginning in 1988, the proportion of all arrests for Schedule I/II drug sales involving juveniles rose dramatically and continued to rise through 1990. By 1990, juveniles accounted for 10% of all arrests for Schedule I/II drug sales. This

increase is seen more clearly when viewed as a change in the actual numbers of juveniles arrested. In 1982 only four juvenile arrests were made; in 1990, 417 juvenile arrests were made. On a percentage basis, the increase in drug arrests for juveniles from 1982 to 1990 is 20 times that of adults.

■ In 1982, juveniles accounted for slightly more than 7% of all arrests for the sale of marijuana. This percentage decreased to about 4% in 1985. Beginning in 1986, the percentage of these arrests involving juveniles began to increase and continued to do so through 1990. By 1990 juveniles accounted for 6% of all offenders arrested for the sale of marijuana. Overall, juveniles accounted for a smaller percentage of these arrests in 1990 than they did in 1982. However, since 1984 there has been a steady increase in the percentage of juveniles arrested for marijuana sales.

■ These findings indicate that juveniles may be becoming more, not less, involved with drugs. There are several possible reasons for these findings. First, some adult drug dealers actively recruit juveniles to help transport and distribute drugs. This strategy is reportedly being used by adult dealers to shield themselves from the relatively harsh penalties for adults who distribute drugs. Additionally, potentially large economic rewards, coupled with relatively light penalties for juvenile drug offenders, may have resulted in juveniles entering the drug trade on their own at lower ages than previously seen.

■ These findings are somewhat contrary to those of the previously mentioned survey which reported a decrease in drug use among high school and college-age youth. However, the results of this survey may be somewhat misleading. This decrease in reported drug abuse may have occurred because juvenile drug abusers have dropped out of school and are not included in the sample surveyed. If this is true,

the survey results would underrepresent the number of juveniles using drugs.

■ The criminal justice system recognizes that juvenile offenders should not be adjudicated and punished in the same manner as adult offenders, and the disposition of juvenile cases usually differs from that of similar cases involving adults. Juveniles who are arrested are sometimes released into the custody of their parents. Juveniles who remain in the criminal justice system are typically referred to juvenile courts, juvenile authorities or youth probation departments rather than to adult courts. However, in response to the increasing proportion of drug sales offenses accounted for by juveniles, particularly Schedule I/II drugs sales, additional initiatives are being studied and implemented in Virginia. For example, the Department of Youth and Family Services is studying strategies to deal with youthful drug dealers which may include increasing the length of their stay in the Department's learning centers.

■ In addition to changes in the age distribution of drug offenders, there have been changes in the racial distribution of drug offenders. These changes were examined by analyzing data on convictions of whites and non-whites for drug crimes. Display 15 presents the percentages of whites and non-whites² among all offenders convicted of three major felony drug offenses in Virginia from 1985 through 1989. The three drug offenses examined were possession of a Schedule I/II drug, sale of a Schedule I/II drug, and sale of one-half ounce to five pounds of marijuana.

■ The data presented in Display 15 shows a dramatic change in the percentages of whites and non-whites convicted for the sale and possession of Schedule I/II drugs from 1985 to 1989. In 1985 and 1986, whites accounted for a greater percentage of these convictions than

non-whites. In 1987, whites and non-whites accounted for about equal proportions of these convictions. By 1988 and 1989, the percentages of whites and non-whites convicted were the reverse of those seen in 1985 and 1986. Non-whites accounted for a greater percentage of those convicted than whites. Furthermore, the size of the differences in white and non-white percentages also increased. No such change was seen in the percentages of whites and non-whites convicted for the sale of marijuana, where whites consistently accounted for a larger percentage of all convictions than non-whites.

■ Much of this change can be attributed to the introduction of crack cocaine into the inner-city areas which contain large numbers of non-whites. Prior to the mid-1980s, cocaine was viewed as the drug of choice among affluent, white drug users. This view changed when crack cocaine appeared in inner-city areas, where it was packaged, priced and marketed to appeal to the economically disadvantaged living in these areas. As part of the 1980s drug war, political leaders allocated increased resources to apprehending and convicting persons engaged in illegal drug activity, particularly activity involving "hard" drugs such as cocaine. Much of these resources were directed at areas where drug activity was the most obvious and easy to target: the poor, inner-city neighborhoods that have large percentages of non-white residents. Additionally, many non-whites living in these areas did not experience any significant economic gains during the 1980s. Criminologists believe that this may have enhanced this group's feelings of economic deprivation and increased the likelihood of their taking the risks which accompany involvement with drugs.

■ Population research shows that the proportion of young males within the non-white population surged between 1985 and 1989 as the post-war baby boom "echo" generation grew into their teen years. The increasing proportion of young males in the non-white population probably has contributed to the increase in non-white drug arrests because teenage and young adult males are typically the age group most likely to engage in criminal activity, regardless of race.

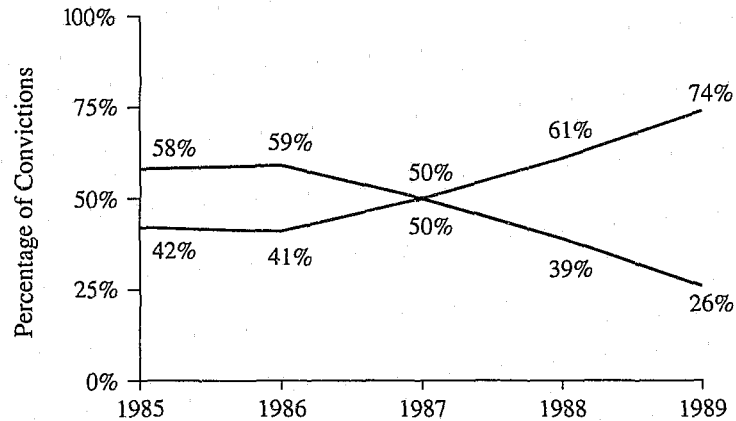
1. Juveniles are defined in Virginia as persons less than 18 years of age.

2. Non-whites in Virginia are almost exclusively (96%) African-Americans.

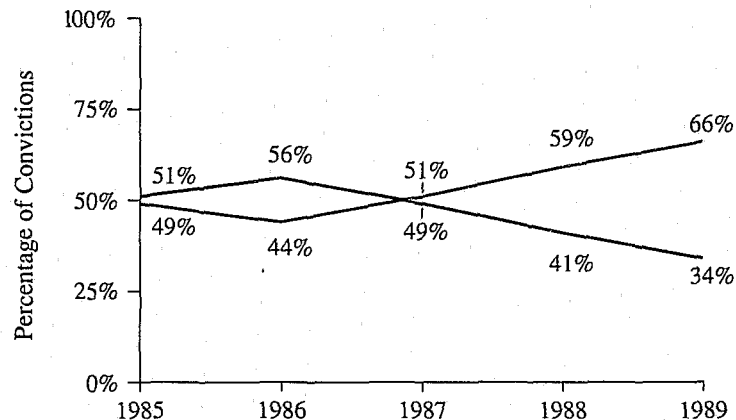
Display 15

Percentage of Drug Convictions Involving Whites and Non-Whites (1985 - 1989)

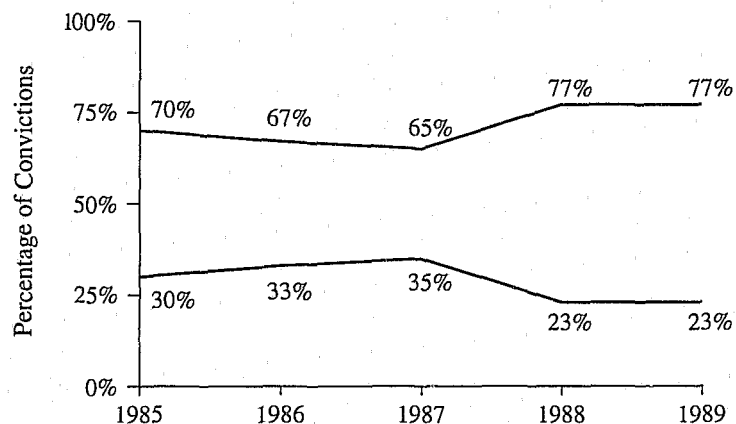
Possess Schedule I/II Drugs



Sell Schedule I/II Drugs



Sell Marijuana

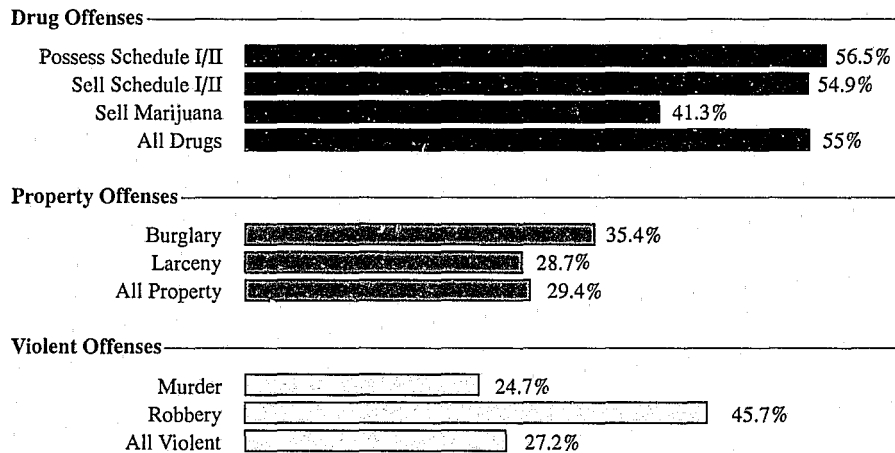


— Whites — Non-Whites

Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Display 16

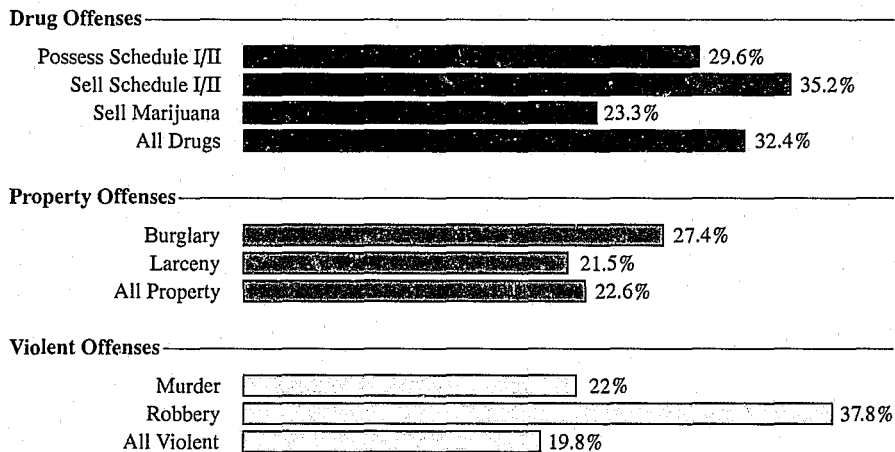
Percentage of Felons with Evidence of Drug Abuse (1987 - 1989)



Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Display 17

Percentage of Felons Admitting Heavy Drug Use (1987 - 1989)



Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Displays 16 - 19: Drug Abuse Among Virginia Felons

The profiles of felony drug offenders in Displays 12 through 15 demonstrated that these offenders have differing demographic and social characteristics. These offenders may also have different patterns of drug abuse. There may be differences between the drug abuse patterns of offenders who possess drugs and those who sell drugs, or between those who sell marijuana and those who sell Schedule I/II drugs. Additionally, drug abuse is not restricted to those offenders convicted of drug charges. Criminological research has shown that drug crime is often associated with other forms of crime. Felons convicted for non-drug crimes are often found to have a history of drug abuse. Displays 16 through 19 present results of four measures of drug involvement among convicted drug, property, and violent crime offenders in Virginia, based on a three-year average (1987-1989).

■ Display 16 presents the percentage of offenders judged to display evidence of drug abuse. These judgments were made by the probation officers who prepare offender Pre-Sentence Investigation reports. Drug-related disruption of the offenders' normal social functioning (such as deteriorating personal relationships, habitual lateness, etc.) was considered evidence of drug abuse. Most convicted drug felons were judged to be drug abusers. More than one-half of Schedule I/II drug sale and possession offenders, and about 40% of marijuana sale offenders, were judged to be drug abusers. Property and violent crime offenders were less likely than drug offenders to be identified as drug abusers. Still, more than one-quarter of these offenders displayed evidence of drug abuse. Among non-drug offenders, robbers and burglars were most likely to be drug abusers.

■ Display 17 presents the percentages of drug, property and violent offenders who admitted¹ to previous heavy drug use. Although Display 16 showed that Schedule I/II drug possession offenders were more likely to be drug abusers than Schedule I/II drug sale offenders, this display shows that Schedule I/II drug sale offenders were more likely to report heavy drug use than Schedule I/II drug possession offenders. Among drug offenders, marijuana sale offenders were the least likely to admit heavy drug use. Generally, property and violent crime offenders were less likely to admit heavy drug use than drug crime offenders. Only robbers claimed heavy use of drugs more often than drug offenders.

■ Display 18 presents information on the types of drugs used by drug, property and violent crime felons. Drugs are grouped into three types: cocaine, marijuana, and other drugs (hallucinogens, heroin, opium, synthetic narcotics, amphetamines, and barbiturates). Percentages presented here do not add to 100% because some offenders have used more than one drug. Marijuana is the drug most commonly reported used by drug, property and violent crime felons. Between 45% and 71% of all offenders reported prior marijuana use. By comparison, the 1990 National Household Survey on Drug Abuse reported that about 33% of the general U.S. population has used marijuana. More than 60% of Schedule I/II drug possession and sale offenders reported prior use of marijuana or cocaine. About 71% of marijuana sale offenders reported prior use of marijuana, and 28% reported prior use of cocaine. Among property and violent crime offenders, robbers were most likely to claim prior use of cocaine, marijuana and other drugs. Nearly 50% of robbers and 34% of burglars reported prior use of cocaine. These findings are paralleled by national studies. A 1986 survey of state prison inmates reported that over 50% of incarcerated robbers or burglars reported the daily use of illegal drugs in the month prior to their latest offense. A 1989 National Institute of Justice study found that, with the exception of drug offenders, burglars and robbers were most likely to test positive for drug use when arrested.

■ Display 19 presents the percentage of drug, property and violent crime felons who had undergone some form of drug treatment in the past. Although the majority of drug offenders showed evidence of drug abuse, only about one-quarter of them had ever been in a drug treatment program. Schedule I/II drug possession offenders were the most likely to have received drug treatment, and marijuana sale offenders were the least likely to have received drug treatment. The differences between the percentages of offenders displaying evidence of drug abuse and those who have ever received drug treatment points out that many of those needing drug treatment had not received any such treatment.

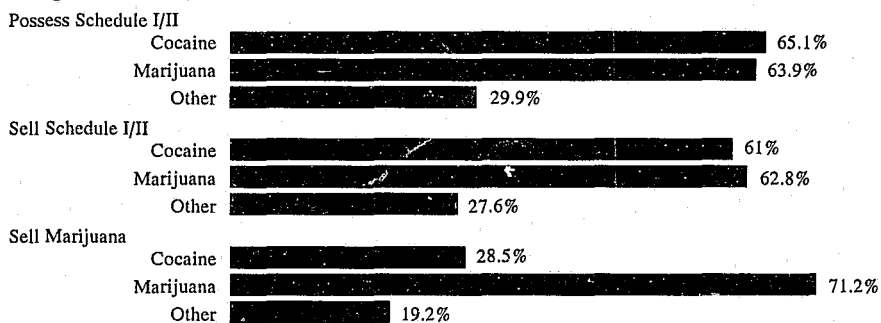
■ These findings indicate that, in general, drug offenders were more likely to show evidence of drug abuse, to have admitted heavy drug use, and to have received drug treatment, than property and violent crime offenders. However, offenders convicted of certain offenses, notably robbery and burglary, also showed high levels of drug involvement.

1. Although Displays 17 and 18 present data reported by convicted offenders, the data is believed to be reliable because the information reported by these offenders is subject to review in open court by defense attorneys, prosecuting attorneys, and the judge.

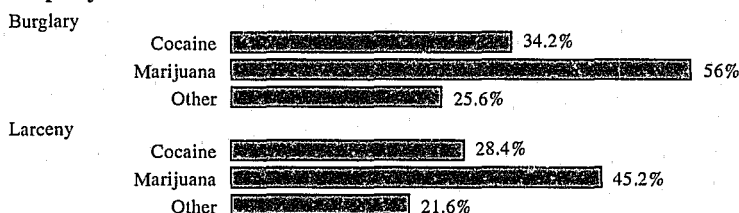
Display 18

Percentage of Felons Admitting Use of Cocaine, Marijuana and Other Drugs (1987 - 1989)

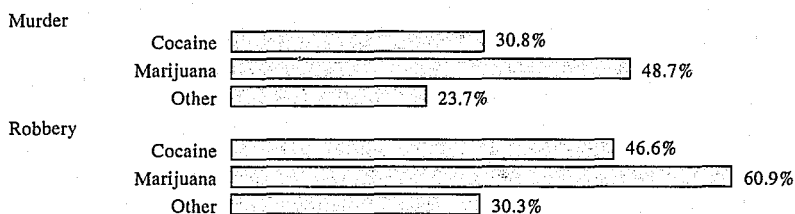
Drug Offenses



Property Offenses



Violent Offenses



Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

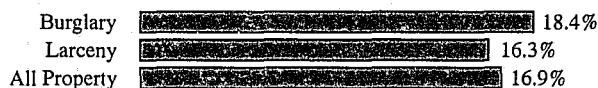
Display 19

Percentage of Felons Having Received Drug Treatment (1987 - 1989)

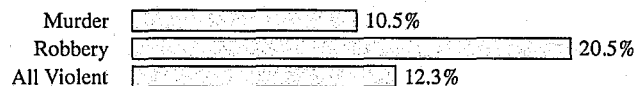
Drug Offenses



Property Offenses



Violent Offenses

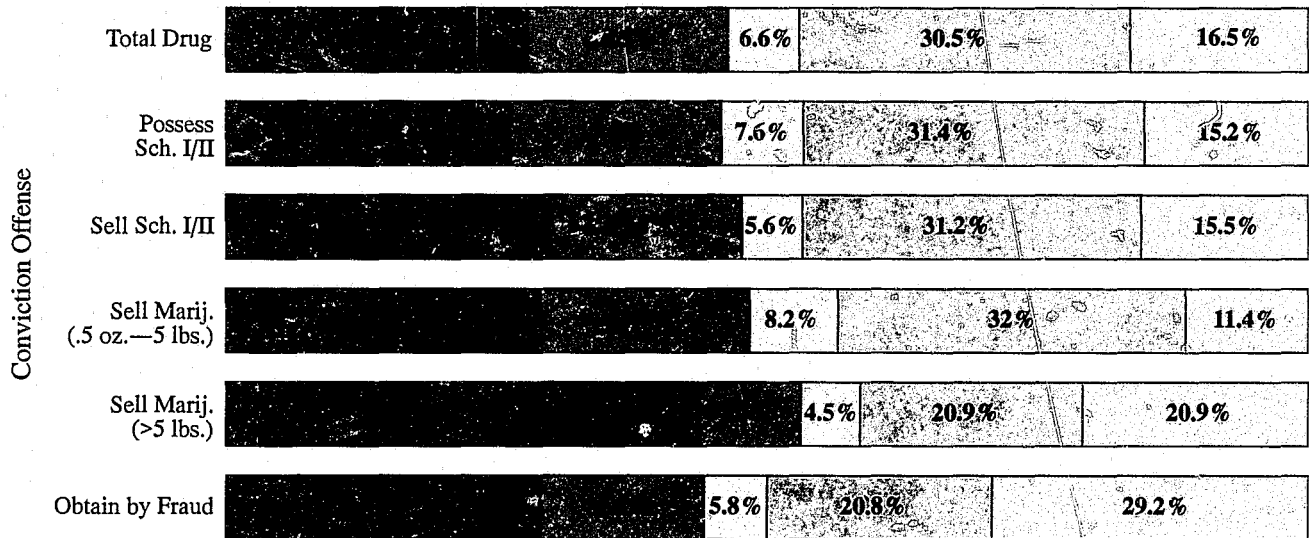


Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

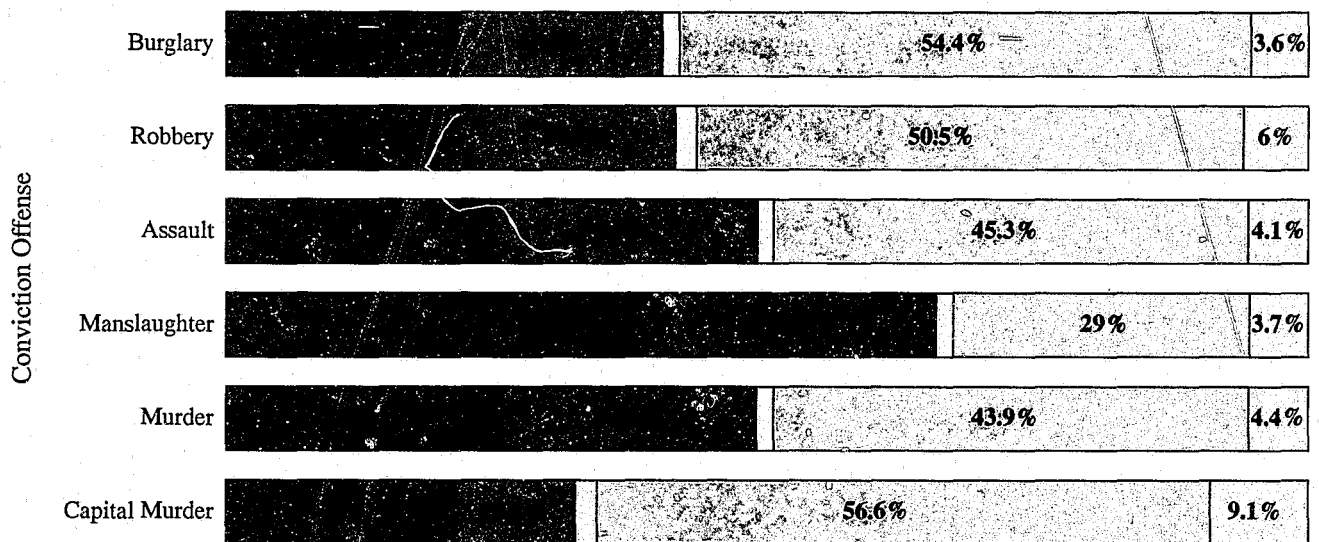
Display 20

Prior Criminal Record Information for Drug and Non-Drug Felons (1987 - 1989)

Drug Felons



Non-Drug Felons



No Prior Conviction
 Prior Non-Drug Misdemeanor Conviction
 Prior Drug Misdemeanor Conviction (Less than 2% for all Non-Drug Felons)

Prior Non-Drug Felony Conviction
 Prior Drug Felony Conviction

Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Display 20: Prior Criminal Record Information for Virginia Felons

Prior criminological research has documented the existence of chronic repeat offenders—those who have very active criminal careers and who account for an extraordinary amount of crime in any given year. Acting on these findings, many jurisdictions across the country have instituted career criminal programs. In general, career criminal programs incorporate one or more of the following measures geared toward the habitual offender: (1) special police surveillance, (2) preventative pretrial detention, (3) selective prosecution, (4) strict or mandatory sentencing standards, and (5) denial of parole eligibility. The focus of many of these programs is to identify the chronic offenders early in their “careers” and to incapacitate them during their peak periods for criminal activity. Proponents of these programs argue that their potential crime reduction benefit is maximized by incapacitating for long periods of time only the most hard-core offenders.

Many of the factors used in these career criminal identification programs have already been mentioned in this report: age, drug and alcohol abuse, employment history, and the nature of the offense. The one factor not yet discussed which is routinely found in these schemes is prior criminal history. An offender’s prior criminal history is the single best predictor of his future likelihood of criminal involvement. As such, the criminal justice system now makes a determined effort to record with great accuracy and thoroughness the nature and extent of an offender’s criminal history.¹ Detailed prior criminal history information provides the foundation for programs which target the early identification of career criminals. Display 20 provides prior record information for drug felons and other felons convicted in Virginia, based on a three-year average (1987 - 1989).

■ Overall, nearly three-quarters of all felony drug offenders convicted between 1987 and 1989 had prior records involving at least a misdemeanor conviction. The offenders most likely to have had any prior criminal record were those convicted of possessing a Schedule I/II drug. Roughly 74% of these offenders had a prior criminal record. The offenders least likely to have had any prior criminal record were those convicted of selling over five pounds of marijuana. About 56% of these offenders had a criminal record.

■ Of all convicted drug offenders, 47% had records involving at least one prior felony conviction. Offenders convicted of obtaining drugs through fraud or forgery (forging prescriptions, etc.) were most likely to have a

prior felony conviction. One-half of these offenders had at least one prior felony conviction. Offenders convicted of selling over five pounds of marijuana were least likely to have had a prior felony conviction in their criminal history. Forty-two percent of these offenders had a prior felony record.

■ Among all drug offenders, nearly 7% had at least one prior misdemeanor drug conviction and about 16% had at least one prior felony drug conviction. Offenders who sold between one-half ounce and five pounds of marijuana were most likely to have had a prior misdemeanor drug conviction. However, they were also the least likely to have a prior felony drug conviction. Offenders convicted of selling over five pounds of marijuana were least likely to have had a prior misdemeanor drug conviction.

■ Prior felony drug convictions were most prominent among those convicted of obtaining drugs through fraud or forgery, the group most likely to have any felony record. As seen in Display 13, these offenders are in many ways different from other drug offenders. They are also significantly more likely to be drug abusers. Three-fourths of these offenders are classified by their probation officers as apparently abusing drugs, over half reported a heavy use of drugs, and 64% have undergone drug treatment in the past (three times the number of other drug offenders). These offenders obviously pose special problems for drug policies aimed at apprehension without treatment.

■ It is commonly believed that a large proportion of all crime is drug-related, particularly homicide, assault, burglary, and robbery. If this were true, we would expect to see, to some degree, that the criminal careers of violent and property offenders would include drug crimes.

■ With the exception of manslaughter offenders, felons in each of the six violent or burglary offense groups examined were more likely than drug offenders to have had a prior criminal record. The violent and burglary offenders examined were less likely to have a prior drug misdemeanor conviction than convicted drug offenders (misdemeanor drug convictions include offenses such as selling less than one-half ounce of marijuana, possessing marijuana or other less serious drugs, and drug paraphernalia charges). The violent and burglary offenders were also less likely to have had a prior felony drug conviction than drug offenders. Among the violent and burglary offense groups, offenders convicted of capital murder were the most likely to have had a prior felony drug conviction (twice as many as other violent and burglary offense groups examined).

However, drug offenders had a higher rate of felony drug convictions than capital murder offenders.

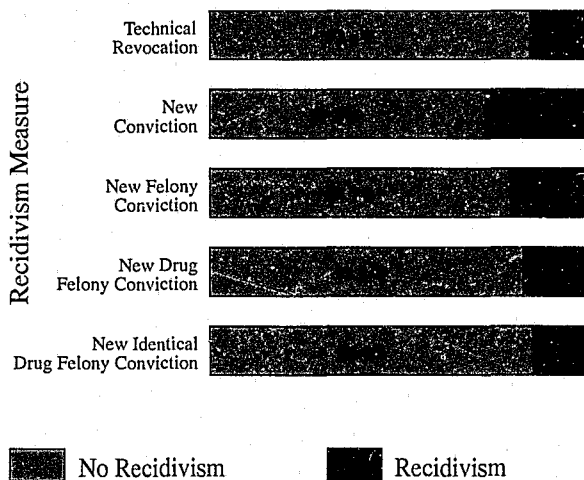
■ Drug offenders were more likely to have a prior drug conviction (misdemeanor or felony) than burglary or violent offenders. Drug convictions, misdemeanor and felony, accounted for more than 20% of the prior convictions for drug offenders and roughly 5%-10% of the prior convictions for non-drug offenders. However, drug offenders were still twice as likely to come into the criminal justice system for a violent or burglary offense than a drug offense. Two-thirds of their prior felony convictions were for non-drug offenses. According to national recidivism research conducted by the Bureau of Justice Statistics, drug offenders are less likely to be rearrested for a drug crime than are violent offenders for a subsequent violent crime, or property offenders for a subsequent property crime. While offenders who were imprisoned for a drug crime were twice as likely to be rearrested for a drug crime than other offenders, offenders who were imprisoned for a homicide were five times more likely to be rearrested for a homicide than other offenders. Although drug offenders have more drug offenses in their prior record than other types of offenders, examining specialization within each offense group indicates that drug offenders are still unlikely to specialize in drug crime. Therefore, policies that target only drug offenders will exclude a significant share of offenders participating in drug crime.

1. As shown in Display 14 a significant amount of drug crime is perpetrated by juveniles. Unless a juvenile offender was prosecuted as an adult, however, these drug crimes do not get recorded on the automated systems that track criminal careers.

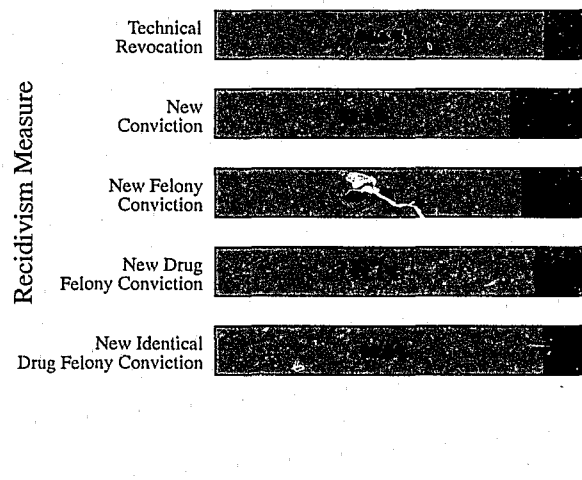
Display 21

Recidivism Rates for Virginia Drug Felons Sentenced to Probation in 1985

All Drug Offenses



Sell Schedule I/II Drugs



Display 21: Recidivism Rates for Virginia Drug Felons Sentenced to Probation in 1985

When a person who has been convicted of a crime begins to behave unlawfully once again, that person is said to have recidivated. Recidivism rates are frequently used to evaluate the effectiveness of the criminal justice system. One of the purest tests of whether the system has successfully dealt with its criminals involves those who have been placed on probation. One purpose of probation is to provide a punishment alternative to incarceration for those whose risk of future unlawful behavior is thought to be low. The policy implications of the data in Display 21 affect most areas of the criminal justice system, but bear most importantly on sentence decision-making. If the relative risks posed by convicted offenders placed on probation have been assessed accurately, then the recidivism rate should be negligible. Although recidivism studies typically follow the criminal careers of those who have been released from incarceration, Display 21 provides the first look at the recidivism patterns of those placed on probation for drug felonies in Virginia. The present analysis examined the population of those sentenced to probation for a drug felony in Virginia during 1985.¹

■ The length of follow-up is a critical aspect of recidivism studies because of its profound effect on the reported recidivism rate: the longer the follow-up, the higher the reported rate will be. In the present study, the period of follow-up was approximately five years. Most studies indicate that the majority of persons who eventually recidivate do so within this period.

■ Recidivism can be measured in several different ways, which can lead to varying results and conclusions. For example, if recidivism is measured by any new arrest after the offender's release from the criminal justice system, the recidivism rate would be substantially higher than if recidivism is measured by a conviction for the return to the same criminal behavior previously punished. The criterion typically applied by criminologists to gauge recidivism is a new arrest after an offender's release from prison—this would entail apprehensions for most crimes and would include some serious misdemeanors.²

■ Whatever recidivism measures are chosen, it is important to understand the caveats involved. First, the use of arrests as a criterion may overestimate the degree of recidivism because some arrested people are ultimately found innocent. Second, recidivism measures that rely on conviction information may underestimate recidivism because plea bargaining can reduce a felony to a misdemeanor or can result in the dismissal of the charge. Finally, criminal history information is incomplete for many offenders. Consequently, these recidivism

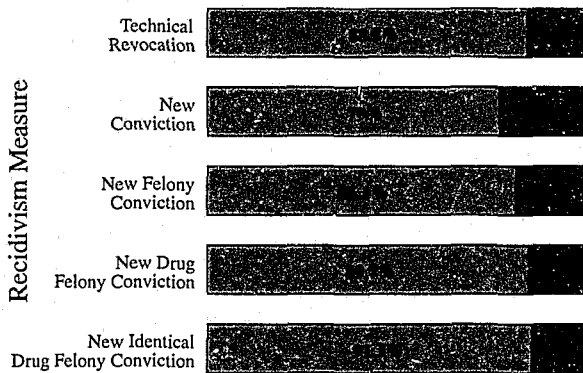
measures are probably conservative, as more rearrests and reconvictions occur than are captured by available databases.

■ Given that different measures can affect the conclusions made about recidivism, five measures were employed to more fully describe the patterns of recidivism among drug probationers. The following statements, therefore, apply only to the recidivism measure specifically identified.

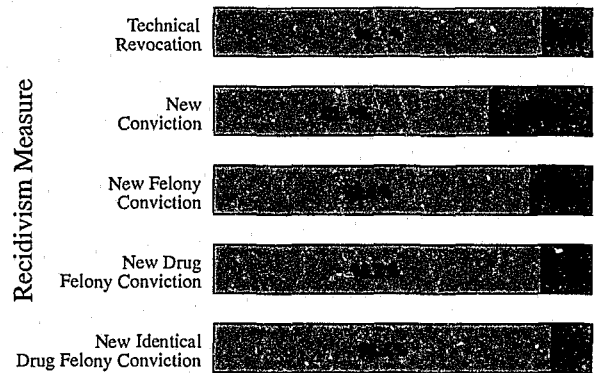
■ **TECHNICAL REVOCATIONS:** A technical revocation occurs when the probationer fails to meet the conditions of probation, but has not committed a new criminal offense. The overall rate of technical probation revocation for drug felons was about 8%. The highest rate of technical revocations was for persons on probation for possession of a Schedule I/II drug (12%). The rate of technical revocations for both sale of marijuana (4%) and sale of a Schedule I/II drug (5%) was substantially lower. The most frequent reasons for technical revocations were drug-related infractions such as indications of drug use in urine tests (50%), failure to cooperate with probation officer (41%) and failure to report to probation officer (32%).³

Display 21 cont.

Possess Schedule I/II Drugs



Sell Marijuana



Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

■ **NEW CONVICTIONS:** The rate of recidivism was similar for probationers who were convicted of a new criminal offense for all three drug crimes. The overall rate of recidivism for a new conviction was 20%. The highest rate was for those previously convicted of possession of a Schedule I/II drug (21%), while the rate for those previously convicted of sale of either marijuana or a Schedule I/II drug was lower (18%).

■ **NEW FELONY CONVICTIONS:** Thirteen percent of drug probationers recidivated by being convicted of a new felony. Recidivism rates for persons on probation for both the sale and possession of a Schedule I/II drug were quite close (15% for possession; 14% for sale). The rate of recidivism when the original crime was sale of marijuana (8%), though, was about one-half that of the rate for either sale or possession of a Schedule I/II drug.

■ **NEW DRUG FELONY CONVICTIONS:** The recidivism rate when measured as a new drug felony conviction was 9% for drug probationers. The highest recidivism rate was for offenders on probation for the possession of a Schedule I/II drug (10%). Probationers who sold a Schedule I/II drug recidivated at nearly the same rate (9%). The lowest rate was 5%, for those who were placed on probation for the sale of marijuana.

■ **NEW IDENTICAL DRUG FELONY CONVICTION:** The recidivism rate, as measured by a new identical drug felony conviction, was 6%. Nine percent of those placed on probation for the possession of a Schedule I/II drug were subsequently convicted of the same crime. Only 5% of those placed on probation for the sale of a Schedule I/II drug and 2% for the sale of marijuana recidivated by being convicted for the same type of drug felony. Nonetheless, if there was a new drug felony conviction, it was most likely the same as the earlier conviction offense.

■ Generally, recidivism rates for drug probationers reported here appear quite low. However, caution should be used when interpreting these results. The types of drug offenses have changed radically over the past ten years (see Displays 1 and 2) and the demographic profile of drug offenders has shifted toward younger and minority offenders over the past several years (see Displays 14 and 15). Therefore, it is difficult to know the extent to which conclusions based on these results will apply to drug offenders currently being sentenced to probation.

1. The Pre-Sentence Investigation (PSI) database provided the information on the 450 probation cases examined in this analysis. The specific number of cases within each felony drug crime category was as follows: 105 felony sale of marijuana, 112 felony sale of Schedule III drug, 195 possess Schedule III drug, and 38 unspecified or other. These cases do not include individuals sentenced to preconviction probation as defined by Section 18.2-251 of the Code of Virginia.

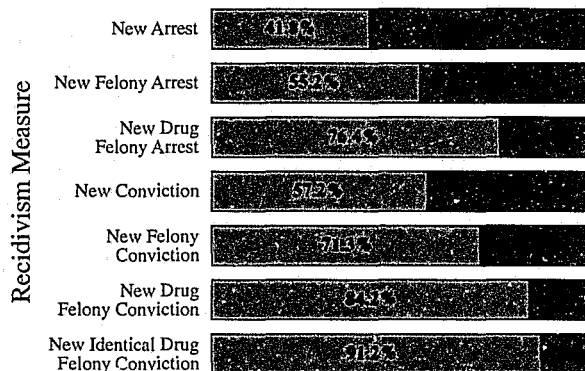
2. The automated criminal history record-keeping system used to access the data presented in Displays 21 through 24 does not report arrests for misdemeanors which are not punishable by a jail term (e.g., being drunk in public, using profanity in public, vagrancy, disturbing the peace, loitering). Therefore, new recorded arrests were either for misdemeanors which are punishable by a jail sentence (e.g., simple assault, petit larceny, possession of marijuana, driving while intoxicated) or felonies.

3. These percentages can total greater than 100% because probation can be revoked for more than one reason.

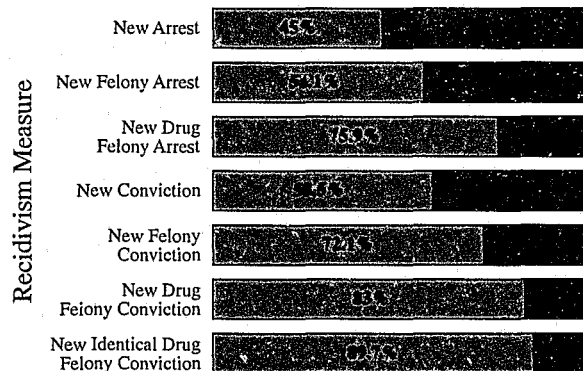
Display 22

Recidivism Rates for Virginia Drug Felons Released from Prison in 1983

All Drug Offenses



Sell Schedule I/II Drugs



No Recidivism
 Recidivism

Display 22: Recidivism Rates for Virginia Drug Felons Released from Prison in 1983

One purpose of incarceration is to deter future offenders. The success of penalties such as incarceration in deterring future crimes is especially important with regard to drug offenders. As Displays 8 and 9 have documented, arrests and convictions for felony drug offenses have risen rapidly in recent years. As will be seen in later displays, the proportion of inmates who are drug offenders is growing, and drug offenders are consuming a larger proportion of available jail and prison space. High levels of recidivism among ex-inmates may indicate that an intense prosecution and incarceration strategy alone is not sufficient to curb the drug crime problem. There may also be a need for more treatment programs to reduce the likelihood of future drug crime among previously incarcerated felons. Supporting this view is a recent report prepared for the U.S. Senate Judiciary Committee which noted that adult correctional systems are overburdened and fail to treat drug addiction among inmates. Conversely, low levels of recidivism may suggest that past incarceration has proven to be effective. Virginia has until now lacked the research to determine a recidivism rate for its drug offender population. Recidivism research is essential for assessing the criminal justice system's response to drug crime. Results of the current analysis have direct policy implications for sentencing, corrections and parole practices.

■ Display 22 presents recidivism rates for 467 felony drug offenders released from Virginia prisons in 1983.¹ These rates are based on a five year follow-up period. A five year follow-up period was used in this analysis to allow a direct comparison with rates for violent offenders, reported in *Violent Crime in Virginia*, as well as with rates for probationers shown in Display 21. Caution should be used when making the latter comparisons as only the conviction rates for previously incarcerated felons and probationers are directly comparable.

■ Seven different measures were used to describe the extent of recidivism among previously incarcerated drug criminals. These multiple measures reflect the ways in which offenders re-enter the criminal justice system. The use of different recidivism measures can sometimes lead to different conclusions; therefore, the following statements about drug offenders apply only in the context of the specific recidivism measure identified. Note that the caveats regarding recidivism research discussed in Display 21 apply here as well.

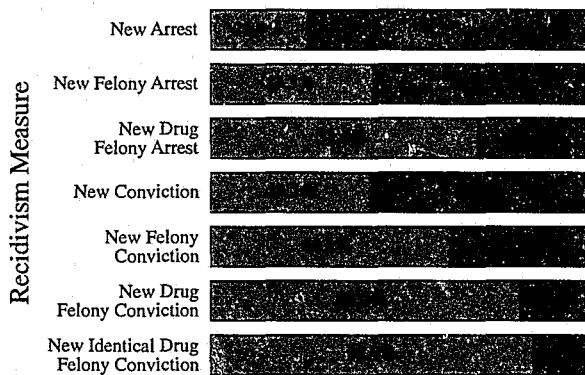
■ **NEW ARRESTS:** The overall recidivism rate as measured by new arrests was 58%. The highest recidivism rate was found for offenders previously incarcerated for possession of a Schedule I/II drug (74%). Those previously incarcerated for sale of a Schedule I/II drug had a recidivism rate of 55%. Those previously incarcerated for sale of marijuana had a 54% recidivism rate. By comparison, the highest recidivism rate for violent offenders was about 60% for those previously incarcerated for rape, robbery or aggravated assault.

■ **NEW FELONY ARRESTS:** Almost one out of every two previously incarcerated drug offenders was rearrested for a new felony. Over one-half (57%) of offenders incarcerated for possession of a Schedule I/II drug were rearrested within five years for a new felony charge. By contrast, 44% of offenders incarcerated for sale of a Schedule I/II drug and 37% of those incarcerated for sale of marijuana were recidivists. Offenders previously incarcerated for felony drug possession had higher recidivism rates than those previously incarcerated for violent crimes.

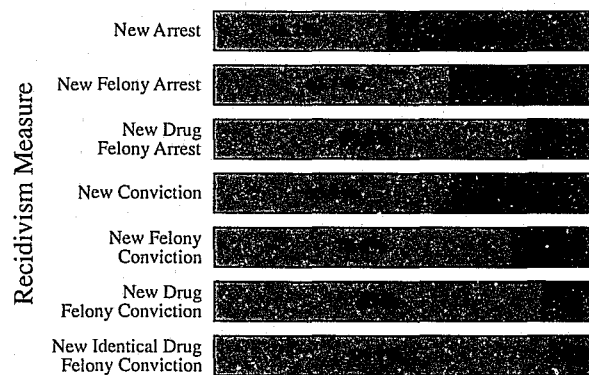
■ **NEW DRUG FELONY ARRESTS:** The overall recidivism rate as measured by new drug felony arrests was 24%. Approximately one out of every four offenders released from prison after serving time for either possession or sale of a Schedule I/II drug was rearrested for a new drug felony charge. About one in six offenders previously incarcerated for sale of marijuana was rearrested for a new drug felony.

■ **NEW CONVICTIONS:** Two out of every five previously incarcerated drug offenders were reconvicted for a felony. The highest recidivism rate as measured by reconviction was 57% for offenders previously incarcerated for possession of a Schedule I/II drug. Those previously incarcerated for sale of a Schedule I/II drug or marijuana had recidivism rates of 42% and 36%, respectively. No violent offenders showed recidivism rates equal to the rate among those previously incarcerated for possession of a Schedule I/II drug, though recidivism among previously incarcerated robbers was close at 50%. As noted in Display 21, about one in five drug probationers was

Possess Schedule I/II Drugs



Sell Marijuana



Data Source: Central Criminal History (CCH) database, Virginia Department of State Police; Offender Based State Correctional Information System (OBSCIS) database, Pre-Sentence Investigation (PSI) Reports, Virginia Dept. of Corrections; Interstate Identification Index, National Crime Information Center (NCIC)

reconvicted, a substantially lower rate than those drug offenders who were previously incarcerated.

■ **NEW FELONY CONVICTIONS:** The overall recidivism rate as measured by new felony convictions was 29%. Over one-third of offenders previously incarcerated for possession of a Schedule I/II drug were convicted for a new felony offense. About one in every four offenders previously incarcerated for sale of Schedule I/II drugs and one in five previously incarcerated for sale of marijuana returned with a new felony conviction. Using this measure, those incarcerated for possession of a Schedule I/II drug had the same recidivism rate as did previously incarcerated rapists, and a slightly higher rate than those previously incarcerated for robbery and aggravated assault. As seen in Display 21, drug offenders receiving probation were reconvicted at substantially lower rates than the previously incarcerated drug felons.

■ **NEW DRUG FELONY CONVICTIONS:** Approximately one out of every six previously incarcerated drug offenders was reconvicted for a new drug felony. Offenders previously incarcerated for either possession or sale of a Schedule I/II drug each had a 17% rate of recidivism. Those previously imprisoned for sale of marijuana had a recidivism rate of 11%.

■ **NEW IDENTICAL DRUG FELONY CONVICTIONS:** The overall recidivism rate as measured by a new identical drug felony conviction was 9%. Approximately one in every ten offenders previously incarcerated for either possession or sale of a Schedule I/II drug was reconvicted for an identical offense. Only

3% of offenders previously incarcerated for sale of marijuana were convicted of the identical crime. By comparison, almost 17% of rapists previously incarcerated were convicted for another rape. The small proportion of new identical drug offenses may suggest that these drug offenders did not specialize in particular drug crimes at high rates.

■ Generally, the highest recidivism rate, regardless of which recidivism measure was used, was found among offenders previously incarcerated for possession of a Schedule I/II drug. There are at least two possible reasons for this high recidivism rate among Schedule I/II drug possession offenders. One is that these offenders had high rates of drug addiction which went undiagnosed or untreated, either within prison or after release from prison. These addictions may have increased the likelihood of these offenders returning to crime following their release from prison. Displays 16 through 19 support this view, showing that drug possession offenders generally had higher rates of drug use and failed to receive any form of drug treatment.

■ Another possible reason for high recidivism among offenders previously incarcerated for drug possession is that they had more active criminal careers at the time of their incarceration and returned to this high level of criminal activity following their release. An examination of these offenders' criminal histories provides support for this explanation. A greater number of prior arrests and convictions were found among those previously incarcerated for possession of a Schedule I/II drug than among those previously imprisoned for a drug sale.

■ Offenders currently in prison for drug crimes differ from drug offenders released in 1983. For example, Displays 14 and 15 show that current drug offenders are younger and more likely to be members of a racial minority than those released in 1983. This suggests that any findings based on recidivism studies of offenders released in 1983 must be used cautiously if applied to predicting recidivism rates for currently incarcerated drug offenders.

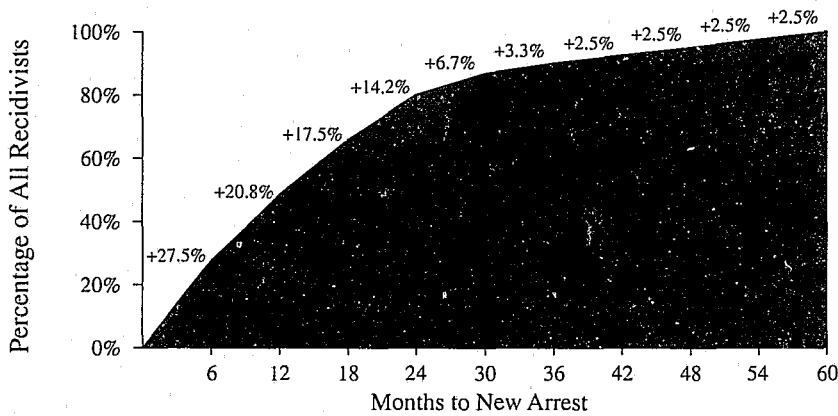
■ The information provided here serves as a first step towards identifying those offenders most likely to be recidivists. The next stage of this recidivism research is to identify factors which predict the likelihood of recidivism. These factors may be useful to the judiciary for identifying low-risk offenders who can be successfully diverted from incarceration to alternative sanctions, such as electronic monitoring. The Virginia Parole Board is also developing risk assessment guidelines which may help identify offenders who are at high risk of recidivism.

1. The Virginia Central Criminal History (CCH) information system, Pre-Sentence Investigation (PSI) reports, and the National Crime Information Center (NCIC) network were used to determine the level of new criminal activity for drug offenders over a five-year period following their release from prison in 1983. Offenders who committed technical violations of parole were not considered recidivists for the purposes of this display.

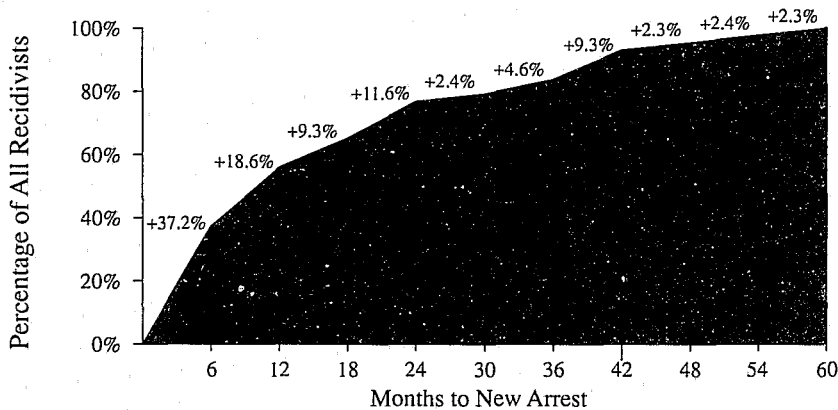
Display 23

Recidivism for Drug Felons Released in 1983

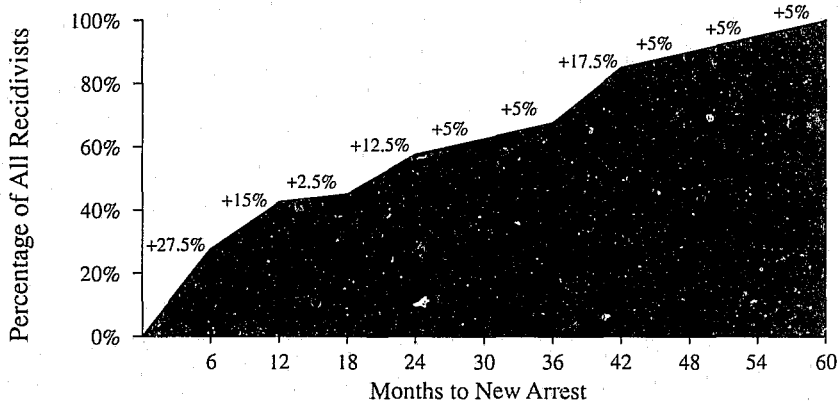
Sell Schedule I/II Drugs



Possess Schedule I/II Drugs



Sell Marijuana



Data Source: Central Criminal History (CCH) database, Virginia Department of State Police; Offender Based State Correctional Information System (OBSCIS) database, Pre-Sentence Investigation (PSI) Reports, Virginia Department of Corrections; Interstate Identification Index, National Crime Information Center (NCIC)

Displays 23 & 24: The Pace of Recidivism Among Drug and Violent Felons Released from Prison in Virginia in 1983

Other studies on recidivism have documented that those who resume criminal activity after release from incarceration generally do so quickly after their return to society. In an eleven-state study of offenders released from incarceration in 1983, the Bureau of Justice Statistics reported that a significant percentage of all felons were rearrested for a new crime within one year after their release. Such findings have specific implications for sentencing and parole practices as well as community corrections policies. For example, knowing the periods of highest risk for parolees might help corrections professionals focus on wider use of intensive community supervision during the most critical stages of an offender's reintegration into society. Displays 23 and 24 illustrate the pace of recidivism,¹ both cumulatively throughout the five-year period and incrementally by each six-month period, for the 467 drug offenders examined in Display 22,² and compares this to that for selected violent criminals. By the end of the five-year follow-up the cumulative arrest rate was 100%, since by definition all recidivists became repeaters due to a new arrest.

■ Recidivism is most likely to occur within the first year after a drug offender's release from prison. Of all drug offenders rearrested within five years of their release from prison, approximately one-half were rearrested within one year and almost three-fourths were rearrested within two years. Offenders previously incarcerated for possession of a Schedule I/II drug were most likely to be rearrested within one year (56%). These results show particularly early recidivism rates among this offense group. Although further research is needed, these findings may suggest again the need for expanded drug treatment programs. By the end of two years, repeaters previously incarcerated for sale of a Schedule I/II drug had the fastest pace of recidivism, as 80% had been rearrested.

■ Sale of marijuana recidivists repeated more slowly than the other drug recidivists. By the end of the first year, just over 40% of these recidivists had been rearrested, most within the first six months. After two years, only 58% of marijuana recidivists had been rearrested, as compared to over 75% of Schedule I/II drug recidivists.

■ Except for offenders who sold marijuana, recidivism rates for drug criminals climbed steeply in the first two years of release from prison and then dropped off, with significantly smaller increases throughout the last three years of the follow-up period. This pattern is very similar to that of violent criminals as seen in Display 24. This may provide some limited evidence that marijuana offenders are unlike the rest of the drug criminal population. However, this may also simply reflect the decreased emphasis of law enforcement on marijuana as compared to cocaine and other Schedule I/II drugs.

■ After an offender is released from prison and remains crime-free for five years in the community, he is generally considered a "successful" release. Despite the fact that most recidivists are rearrested within one or two years, some are not rearrested until much later. For example, of the marijuana recidivists, 5% were rearrested after being arrest-free in the community for 4 1/2 years. This pattern is also true of some violent crime recidivists and drug probationers.

■ The pace of recidivism for those previously incarcerated for drug offenses is similar to that of probationers. About one-half of those who became recidivists while on probation did so within one year.

■ Offenders previously incarcerated for possession of a Schedule I/II drug were rearrested rapidly, more rapidly than violent criminals and other drug offenders. These drug possession offenders may be rearrested more quickly than other offenders because, as noted in Displays 16 through 19, they have substance abuse problems and usually do not receive any form of drug treatment.

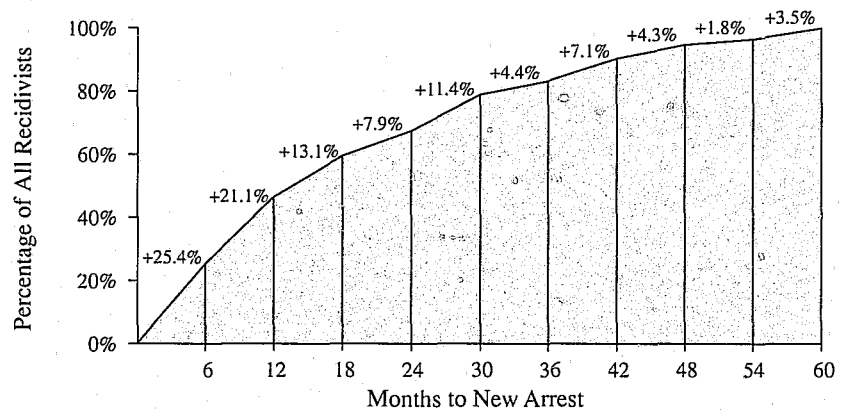
1. The pace of recidivism may be affected by local law enforcement practices, such as intensified efforts to combat the flow of illegal drugs or closer scrutiny for newly released drug offenders than other potential suspects. Further, the pace is affected by use of rearrest as the measure of recidivism.

2. The specific numbers of recidivist cases among all 1983 releases by felony drug categories are as follows: 210 of the total 467 drug offenders were rearrested for a felony or serious misdemeanor; 40 of 91 offenders for felony sale of marijuana; 120 of 282 offenders for felony sale of a Schedule III drug; and 43 of 81 offenders for possession of a Schedule III drug.

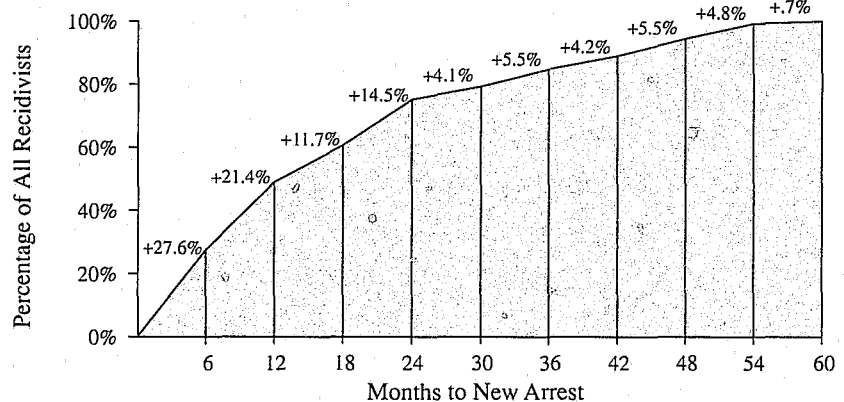
Display 24

Recidivism for Violent Felons Released in 1983

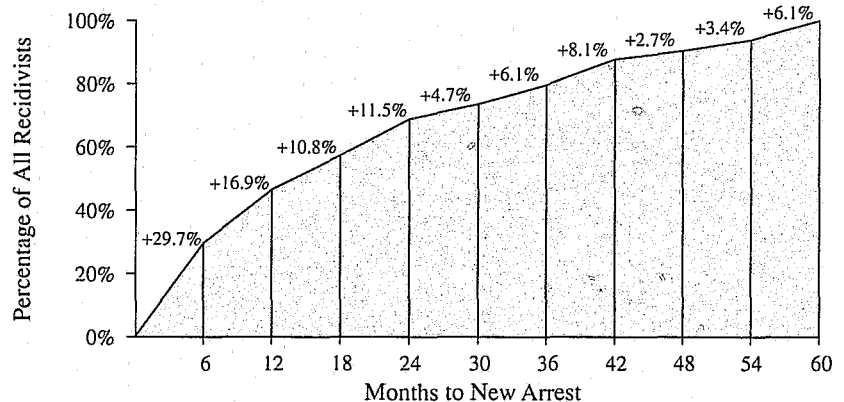
Rape



Robbery



Aggravated Assault

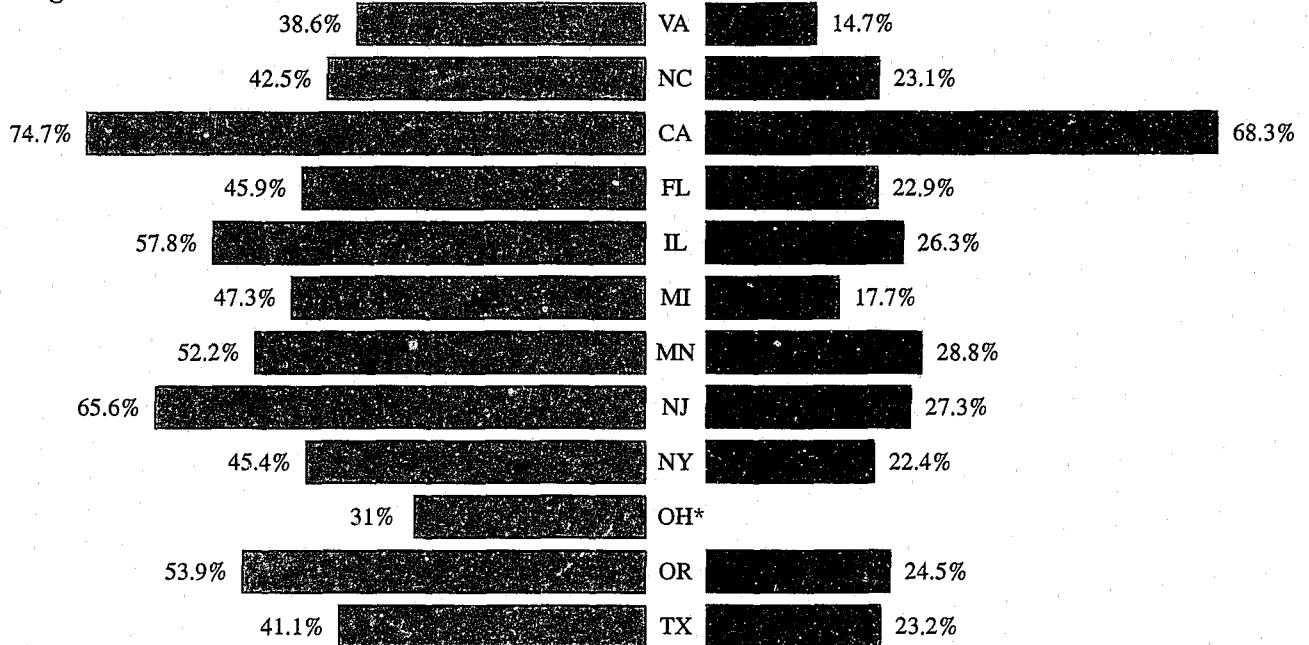


Data Source: Central Criminal History (CCH) database, Virginia Department of State Police; Offender Based State Correctional Information System (OBSCIS) database, Pre-Sentence Investigation (PSI) Reports, Virginia Department of Corrections; Interstate Identification Index, National Crime Information Center (NCIC)

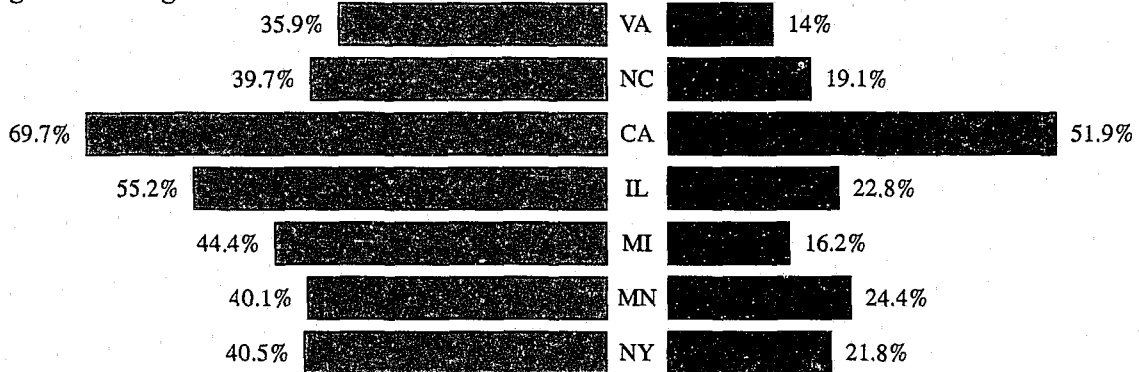
Display 25

Recidivism Rates for Drug Felons Released from Prison in Virginia and Other States in 1983

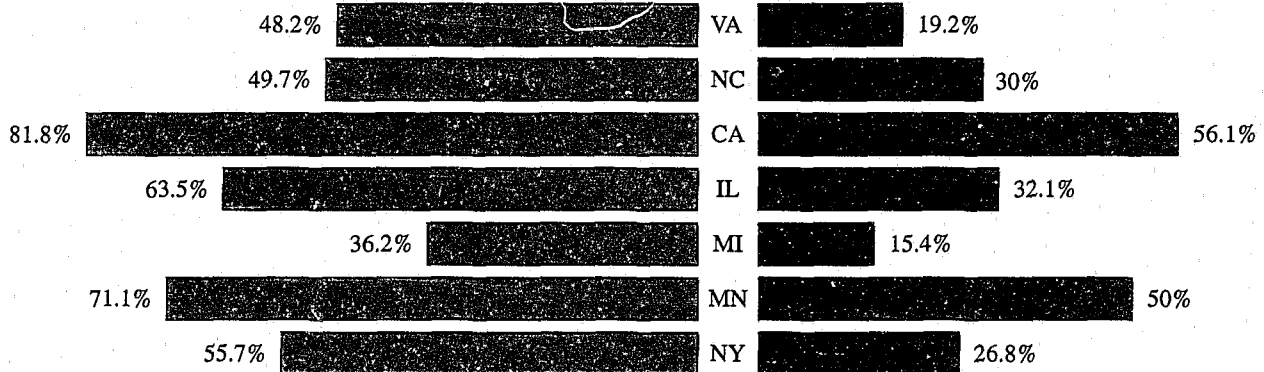
All Drug Offenses



All Drug Trafficking Offenses



All Drug Possession Offenses



■ Rearrest

■ Reincarceration

*Reincarceration data unavailable for Ohio

Data Source: Central Criminal History (CCH) database, Virginia Department of State Police; Offender Based State Correctional Information System (OBSCIS) database, Pre-Sentence Investigation (PSI) Reports, Virginia Department of Corrections; Interstate Identification Index, National Crime Information Center (NCIC); United States - Recidivism of Prisoners Released in 1983, Bureau of Justice Statistics, U.S. Department of Justice

Display 25: Recidivism Rates for Drug Felons Released from Prison in Virginia and Other States in 1983

Virginia has previously been unable to compare its recidivism rates with those of other states. Such a comparison is now possible using data from this analysis and from a Bureau of Justice Statistics (BJS) study of 11 states, which includes over one-half of the nation's state prisoners released in 1983. The states include one of Virginia's bordering states, North Carolina, as well as California, Florida, Illinois, Michigan, Minnesota, New Jersey, New York, Ohio, Oregon and Texas. Display 25 allows direct comparisons of recidivism rates of drug offenders in Virginia and these 11 states. The methods used to gather and analyze the Virginia data are identical to those used by BJS. The two analyses cover the same time frame. Knowledge of Virginia's relative success or lack of success with released inmates may have direct policy implications for sentencing, corrections, parole, and treatment practices. This display will also provide a baseline for future interstate comparisons regarding drug offenders.

■ In order to gauge the recidivism rates of felony drug offenders released from prison in Virginia, the same procedures described in the previous two displays were used. However, the Virginia follow-up period was reduced from five years to three years to make it comparable with the follow-up period used in the BJS study. Because the follow-up period here is shorter, the recidivism rates reported here will be lower than those in previous displays. The rates in Display 25 will also differ from the previous Virginia recidivism rates because the BJS study used a different set of offense categories. Drug trafficking in the BJS study was defined as drug manufacturing, distribution, sale, smuggling or possession with intent to sell. The BJS study was limited to only drug possession or trafficking offenses carrying a prison sentence of more than one year. Using this definition, all marijuana possession offenses and marijuana sales offenses involving less than one-half ounce of marijuana were excluded from Virginia rates. However, it is not known what offenses were excluded from other states' rates to conform to this BJS definition.

■ Two different measures were used to determine recidivism rates for drug criminals: rearrest and reincarceration. The rearrest rate will be higher than the reincarceration rate since not all arrests result in incarceration. For both Virginia and the other states, rearrest was defined as any new arrest after an offender's release from prison. Reincarceration refers to any return to prison or jail with a sentence for a new offense.

■ **NEW ARRESTS:** Virginia's recidivism rate for all drug offenders was 39%. North Carolina's rate was somewhat higher, 43%. Only Ohio had a lower recidivism rate (31%) than Virginia. California's recidivism rate of approximately 75% was twice as high as Virginia's and ten percentage points higher than the state with the next highest rate, New Jersey. New York's rate (45%) was much closer to Virginia than to its neighbor, New Jersey (66%).

■ Comparing drug possession and drug trafficking releases, Virginia's offenders previously incarcerated for drug possession had higher rearrest rates (48%) than those previously incarcerated for drug trafficking (36%). Among those six states reporting drug possession data, recidivism was higher among drug possession offenders than drug traffickers in all states except Michigan. North Carolina's recidivism rate for possession was two percentage points higher than Virginia's, while trafficking recidivism was four percentage points higher than Virginia's. California had by far the highest rates for both categories, while Virginia's recidivism rate among drug traffickers was the lowest. Michigan offenders had the lowest recidivism rate among those previously incarcerated for drug possession.

■ **NEW INCARCERATIONS:** Virginia had a lower reincarceration rate than the states in the BJS sample. Virginia's rate of 15% was substantially lower than North Carolina's rate of 23%. Most states reincarcerated approximately one in four drug offenders within the three-year period. By contrast, California reincarcerated two of every three drug offenders. All states except Michigan reincarcerated a higher proportion of offenders previously incarcerated for drug possession than those previously incarcerated for drug trafficking. In Virginia, these recidivism rates were approximately 19% and 14%, respectively.

■ These findings may have specific implications for sentencing and parole practices, as well as community corrections policies. If incarceration serves as a deterrent to future crime, one would expect states with the highest incarceration rates (per number of serious crime arrests) to have the lowest recidivism rates. These findings are consistent with this expectation. The states with relatively high incarceration rates, such as Virginia (ranked 18th), North Carolina (16th) and Ohio (7th), had relatively low recidivism rates. Conversely, the states with lower incarceration rates, such as California (36th), New Jersey (39th) and Oregon (46th) had higher recidivism rates. However, the remaining states examined do not fit this pattern.

■ There is an alternative interpretation of these findings which argues that deterrence is not responsible for these low recidivism rates. Rather, the different recidivism rates may be a function of state-to-state differences in the types of offenders committed to and released from prison. There are high incarceration-rate states which imprison most drug offenders, and low incarceration-rate states which rely heavily on alternatives to prison such as probation or community service for many of these offenders. States with a high incarceration rate, such as Virginia, may be imprisoning an overall less serious group of drug offenders than low incarceration-rate states. The high recidivism rate of a state with a low incarceration rate might then be attributed to its tendency to incarcerate only the most serious drug offenders, who are perceived to be the greatest risk to public safety and who are more likely to return to criminal activity upon release from prison. Unfortunately, specific offender profile data on drug felons imprisoned in the 11 states is not available, so it is not possible to determine if this is a reason for Virginia's relatively low recidivism rates.

■ In addition to these two competing explanations for the state-to-state variations in recidivism rates, there may be a methodological reason for the differences. Since automated criminal histories are the source of information used to measure recidivism, states with the most accurate criminal history reporting systems may appear to have higher recidivism rates simply because they maintain a more complete record of arrests, convictions, and incarcerations than states whose reporting systems are less complete. For example, California has the highest recidivism rates among the states in this display, but it is viewed as having one of the best criminal history reporting systems in the nation. Therefore, the higher rates for California may be partially a reflection of the accuracy of the state's criminal history reporting system.

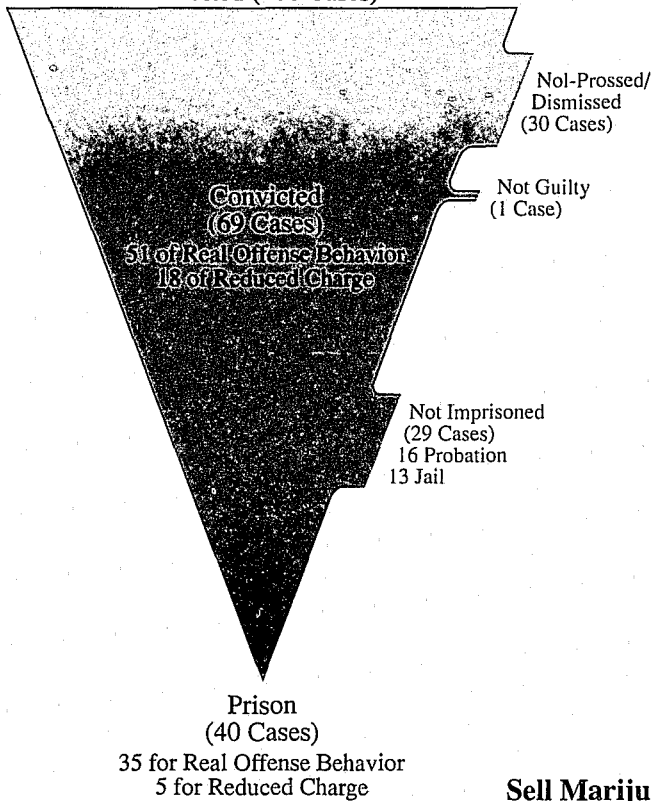




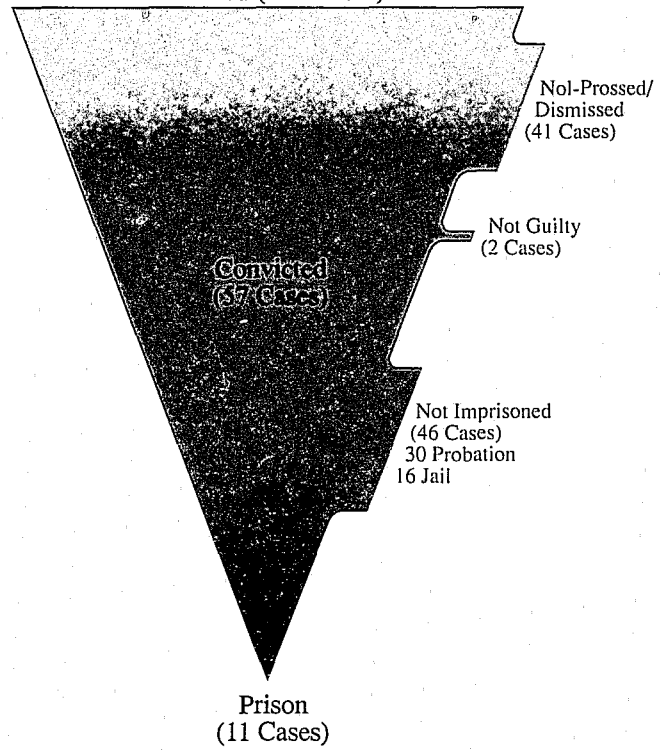
Display 26

Case Attrition for Felony Drug Arrests (1988)

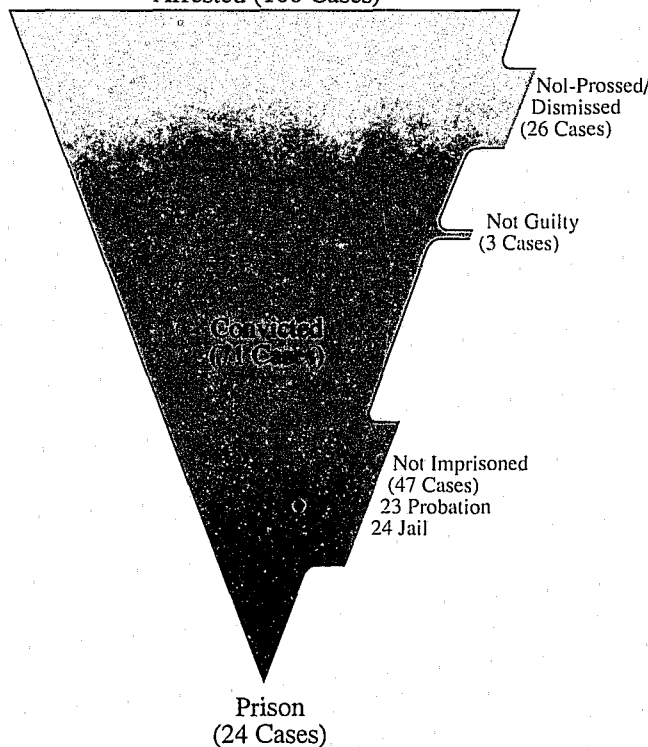
Sell Schedule I/II Drugs
Arrested (100 Cases)



Possess Schedule I/II Drugs
Arrested (100 Cases)



Sell Marijuana
Arrested (100 Cases)



Data Sources: Offender Based Transaction Statistics (OBTS) database, Virginia Department of State Police; Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Display 26: Case Attrition for Virginia Felony Drug Arrests

The criminal justice system functions like a series of sieves, filtering out offenders during each stage of case processing. This process is commonly referred to as case attrition. Not all crimes result in arrests; not all arrests result in indictments; not all indictments result in convictions; and not all convictions result in a prison sentence.

The dramatic influx of drug arrests translates into more cases entering the courts. Some have argued that the limited resources of the criminal justice system will cause the courts to deal with this influx by filtering out as many offenders as possible. This inevitably leads to frustration for criminal justice system employees and policy makers, who witness more cases failing to be fully prosecuted. The specific attrition rates of 1988 drug arrests processed through the Virginia criminal justice system are presented in Display 26.^{1, 2}

■ Of every 100 arrests for selling a Schedule I/II drug, 30 were nol-prossed or dismissed. Of the 70 cases prosecuted, 51 cases resulted in a conviction for the "real offense behavior"³ and 18 cases resulted in convictions for an offense with a less serious penalty (i.e., reduced charge). The one remaining case resulted in the offender's acquittal at trial. Of the reduced charge convictions, 77% were reduced to possessing a Schedule I/II drug and 23% were reduced to selling a Schedule I/II drug for accommodation (not for profit). Of the 51 offenders convicted for the real offense behavior of selling a Schedule I/II drug, 35 received a prison sentence (67%). Of the 18 offenders convicted of a reduced charge, five were incarcerated in prison (28%). Thus, only two out of every five offenders arrested for selling a Schedule I/II drug were convicted and sentenced to prison.

■ Of every 100 arrests for possession of a Schedule I/II drug, 41 cases were not prosecuted. Of the 59 cases prosecuted, 57 resulted in a conviction. The remaining two cases resulted in the offender's acquittal at trial. Of the 57 offenders convicted of possessing a Schedule I/II drug, 11 received a prison sentence (19%) and 46 received a non-prison sanction. Thus, only one out of every nine offenders arrested for possessing a Schedule I/II drug was convicted and sentenced to prison.

■ Of every 100 felony arrests for selling marijuana,⁴ 26 cases were not prosecuted. Of the 74 cases prosecuted, 71 resulted in a conviction. The remaining 3 cases resulted in the offender's acquittal at trial. Of the 71 cases convicted for selling marijuana, 24 cases received a prison sentence (34%) and 47 received a non-prison sanction. Only one out of every four offenders arrested for selling marijuana was sentenced to prison, despite the fact that this offense group had the highest conviction rate of the drug crimes examined.

■ There are a number of possible explanations for the higher nol-prossed/dismissal rate among offenders arrested for possessing a Schedule I/II drug than offenders arrested for selling Schedule I/II drugs or marijuana. It is possible that prosecutors are more interested in convicting drug dealers than drug users, and so are more likely to drop possession charges in exchange for information that may lead to those who sold the drugs. Or, as a matter of policy, prosecutors may choose to devote their resources to more actively pursuing convictions for drug dealers.

■ The rising numbers of drug arrests in Virginia have had a tremendous impact on the courts, which are charged with the responsibility of processing and prosecuting these offenders. Arrest charges are not prosecuted or are dismissed by the court for a variety of reasons. Lack of sufficient evidence or witnesses' refusal to cooperate are frequent reasons cited by prosecutors for dropping charges against defendants. Charges are also sometimes dismissed when due process concerns exist regarding the constitutionality of the arrest.

■ Another approach used by the courts to efficiently process cases is plea negotiations. There are three common plea negotiation tactics. First, defendants plead guilty to one charge in return for the dismissal of another. Second, defendants plead guilty to an offense with a less serious penalty. Finally, defendants plead guilty to their original charge with a bargain for a reduced sentence. Generally, acquittals at trial accounted for a very small percentage of total case dispositions. Such acquittals accounted for slightly more than 1% of arrests for selling a Schedule I/II drug, and about 2% of arrests for possessing a Schedule I/II drug and selling marijuana. Convictions for reduced charges accounted for slightly less than one of four convictions for selling a Schedule I/II drug. Unfortunately, the data does not allow an examination of real offense behavior that was reduced to a misdemeanor charge, such as felony sale of marijuana reduced to a misdemeanor possession charge.⁵

1. Although use of the most recent year's worth of data (1989) would have been preferable, one of the data sources used for this display was characterized by a high percentage of missing dispositions in general, and highest for 1989 in particular (74%-87% missing for drug offenders). The figures reported here include only those cases having complete information for both arrest and disposition. Therefore, if systematic bias exists which involves higher dispositional reporting rates for cases culminating in conviction than for nol-prossed cases, the figures in this display may overestimate the true conviction rate for these drug crimes.

2. Cases cited here do not include individuals who are sentenced to and successfully complete preconviction probation as defined in Section 18.2-251 of the Code of Virginia.

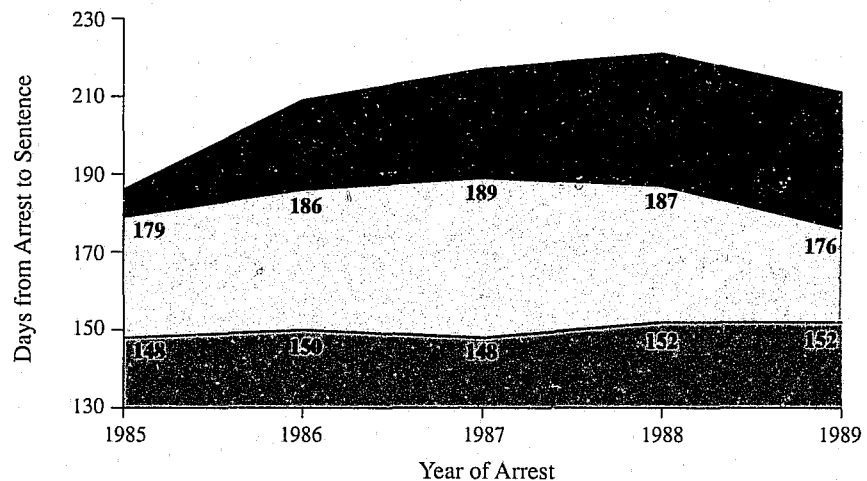
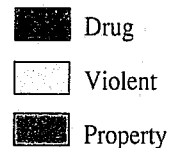
3. "Real offense behavior" refers to the actual criminal behavior that led to an arrest.

4. Includes distribution and possession with intent to sell or distribute marijuana, any amount over one-half ounce.

5. The real offense behavior information comes from the Pre-Sentence Investigation (PSI) database, which is not usually completed for offenders convicted of misdemeanor offenses.

Display 27

Median Case Processing Time by Type of Felony Conviction (1985 - 1989)



Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Displays 27 & 28: Case Processing Time for Virginia Drug, Violent and Property Felony Convictions

Dramatic increases in the volume of drug arrests may have a direct impact on the amount of time required for the courts to process cases. The Code of Virginia statutorily protects a felony defendant's constitutional right to a speedy trial. Following the district court's verification of probable cause, the offender's trial must commence in the circuit court within five months if the accused is held continuously in custody, or within nine months if the accused is not held in custody. An increase in the volume of drug arrests could jeopardize the defendant's right to a speedy trial.

According to the deterrence philosophy of punishment, while certainty and severity of punishment are required to deter future criminal behavior, celerity, or the swiftness with which the punishment is applied, is of the utmost importance. Those who believe an essential mandate of the criminal justice system is to deter future criminal behavior may be discouraged by an increase in case processing time resulting from case overloads. Since the increase in drug arrests may also have an indirect effect on the ability of the courts to process non-drug offenders, Display 27 compares the median¹ number of days required to process drug, violent, and property offenders from arrest through sentencing for offenders arrested during the five-year period 1985-1989.² Display 28 compares the average case processing time for specific types of drug offenders.

■ Case processing time for felony drug offenders increased steadily from 1985 until 1988, then fell in 1989 to a level slightly higher than the 1986 level. In 1989, an average of 30 weeks was required to process a drug case from arrest to sentence. This represents an overall increase of about 14% (or one month) in processing time over the processing time required in 1985. By comparison, the time required to process violent offenders increased from 1985 until 1987, then decreased in the next two years. In 1989, an average of 25 weeks was required to process a violent offender. This represents an overall decrease of 2% (or three days) in processing time compared to the processing time required in 1985. Case processing time for property offenders remained fairly stable over the five-year period, increasing slowly with the exception of a slight drop in 1987. An average of 22 weeks was required to process a property offender in 1989, an overall increase of 3% (or four days) over the processing time required in 1985.

■ There are several possible reasons why the processing of drug offenses requires more time than the processing of violent and property offenses. First, all drug cases require a drug analysis conducted by the state forensic lab. The frequency of suppression of evidence motions may also explain the longer case processing times for drug offenders. Unlike violent offenses, property offenses do not involve direct victim injury and testimony. Therefore property offenders might be expected to require the least amount of time to process.

■ Felony drug offenses differ in the amount of time they require for processing. In 1989, processing an offender convicted of selling marijuana required the most time (an average of

221 days) while processing an offender convicted of selling a Schedule I/II drug required the least amount of time (an average of 205 days).

■ Changes in case processing times over the last five years vary according to the type of drug offense examined. Average case processing times for possessing and selling a Schedule I/II drug (which comprise the majority of felony drug convictions each year) peaked in 1988 and then declined in 1989. Processing time for selling marijuana dropped in 1988, but climbed to its highest level in 1989. At the same time that case processing time was declining for Schedule I/II offenses, it was increasing for selling marijuana. It may be that prosecutors were placing a higher priority on processing cases involving a Schedule I/II drug than on cases involving marijuana.

■ Despite continued dramatic increases in drug arrests, it appears that in 1989 the courts were able to adjust with reasonable case processing times for these cases. There are a number of possible explanations for this phenomenon. First, since circuit courts process both criminal and civil cases, the increase in caseloads due to drugs may have had a detrimental effect only on civil case processing time (cases not under the speedy trial requirement). However, caseload statistics published by Virginia's judiciary indicate that while the number of civil and criminal cases commenced has increased steadily since 1985, the proportion of civil cases pending has remained stable. Thus, there is no evidence to indicate that civil case processing has slowed. A second possible explanation for the drop in processing time for drug offenses in 1989 is that the rate at which the cases were being nol-prossed/dissmissed increased. If this

occurred, it would have the effect of expediting case processing by eliminating more cases soon after arrest. However, preliminary data indicates that the nol-prossed/dismissal rate for felony cases, and drug cases in particular in 1989, has remained unchanged from previous years.

■ Finally, it is possible that the criminal justice system has added a sufficient number of new resources (i.e., personnel) to ensure the expedient processing of cases despite increased caseloads. Commonwealth's attorneys and judges are key components of the criminal justice system affecting case processing time. From 1985 through 1989, Virginia gained nine judgeships (an increase of 7%) and 37 assistant commonwealth's attorneys³ (an increase of 18%). Also, the state has been using federal grant funds and state appropriations to provide special regional drug prosecutors who can prosecute drug cases more efficiently.

■ According to some commonwealth's attorneys, improvements in case processing time are not the result of increased manpower but the result of more efficient use of limited resources. For example, jurisdictions like Alexandria, Richmond and Norfolk have special "drug days" in circuit court to more productively process felony drug offenders. Some jurisdictions dedicate staff to work solely on drug cases. Increased efficiency of forensic laboratories also has a direct impact on drug case processing time (see Displays 29 and 30). It would appear that the resources added to the criminal justice system, as well as the more efficient use of manpower, is allowing the system to assimilate the large influx of felony drug offenders. However, this may be a premature conclusion for a number of reasons. First, the decrease in case processing time occurred only in 1989; more years of data are needed in order to determine if a trend is emerging. Second, case processing time for marijuana cases continued to increase in 1989. Finally, despite the downward trend in case processing time witnessed in 1989, the average case processing times for all drug offenses were still significantly longer in 1989 than in 1985. Proponents of deterrence may be discouraged by this delay in the delivery of justice.

1. The median statistic is the midpoint in a series of numbers. It is used here instead of the mean because of the presence of several extreme observations in this data. Unlike the mean, the median is not adversely affected by extreme observations. Therefore, in this display, the median represents the average case processing time.

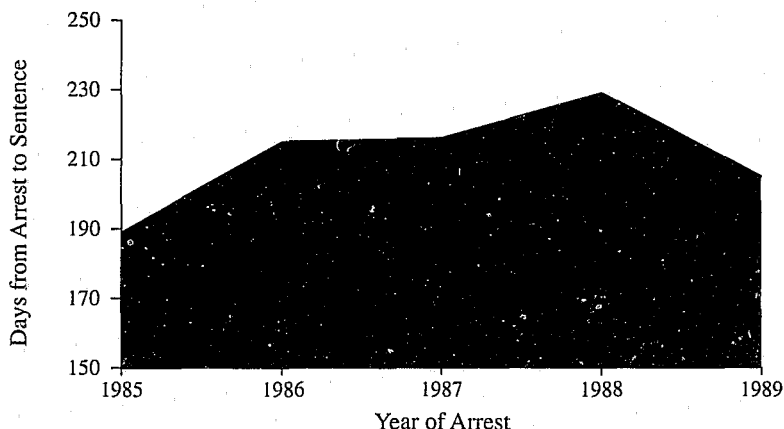
2. The 1989 data includes only offenders arrested during the first four months of the year 1989. Complete dispositional information on all offenders arrested in 1989 was not available at the time of this publication.

3. This number does not include federally or locally funded positions.

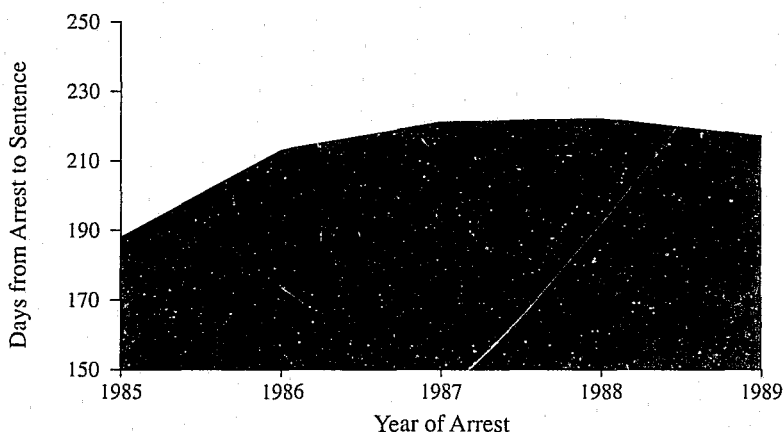
Display 28

Median Case Processing Time by Type of Drug Conviction (1985 - 1989)

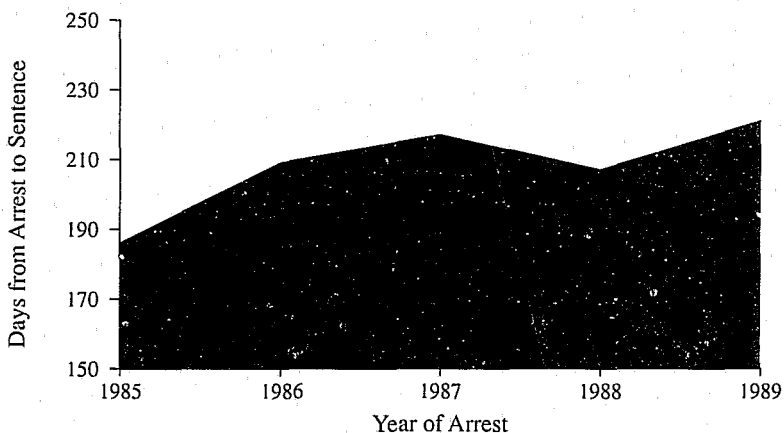
Sell Schedule I/II Drugs



Possess Schedule I/II Drugs



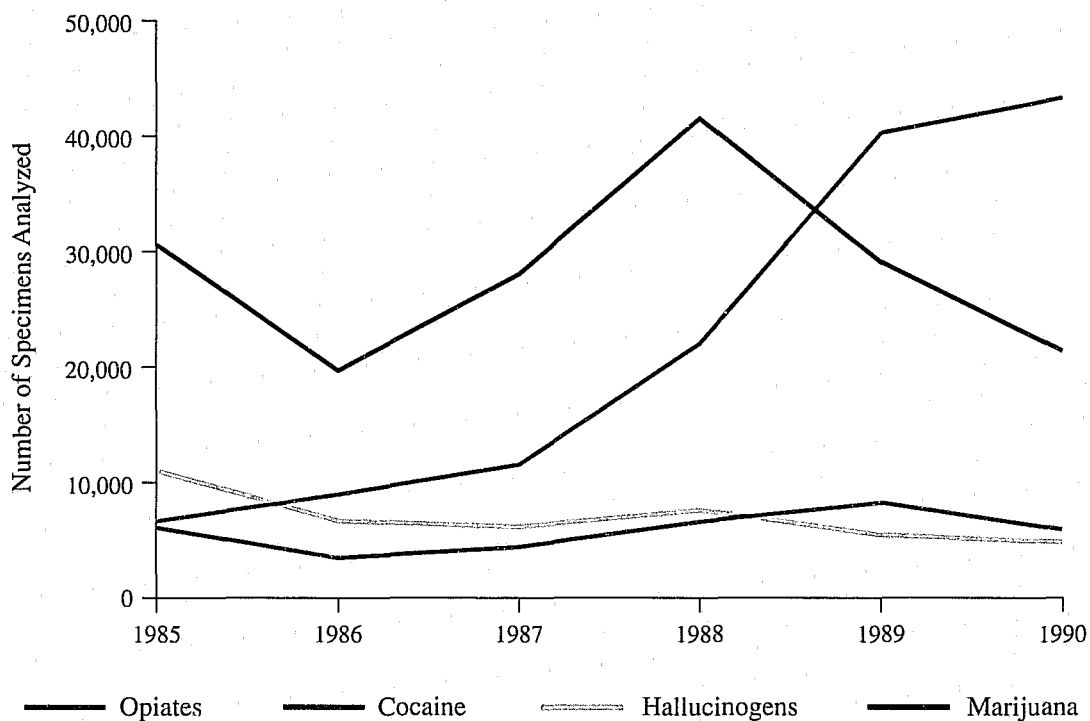
Sell Marijuana



Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Display 29

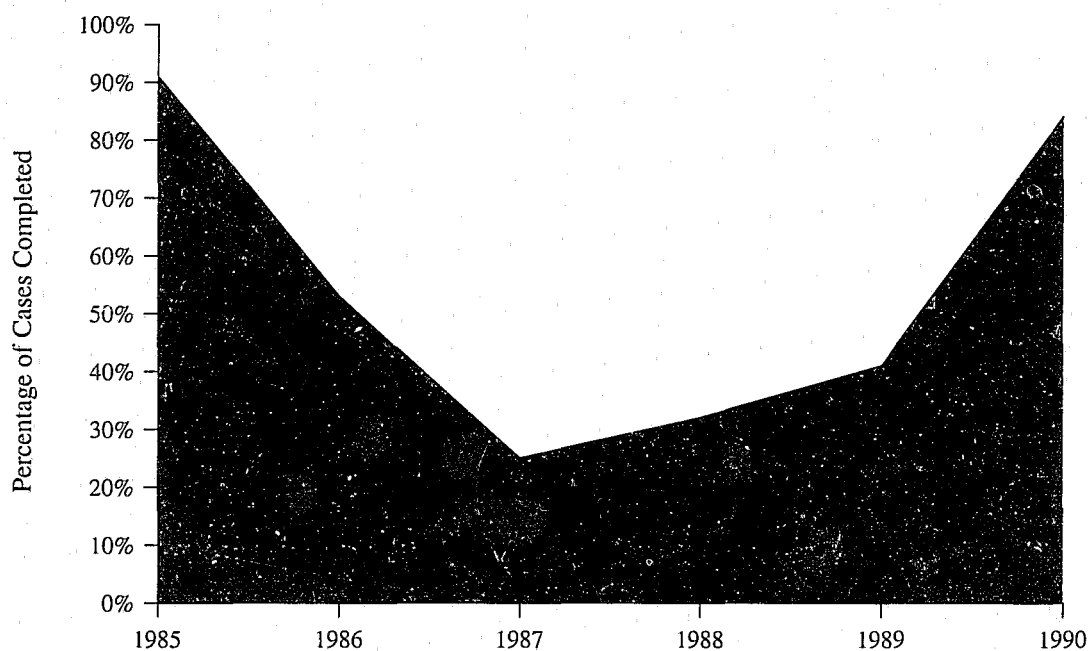
Number of Drug Specimens Analyzed by Virginia State Forensic Lab (1985 - 1990)



Data Source: Division of Forensic Science, Virginia Department of General Services

Display 30

Percentage of Drug Cases Completed by Virginia State Forensic Lab Within Ten Working Days of Submission (1985 - 1990)



Data Source: Division of Forensic Science, Virginia Department of General Services

Displays 29 & 30: Virginia State Forensic Lab Drug Specimen Analyses

Once a defendant has been arrested on a drug charge, but prior to prosecution, the suspected drug involved in the offense must be analyzed by the Virginia State Forensic Laboratory and a report of the findings completed. This is a critical step in the processing of Virginia's criminal drug offenses, yet the forensic lab and the role it plays within Virginia's criminal justice system are not widely understood.

The Virginia State Forensic Lab, or Division of Forensic Science, operates within the Department of General Services and is charged with the examination of a wide variety of physical evidence related to criminal activities and crime scenes. The lab is the sole provider of these services for the state and serves all state and local law enforcement agencies as well as the Medical Examiner's and the Attorney General's Office. Among the many types of analyses regularly conducted, the lab is responsible for testing suspected drugs involved in drug-related arrests and seizures. Although the arresting officer generally makes a preliminary identification of these drugs when reporting the arrest charge, the case cannot be prosecuted until the substance has been positively identified by the lab. Once a report has been issued, the court can proceed with the appropriate charge based on the type of drug involved.

Displays 27 and 28 provided evidence of some system adjustment by the courts to accommodate the influx of drug-related arrests over the past several years. The forensic lab is similarly affected by these changing enforcement patterns, and it, in turn, affects the functioning of other components of the criminal justice system. As seen in the previous display, the influx of drug-related arrests over the past several years has led to an increase in court case processing time. The resulting delay in completing drug cases¹ exacerbated problems faced by prosecutors and the judiciary in processing cases in a timely manner, as many drug prosecutions were delayed awaiting the forensic lab's results.

■ Display 29 illustrates the number of drug specimens analyzed by the forensic lab from 1985 through 1990 for four separate drug categories: marijuana, cocaine, hallucinogens,² and opiates.³ As can be seen, the number of opiates and hallucinogens analyzed has remained relatively stable over this six-year period. However, the number of marijuana and cocaine analyses performed during this time increased significantly. Following an earlier decline, the number of marijuana analyses completed by the lab began to increase steadily during 1986, and peaked in 1988. Requests for

cocaine analyses over this time period underwent a similar, but more dramatic, increase. Following a fairly steady increase in demand through 1987, the number of cocaine specimens analyzed nearly doubled between 1987 and 1988, and again between 1988 and 1989. The impact of this increase was magnified because cocaine analyses, which continued to represent an increasingly large proportion of the total workload, are much more time consuming and complex to perform. Typically, analysis of one cocaine specimen requires approximately four times the analytical time of one marijuana case because sophisticated instrumentation and multiple testing procedures are necessary.

■ Display 30 illustrates the actual impact that the influx of drug arrests has had upon the forensic lab's productivity. This display illustrates, for the years 1985 through 1990, the percentage of cases that the forensic lab completed within ten working days of submission. The crime lab has determined that ten working days is a reasonable time period for conducting an analysis without delaying processing of the case by the court. Since some drug analyses present unique problems and are more time consuming to conduct, a goal of 95% case completion within this time frame has been established by the lab. Prior to the dramatic increase in the number of drug arrests experienced in the mid-1980s, the lab usually met its ten-day goal. Display 30 shows that the percentage of cases completed within the designated time frame remained within range of the 95% goal through 1985, then declined as demand for marijuana and cocaine analyses began to rise.

■ Variations in drug case turnaround times throughout this period are explained by changing drug arrest trends and accommodations made by the forensic lab in attempting to meet these shifting demands. The first dramatic drop in the percentage of cases completed on time occurred in 1986, as the numbers of both cocaine and marijuana analyses were increasing. This decrease continued through the year with only 25% of drug cases completed on schedule during 1987. Unable to perform timely analyses given the increased demand upon its limited resources, the forensic lab instituted a Drug Item Reduction Program (DIRP), wherein the number of items analyzed per case was reduced. Previously the lab had analyzed every item involved in a drug arrest, examining not only the drug substance but any residue found on accompanying paraphernalia as well. This practice, along with routine tests of drug purity, was discontinued. This change contributed to an overall improvement in turnaround times by early 1988. The improvement, however, was short-lived. During the

same time period, cocaine arrests began to increase significantly, requiring completion of a record number of cocaine analyses in 1989. Due to the complexity of cocaine analyses and the number of samples involved, the backlog of drug cases increased substantially. During this period, the lab completed less than 41% of drug cases in the ten-day time frame, despite its continued use of modified analytical procedures.

■ While Displays 29 and 30 provide an understanding of the impact increased numbers of cocaine and marijuana arrests have had upon the functioning of the forensic lab, they do not reflect the effect of this backlog on the court system. As mentioned earlier, the timely processing of drug-related cases through the court relies upon the prompt receipt of the forensic lab's results. During periods when forensic lab turnaround times were greatest, the number of cases that were granted continuances increased, as the courts awaited the results of the lab's analyses. This delay contributed to an overall increase in case processing time for drug-related cases. This, in turn, resulted in numerous complaints being voiced by police, prosecutors, and judges, all of whom were concerned by the disruption of case flow and the possibility of case dismissal.

■ In response to these concerns, and with cocaine arrests continuing to rise, the lab was authorized to add additional resources. The effects of these changes are apparent. While the number of requests for cocaine analyses continued to rise through 1989, there was no corresponding drop in the percentage of cases completed on schedule during this time period. In fact, by 1990, turnaround time had improved to the extent that 84% of the total cases were being completed on schedule.

■ A law passed by the General Assembly during its 1991 session is expected to further reduce delays in case processing caused by backlogs in drug cases. The provisions of this bill allow law enforcement officers to present the results of a field test of a suspected drug at a preliminary hearing. This will allow prosecution of the case to continue pending completion of the forensic lab's official analysis of the suspected controlled substance.

1. A drug case as processed by the forensic lab consists of all drug substances resulting from a single arrest event. Each case processed, therefore, may require completion of a number of separate drug analyses based upon the type and quantity of drug involved in the arrest.

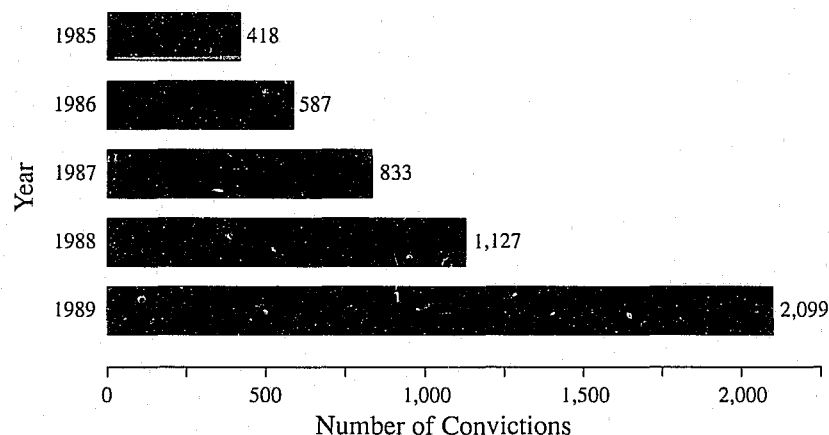
2. The hallucinogen category includes LSD, mescaline, peyote, amphetamine variants, phencyclidine, and other hallucinogens.

3. The opiate category includes opium, morphine, codeine, heroin, methadone, and other narcotics.

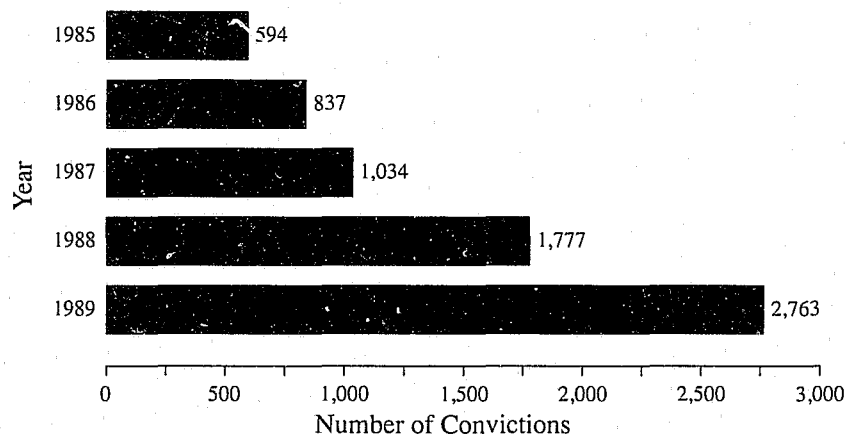
Display 31

Number of Drug Crime Convictions (1985 - 1989)

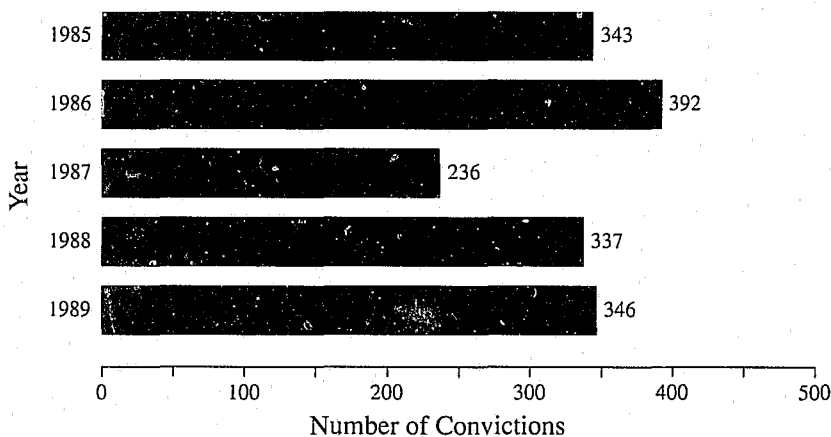
Sell Schedule I/II Drugs



Possess Schedule I/II Drugs



Sell Marijuana



Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Displays 31 & 32: Virginia Felony Drug Conviction and Sentencing Trends

Virginia's criminal justice system imprisons a greater proportion of serious offenders than most other states. For example, while Virginia ranked 39th in reported crimes nationwide in 1985, it ranked 18th in the rate of imprisonment. Since 1985, Virginia has battled drug crime through more arrests, convictions, and incarcerations. The proportion of all felony convictions which were attributable to drugs almost doubled from 17% in 1985 to 31% in 1989. Displays 31 and 32 present a five-year overview of conviction trends and incarceration trends for drug crimes in Virginia.

■ Felony drug convictions rose 256% from 1985 to 1989. In 1989 there were 5,757 drug convictions. Almost one-half of the 1989 felony convictions involved the possession of a Schedule I/II drug, and over one-third involved the sale of a Schedule I/II drug.

■ Convictions for Schedule I/II drug offenses showed large increases from 1985 to 1989, while convictions for sale of marijuana remained relatively stable over the five-year period. Convictions for sale of a Schedule I/II drug jumped from 418 in 1985 to 2,099 in 1989, a 402% increase in just five years. Convictions for possession of a Schedule I/II drug also rose quickly (by 365%) from 1985 to 1989. Convictions for the sale of marijuana remained almost level from 1985 to 1989 (1% increase).

■ The sentencing of convicted drug felons in Virginia is handled by circuit court judges and juries who must impose sentences based on penalty ranges established by the legislature. Because judges may suspend any amount of an imposed sentence, it is possible for a convicted drug felon to be placed on probation rather than be incarcerated. In Display 32, any offender who received a jail or prison term which was completely suspended, or who was placed on probation with no actual time to serve, is included in the "no incarceration" category.

■ A significant number of convicted drug felons received sentences ranging from one day to 12 months. These offenders are represented in the "jail" category in Display 32. Actual incarceration sentences of one year or more are classified as "prison" sentences, even though offenders sometimes serve time in local jails.

■ The incarceration rate is the proportion of all convicted drug felons who serve a jail or prison sentence. In 1989 the rate varied by offense,

ranging from 87% for sale of a Schedule I/II drug to 49% for possession of a Schedule I/II drug. The incarceration rate for sale of marijuana in 1989 was about 73%.

■ The most dramatic change in incarceration patterns occurred among felons convicted for sale of a Schedule I/II drug. Prison incarceration rates increased from 57% in 1985 to 79% in 1989. As a consequence, the percentage of these felons receiving either jail or no incarceration declined significantly.

■ Among felons convicted of possession of a Schedule I/II drug, those receiving no incarceration remained over one-half of all dispositions, dropping from 55% in 1985 to 51% by 1989. In 1989, 30% of these offenders received jail sentences and 19% received prison sentences, whereas in 1985, 20% of these offenders received jail sentences and 25% received prison sentences.

■ Offenders convicted of sale of marijuana were more likely to receive prison terms in 1989 than in previous years. In 1989, the prison incarceration rate increased to 37%, over six percentage points higher than any previous year of the five-year period.

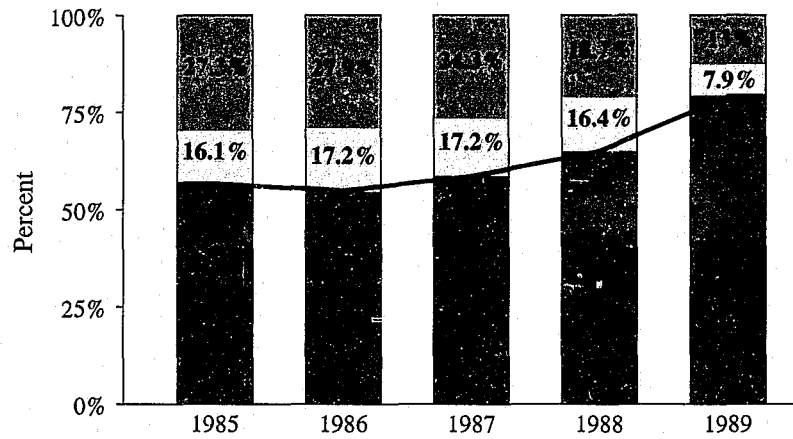
■ One way to look at how the seriousness of a crime is perceived is by examining the prison incarceration rate for the offense. In 1989, the prison incarceration rate for sale of a Schedule I/II drug (79%) was comparable to the rate for some violent offenses: voluntary manslaughter (78%), robbery without a firearm (86%), rape/sodomy of a victim less than 13 years old (83%), and malicious wounding (70%).

■ During the period from 1985 to 1989, the number of convictions for Schedule I/II drug sales and possession offenses rose rapidly. At the same time, the percentage of drug sales offenders sentenced to incarceration increased while the percentage of drug possession offenders sentenced to incarceration decreased. Regardless of changes in the percentage incarcerated, the absolute number of Schedule I/II drug possession and sales offenders sentenced to incarceration increased dramatically. The percentage of marijuana sales offenders sentenced to incarceration remained about the same from 1985 to 1988, then increased in 1989. However, the absolute number of convictions for marijuana sales remained fairly stable. It appears that during this five-year period judicial attitudes towards the sale of Schedule I/II drugs and sale of marijuana shifted toward imposing harsher sentences, whereas attitudes towards drug possession offenses did not. This may indicate that judges are sensitive to the jail and prison overcrowding problem and are opting to incarcerate drug dealers rather than drug possession offenders in the limited jail and prison space available.

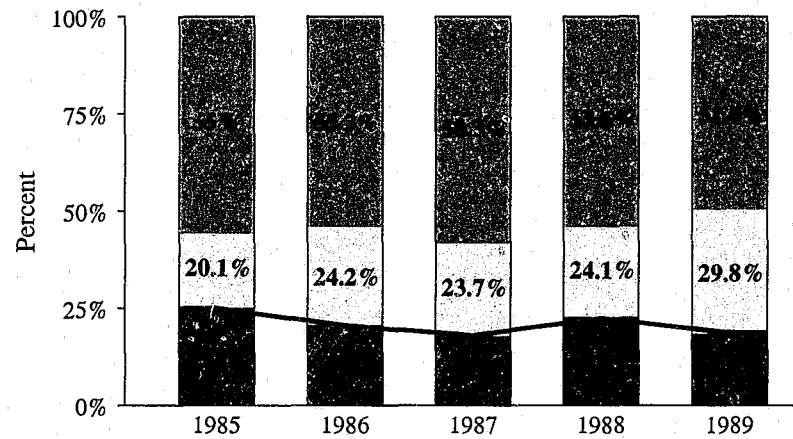
Display 32

Percentage of Drug Felons Incarcerated (1985 - 1989)

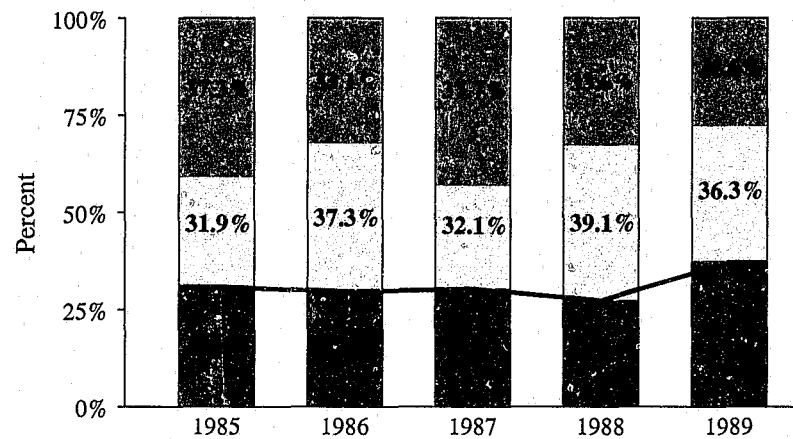
Sell Schedule I/II Drugs



Possess Schedule I/II Drugs



Sell Marijuana



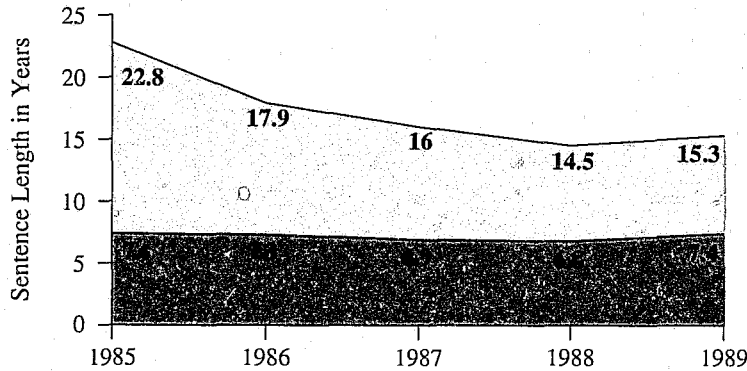
■ Prison ■ Jail ■ No Incarceration

Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

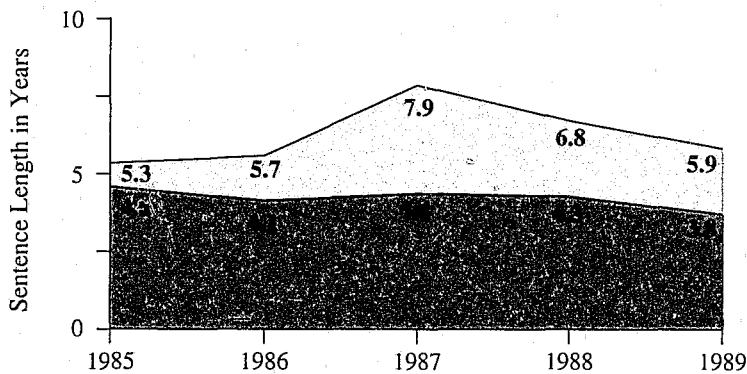
Display 33

Average Judge and Jury Prison Sentence Lengths for Drug Crimes (1985 - 1989)

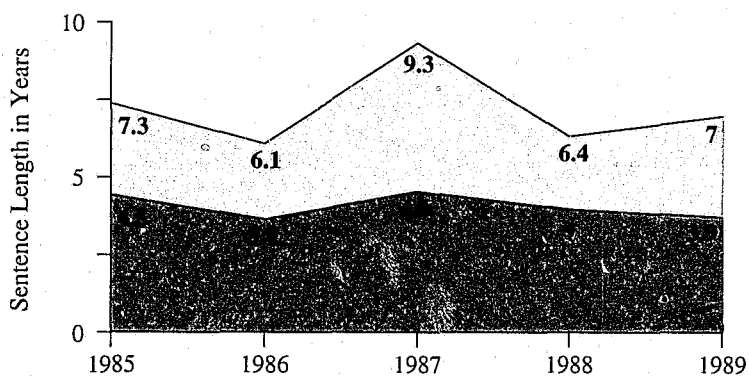
Sell Schedule I/II Drugs



Possess Schedule I/II Drugs



Sell Marijuana



Jury Sentence
 Judge Sentence

Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

Displays 33 & 34: Judge and Jury Prison Sentences in Virginia

Only six of the 50 states use juries to determine sentence lengths in noncapital crimes: Missouri, Oklahoma, Texas, Arkansas, Kentucky and Virginia. Except for Virginia and Missouri, these states use "bifurcated" trials: that is, trials with distinct adjudication and sentencing phases. In practice, Virginia is the only state in which prior criminal history information is not provided to the jury for their consideration in determining the offender's sentence.¹ In Virginia, the only cases for which this bifurcated procedure is followed, and in which juries receive prior criminal history information, are some of the most serious (capital murder) and some of the least serious (traffic) offenses.

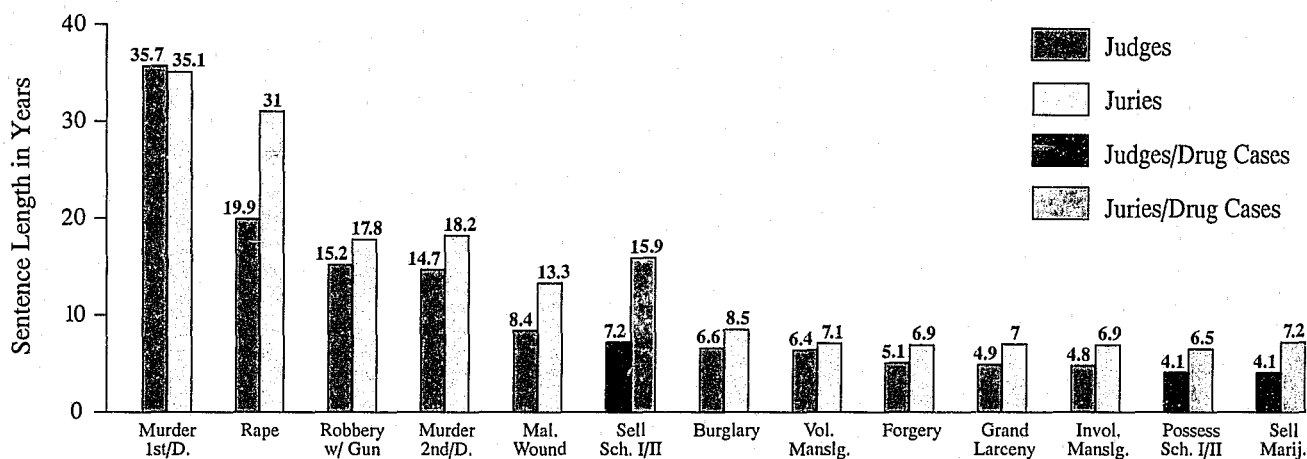
The issue of jury sentencing has been debated in the Commonwealth for many years. Proponents of jury sentencing argue that juries more accurately represent community values concerning the seriousness of various types of crimes. They also argue that since juries are considered capable of determining the guilt or innocence of offenders, they should also be regarded as capable of setting the punishment for these offenders. Opponents of jury sentencing maintain that juries are inconsistent in their sentencing practices, and are more likely to be influenced by nonrelevant factors than are judges, who, it is argued, are professional jurists with vast amounts of experience in sentencing offenders and a wide knowledge of the criminal justice system. Displays 33 and 34 present a unique, first-time analysis of sentencing practices of judges and juries.²

■ Display 33 contrasts the average sentence length imposed by judges and juries between 1985 and 1989 for three types of drug offenses: sale of a Schedule I/II drug, possession of a Schedule I/II drug, and sale of between one-half ounce and five pounds of marijuana. This data includes only those felons who received prison sentences.³

■ For all three types of drug crime depicted in Display 33, juries handed down significantly longer sentences than judges. This difference was most dramatic for sale of a Schedule I/II drug. Averaged across all years examined, the difference for judge and jury sentences for these offenders was over eight years. Differences for the other two drug offense categories, while less dramatic than those for sale of a Schedule I/II drug, were still significant. The average difference between judge and jury sentences given to offenders possessing a Schedule I/II drug and those selling marijuana was over two

Display 34

Average Judge and Jury Prison Sentence Lengths for Selected Felonies (1985 - 1989)



Data Source: Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

and three years, respectively. The divergence between judge and jury sentences may be viewed in two ways. Opponents of jury trials might argue that jury sentences are unjustly severe, and that judges' sentences represent the appropriate level of punishment. Proponents of jury trials, however, might point to the difference in sentence lengths for sale of Schedule I/II drugs and argue that judges are too lenient with drug dealers, and that the sentences imposed by juries better reflect community values.

■ The magnitude of the differences between judge and jury sentences for drug crimes suggests that judges and juries disagree on how drug criminals should be punished. Display 34 compares the average prison sentences given by judges and juries to offenders for other selected types of felonies. The sentence lengths shown are five-year averages (1985-1989). Juries gave higher sentences than judges in every offense category except first-degree murder. Although sentences for rape showed the largest difference in sentence lengths, the three categories of drug crimes showed the greatest proportional differences between judges and juries. Jury sentence lengths for sale of Schedule I/II drugs were more than double those of judges. Jury sentence lengths for sale of marijuana were about 75% higher than those of judges, and jury sentence lengths for possession of Schedule I/II drugs were almost 60% longer than those of judges. Thus, although juries sentenced longer than judges for almost all offenses examined, the difference between judge and jury sentences was greater for drug offenses than any other type of offense.

■ The sentence lengths handed down by juries may be a measure of the seriousness with which juries view various crimes. Comparison of the

jury-imposed sentence lengths for the offenses shown in Display 34 suggests that juries view the sale of Schedule I/II drugs to be almost as serious an offense as second-degree murder and armed robbery, and a significantly more serious offense than malicious wounding, involuntary manslaughter, burglary, larceny and forgery. Similarly, sale of marijuana is considered by juries to be more serious than involuntary manslaughter, and about as serious as voluntary manslaughter. These juries' perceptions were not always shared by judges. Judges considered malicious wounding to be more serious than sale of a Schedule I/II drug, and armed robbery and second-degree murder significantly more serious than this drug offense. Jury sentences for sale of a Schedule I/II drug were longer than judges' sentences for armed robbery and second-degree murder.

■ Judges may suspend all or part of sentences imposed by juries. In practice, however, judges rarely do this. This may be due to reluctance by judges to interfere with a defendant's constitutional right to be judged by one's peers. Some defense attorneys also claim that judges seldom alter harsh jury sentences because it may serve as a deterrent to other offenders contemplating a costly and time-consuming jury trial. Judicial reluctance to modify jury terms would, according to this theory, facilitate more guilty pleas.

■ Several reasons are commonly cited for the dissimilarity of judge and jury sentences. As noted previously, judges usually have more information about the offenders they sentence than do juries. In many instances, judges receive a Pre-Sentence Investigation Report (PSI) which contains information on the defendant's past criminal record, employment history, family background, mental health, and drug abuse history. Thus the judge has access

to both aggravating and mitigating factors which can be used to guide sentencing decisions. Judges also now have access to voluntary sentencing guidelines that provide them with accurate historical sentencing information for similar offenders convicted of the same offense. Another reason suggested for this discrepancy is that judges know more about the criminal justice system than juries. Judges, for example, understand the problem of prison overcrowding, and recognize that, for certain drug offenders, the opportunities for rehabilitation in these institutions are limited. Especially in drug cases, judges may also be able to make more accurate assessments of the relative seriousness of offenses, and may be less likely than juries to impose long sentences on individual offenders in an effort to eradicate the drug problem. Finally, judges understand the effect of parole on their sentencing decisions. Juries, however, are not as familiar with the subtleties of the parole process.

1. Missouri's prosecutors may request sentencing by the judge in cases in which the offender has a prior felony record. In practice, therefore, the vast majority of Missouri's offenders with criminal histories are tried by judges and not by juries.

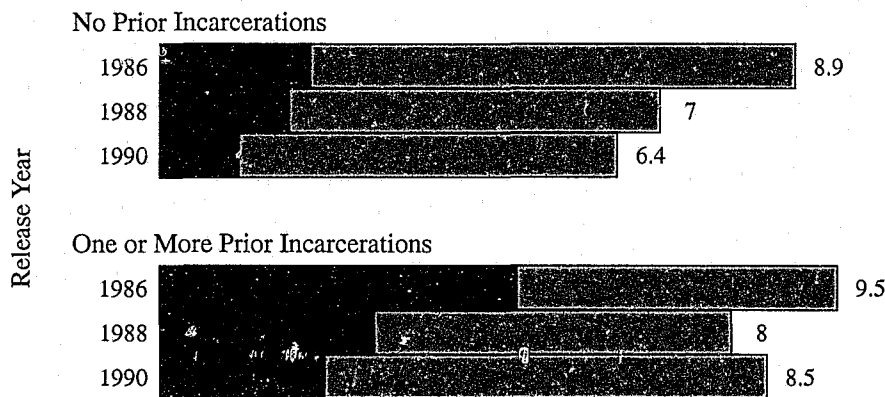
2. Disparity in judicial sentencing from one court to another has been documented in the judiciary's work on the development of voluntary sentencing guidelines. Disparity in jury sentencing from one locality to the next also exists. For the time period examined here, for example, offenders convicted of sale of a Schedule III drug received an average sentence by Virginia Beach and Portsmouth juries (20 years) which was 9 years longer than that given by juries in Fairfax, Arlington, and Alexandria (11 years). Determining the reasons for these differences requires a comprehensive and carefully controlled research study.

3. Between 1985 and 1989, 5% of all convicted felony drug offenders were tried by juries. Offenders convicted of the sale of a Schedule III drug were more likely (7%) than other drug offenders to have chosen a jury trial.

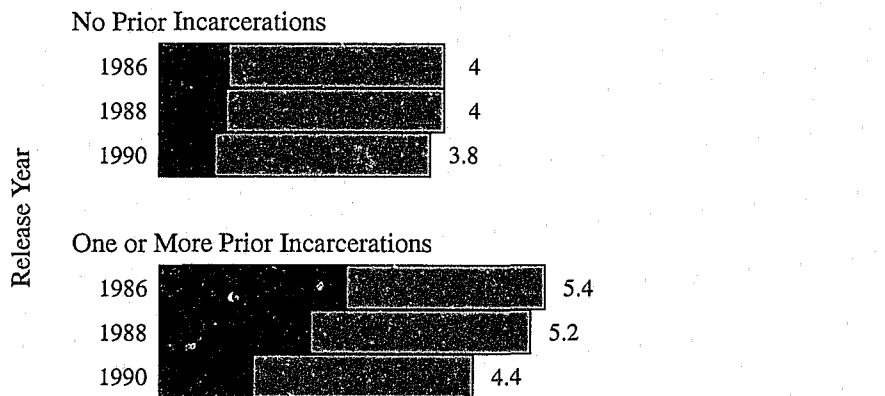
Display 35

Actual Time Served in Prison by Virginia Drug Felons With and Without Prior Incarcerations (1986, 1988, 1990)

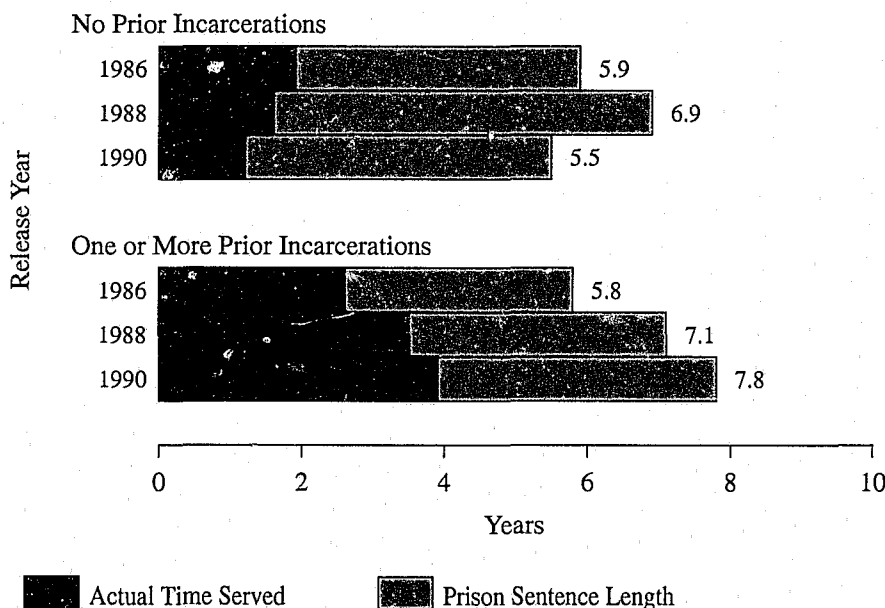
Sell Schedule I/II Drugs



Possess Schedule I/II Drugs



Sell Marijuana



Display 35: Actual Time Served in Prison by Virginia Felony Drug Offenders

In Virginia, a drug offender's exact amount of punishment depends upon various degrees of discretion exercised by a number of decision-makers. After a defendant's arrest, the prosecutor exercises discretion in decisions about charging and in plea negotiations. If the defendant is convicted, the judge or jury uses discretion when imposing a sentence. If the offender is sentenced to a year or more in prison, the Department of Corrections and the Parole Board apply statutory law and their own discretion to determine the amount of time the offender will ultimately serve. Classification decisions made by corrections officials determine which of several different levels of time off for good behavior the offender receives. Once the offender is eligible for release consideration, the Parole Board exercises discretion in deciding whether to release him from prison. The ultimate amount of punishment imposed on two similarly situated offenders may therefore differ considerably.

Although most people know that offenders usually do not serve their entire court-imposed sentences, some confusion exists among both practitioners and the public concerning the true proportion of sentences that inmates typically serve in prison. Accordingly, Display 35 provides a comparative overview of the average level of punishment imposed and served for drug crimes in Virginia. The data presented in Display 35 is based on felons convicted of drug offenses who were released from prison in 1986, 1988, and 1990. The sentence lengths reported here may have been imposed as long ago as the early to mid-1980s. Therefore, conclusions about the sentence lengths imposed on those currently convicted for drug offenses should be drawn with caution. Additionally, the average prison sentence information displayed here represents the total time received by inmates and may include, in some instances, additional prison time received for an offense less serious than the specific drug crimes reported here.

Data Source: Pre-Sentence Investigation (PSI) database, Offender Based State Correctional Information System (OBSCIS), Virginia Department of Corrections

■ In Virginia, parole eligibility is statutorily determined by the number of times a felony offender has previously been committed to the Department of Corrections. Offenders with prior incarcerations must serve a larger proportion of their sentence before parole eligibility than offenders with no prior incarcerations. Because these prior felony incarcerations are instrumental in determining parole eligibility, and consequently the amount of time an offender will serve on his sentence, this display provides time served information broken down by this criterion.

■ The amount of time that an offender serves before becoming eligible for parole is also shortened by the amount of good conduct credit awarded. The typical Virginia inmate shortens his time to parole eligibility by 20 days for each month of good behavior.

■ Schedule I/II drug sale offenders with no prior incarcerations released in 1986 served about 2 years in prison, or approximately 25% of the imposed sentence. By contrast, similar offenders released in 1990 served only about one year in prison, or about 17% of the average imposed sentence. In all three years examined, prior incarcerations significantly increased the proportion of the sentence served by those convicted of Schedule I/II drug sale. Those previously imprisoned who were released in 1986 served about five years in prison, or 54% of the imposed sentence. However, similarly situated offenders released in 1990 served only about two years in prison, or 28% of the average imposed sentence.

■ Schedule I/II drug possession offenders with no prior incarcerations released in 1986 served about one year in prison, or approximately 25% of the imposed sentence. By contrast, similar offenders released in 1990 served only about nine months in prison, or about 20% of the average imposed sentence. In all three years examined, prior incarcerations again significantly increased the proportion of the sentence served. Those previously imprisoned who were released in 1986 served about 2 1/2 years in prison for possession of a Schedule I/II drug, or about 49% of the imposed sentence. However, similar offenders released in 1990 served only about one year in prison, or about 32% of the average imposed sentence.

■ Marijuana sale offenders with no prior incarcerations released in 1986 served about two years in prison, or approximately 32% of the imposed sentence. By contrast, similar offenders released in 1990 served only about one year in prison, or about 22% of the imposed sentence. Again, in all three years examined, prior incarcerations increased the proportion of the sentence served. Those previously imprisoned who were released in 1986 served about 2 1/2 years in prison for marijuana sale convictions, or about 44% of the imposed sentence. However, similarly situated offenders released in 1990 served substantially longer terms with an average time served of about four years, or about 50% of the imposed sentence.

■ In every case except marijuana sale repeat offenders, the average proportion of time served for drug offenses decreased from 1986 to 1990. In 1986, the proportion of time served ranged from a high of 54% for Schedule I/II drug sale repeat offenders to a low of 25% for Schedule I/II drug possession offenders with no prior incarcerations. In 1990, the proportion of time served ranged from a high of 50% for marijuana sale repeat offenders to a low of only 17% for Schedule I/II drug sale offenders with no prior incarcerations. In absolute terms, the decrease in the amount of time served is even more dramatic. First-time Schedule I/II drug sale offenders in 1990 served about one year, as compared to about two years for those sentenced in 1986. This is a 50% decrease in time served for these offenders. Similarly, in 1990, Schedule I/II drug possession offenders served about 20% less time, and first-time marijuana sale offenders 37% less time, than similar offenders released in 1986.

■ For both first-time offenders and recidivists released from prison in 1990, those convicted of sale of a Schedule I/II drug had received longer sentences than those convicted of selling marijuana, who in turn received longer sentences than those convicted of possession of a Schedule I/II drug. This pattern was not observed for the time served data, however. Inmates who had been convicted for the sale of marijuana served a greater proportion of their sentences than those convicted of selling a Schedule I/II drug. Inmates convicted of possession of a Schedule I/II drug served the least time of the three types of drug offenders.

■ First-time offenders released from prison in 1990 who were convicted of the sale of a Schedule I/II drug had received average sentences about 2 1/2 years longer than those sentenced for possession of a Schedule I/II

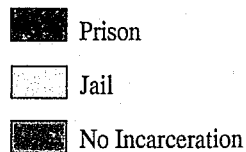
drug. Schedule I/II drug dealers, however, stayed in prison only about four months longer than Schedule I/II drug users. Marijuana dealers spent a longer time in prison than either Schedule I/II dealers or users. Recidivists convicted of sale of a Schedule I/II drug received sentences which were almost four years longer than those received by recidivists convicted of possession of a Schedule I/II drug. However, these dealers actually served only one year longer in prison than recidivist Schedule I/II drug users. Marijuana dealers who were recidivists served significantly more time than Schedule I/II drug dealers and users.

■ The perception held by the general public, and shared by many criminal justice professionals, is that Virginia's criminal justice response to the drug problem has been a "get tough" approach, especially where cocaine and crack dealers are concerned. Yet the data presented in this display shows that first-time Schedule I/II drug dealers released from prison in 1990 served on average only about one year, or 17%, of their imposed sentences, while dealers who were released from what was their second (or more) prison term served just over two years, or 29%, of their imposed sentences. Marijuana dealers served more time in prison than Schedule I/II drug dealers.

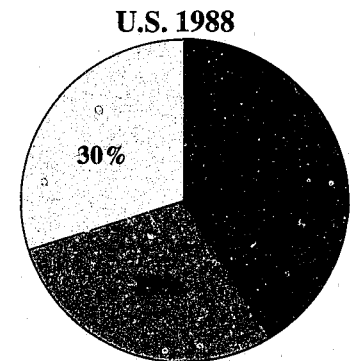
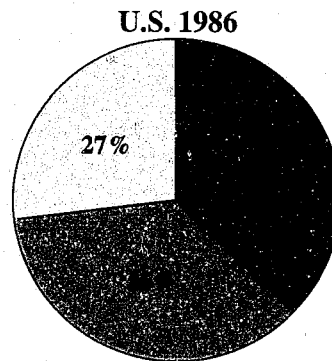
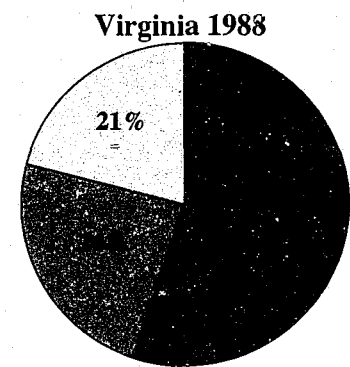
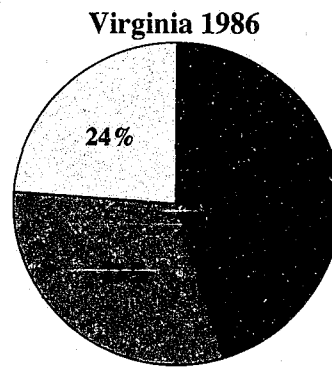
■ The implications of these findings seem clear. Previous displays in this report have documented the rapidly accelerating increases in drug arrest, conviction, and incarceration rates over the last five years. The 1989 report of the Governor's Commission on Prison and Jail Overcrowding noted that in the fall of 1989, Virginia's prisons were operating at 133% of their capacity, while the jails were overflowing, at 168% of capacity. Discretionary release mechanisms such as parole act as safety valves, allowing the system to continue to function while minimizing the risk to public safety. Any policies designed to deal effectively with the drug problem in Virginia must take into account the consequences they may produce for all of the components of the criminal justice system.

Display 36

Sentences for Drug Traffickers in Virginia and the U.S. (1986 & 1988)



Data Source: BJS Bulletins, Felony Sentencing in State Courts, 1986 and 1988; Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections



Displays 36 & 37: Virginia and U.S. Drug Trafficking Sentences

Various earlier displays have shown that the number of drug offenders arrested and convicted since the mid-1980s has increased dramatically. Displays 36 and 37 compare the changes that occurred in the types of sentences and lengths of sentences received by convicted drug offenders in Virginia and U.S. state courts in 1986 and 1988. For this analysis, several steps were taken to make the offender sentencing data from Virginia and the U.S. comparable. First, the offenders examined were those convicted for drug trafficking offenses which include sale of a Schedule I/II drug and felony marijuana offenses. Second, the types of sentences imposed on traffickers were divided into three categories: prison, jail and no incarceration sentences. The U.S. data is based on figures published by the Bureau of Justice Statistics and reflect sentences of offenders in a sample of state prisons across the nation.

Because Virginia drug offenders were identified as "drug traffickers" in this display to allow comparisons with U.S. sentencing data, the Virginia imposed and projected sentence lengths calculated in this display will differ from those shown in other displays which include only Virginia sentencing data. Imposed sentence lengths for Virginia drug offenders should be obtained from Displays 33 and 34 rather than from this display.

■ Display 36 presents a comparison of the types of sentences received by drug traffickers in Virginia and the U.S., and illustrates how the types of sentences given changed from 1986 to 1988. As can be seen in this display, Virginia courts imposed harsher types of sentences on convicted drug traffickers in 1988 than they did in 1986. In 1986, Virginia courts imprisoned 45% of drug traffickers, whereas in 1988 the proportion of drug traffickers imprisoned rose to 55%. During the same period, the proportion of drug traffickers receiving penalties with no incarceration decreased, from 31% in 1986 to 24% in 1988. The proportion of Virginia drug traffickers sentenced to jail terms during this period decreased, from 24% in 1986 to 21% in 1988. This decrease may be due in part to the larger proportion of drug traffickers being sentenced to state prisons rather than jails.

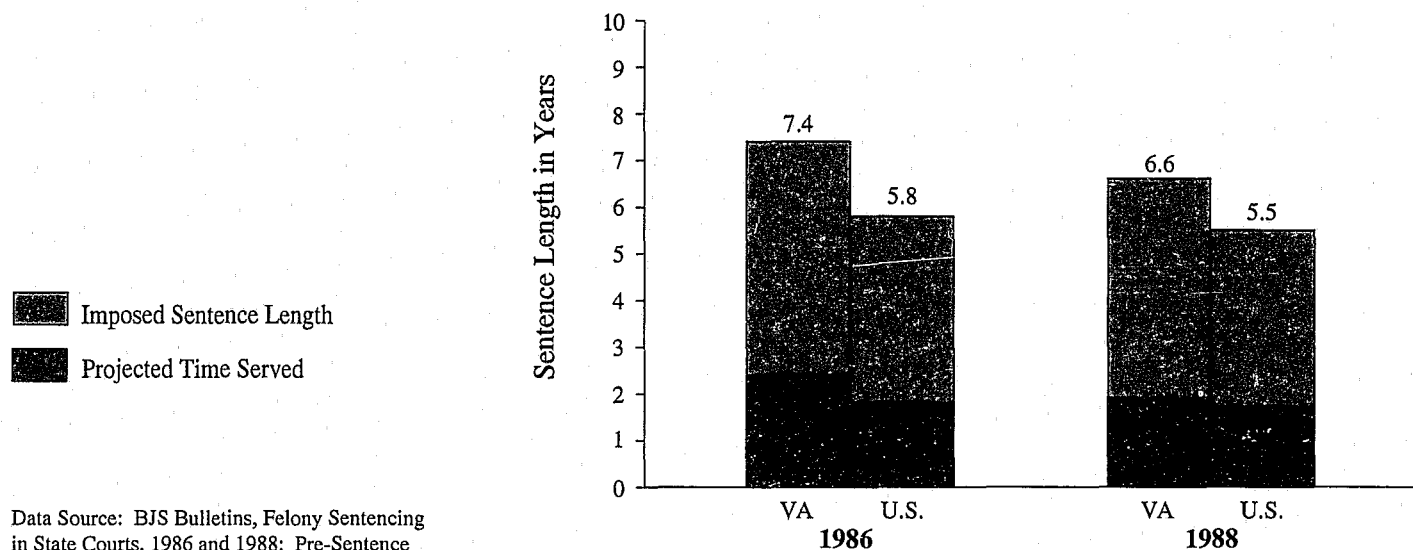
■ U.S. courts also imposed harsher types of sentences on convicted drug traffickers in 1988 than they did in 1986. In 1986, U.S. courts imprisoned 37% of drug traffickers, whereas in 1988 the proportion of drug traffickers imprisoned rose to 41%. During the same period, the proportion of drug traffickers receiving penalties with no incarceration decreased, from 36% in 1986 to 29% in 1988. Unlike the Virginia trend, however, the proportion of U.S. drug traffickers sentenced to jail terms during this period increased, from 27% in 1986 to 30% in 1988.

■ Although both Virginia and U.S. courts sentenced a larger proportion of drug traffickers to prison in 1988 than in 1986, the increase in Virginia was greater than that in the U.S. The proportion of drug traffickers sentenced to prison in Virginia increased by 22% from 1986 to 1988, while it increased by only 11% in the U.S.

■ Display 36 showed that convicted drug traffickers in Virginia and the U.S. were more likely to be sentenced to prison in 1988 than in 1986. Display 37 presents a comparison of the lengths of prison sentences imposed and of projected time served on these sentences by drug traffickers in Virginia and the U.S. in 1986 and 1988. The prison sentence lengths presented in this display are averages which represent the total time received by a drug offender and may also include time imposed for other less serious offenses. For each prison sentence length imposed, the average projected time to be served on that sentence is also shown.¹

Display 37

Prison Sentences and Projected Time Served in Prison for Drug Traffickers in Virginia and the U.S. (1986 & 1988)



Data Source: BJS Bulletins, Felony Sentencing in State Courts, 1986 and 1988; Pre-Sentence Investigation (PSI) database, Virginia Department of Corrections

■ As can be seen in this display, Virginia imposed shorter prison sentences on convicted drug traffickers in 1988 than it did in 1986. In 1986, the average prison sentence was about seven years, whereas in 1988 the average prison sentence had decreased by 11% to 6 1/2 years. The projected time served on these prison sentences decreased similarly from 1986 to 1988. Offenders incarcerated in 1986 are projected to serve an average of about 2 1/2 years, or 32%, of the sentence received, and traffickers incarcerated in 1988 are projected to serve an average of slightly less than two years, or 29%, of their imposed sentence.

■ The U.S. as a whole also imposed shorter prison sentences on convicted drug traffickers in 1988 than it did in 1986. In 1986, the average prison sentence was about six years, whereas in 1988 the average prison sentence had decreased by 5% to 5 1/2 years. Unlike Virginia, however, the projected time served on these prison sentences remained about the same in 1986 and 1988. Offenders incarcerated in both 1986 and 1988 are projected to serve about two years, or 31%, of the sentence received.

■ The average length of prison sentences imposed upon convicted drug traffickers in both Virginia and the U.S. decreased from 1986 to 1988. However, the decrease in Virginia was greater than the decrease in the U.S. In Virginia, the average prison sentence length decreased by about 11%, whereas in the U.S. it decreased by only about 5%. Furthermore, the amount of time projected to be served on these sentences decreased in Virginia but remained about the same in the U.S. In 1988, drug traffickers in Virginia served an average of 29% of their sentence, whereas traffickers in the U.S. served an average of 31% of their sentence.

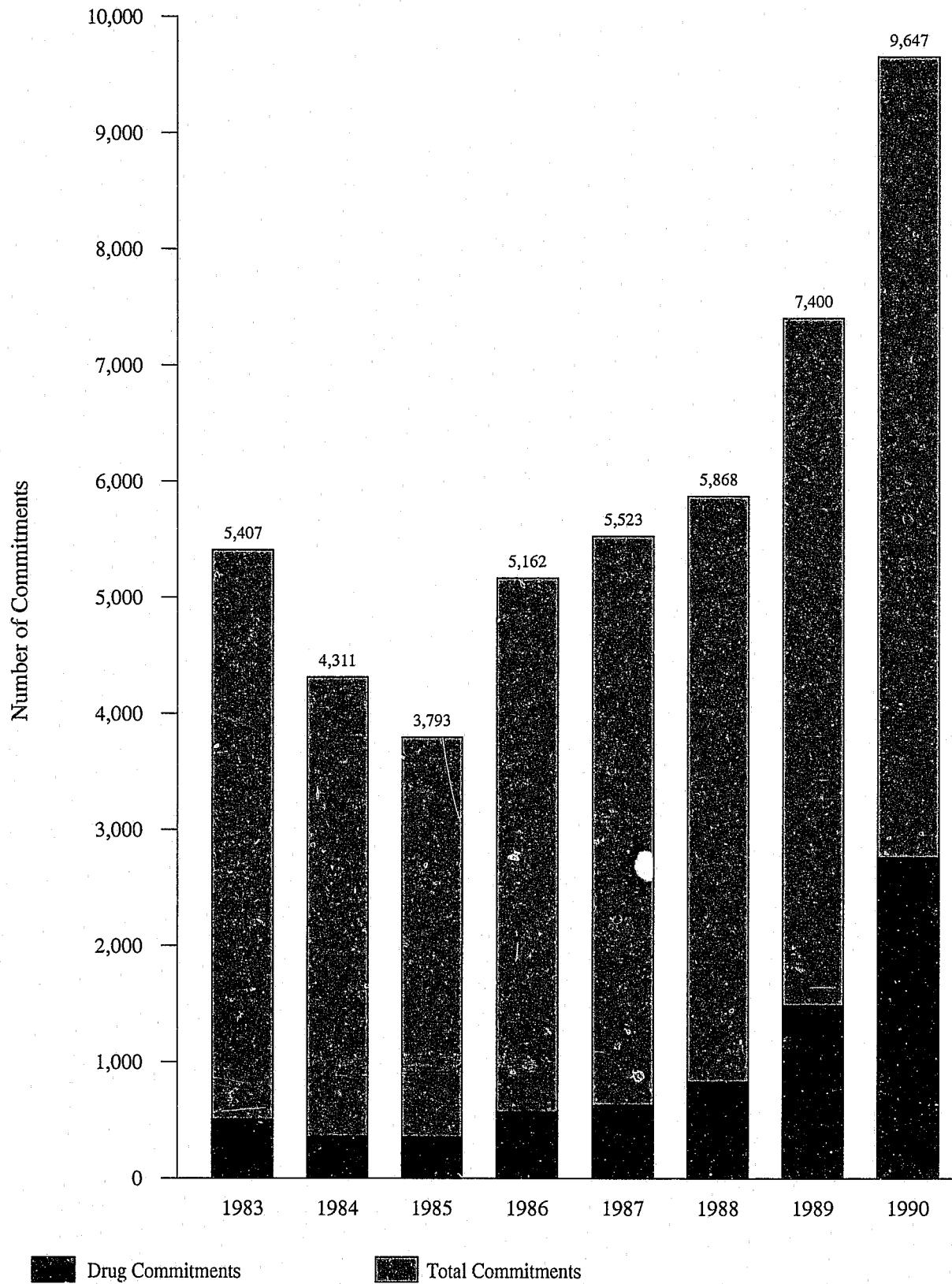
■ These findings indicate that convicted drug traffickers in Virginia were more likely to receive a prison sentence than drug traffickers in the U.S. This finding agrees with previous indications that Virginia incarcerates a greater proportion of its offenders than the nation as a whole. Drug traffickers incarcerated in Virginia were also more likely to receive a longer prison sentence than those in the U.S., but they were likely to serve a smaller proportion of their sentence than traffickers incarcerated in the U.S.²

1. Projections of time served by drug traffickers committed to prison in Virginia in 1986 and 1988 were calculated by taking the proportion of sentences served by traffickers released in 1986 and 1988 and applying this proportion to the sentences given to traffickers committed in 1986 and 1988. Projections of time served by drug traffickers committed to prisons in the U.S. in 1986 and 1988 were calculated by taking the proportion of sentences served by traffickers released in 1984 and applying this proportion to the sentences given to traffickers committed in 1986 and 1988. In order to make the Virginia data comparable with the projected time served figures reported for the U.S. data, projected time served, rather than actual time served, figures are presented for Virginia traffickers. Due to minor differences in how projected time served was calculated for Virginia and U.S. traffickers, the Virginia time served figures may be slightly underestimated.

2. When interpreting these changes in imposed prison sentence lengths and projected times served in Virginia and the U.S., note that the absolute amount of time involved in these sentences does not change as much as the percentage change figures may suggest. All of the changes in sentence lengths and projected time served involved less than one year of time.

Display 38

Number of Total Commitments and Drug Commitments to Virginia Prisons (1983 - 1990)



Data Source: Offender Based State Correctional Information System (OBSCIS) database, Virginia Department of Corrections

Display 38: Total Commitments and Drug Commitments to Virginia Prisons

Previous displays have shown the dramatic increases in drug arrests and convictions, and the high recidivism rates for drug offenders. The impact of these factors on the local jails and prisons has been equally dramatic. In 1989, the Governor's Commission on Prison and Jail Overcrowding (COPJO) was formed to examine the Commonwealth's response to its severe overcrowding problem. The report issued by the Commission provided little cause for optimism. According to the report, arrests in Virginia are forecasted to increase by 37% over the next decade. Prison populations are expected to double by 1999, and local jail populations are expected to increase by 150%. The estimated capital and operating costs which would be required to meet these increases is over \$4 billion.

The Commission also recognized that increases in drug offenses are playing a large role in these forecasted trends. The report noted that while violent crime rates in Virginia have remained stable, rates for the arrest, conviction and imprisonment of felony drug offenders have "skyrocketed". The direct result of these trends can be seen by examining new commitments to state correctional facilities. As the COPJO report noted, rates for new commitments are increasing even more rapidly than the crime rates and arrest rates. Display 38 presents the number of new prison commitments for all offenses and for drug offenses between 1983 and 1990.

■ State law defines "state-responsible" offenders as those convicted of felonies and receiving incarceration sentences of one year or more. Only those offenders who meet this definition were included in the data presented here. This data does not include offenders who violated their parole and were returned to prison to serve out their sentences. Offenders who were convicted and incarcerated for a more serious offense (e.g., murder, robbery) in addition to a drug offense are included in the total commitments, rather than the drug commitments, presented in this display.

■ Although the total number of new commitments dropped from 1983 to 1985, it increased steadily from 1985 to 1990. There were more than double the number of new commitments in 1990 than there were in 1985. Even more dramatic, however, was the trend in the number of new commitments for drug offenses. Between 1985 and 1990, drug commitments increased nearly seven-fold. The number of new commitments for drug offenses almost doubled from 1988 to 1989, and almost doubled again from 1989 to 1990.

■ From 1984 on, commitments for drug offenses comprised an increasing proportion of total new prison commitments. The proportion of drug commitments more than tripled over the seven-year period. In 1984, less than one in ten new commitments was a drug offender; in 1990, more than one of every four new commitments was a drug offender. Between 1988 and 1990, the proportion of total commitments which was for drug offenses doubled.

■ These findings suggest that the dramatic increase in drug convictions is at the root of the rapid rise in new commitments to prisons. As noted in the COPJO report, drug offenders are the fastest growing offender group being committed to the Department of Corrections. Moreover, the data presented here does not include offenders convicted for other offenses in which drug abuse may have been a factor. Thus this data may actually underestimate the extent to which drug crime affects new prison commitments.

■ These findings have clear implications for the prison and jail systems. The data presented in this display, coupled with the recidivism data presented in Displays 22 through 25, suggest the need for specialized programming in the prisons and jails to deal with the drug problems of inmates. The COPJO report recommended the implementation of a statewide substance abuse program, along with an assessment of the feasibility of establishing specific institutions designed to treat inmates who are substance abusers. Programs such as these must be considered if the jails and prisons are to be able to successfully handle the growing number of new drug commitments.

■ The data on actual time served in Display 35, along with the data on the pace of recidivism in Display 23, suggest a picture of this newly-committed offender group. The average first-time drug offender can be expected to serve just over one year of his imposed sentence, and can be expected to return to prison again within one to two years of release. If this cycle is ever to be broken, specific short-term interventions will be required. Moreover, a large proportion of these first-time offenders will serve out their sentences in local jails rather than in state facilities. This latter point needs to be considered in determining where treatment programs are to be placed.

■ As noted previously, the costs associated with housing and maintaining the dramatic number of new commitments expected in the next ten years are staggering. Display 36 showed that Virginia's incarceration rate for drug offenders is higher than the national average. Given the associated costs, the Commonwealth may no longer be able to afford

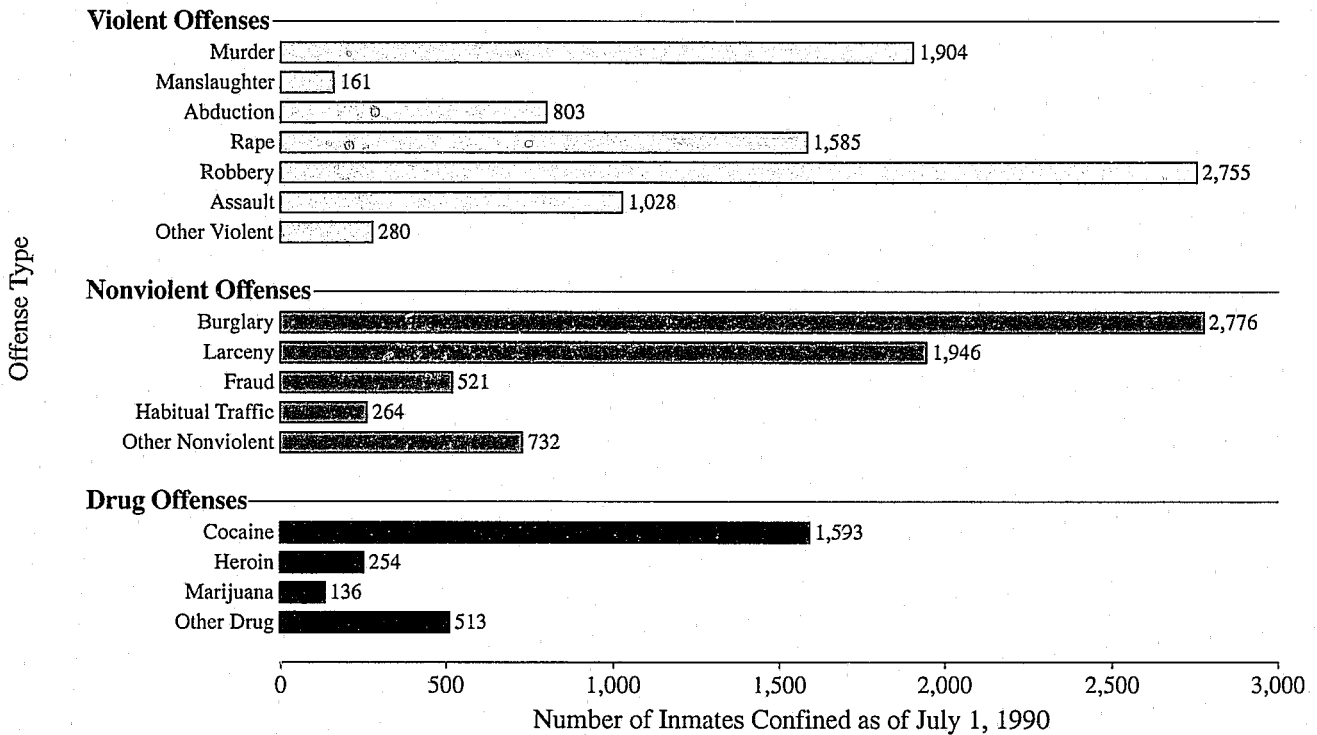
to incarcerate such a high proportion of its offenders in the future. The COPJO report recommended the increased use of alternatives to incarceration, noting that Virginia's use of probation is one of the lowest in the country. The alternatives noted in the COPJO report, including intensive supervision, electronic monitoring, and shock incarceration, have all been suggested as appropriate methods for dealing with drug offenders.

■ Recent legislation passed by the General Assembly has redefined the inmate population that is eligible for commitment and transfer to the Department of Corrections. This legislation, which became effective July 1, 1991, changes the sentence length which defines a state-responsible offender from one year to two years. The legislation also requires the Department of Corrections to transfer to its facilities all state-responsible prisoners being held in local jails. This is to be done in phases, beginning with prisoners with sentences of six years or longer, and moving to inmates with shorter sentences one year at a time. The Department is further instructed to accept inmates at an accelerated rate as space becomes available.

■ The immediate impact of this legislation will be to decrease the number of state-responsible inmates, since those with sentences between one and two years, who would before be the responsibility of the state, will now be the responsibility of the localities. In practice, however, inmates with sentences in these ranges do not usually end up in prisons. After credit for time awaiting trial, good conduct time and parole eligibility, these inmates are often released directly from local jails without ever having been transferred to a Department of Corrections facility. Thus, while the long-term impact of this legislation cannot be accurately predicted, its short term impact on the correctional institutions is expected to be minimal.

Display 39

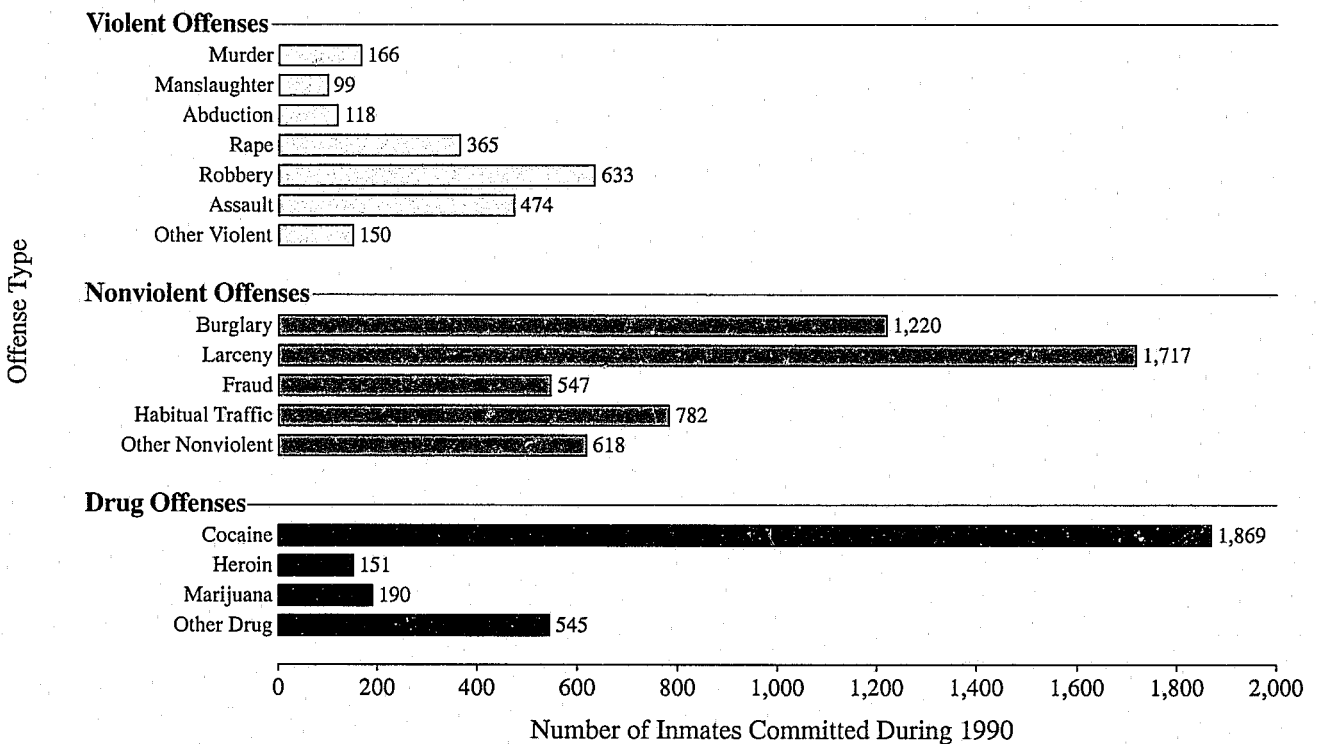
Number of Inmates Confined in Virginia Prisons as of July 1, 1990



Data Source: Offender Based State Correctional Information System (OBSCIS) database, Virginia Department of Corrections

Display 40

Number of Inmates Committed to Virginia Prisons During 1990



Data Source: Offender Based State Correctional Information System (OBSCIS) database, Virginia Department of Corrections

Displays 39 & 40: Confined and Newly-Committed Virginia Inmates by Offense Type

As noted in Display 38, drug commitments now comprise a much larger share of total prison commitments than they did just a few years ago. This phenomenon, it was noted, has important implications for correctional planning and programming. Equally important for these purposes, however, is to examine similar information for the currently confined inmate population. Although at first glance the committed and confined populations might seem to be one in the same, this is not the case. As noted in Display 34, drug offenders receive relatively short sentences (when compared with inmates convicted of more serious offenses, such as murder and rape), and actually serve only a small proportion of those sentences, often in local jails. Therefore, those drug offenders who are incarcerated in state prisons may not stay in those facilities long enough to have much of an effect on the institutional environment. It is those inmates with longer initial sentences, and who are worse risks for parole, who will be in the prisons for long periods of time and who will therefore affect prison policies and programs.

In addition to knowing the number and proportion of drug offenders committed and confined, it is important for planning purposes to examine the types of drug offenders committed and confined. Displays 13 through 15 showed that different types of drug offenders are demographically different from one another. Displays 16 through 19 showed that these offenders also differ in terms of their drug abuse and drug treatment histories. These differences may have important implications for planning correctional programs. Display 39 shows the numbers of inmates confined in Virginia prisons as of July 1, 1990, and Display 40 shows the number of inmates committed to Virginia prisons during 1990. Each display shows 16 different offenses which are grouped into the three broad categories of violent, nonviolent, and drug offenses.

■ As of July 1, 1990, there was a total of 17,251 inmates confined in Virginia's prisons. Drug offenders comprised about 14% (2,496) of these inmates. Of the drug offenders, almost two-thirds had been convicted of cocaine-related offenses, and these offenders comprised about 9% of the total confined prison population. The next largest group of drug offenders was those sentenced for drug offenses other than cocaine, heroin, and marijuana, such as offenses involving LSD, PCP, or other controlled drugs.

■ Violent offenders comprise nearly one-half (8,516) of all inmates confined. Robbery was the largest offense group of the violent offenders and the second largest group overall, comprising almost one-third of all violent offenses, and about 16% of the total confined population. Murderers and rapists comprised about 22% and 19%, respectively, of the violent offenders confined. By contrast, nonviolent inmates comprised about 36% of the prison population. Burglars and larcenists made up the bulk (about 75%) of the nonviolent offenders. Burglary was the largest single offense category in the confined population; burglars comprised 16% of inmates confined.

■ In 1990, a total of 9,644 inmates was committed to Virginia's prisons. Drug offenders comprised 29% of new commitments to prison. Cocaine-related offenders were the single largest category of newly-committed offenders, and were the largest group of drug offenders. About 19% of all new commitments in 1990 were for cocaine-related offenses, and these offenders constituted over two-thirds of all new drug commitments.

■ Nonviolent offenders comprised about one-half of all new commitments to prison in 1990. Larcenists made up the greatest proportion (about 35%) of nonviolent offenders. Finally, violent offenders comprised 21% of new commitments to prison. Robbery and assault were the two most common types of violent offenses, together accounting for over one-half of new commitments for violent offenses.

■ Comparisons of newly-committed inmates and already confined inmates show that drug offenders comprised over twice the proportion of new commitments (29%) as the proportion of the confined population (14%). Drug offenders currently being sentenced to prison are likely to serve, on average, relatively short sentences. This means that large numbers of drug offenders are entering the prison system, only to exit after a relatively brief period. Thus, the impact of the increases in drug arrests and convictions is apparent when examining new prison commitments, but is less obvious when examining the confined population.

■ Each category of violent offenders, along with inmates convicted of burglary, makes up a larger proportion of the already confined population than of the newly-committed population. Each other category of nonviolent and drug offenders, by contrast, comprises a greater proportion of new commitments than of the confined population. The group which has the largest long-term effect on the prison system is the group with the longest sentences, that is, violent offenders. While a relatively small number of violent offenders was added to the

prison system in 1990, these offenders will be incarcerated for a longer period of time due to their longer initial sentence lengths and their poorer prospects for parole.

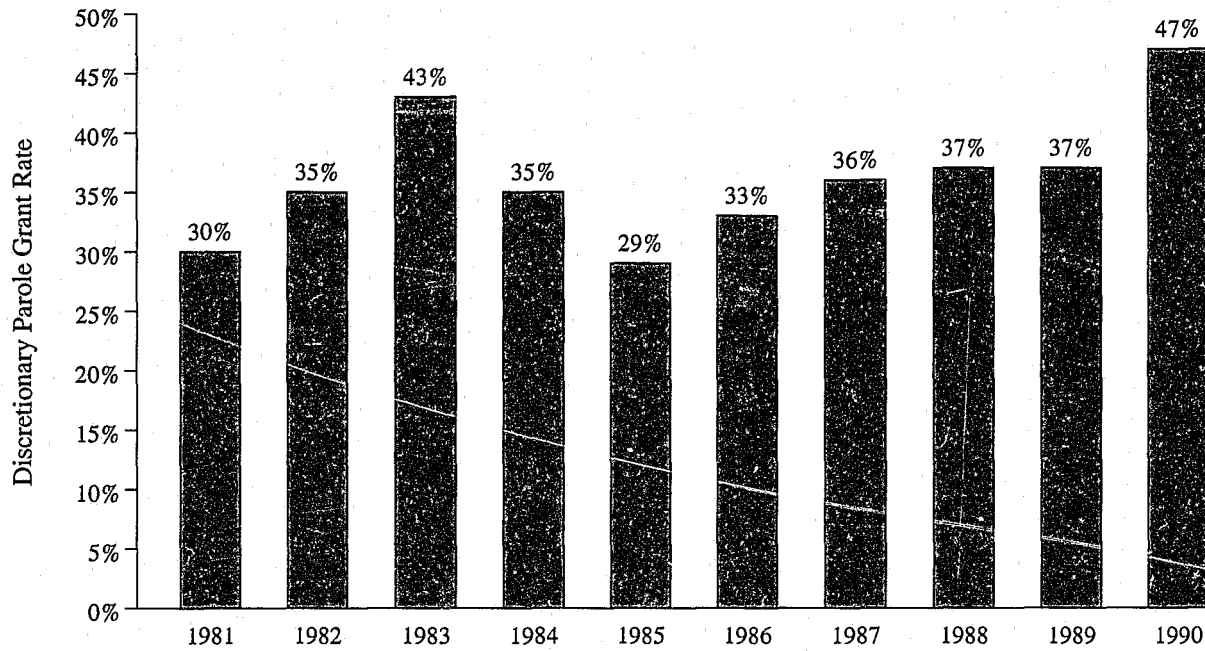
■ This data suggests that Virginia's prisons are increasingly housing the most violent offenders. In 1990, one out of every two inmates was incarcerated for a violent offense. If this trend continues, it is possible that in the future the vast majority of inmates in the state's prisons will be violent offenders. Such a situation would create unique problems for correctional managers and planners. One might speculate, for example, that as the confined population becomes more dangerous, there will be an ever-increasing emphasis on security and a corresponding decrease in the availability of rehabilitation programs. In such an environment, drug offenders may have scarce opportunity to receive much-needed treatment programs.

■ If drug offenders begin to serve more time in prison, their impact on the correctional system will increase. This might come about in one of two ways: if sentences for drug offenders get longer, or if these offenders begin to serve more of their sentences prior to being released on discretionary parole. As will be seen in another display, drug offenders are generally granted parole at a higher rate than other groups of offenders. Public perceptions and concerns for public safety dictate that violent offenders remain in prison for longer periods of time than other offenders. Given the finite capacity of Virginia's prison system, one way to accomplish this is to parole drug offenders, who usually are perceived as less dangerous than violent offenders.

■ Although the impact of drug offenders on the state prison system may be relatively small due to their short sentences, the effect of the increase in these inmates on the local jails is considerable. Due to their shorter sentences, many of these offenders will be kept in jails rather than being transferred into state facilities. Drug offenders undoubtedly comprise a much larger proportion of the confined jail population than they do the confined prison population. This may suggest the need for treatment programs and other resources to be focused on jails, in addition to prisons, in order to affect the drug problem in Virginia.

Display 41

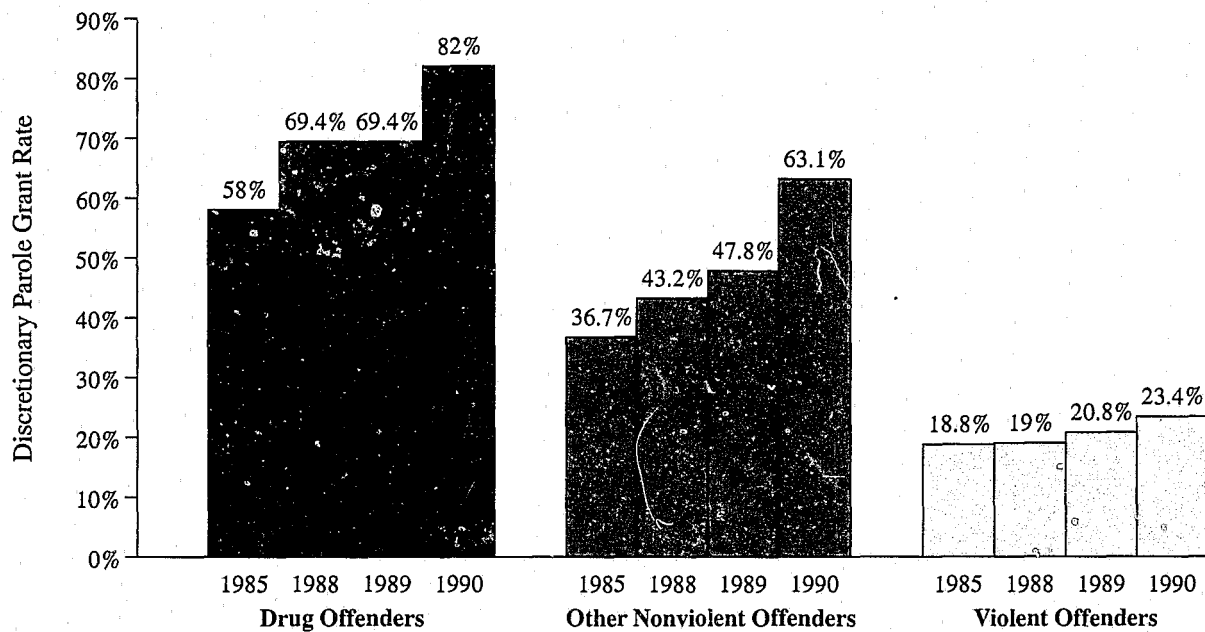
Discretionary Parole Grant Rates for All Virginia Inmates (1981 - 1990)



Data Source: Virginia State Parole Automated Record System, Virginia Parole Board; Offender Based State Correctional Information System (OBSCIS) database, Virginia Department of Corrections

Display 42

Discretionary Parole Grant Rates for Virginia First-Time Drug, Nonviolent and Violent Inmates (1985 and 1988 - 1990)



Data Source: Virginia State Parole Automated Record System, Virginia Parole Board; Offender Based State Correctional Information System (OBSCIS) database, Virginia Department of Corrections

Displays 41 & 42: Parole Grant Rates for Virginia Drug Offenders and Other Inmates

As noted earlier, incarcerated inmates rarely serve the entire amount of their court-imposed prison sentence. One major determinant of how much time an inmate actually serves in prison is the discretionary parole decisions made by the Virginia Parole Board. The Parole Board consists of five members appointed by the Governor and subject to confirmation by the Virginia General Assembly. The Board is responsible for setting the terms and conditions under which imprisoned felons are deemed eligible to be granted discretionary parole and released from prison.

How soon an inmate becomes eligible for discretionary parole consideration is determined statutorily and depends in part on the number of times that the inmate has previously been imprisoned. First-time inmates (i.e., inmates with no prior imprisonment) are eligible for parole consideration after serving one-fourth of their sentence, or 12 years, whichever is shorter. Second-time imprisoned inmates are eligible after serving one-third of their sentence, or 13 years; third-time imprisoned inmates after serving one-half of their sentence, or 14 years; and fourth or subsequent-time imprisoned inmates after serving three-fourths of their sentence, or 15 years.¹ If an inmate is not granted parole by the Parole Board at the first parole consideration hearing, then a subsequent hearing is scheduled for not more than one year later. Inmates denied discretionary parole are mandatorily released on parole six months prior to the expiration of their sentence.

Display 41 presents discretionary parole grant rates for all inmates released from prison in the years 1981 through 1990. The parole grant rate for a year represents the number of inmates who were granted discretionary parole in that year relative to the number of inmates who had a parole hearing in that year. Display 42 presents the discretionary parole grant rates for first-time inmates incarcerated for drug offenses and for violent and other nonviolent² offenders who were released in the years 1985, 1988, 1989 and 1990. Data from 1985 is included here to illustrate how parole grant rates for these offenders have changed over time. Data for the years 1986 and 1987 was not available. In both displays, discretionary parole grant rates are based on all parole hearings, regardless of whether they were an inmate's first or a subsequent hearing.

■ As can be seen in Display 41, overall discretionary parole grant rates varied from year to year from 1981 through 1990. Parole grant rates ranged from a low of 29% in 1985 to a high of 47% in 1990. Grant rates increased from 30% in 1981 to 43% in 1983, fell to 29% in 1985, and then rose to a high of 47% in 1990. This apparently cyclical increase and decrease in parole grant rates over time may be due to the fact that relatively low-risk inmates are paroled at higher rates than violent, high-risk inmates. Paroling large numbers of low-risk inmates may temporarily increase the proportion of high-risk, violent inmates in the prison population, causing temporary decreases in parole grant rates.

■ Although the aggregate parole grant rates are informative for examining the overall release activity of the criminal justice system, examining parole grant rates for specific types of offenders indicates which offenders are more likely to serve larger proportions of their sentences within institutional settings. This information is useful when planning for the management and programmatic needs of these offenders, as well as for gauging which offenses draw the most punitive responses. As can be seen in Display 42, first-time inmates incarcerated for drug offenses were the most likely to be granted parole, whereas first-time inmates incarcerated for violent offenses were the least likely to be granted parole. Other nonviolent offenders were less likely than drug offenders, but more likely than violent offenders, to be granted parole.

■ The Parole Board's discretionary grant rates for first-time drug offenders were much higher than those for first-time violent and other nonviolent offenders in 1985 and in 1988 through 1990. In 1990, for example, the parole grant rate for these drug offenders was 82%, as compared to about 63% for other nonviolent offenders and only about 23% for violent offenders.

■ The parole grant rate for first-time drug offenders has increased greatly from 1985 to 1990. In 1985, 324 drug offenders received a parole hearing, and 188, or about 58%, were granted parole. By 1990, the number of drug offenders who received a parole hearing increased to 1,664, and 1,365, or about 82%, were granted parole.

■ Parole grant rates for first-time other nonviolent offenders also increased from 1985 to 1990. In 1985, 1,889 other nonviolent offenders received a parole hearing, and 693, about 37%, were granted parole. By 1990, the number of other nonviolent offenders who received a parole hearing increased to 2,703, and 1,705, about 63%, were granted parole.

■ First-time violent offenders, unlike drug and nonviolent offenders, were only slightly more likely to be granted parole in 1990 than they were in 1985. In 1985, 1,917 of these offenders received a parole hearing, and 361, about 19%, were granted parole. By 1990, the number of first-time violent offenders who received a parole hearing increased to 3,497, and 817, about 23%, were granted parole.

■ Increases in parole grant rates may indicate that the Parole Board is placing more emphasis on community supervision than on long-term incarceration, especially for drug and other nonviolent offenders who may be perceived to pose less risk to public safety than violent offenders.

■ The 1989 Governor's Commission on Prison and Jail Overcrowding found that in 1987 Virginia used parole less often than other states. During 1987, Virginia's parole population density of about 142 paroled adults per 100,000 adult population was well below the national average of about 196 paroled adults per 100,000 adult population. The report of this Commission has sparked a study of parole review in the Commonwealth to determine why Virginia's parole grant rates are lower than the national average. By 1990, however, Virginia's overall parole grant rate had increased significantly above its 1987 rate, and this increase may have moved Virginia's parole population density closer to the national average.

1. Certain types of offenders are not eligible for parole: those sentenced to death; those convicted of three or more separate felony acts of murder, rape, robbery, or the sale, distribution, or manufacturing of controlled substances; those sentenced to life who have already been paroled from a previous life sentence; and those who escaped from incarceration or custody while serving life sentences.

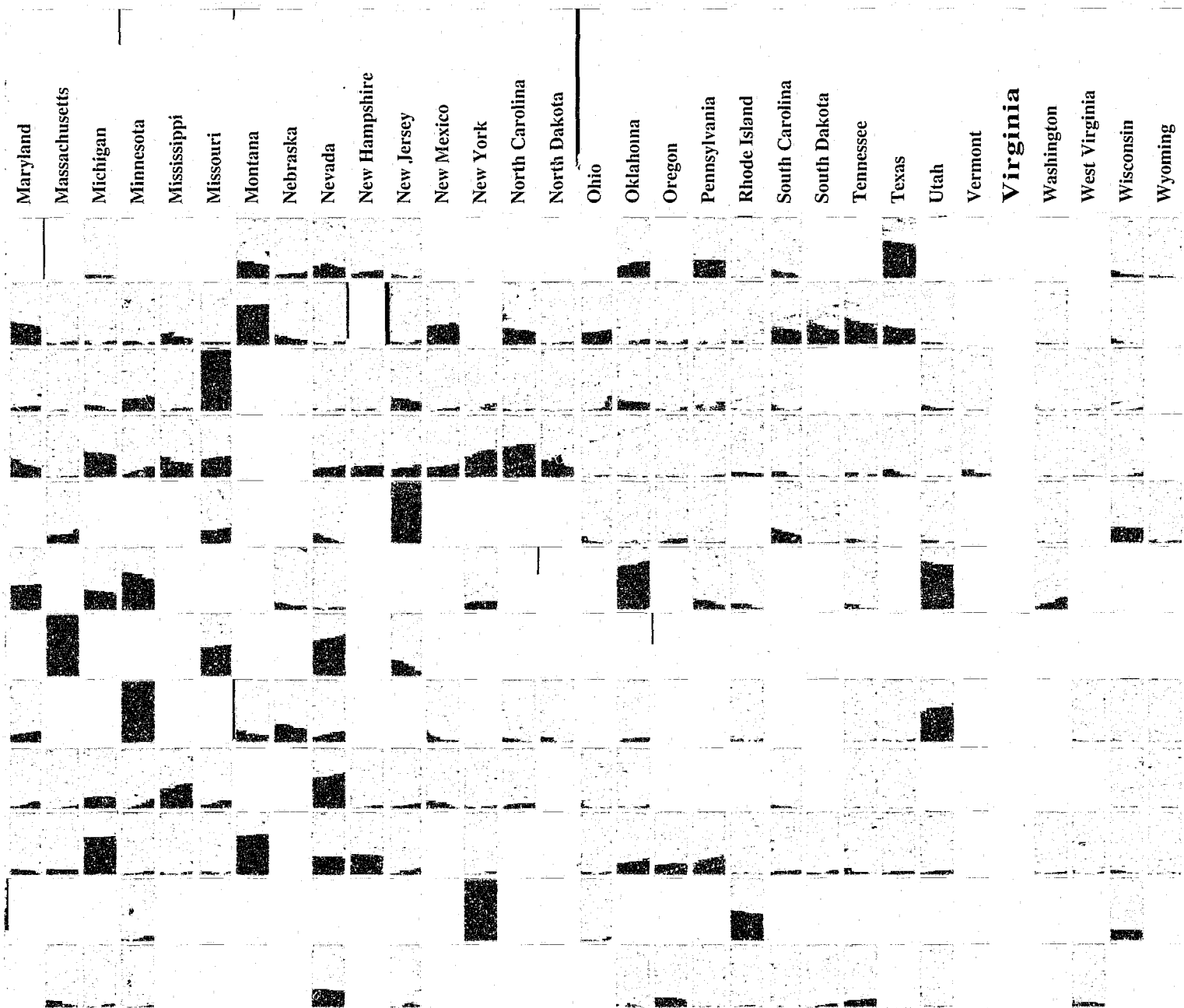
2. Other nonviolent offenses include burglary, larceny, auto theft and fraud.

Display 43

Overview of State Drug Control Initiatives

Display 43: Overview of State Drug Control Initiatives

	Alabama	Alaska	Arizona	Arkansas	California	Colorado	Connecticut	Delaware	District of Columbia	Florida	Georgia	Hawaii	Idaho	Illinois	Indiana	Iowa	Kansas	Kentucky	Louisiana	Maine		
State Drug Related Laws	Provide Same Penalty Structure for Attempted and Completed Drug Offenses																					
	Prohibit Use/Possession/Delivery of Drug Paraphernalia																					
	Enhance Penalties for Drug Crimes within a Drug Free School Zone																					
	Enhance Penalties for Drug Transactions Involving Minors																					
	Permit or Mandate Suspension of Driver's Licenses																					
	Permit or Mandate Suspension of Occupational Licenses																					
	Mandate Evictions from Public Housing Projects																					
	Tax Drug Sales																					
State Criminal Justice Policies	Use of Boot Camps as an Alternative Sanction																					
	Procedures for Seizing Real Property Assets Used to Commit or Facilitate Commission of Drug Offenses																					
	Procedures for Substituting and Seizing Non-Drug Related and Out-of-State Assets																					
	At least 90% of Asset Forfeiture Proceeds Used for Law Enforcement Activities																					
State Criminal Justice Characteristics	Statute Allowing Drug Testing as a Condition of Probation or Parole for Drug Offenders																					
	Per Capita Corrections Expenditures 1988 (\$)	47	177	101	30	128	68	62	83	413	85	72	65	42	52	43	38	45	48	57	49	
	Percentage of State Spending for Criminal Justice Expenditures, 1988	5.2	5.1	7.7	4.5	8.0	6.2	6.0	6.7	11.0	7.7	6.1	7.4	5.3	6.6	4.9	4.4	5.6	5.2	5.8	4.7	
	Per Capita Drug Treatment Expenditures, FY-1989 (\$)	0.21	1.91	1.93	0.41	1.76	0.71	4.57	1.78	0.36	2.07	1.31	0.56	0.07	1.95	1.55	1.50	0.74	0.47	1.14	0.23	
Overcrowding in State Prisons (Prison Population as a Percent of Capacity), 1989	111	106	100	100	106	124	107	107	93	88	102	115	94	110	136	119	102	103	97	132		



100	69	83	53	26	48	37	40	159	45	81	74	140	71	30	67	54	63	52	53	74	35	61	59	54	39	68	23	48	56
7.2	6.2	6.5	4.3	4.0	6.6	4.1	3.9	9.1	5.9	7.4	6.1	7.9	5.7	3.3	5.4	5.0	6.3	5.4	5.7	5.8	4.3	5.0	6.0	5.0	4.6	4.8	3.4	5.5	4.3
2.43	1.17	1.38	0.07	0.37	1.11	1.20	0.95	0.86	1.41	2.35	1.26	8.00	0.89	1.01	0.99	1.84	2.17	0.32	3.41	1.57	0.06	0.46	0.87	1.19	1.67	0.83	0.26	0.37	0.91
100	167	128	100	83	92	104	146	100	110	118	101	99	93	81	154	145	120	156	137	104	184	94	95	93	144	106	94	101	129

Display 43: Overview of State Drug Control Initiatives

In order to identify the most promising methods of dealing with Virginia's drug crime problem, it is essential to first review both the scope of the problem and its effect on the criminal justice system. Previous displays have accomplished this task through an analysis of drug-related crime trends and issues in Virginia. Display 43 goes one step further by reviewing the initiatives undertaken across the nation to deal with drug crime. Such an examination is useful not only for identifying alternative methods of approaching the problem, but it also serves as a reminder of the necessary interaction between states and the federal government in establishing and maintaining effective laws and programs designed to deter the growth of drug-related crimes.

Increasingly, efforts are being made to combine federal and state resources in order to more effectively combat drug-related criminal activity. One of the federal government's greatest contributions to the states in assisting with efforts to control drug crime involves the financial support of pilot programs. Through the distribution of Federal Anti-Drug Abuse Act funds, the federal government has made it possible for states to develop innovative programs tailored to their individual needs and resources. These funds also allow states to provide financial support to local jurisdictions which would not otherwise have the resources to develop adequate law enforcement and treatment programs. Federal spending on drug control programs continues to grow in response to the additional demands placed upon the criminal justice system. Virginia's share of these funds has increased from \$4,042,000 initially received in 1987 to \$9,800,000 received in 1991.

■ Information presented in this display was compiled by the Office of National Drug Control Policy (ONDCP), which serves as the President's primary agency for drug policy and program oversight. This office is responsible for the development of a national strategy to combat illicit drugs, coordination of all federal anti-drug policies, and oversight of anti-drug abuse functions nationwide.

■ Much of the information provided in this display was collected by the various states for inclusion in their Statewide Drug Control Strategies. These strategies are developed as part of each state's application to the Bureau of Justice Assistance (BJA) for Federal Drug Control and System Improvement grant funds. The strategies describe, discuss, and identify the

state's drug and violent crime problems, current efforts to deal with the problems and resource needs. They also detail the efforts—federally funded or otherwise—which will be undertaken to address those needs.

■ Virginia is among the majority of states which have recently implemented legislation mandating or enhancing sanctions for committing drug crimes involving youth. These laws are designed both to prevent children from becoming involved in the use of drugs, and to deter adults from exploiting children by involving them in the sale of drugs.

■ Increasingly, states are turning to alternative methods of sanctioning recreational drug users. Many states have passed legislation implementing alternative sanctions such as suspension of a drug offender's driver's and/or occupational licenses. As the display shows, Virginia has adopted a limited number of these sanctions.

■ In an effort to increase sanctions for drug trafficking offenders, 28 states, Virginia not among them, have adopted some form of state drug tax. Unlike most taxes, the purpose of these drug taxes is not to generate additional revenue; instead, these taxes provide the state with an additional tool for prosecuting the drug offender. Under these laws, a drug dealer is required to purchase tax stamps which are attached to the drugs sold. Drug dealers rarely comply with this law and are, therefore, subject to tax evasion penalties once arrested and convicted for the sale of drugs.

■ The dramatic rise in drug arrests over the past decade, and the resultant increase in jail and prison populations, has forced many states to identify and develop intermediate or alternative sanctions. These programs are generally designed for the nonviolent offender who does not require incarceration. Common examples of alternative sanctions include intensive probation, restitution programs, halfway houses, fines, and electronic home incarceration. Virginia is one of 32 states which have approved legislation providing for the implementation of boot camps as an alternative to conventional forms of incarceration. Although not designed specifically for drug offenders, Virginia's boot camps are expected to serve as a viable sanction for first-time drug offenders.

■ Asset seizure and forfeiture statutes are being used with increasing frequency to prosecute drug offenders. There are 43 states, including Virginia, which currently have procedures for seizing property and assets used in the commission of a drug offense. Many states have begun revising these laws, allowing the proceeds of forfeitures to be directed to the arresting agency. This provides law enforce-

ment with some measure of compensation for the resources expended during case investigations. Eleven states have adopted policies which allow for the substitution and seizure of non-drug-related and out-of-state assets. This is a new variation of asset seizure which is gaining popularity as a method of combating sophisticated drug traffickers. These laws allow prosecutors of drug cases to substitute assets not connected with drug activities for drug-related assets which are unobtainable due to multiple-party ownership, and to seize property held out of state.

■ Display 43 also includes information comparing various state expenditures for criminal justice activities. Virginia's per capita corrections expenditures for 1988 equaled \$75, placing it 12th in the nation in terms of corrections spending. This higher-than-average level of spending may be attributable to Virginia's high incarceration rate.

■ The percentage of Virginia's total state and local budget allocated to the criminal justice system also falls above the national average. Virginia ranked eighth in the nation, with criminal justice expenditures making up about 7% of its total budget. By contrast, Virginia's per capita expenditure (\$0.50) for drug treatment programs is lower than average. Virginia ranks 38th in the nation in this category of spending.

■ Virginia, along with New Jersey, ranks 15th among the states in terms of prison overcrowding. As of 1988, both states were operating at 118% of capacity. Prison overcrowding has developed into a national problem with the majority of states currently operating above capacity. Virginia's overcrowding problems were recently addressed in the 1989 report of the Commission on Prison and Jail Overcrowding. This report attributes the growth in prison populations in part to the increase in drug arrests and sales, stating that these crimes will continue to be a driving force behind increased jail and prison populations for many years to come. The report also notes Virginia's tendency to incarcerate higher proportions of its criminals, give longer sentences, and rely less on alternative sanctions than do other states.

Virginia Drug Crime Legislation (1982-1991)

Virginia's legislature has responded to the growing drug problem by introducing legislation designed to enhance the capability of the criminal justice system to apprehend, prosecute, and treat drug offenders. Examples of legislative anti-drug initiatives taken during the past decade are highlighted below.

LEGISLATION PERTAINING TO LAW ENFORCEMENT AND PROSECUTION:

■ In 1982, House Bill 705 was passed providing for forfeiture to the Commonwealth of all money or interest in property of any kind owned by a person convicted of a violation of the controlled substances law. A simplified forfeiture procedure for use in drug cases was established in 1989 with the passage of House Bill 1345. In 1991, following constitutional amendment and voter approval, the procedure for distribution of drug-related forfeited assets was modified allowing proceeds of drug-related asset seizures and forfeitures to be reverted to the agency or agencies which directly participated in the investigation.

■ In 1983, House Bill 719 authorized the court to require a first offense drug user to enter a screening, evaluation, and education program as a condition of probation, and to require the defendant to remain drug-free during the period of probation. The defendant may be required to submit to drug testing as part of the program. In 1989, House Bill 1318 was passed permitting pretrial drug testing of accused adults and juveniles. Results of such testing are available to judges only after bond hearing and for the purpose of setting conditions of release.

■ In 1983, House Bill 726 added sections 19.2-215.1 through 19.2-215.11 to the Code of Virginia authorizing the use of multi-jurisdictional grand juries to investigate and prosecute drug offenders involved in multi-jurisdictional activities. Special Drug Prosecutors assigned to direct these grand juries are empowered to conduct investigations across multiple jurisdictions as approved by the Supreme Court of Virginia. Evidence of crime discovered by the multi-jurisdictional grand juries may result in indictment in state court, or be sent to the U.S. Attorney for prosecution in federal court.

■ In 1984, House Bill 631 was passed by the General Assembly mandating revocation of the business license of any person, firm, or corporation convicted of sale, manufacture, or possession of a controlled substance or imitation controlled substance. In 1991, the General Assembly expanded the grounds for suspension of revocation of Alcoholic Beverage Control licenses to include the following activities conducted upon the licensed premises or in connection with the licensed business: (1) illegal possession, distribution, sale, or use of imitation controlled substances, drug paraphernalia, or controlled paraphernalia; (2) laundering of money upon the premises of the licensee; and (3) conspiracy to commit a drug-related offense.

■ In 1986, Senate Bill 93 increased the maximum fine to be imposed upon conviction of the illegal manufacture, sale, gift, distribution or possession of a Schedule I or II controlled substance from \$25,000 to \$100,000. This section was revised in 1988, authorizing imposition of a maximum fine of \$100,000 upon a second or subsequent conviction for unlawful sale, distribution, etc. of an opiate or synthetic opiate. This section was revised yet again, in 1990, to provide an enhanced penalty (five years to life and a fine of up to \$100,000) for all second or subsequent offenses involving distribution of Schedule I or II controlled substances. Additional revisions to the Code of Virginia in this area include revision and expansion of the drug paraphernalia law; establishment of penalties for the manufacture, distribution, etc. of imitation controlled substances; increased fines for the manufacture of marijuana; and establishment of penalties for the sale of anabolic steroids.

■ In 1987, House Bill 1049 made the simultaneous possession of a Schedule I controlled substance or coca leaves (or a derivative thereof) and a firearm a Class 6 felony, punishable by one to five years imprisonment, with any firearm used in violation of this section to be forfeited to the Commonwealth. A 1990 amendment clarifies the language of this section and adds cocaine to the list of substances which cannot be possessed while in possession of a firearm.

■ In 1989, Senate Bill 615 established "money-laundering" as a criminal offense, making it illegal for an individual to engage in any financial transaction known to promote or conceal a felony drug violation. This offense is punishable by a maximum of up to 40 years in prison, and/or a fine of twice the value of the property involved in the transaction, or \$500,000, whichever is greater.

■ In 1990, House Bill 357 authorized the death penalty for the willful, deliberate, and premeditated killing of another while committing or attempting to commit a drug distribution offense involving a Schedule I or II controlled substance when the killing is for the purpose of furthering the drug violation.

LAWS PERTAINING TO YOUTH

■ In 1982, House Bill 722 was passed, adding section 18.2-255.2 to the Code and creating a separate and distinct felony offense for the sale of any Schedule III or IV controlled substance or marijuana on school property. In 1989, this section was amended establishing the Drug Free School Zone and making sale or possession with intent to sell or manufacture illegal drugs on public property within 1,000 feet of a school, or on a school bus, punishable by one-to-five years imprisonment and a fine not to exceed \$100,000. These amendments also made all penalties applicable to minors, and broadened the category of drug offenses relevant to this section. Modifications were made to the Code of Virginia in 1991 expanding Drug Free School Zones to include any building or grounds of a publicly owned or operated recreation or community center and clarifying that the enhanced penalties associated with these zones apply without regard to the time of day, or whether or not school is in session.

■ In 1990, Senate Bill 487 authorized an increase in the maximum fine for distribution of marijuana or a Schedule I, II or III controlled substance to a minor more than three years younger than the distributor from \$50,000 to \$100,000. The minimum term for this offense is two years when conviction is for sale of a Schedule I or II controlled substance. An additional 1990 amendment provided an enhanced penalty for knowingly using a minor, at least three years younger than the adult, to assist in the distribution of marijuana, Schedule I, II, or III controlled substances, or an imitation controlled substance. This offense carries the same penalty as distribution of drugs to minors.

■ In 1990, House Bill 1080 was passed establishing a juvenile "use and lose" statute for Virginia. This bill modifies the definition of delinquency to include refusal to take a blood or breath test upon arrest for driving while intoxicated. This bill applies to any child 13 years or older adjudicated delinquent of felony possession or distribution of a controlled substance, felony distribution of marijuana, or misdemeanor possession of a controlled substance. The driving privileges of these juveniles are suspended for six months (misdemeanor offense), one year (felony offense), or until they are eighteen years of age, whichever is longer.

LAWS PERTAINING TO CRIMINAL JUSTICE ADMINISTRATION/RESEARCH:

■ In 1984, House Bill 814 created the Governor's Council on Alcohol and Drug Abuse Problems, replacing the Virginia Advisory Council on Substance Abuse Problems. The Council consists of eighteen members appointed by the Governor and is charged with advising and making recommendations to the Governor on broad policies, goals, and coordination of the Commonwealth's public and private alcohol and drug abuse efforts.

■ In 1989, Senate Joint Resolution 144 was adopted by the General Assembly directing the Virginia State Crime Commission to conduct a two-year study of drug trafficking, abuse, and related crime, and to appoint a 21-member task force to assist in the completion of the study. The final report on this study was published in 1991 with the General Assembly continuing the Commission's activities through Senate Joint Resolution 205, adopted during the 1991 session.

■ In 1990, House Bill 129 established the Local Anti-Drug Trust Fund to be used in making grants, upon approval of the Governor, to local law enforcement agencies in support of specified projects aimed at curtailing or eliminating the manufacture, sale, or distribution of illegal drugs. The Fund is supported through appropriations by the Commonwealth and political subdivisions as well as gifts and donations from the private sector.

■ In 1990, House Bill 1100 was passed, imposing an additional two-dollar fee on convictions for any criminal or traffic offense. Fees collected have been used to establish an Intensified Drug Enforcement Jurisdictions Fund administered by the Department of Criminal Justice Services. The fund is expected to contain approximately \$2,000,000 by the end of fiscal year 1991 and will be used in awarding grants to areas designated by the Governor as Intensified Drug Enforcement Assistance jurisdictions.

■ In 1991, House Bill 1521 was approved providing tax credit to individuals and corporations which develop and broadcast public service messages concerning substance abuse. Each public service message must be approved by the Governor's Council on Alcohol and Drug Abuse Problems prior to broadcast for the credit to be applied.

■ In 1991, House Bill 1859 was approved, amending section 19.2-299 of the Code of Virginia requiring that all pre-sentence investigations completed prior to sentencing for defendants convicted of a felony drug offense include any known association of the defendant with illicit drug operations or markets.

Conclusion

Many politicians and government officials use the "war" metaphor to describe our nation's current struggle with illegal drug abuse. In a war waged by our military forces, progress towards victory is largely measured by certain quantitative indicators selected by the Pentagon. During the recent war with Iraq, the Pentagon reported our military successes by citing such statistics as the number of sorties flown, the number of enemy aircraft destroyed or disabled, the number of enemy ground targets destroyed, and so on. Detailed videotapes of these military actions were used to enhance the reliability of these indicators.

Assessing our progress in the war on drugs is not so easy. Indicators of success in the war on drugs are much more elusive. Because this "war" is being fought on several fronts by professionals in the fields of public health, mental health, education, social services, and criminal justice, the indicators of progress are also quite diverse and vary considerably in their reliability. Data on non-criminal justice indicators, such as the number of drug-related emergency room incidents, the incidence of drug-exposed infants and drug-related AIDS cases, the number of drug-related vehicular accidents, and survey data on drug use among our school children, provide a different perspective on our degree of success in this war than that provided by criminal justice indicators.

This report's focus is limited to describing and, to some degree, assessing the drug problem from a criminal justice perspective. It is not possible to measure progress in the overall drug war using only the indicators presented in this report. Given this caveat, what, then, can these criminal justice system indicators tell us about our effectiveness in the war on drugs?

Franklin Zimring, Professor of Law at the University of California at Berkeley, has recently noted that the very simplest criminal justice indicators of the drug problem are often the most difficult to interpret. The number of annual drug arrests is perhaps the simplest criminal justice measure in keeping score in the drug war. As Zimring notes, "if drug arrests are up 50% from the previous year, this data can support one of two inferences: either the police are doing an excellent job and winning the war, or the drug problem is getting a lot worse and drug offenders are tripping over local police officers." The problem here is that, due to the covert nature of drug use and sales, the true level of illegal drug abuse is unknown. Thus, it is difficult to know if our law enforcement efforts are leading to a reduction in the problem.

As noted earlier, however, interpretation problems like this can be partially overcome

when varied criminal justice indicators of the drug problem are drawn from all components of the system. Although criminal justice is only one front of the war on drugs, it is a broad one. Each of the various criminal justice activities - law enforcement, prosecution, the courts, and corrections - is in itself a front in the criminal justice component of the war on drugs. This report contains information and indicators from each of the operational agencies at these fronts. Having information from each of these fronts makes it possible to present a comprehensive picture of the impact that the criminal justice system is having on drug offenders, and also of the impact that drug offenders are having on the criminal justice system.

On the law enforcement front, the indicators available clearly show that the strategy has been to focus most of the resources on detecting and apprehending those who use and sell Schedule I/II drugs. Crimes involving a Schedule I/II drug made up only 8% of all drug arrests in 1980, but made up over 50% of these arrests in 1990. Over the latter half of the last decade, arrest rates for marijuana offenses were down while arrest rates for Schedule I/II offenses escalated at a record pace. The 1990 downturn in arrest rates for Schedule I/II drug offenses may indicate that we have turned the corner on this problem and that this type of drug crime is on the decrease. It is also possible that increased law enforcement attention to this problem has caused activity involving these drugs to become more difficult to detect. Discerning which of these alternative explanations holds the most merit requires a careful analysis of arrest data in the upcoming years.

On the prosecution front, there are strong indicators that our Commonwealth's Attorneys have placed a high priority on securing convictions for drug offenders. The increased sophistication of our law enforcement and prosecution efforts have allowed prosecutors to make stronger cases and obtain higher conviction rates. Drug offenders in Virginia are getting convicted at a higher rate than violent and property offenders.

The increased rates of arrest and prosecution for drug cases, however, have placed a tremendous burden on our court system. When arrests for Schedule I/II drugs started to climb in 1986, the impact on the courts was severe as case processing time for these cases began to increase. During this same time period, the Virginia State Forensic Laboratory was unable to keep pace with the rapidly rising drug analysis caseloads. Although there is strong evidence that the forensic laboratory has been able to remedy its problems by obtaining additional resources, the courts, which have not had a significant infusion of additional

resources, are still struggling to handle drug cases in an expeditious fashion. In 1989, an average of 30 weeks was required to process a drug case from arrest to sentencing. This represents an overall increase of 14% (or one month) over the processing time required in 1985. Although this delay in the delivery of justice for drug offenders is regrettable, it is remarkable that Virginia's courts have not slipped further behind, given that felony drug convictions over this same period have increased by 256%.

On the judicial front, there are ample indicators that some types of drug offenders have been receiving stiffer sentences during the past five years. For offenders convicted of selling a Schedule I/II drug, the prison incarceration rate rose from 57% in 1985 to 79% in 1989. The likelihood of receiving a prison sentence has also increased recently for offenders convicted of selling one-half ounce or more of marijuana. At the same time, however, the prison incarceration rate for offenders convicted of possession of a Schedule I/II drug has remained relatively steady. Most of these offenders continued to receive a non-prison sentence. It therefore appears that judges have adopted the strategy of reserving the most severe sentences for drug offenders who sell drugs.

Although the prison incarceration rate for drug sale offenders increased from 1985 to 1989, the length of the prison terms received by these offenders remained fairly constant or decreased. During this period, offenders convicted of selling Schedule I/II drugs and sentenced by a judge received a prison term of about seven years. These offenders consistently received harsher prison terms when sentenced by a jury, but the length of these sentences decreased. Schedule I/II drug sale offenders sentenced by a jury received an average prison term of 23 years in 1985, but only about 15 years in 1989.

While the average prison term imposed by judges on drug offenders remained fairly constant from 1985 to 1989, the actual amount of time served on these sentences declined during these years. For example, Schedule I/II drug sale offenders with no prior incarcerations released from prison in 1986 served about two years, or 25% of their imposed sentence. However, similar offenders released from prison in 1990 served only about one year, or 17% of their imposed sentence.

The gradual reduction in prison time served by convicted drug offenders is a function of increases in parole grant rates. The Parole Board's discretionary grant rate for first-time drug offenders rose from 58% in 1985 to 82% in 1990. Despite this erosion of time served by drug offenders, there is evidence that Virginia's

drug traffickers are still, on average, serving more time in prison than the U.S. average for these offenders. Nonetheless, there is much anecdotal evidence that Virginia prosecutors, if given a choice, would prefer to prosecute a drug case in the federal courts due to both the strict sentences called for by the U.S. sentencing guidelines and the fact that federal discretionary parole has been abolished. The vast majority of drug arrests in Virginia are, however, prosecuted in state circuit courts.

The fact that convicted drug dealers are spending less time in prison now than they were five years ago runs contrary to the assertion that we are "getting tough" in the drug war. This finding might lead to the temptation to propose state legislation requiring mandatory prison terms not subject to parole. Such mandatory sentencing schemes, however, usually fail at achieving any real gain in punitiveness because the overcrowding in prisons created by these measures inevitably lead to "emergency release mechanisms" that greatly diminish the amount of time actually served. Also, if the intent is to use these prison terms as a deterrent to illegal drug sales and use, a focus on increasing the severity of the sentence may be misplaced. Available research on the issue of deterrence strongly suggests that it is the perceived certainty and swiftness, and not the severity, of the punishment that is most critical in deterring criminal conduct. From a deterrence perspective, one could therefore argue that the Virginia criminal justice system's response in the drug war has been effective through significant increases in arrest, conviction, and incarceration rates for drug criminals—all of which increase the certainty of punishment. The system, however, has been less effective in providing swiftness of punishment. As previously noted, the amount of time required to process drug cases from arrest to sentencing has significantly increased in recent years. These findings suggest that future policies intended to increase the system's ability to deter drug crime should consider focusing on ways to make punishment swifter.

On the corrections front, the dramatic increase in the prison incarceration rate for those convicted of selling a Schedule I/II drug, coupled with the huge increase in the number of offenders convicted of this offense, has placed severe strains on our corrections system. The 1989 Commission on Prison and Jail Overcrowding estimated that Virginia's jail and prison population might increase to 64,000 inmates by the year 1999 - more than double the current population. The Commission also estimated that it would cost \$4.4 billion to meet the additional capital and operating costs associated with these increases in inmates. A significant contributor to these projected inmate

increases is the tremendous growth in drug arrests, convictions, and incarcerations. While the number of new prison commitments in 1990 was double that of 1985, the number of commitments for drug offenders increased nearly seven-fold over the same period. Drug offenders, particularly cocaine-related offenders, are now the fastest growing offender group being imprisoned.

In response to the overcrowding crisis in our corrections system, Virginia has developed several alternative sentencing programs such as boot camps, electronic home monitoring, and intensive probation, which are intended for the non-violent offender. If alternative sentencing programs like these are to have their intended effect on relieving crowding, they will have to be used fairly extensively and directed at those offenders who actually would have gone to jail or prison. Research on offender recidivism and judicial reference to historically based sentencing guidelines, activities both being undertaken in Virginia, can help ensure that the appropriate offenders are placed in community sentencing programs.

Progress in the war on drugs can also be measured by examining closely the characteristics of those drug offenders being apprehended and imprisoned. The indicators from this front are not encouraging. An exceedingly large proportion of our convicted drug offenders lack a high school education and legitimate gainful employment. There is evidence that juveniles are becoming more involved in drug crime. The increase in Schedule I/II drug sale arrests for juveniles from 1982 to 1990 was 20 times that of adults. Minorities are also becoming more heavily represented among those convicted of Schedule I/II drug offenses. In 1985, non-whites comprised 42% of those convicted of Schedule I/II drug possession; in 1989, non-whites comprised 74% of these offenders.

The majority of convicted drug offenders also showed evidence of drug abuse, yet a significant percentage had never been in a drug treatment program. The absence of drug treatment is often cited as a major factor contributing to the high recidivism rates for drug offenders. Upon release from a Virginia prison in 1983, the majority of convicted drug felons were rearrested for another crime and over 40% were convicted of a new offense. Given the fact that these recidivism figures are based on a sample of drug offenders arrested long before the escalation in drug use initiated by the widespread introduction of "crack" cocaine in 1986, there is reason to believe that today's drug offenders may not be comparable and that our current and future recidivism rates may be even higher.

Research on the effectiveness of drug treatment programs suggests that the longer a drug user stays in a program, the higher is his chance of success. Virginia offers drug treatment programs for inmates held within a state prison facility. However, due to their relatively short sentences, many drug offenders are rarely transferred from a local jail into a state prison. This may suggest the need for drug treatment programs to be comprehensively offered in local jails. Since many violent and property offenders serving longer sentences in state prisons also showed high rates of drug abuse, the programs offered in the prisons are obviously needed as well. The fact that drug offenders are usually incarcerated for only a short period of time also suggests that drug treatment services provided within correctional facilities should be closely coordinated with community-based programs that continue to offer therapeutic services after release from incarceration.

In any war, victory cannot be achieved without reliable and timely intelligence information. Poor intelligence, such as underestimating enemy strengths in some respects and overestimating it in others, can lead to operational difficulties and inefficient resource allocation. This report has set as its goal the provision of accurate and timely criminal justice system intelligence information in the war on drugs.

The indicators drawn from the various fronts across the criminal justice system in the war on drugs show record levels of activity that are placing unprecedented strains on many of our operational agencies. The criminal justice system operates in an environment of limited resources, and difficult decisions lie ahead in determining how these resources will be allocated. There is much within the pages of this report that will assist policy-makers as they debate the wisdom of our drug policies and programs, but there is also much that remains unknown. A great deal of basic and evaluation research on drugs and crime still needs to be undertaken to identify promising programs and successful strategies. Governor Wilder's recently released drug control strategy recognizes that effective drug policies must be guided by research and it calls for several major evaluations and assessments of criminal justice programs and policies designed to combat the drug problem. The challenge ahead will be to refine our drug control strategies based on the knowledge obtained from this research so that in the future our limited resources might be properly focused on those areas most likely to produce the greatest benefits.

Acknowledgements

The report staff gratefully acknowledges the assistance of the following people in the preparation of this study:

Captain Jerry Connor of the Department of State Police; John Britton, Jody Fridley, Barbara Moseley and Julian Pugh of the Department of Corrections; Helen Aliff, Daniel E. Catley, Lindsay G. Dorrier, Jr., James E. Kouten, Martin B. Mait and Joseph R. Marshall of the Department of Criminal Justice Services; Clarence L. Jackson, Jr. and Pat Paquette of the Virginia Parole Board; Dr. Paul B. Ferrara and Robin D. Porter of the Division of Forensic Science, Department of General Services; Bill Rutherford, Norfolk Commonwealth's Attorney; John Kloch, Alexandria Commonwealth's Attorney; Tom McNally, Richmond Assistant Commonwealth's Attorney.

Thanks also go to the many parole and probation officers, police officers, sheriffs and sheriff's deputies who collected the data analyzed in this report; and to the data processing personnel at the Departments of Corrections and State Police who maintain the databases.

This report was designed by Judith Ann Sullivan, Division of Information Systems and Technology, Department of Criminal Justice Services
Charts and graphs were produced by John Girimont, ImaginationBox

Photo credits: *Cover, Sections I, II, III*
Joseph R. Marshall, Department of Criminal Justice Services

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