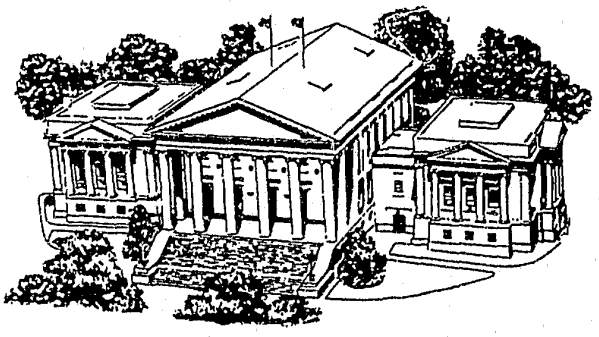
1989 Annual Report

of the

Virginia State Crime Commission



General Assembly Building
910 Capitol Street • Ninth Floor
Richmond, Virginia 23219

COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

General Assembly Building

IN RESPONSE TO
THIS LETTER TELEPHONE
(804) 225-4534

ROBERT E. COLVIN
EXECUTIVE DIRECTOR

April 17, 1990

TO: *The Honorable L. Douglas Wilder, Governor of Virginia, and Members of the General Assembly:*

Pursuant to the provisions of the Code of Virginia (Title 9, Chapter 20, §§9-125 through 9-138) creating the Virginia State Crime Commission and setting forth its purpose, I have the honor of submitting herewith the Annual Report for the calendar year ending December 31, 1989, as mandated by §9-132 of the Code.

Respectfully submitted,

Elmon T. Gray
Chairman

ETG:sc

DEDICATION OF THE 1989 ANNUAL REPORT

It's difficult to speculate what inspires someone to become a law enforcement officer, probation or parole officer or correctional officer. It is often said that it is an instinctive desire, that it's in-born. We know that it is also a strong sense of justice and clear understanding of right and wrong, a desire to protect and make safer one's friends, neighbors and community. It is ultimately a commitment to serve mankind and give something back.

All of our public safety officials, thousands of dedicated women and men across Virginia, have given something back and are to be commended for their service. Regrettably, 1989 was a year in which four of our police officers lost their lives in the performance of their duties. We dedicate this Annual Report to those brave Virginians who gave it all and made the ultimate sacrifice this past year.

TROOPER JERRY LYNN HINES OF LEXINGTON - FEBRUARY 20, 1989

OFFICER CHARLES HILL OF ALEXANDRIA - MARCH 22, 1989

DEPUTY THOMAS EDWARD FELTON, JR., OF SUSSEX - APRIL 29, 1989

DEPUTY PAUL EDWARD GRUBB OF MARTINSVILLE - JULY 2, 1989

There are no words of sympathy that will erase the pain felt by the families and friends. We can only express infinite gratitude and deepest appreciation for those who have been taken from us, their families and for the people behind the badge who continue to serve. We salute you.

MEMBERS OF THE COMMISSION

From the Senate of Virginia:

Elmon T. Gray, *Chairman*
Howard P. Anderson
Elmo G. Cross, Jr.

From the House of Delegates:

Robert B. Ball, Sr., *Vice Chairman*
V. Thomas Forehand, Jr.
Raymond R. Guest, Jr.
A. L. Philpott
Warren G. Stambaugh
Clifton A. Woodrum

Appointments by the Governor:

Robert C. Bobb
Robert F. Horan, Jr.
George F. Ricketts, Sr.

Attorney General's Office:

H. Lane Kneedler

Executive Director
Robert E. Colvin

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I. MESSAGE FROM THE CHAIRMAN

It is indeed a pleasure to provide you with this *1989 Annual Report of the Virginia State Crime Commission.* As each of us follows the events shaping our society, we share a common concern over the safety of our citizens, the quality of life in the Commonwealth, and the future of our youth.

The drug problem now seems to affect every aspect of our society. Police and prosecutors call for more resources; jails and prisons are packed. We face immense challenges. However, we must find solutions that turn the challenges into opportunities for progress and accomplishment.

There are bright lights at the other end of the tunnel. Parents, police and educators are getting involved in programs such as DARE. Communities are uniting with law enforcement to develop exemplary neighborhood programs. Our very young seem to be getting the message about the plague of drug abuse.

There are other bright spots. The rate of serious crime in Virginia hit an all-time high in 1981, then dropped through 1984. In 1985 the trend reversed and we saw steep increases until this year. The major crime rate for 1989 increased 2.5 percent, compared with a 7 percent increase the year before. In fact, the 1989 crime rate is only 1.3 percent above the previous high reached in 1981, while the state's population increased 12.5 percent over the same period.

Yet, we still have much to do and our diligence and resolve must not falter. During 1989, the Commission and its task force and study subcommittees held a total of forty meetings. Several of these meetings, including one in Roanoke, were public hearings where close to 100 people from across Virginia brought their concerns and suggestions to the Commission. One of the meetings involved a one-day trip to a boot camp prison in South Carolina. Accompanying several Commission members on this very productive trip were Delegate Vic Thomas of Roanoke, Delegate Vincent Callahan of McLean, Jack Ferguson, chairman of the Commission on Prison and Jail Overcrowding, and staff from several agencies.

In addition to completing six legislative studies and a multitude of other tasks, the Commission undertook its most difficult and important project: the two-year task force study of drug trafficking, abuse and related crime focusing on prevention, treatment, corrections and enforcement. As a result of our efforts last year, the 1990 General Assembly adopted all but a handful of the twenty-five legislative measures and five budget amendments that were recommended by the Commission.

Members and staff have kept difficult schedules this year in accomplishing the many activities required of the Commission by the General Assembly. I would draw your attention to the sections of this report which describe the host of issues addressed, the legislative studies completed and the work undertaken by the Commission this past year. In fact, since the Commission was reestablished in 1986, it has to its credit an impressive list of accomplishments. These are described in Section XI of this report.

The successes listed in this report were possible only because of the commitment of Virginia's General Assembly and the Baliles Administration to maintaining a strong and effective criminal justice system. During 1990, as a legislatively based commission, we look forward to working closely with Governor Wilder, Lieutenant Governor Beyer, Attorney General Terry, and members of the General Assembly in continued efforts to strengthen Virginia's criminal justice system.

II. MEMBERSHIP, STAFF AND OFFICES

Membership

The thirteen-member Commission includes six Delegates appointed by the Speaker of the House of Delegates, three Senators appointed by the Senate Privileges and Elections Committee, three citizen members appointed by the Governor from the state at large, and the Attorney General of Virginia as an ex officio member with full voting privileges. Appointees serve for four-year terms, with the exception of the Attorney General, whose membership on the Commission is concurrent with her term as Attorney General of Virginia. The Commission elects its own chairman and vice-chairman, and appoints and employs an executive director, counsel, and other persons it deems necessary.

In 1989, Senator Elmon T. Gray of Sussex served as Chairman. Delegate Robert B. Ball, Sr., of Henrico served as Vice-Chairman. Senator Howard P. Anderson of Halifax, Senator Elmo G. Cross, Jr., of Hanover, Delegate V. Thomas Forehand, Sr., of Chesapeake, Delegate Raymond R. Guest, Jr., of Front Royal, Speaker of the House of Delegates A. L. Philpott of Bassett, Delegate Warren G. Stambaugh of Arlington, and Delegate Clifton A. Woodrum of Roanoke also represented the legislature on the Commission. Chief Deputy Attorney General H. Lane Kneedler represented the Honorable Mary Sue Terry, Attorney General of Virginia.

Serving as gubernatorial appointees to the Commission in 1989 were Robert C. Bobb of Richmond, the Honorable Robert F. Horan of Fairfax, and the Reverend George F. Ricketts, Jr., of Richmond.

In addition to the thirteen Commission members, eight additional individual members are serving as task force members on the two-year study of drug trafficking, abuse and related crime. Please see Appendix C of this report for a complete listing.

Staff and Offices

The Commission employs two permanent full-time staff: Robert E. Colvin, Executive Director of the Commission, and Sylvia A. Coggins, executive administrative assistant. D. Robie Ingram, Esquire, is employed on a part-time basis as staff attorney.

In order to staff the two-year task force study on drug trafficking, the Commission received a federal grant and employed two individuals for the duration of that project.

Dana G. Schrad, Esquire, serves as the project research manager and staff attorney. Susan A. Bass was retained as a research analyst, having previously worked as a research assistant on several of the Commission's studies.

Beyond the staff listed above, substantially more employees are needed from May through December to assist with the large volume of research, technical analysis and writing and to provide other areas of support for the study subcommittees. Extra staff assistance is also needed during sessions of the General Assembly in tracking the large volume of crime-related legislation. Finally, the Commission relies upon the fiscal office of the Division of Legislative Services for accounting.

In order to accomplish its work, the Commission utilizes interns from universities and law schools, and also receives staff assistance from state agencies with particular expertise in an area under study. During 1989, Michael P. Maddox, a third year law student from the College of William and Mary, assisted as a researcher on the youthful offender and education of handicapped jail inmates studies. Susan A. Bass, a graduate of Virginia Commonwealth University, also worked as a research assistant during the summer on the studies of shock incarceration, nondetectable firearms, and transportation of juveniles.

Phyllis H. Price, Ph.D., quality control supervisor with the Division of Legislative Services, Mandie M. Patterson, victim services manager, and John Mahoney, victims services specialist with the Department of Criminal Justice Services, contributed significantly to the research on victims and witnesses of crime.

During 1989, Dorothy Papsiak, Angela Porter and Lisa Claiborne, seniors studying administration of justice at Virginia Commonwealth University, participated in internships with the Commission. Ms. Claiborne helped the Commission track legislation in the 1990 General Assembly. All three provided invaluable research assistance to the Commission. Professor James Hooker has coordinated the selection and placement of interns from Virginia Commonwealth University since 1986 and we appreciate his excellent support.

Throughout the year, the Division of Legislative Services handles the Commission's accounts and payroll. Agency Director E. M. Miller, Jr., Fiscal Officer Ben Reese, Accountant Senior Caryl S. Harris, and Fiscal Technician Betsy W. Smith all provide invaluable services to the Commission. In addition, Staff Attorneys Oscar R. Brinson and Mary P. Devine, Legal Aide Mary K. Geisen, and Printer Jim Hall each regularly extend many courtesies to the Commission. Finally, Quality Control Supervisor Phyllis H. Price, Ph.D., reviewed various Commission reports to ensure the integrity of the documents. We also wish to commend the Division of Legislative Automated Systems, its Director, Charles M. Hubbard, and staff for the excellent technical and computer support provided throughout the year.

The office of the Commission is located on the ninth floor of the General Assembly Building, 910 Capitol Street, Suite 915, Richmond, Virginia 23219. The office is open during regular business hours and additional hours as needed during sessions of the General Assembly. The telephone number is 804-225-4534. The Chairman, members, and staff cordially invite parties with criminal justice concerns or inquiries to contact the Commission.

III. ACKNOWLEDGEMENTS

As the Commission conducts its research and inquiries we draw upon individuals with special expertise in the various disciplines for information or assistance. Therefore, the Commission extends its sincere appreciation to the many individuals from the following agencies who have lent their support to the Commission:

Bureau of Forensic Science
Blue Ridge Chiefs of Police Association
Clerk of the House of Delegates
Clerk of the Senate
Commonwealth's Attorneys' Training and Services Council
Department of Correctional Education
Department of Corrections
Department of Criminal Justice Services
Department of Education
Department of Youth Services
Department of State Police
Division of Crime Victims' Compensation
Division of Legislative Automated Systems
Division of Legislative Services
Forensic Science Academy Alumni Association
House Appropriations Committee Staff
Joint Legislative Audit and Review Commission
Office of the Attorney General
Office of the Governor
Secretary of Administration
Secretary of Education
Secretary of Health and Human Resources
Secretary of Transportation and Public Safety
Senate Finance Committee Staff
Virginia Association of Chiefs of Police
Virginia Commonwealth University
Virginia Correctional Association
Virginia Crime Prevention Association
Virginia Parole Board
Virginia Probation and Parole Officers' Association
Virginia State Sheriffs' Association
Virginia State Lodge of the Fraternal Order of Police

We are especially grateful to the many local criminal justice agencies across the Commonwealth who provided us a wealth of information as we undertook our charge. There were so many individuals who helped us that it is regrettably impractical to list them all. However, we deeply appreciate their efforts.

In conclusion, the Commission enjoys an excellent working relationship with a multitude of individuals and agencies interested in making the Commonwealth a safe and enjoyable place to live. The contributions made by each played an important role in the success of the Commission's activities in 1989.

IV. OVERVIEW OF THE WORK OF THE CRIME COMMISSION

To strengthen Virginia's criminal justice system, the General Assembly created the legislatively based Virginia State Crime Commission. The primary purpose and legislative mandate of the Commission is to study, report, and make recommendations to the Governor and the General Assembly on all areas of public safety and protection. The Commission develops legislation and assists in coordinating proposals of various agencies and organizations as to legislation affecting crime, crime prevention and control, and criminal procedures.

In meeting its responsibilities, the Crime Commission acts as a sounding board for agencies, organizations, and individuals in the Commonwealth to report legislative concerns regarding criminal justice to the General Assembly and serves as a locus for analyzing and dealing with the multitude of difficult and diverse issues in our criminal justice system. The Commission also regularly develops and evaluates law and administrative procedures which affect judges, prosecutors, law enforcement officials, jails and prisons, forensic laboratories, community diversion programs, crime prevention programs, probation and parole, criminal procedure and evidence, victims and witnesses of crime, and private security.

Conducting the formal legislative studies directed to the Commission by resolution of the General Assembly or by request of the Governor consumes a large part of the Commission's efforts each year. While a major part of the Commission's work in 1989 was undertaking the task force study on drug trafficking pursuant to Senate Joint Resolution 144, the Commission also completed six legislative studies and handled a number of other issues.

Beyond the formal studies, the Commission responds to numerous inquiries and provides information to legislators, citizens and criminal justice officials. Many of the formal inquiries require considerable research and deliberation before the Commission can issue a recommendation. The Commission also stays very busy evaluating the work and effectiveness of the Forensic Laboratories, State Police, Department of Corrections and other law enforcement agencies. In addition, the Commission initiates its own inquiries into many aspects of the criminal justice system and works with Congress on bills to assist Virginia's law enforcement effort.

In 1986 the Virginia General Assembly recreated the Commission. Section XI of this report reviews the Commission's major accomplishments from that time to 1989. Section V reports highlights of the Commission's accomplishments during calendar year 1989 and during the 1990 Session of the General Assembly.

The Commission and its chairman are committed to cost efficiency, productivity and a high level of effectiveness in meeting the responsibilities given it by the General Assembly. The Commission's general fund budget was $161,478 in the fiscal year ending June 30, 1990. This amount paid the costs of staffing and operating the thirteen-member state agency. The chairman would note that without the hundreds of hours of time and expertise unselfishly provided by the membership, the Commission could not operate on its limited budget. In order to reduce personnel costs, students and other research interns are currently utilized in place of more costly permanent research staff, thus saving thousands of dollars. The chairman also attributes the dedication and high productivity level of staff to keeping costs reasonable. The Commission schedules its meetings in blocks in order to reduce travel and per diem costs as another cost-cutting measure. Finally, both legislative and executive branch agencies have all been most generous in lending assistance as needed to the Commission in completing its complex and difficult tasks.

V. EXECUTIVE SUMMARY OF 1989 ACCOMPLISHMENTS

Legislation

Tougher drug penalties, a boot camp incarceration program and enhanced compensation provisions for crime victims are among the successful Virginia State Crime Commission legislative initiatives waiting to be signed into law by Governor Wilder. Twenty-five pieces of legislation and several budget amendments directed at law enforcement and crime prevention were introduced by the Commission in the 1990 General Assembly Session. Most of the proposals resulted from the Commission's six legislative studies conducted during 1989, and the interim report of the two-year task force study of drug trafficking, abuse and related crime. In addition, the Commission sponsored a vital piece of legislation that Congress passed and President Bush signed into law.

1. Tougher Drug Laws

The Commission's task force drug study was the catalyst for several measures to reduce drug crime in Virginia. The passage of House Bill 382, patroned by Delegate V. Thomas Forehand, Jr., of Chesapeake, provides that adults who involve juveniles in drug distribution be sentenced to ten to fifty years in prison and fined up to $100,000. This measure makes it a criminal violation to use children as lookouts, message carriers or couriers in drug trafficking activities. In addition, a complementary bill was passed which establishes a minimum mandatory sentence of two years for such an offense involving drugs such as cocaine and heroin.

A bill patroned by Delegate Warren Stambaugh of Arlington and passed by the 1990 General Assembly extends the safe school zone law to provide an additional penalty for drug trafficking on any property open to the public within 1,000 feet of schools. The bill also specifies that the safe school zone enhanced penalties are enforceable twenty-four hours a day whether or not school is in session.

Senate Bill 263, patroned by Crime Commission task force member Senator Johnny Joannou of Portsmouth, establishes a penalty of five years to life in prison and up to $100,000 in fines upon a second conviction of selling drugs such as heroin and cocaine.

Senate Joint Resolution 80, patroned by the Commission Chairman, Senator Elmon T. Gray of Sussex, recognizes the need for teachers to receive substance abuse identification education. The measure requires such training for initial teacher certification to help teachers deal with students whose ability to learn is hampered by substance abuse.

Two joint resolutions introduced by Senator Joseph Gartlan and Delegate Ford Quillen were approved this session and call for Virginia's voters this November to determine if the provisions of the Virginia Constitution should be changed to allow money and property seized from drug dealers to be used for law enforcement purposes. The Crime Commission endorsed these proposals initially suggested by Attorney General Mary Sue Terry after the Commission's 1988 study of asset seizure and forfeiture.

Several budget amendments recommended by the drug study task force were approved, including four full-time correctional officer positions and federal funds for specially trained dogs to detect illegal drugs in correctional institutions. In addition, four full-time positions and state general funds were approved for the Office of Youth Risk Prevention in the Department of Education to direct school-based drug abuse prevention programs. Federal anti-drug funds will be used to purchase up to eight specially equipped surveillance vans to assist in drug investigations by local law enforcement agencies. Patrons for the budget amendments were the Crime Commission Chairman, Senator Elmon T. Gray of Sussex, and Commission Vice-Chairman Robert B. Ball, Sr., of Henrico; and Senator Howard P. Anderson of Halifax and House Speaker A. L. Philpott of Bassett.

The Crime Commission during 1990 will complete its task force study of drug trafficking, abuse and related crime and present the Governor and General Assembly with recommendations to coordinate state level strategies for dealing with the drug problem.

2. Crime Victims and Witnesses

As a result of the Commission's study of crime victims and witnesses, several bills were introduced to expand the reimbursement available under the Victims Compensation Fund. Victims who are abducted or robbed and suffer serious emotional trauma now may receive reimbursement for counseling expenses under a bill introduced by Delegate Stambaugh. Previously, a physical injury had to accompany the emotional injury to be compensable. Another bill raises the funeral reimbursement to $2,000.

Another measure patroned by Delegate Stambaugh prohibits a criminal from profiting by selling his account of the crime for publication or film production, based on the New York prohibition known as the "Son of Sam" law. Any profits due to the criminal would go to the victim, to the state Victim's Compensation Fund or to pay court costs and fines. Additionally, the Commission endorsed a budget amendment to establish a full-time position within the Virginia Parole Board to handle inquiries and comments from victims of crime.

Under Stambaugh's House Bill 294, Virginians will be eligible to collect reimbursement form the Victim's Fund if they are the victim of a crime in another state which does not have such a program. Finally, another measure (HB 296) ensures confidentiality of the police reports submitted to the Victim's Fund staff and simplifies the reporting requirements for police officials in order to shorten the processing time required to verify the claim and compensate victims.

3. Boot Camp Incarceration

A bill patroned by Senator Howard Anderson of Halifax creates a pilot military-style boot camp prison for young nonviolent first offenders. The program will provide for ninety days of physical labor, military drill, counseling and education designed to promote self-esteem, pride, discipline and respect. After boot camp, the offender will be on close supervision for one year and be required to hold a job. Companion budget amendments provide $225,000 and two additional staff positions to implement the program over the 90-92 biennium.

On a related matter, the Youthful Offender Act currently provides for a period of indeterminate incarceration for up to four years in a special program for first time violent and nonviolent felons and misdemeanants. The current law has inadvertently created difficulty and confusion in operating the program. Senator Cross's Senate Bill 353 addresses those problems by allowing the Board of Corrections to designate multiple suitable facilities, providing for quicker intake into the program, and clarifying how to remove unsuitable candidates from the program.

4. Division of Forensic Science

House Speaker A. L. Philpott of Bassett patroned House Bill 320, which creates a separate Division of Forensic Science that includes the state's four laboratories that analyze narcotics and physical evidence from crime scenes. Currently, the forensics laboratories operate as a bureau under the Division of Consolidated Laboratory Services along with two environmental-regulatory bureaus. This configuration had become inefficient. The elevation in stature of Forensic Science was endorsed by Governor Wilder and will increase the level of service that the laboratories can provide to prosecutors and to state and local police officials.

5. Measures for Law Enforcement

Firearm silencers are becoming more prevalent in drug-related crime in Virginia, but only federal officers presently are authorized to arrest for possession of an unregistered firearm silencer. A measure successfully introduced by Delegate Clifton Woodrum of Roanoke (HB 223) makes possession of an unregistered firearm silencer a state felony, enforceable by local and state law enforcement officers.

The surviving spouse of a police, fire or rescue official killed in the line of duty will be entitled to a free undergraduate education in Virginia's public institutions under a measure (HB 985) patroned by Delegate Raymond R. Guest, Jr., of Front Royal. Present law extends the privilege only to the children of slain public safety and rescue workers.

Delegate Forehand's House Bill 387, approved by the General Assembly, makes it a Class 4 felony for any person to wear body armor while armed and committing a crime of violence. This bill was called for by police officers who report that criminals are becoming increasingly violent towards law enforcement officials.

Delegate Woodrum's House Bill 224 specifically allows drug cases and other physical evidence to be transferred between the state's four regional forensic laboratories as needed without breaching chain of custody provisions. Another bill introduced by Delegate Woodrum at the request of the state's forensic laboratories allows the Naval Investigative Service forensic laboratory to analyze crime scene evidence and certify its results for admission in state courts (HB 226).

Congressional Action

The Commission also worked with Senator John Warner and Congressman Rick Boucher, who successfully introduced several pieces of legislation in Congress to permit Virginia's law enforcement agencies to continue benefitting from the federal adoptive forfeiture and equity sharing system. This system allows federal authorities to return to state and local law enforcement agencies up to ninety percent of the proceeds gained from the sale of drug dealers' forfeited property. On October 1, 1989, Virginia had become ineligible to participate in this program. However, with passage of this legislation, Virginia will continue receiving money earmarked for the war on drugs.

This section of the report has merely highlighted certain major legislative accomplishments of the Commission during calendar year 1989 and the 1990 Session of the General Assembly. Each of the issues presented here is explained in more detail in Section IX of this report.

VI. TASK FORCE STUDY OF DRUG TRAFFICKING, ABUSE AND RELATED CRIME INTERIM REPORT SUMMARY

Introduction

Senate Joint Resolution 144 (1989) directed the Virginia State Crime Commission to "conduct a comprehensive study of combatting drug trafficking, abuse and related crime in Virginia, including needed changes in legislation with a primary focus on enforcement efforts, consumption reduction and correctional/rehabilitative issues."

Drug trafficking, abuse and related crime result in economic costs to the Commonwealth of Virginia of more than four billion dollars each year. More than one-third of all arrests in Virginia in 1987 were related to substance abuse, and the Department of Corrections estimates that eighty percent of the prison population has a history of substance abuse. Drug abuse and related crime have become issues that affect the whole of society, and more comprehensive coordinated strategies for enforcement, consumption reduction and rehabilitation now are required.

The efforts to solve the drug problem in Virginia require resources, people and time. But even more important is the need for a comprehensive and cooperative strategy to manage and coordinate those efforts at the state and local levels.

The solutions to the drug problem are not simple or easily found. For this reason, and in response to the many concerns brought to the General Assembly and to the Crime Commission by the public and law enforcement officals across Virginia, Senate Joint Resolution 144, patroned by Senator Elmon T. Gray, Crime Commission chairman, was introduced in the 1989 Session of the General Assembly. The Commission will seek to develop a comprehensive strategy and plan of attack at the state level to combat the drug problem in Virginia. This will include coordinating efforts with all state, local and federal authorities and agencies.

Senator Howard P. Anderson and Delegate Robert B. Ball, Sr., both Crime Commission members, successfully introduced amendments to the budget in their respective houses to provide $22,825 in FY89-90 in general funds to enable the Crime Commission to undertake this major study. Additionally, a federal grant of $93,793 for FY89-90 has been approved, and one for the second year is anticipated. Thus, a total amount of $116,618 for the first year was required to initiate this study. The total study budget for the second year, FY90-91, is projected to be $139,004.

The drug study will:

1. Examine current drug-related efforts in law enforcement, consumption reduction and corrections/rehabilitation.

2. Examine the structures within which these efforts are carried out, and the resources allocated to support them.

3. Assess the effectiveness of the state's anti-drug efforts, the adequacy of the current structures for implementing them and the resources available to support them.

4. Develop legislative, budgetary and programmatic proposals for strengthening and improving the state's anti-drug efforts.

Drug Task Force Members Appointed

Senate Joint Resolution 144 directs the Virginia State Crime Commission to designate a select task force of twenty-one individuals to assist with the drug study. The task force consists of all thirteen members of the Crime Commission, two additional members of the House of Delegates appointed by Speaker A. L. Philpott, two members of the Senate appointed by the Senate Privileges and Elections Committee, and four individuals representing the law enforcement and criminal justice systems. The Chairman of the Crime Commission, Senator Elmon T. Gray, serves as Chairman of the Drug Study Task Force, and the Crime Commission Vice Chairman, Delegate Robert B. Ball, Sr., serves as Vice Chairman.

The task force is divided into three subcommittees of seven members each, as follows:

Law Enforcement Subcommittee

Speaker A. L. Philpott of Henry, Chairman
Col. J. C. Herbert Bryant, Jr., of Sterling
The Honorable W. M. Faulconer of Orange
The Honorable Robert F. Horan, Jr., of Fairfax
Senator Johnny S. Joannou of Portsmouth
The Honorable H. Lane Kneedler, Attorney General's Office
Delegate Warren G. Stambaugh of Arlington

Education Subcommittee

Senator Howard P. Anderson of Halifax, Chairman
Mr. Robert C. Bobb of Richmond
Delegate V. Thomas Forehand, Jr., of Chesapeake
Senator Elmon T. Gray of Sussex
Delegate Raymond R. Guest, Jr., of Front Royal
Delegate Thomas M. Jackson of Hillsville
Chief Richard W. Presgrave of Harrisonburg

Corrections/Treatment Subcommittee

Delegate Robert B. Ball, Sr., of Henrico, Chairman
Senator Elmo G. Cross, Jr., of Hanover
Senator Edward M. Holland of Arlington
The Honorable Christopher W. Hutton of Hampton
Delegate Clinton Miller of Woodstock
Reverend George F. Ricketts, Sr., of Richmond
Delegate Clifton A. Woodrum of Roanoke

Issues Addressed

The task force held its first public meeting on August 1, 1989, at which a number of federal law enforcement officials and state agency representatives addressed the task force on issues related to illegal drugs. Subcommittee meetings were held in mid-August 1989, September 1989 (along with two public hearings in Richmond and Roanoke, Virginia), and October 1989. The public hearings provided general input regarding the effectiveness of Virginia's current efforts in combatting illegal drug trafficking and abuse, and subcommittee meetings allowed members to examine more detailed information from experts. The focus of the respective subcommittees work is listed below:

1. *Law Enforcement:* studying issues of interdiction of drug trafficking, quality of laws regarding illegal drugs and drug-related crime, manpower effectiveness of

local law enforcement agencies, funding for drug law enforcement equipment and training, comprehensive coordination of federal, state and local drug law enforcement efforts and drug asset and forfeiture laws and procedures.

2. *Education:* studying effectiveness, efficiency and pervasiveness of drug awareness education in grades K-12 and ways to improve curriculum and teaching methodologies regarding drug awareness education as demand reduction tools; community partnership programs in drug awareness and prevention aimed at parents, employees and business and community leaders; alternative education methods and curricula targeted for high risk students to prevent drug abuse; development of programs designed to identify and intervene with high risk populations in the communities, including school dropouts and low income housing project populations.

3. *Corrections/Treatment:* studying drug detection, security, and treatment and education programs in correctional facilities; treatment and education for the criminal justice population in the communities; alternatives to incarceration designed to decrease relapse, recidivism, and substance abuse among offenders; the efficiency and effectiveness of community treatment programs for treating substance abusing offenders and mainstreaming offenders back into the community; and comprehensive coordination of court, corrections and treatment policies and procedures.

Interim Report

Following the public hearings held in September 1989 to gather information and input from the public, staff prepared three final subcommittee reports of findings, recommendations and activities. At the fourth set of subcommittee meetings, held in November 1989, the subcommittees voted on their findings, recommendations and activities, and made final revisions to the reports. The Law Enforcement Subcommittee did not complete its work at the November meeting, and scheduled another meeting to vote on its report prior to the full task force meeting on December 19, 1989.

On December 19, 1989, the Drug Study Task Force met in Richmond to vote on the subcommittee reports. That same afternoon, the interim report was accepted by the Virginia State Crime Commission and approved for printing and distribution. The interim report was published as Senate Document 30 (1990) and distributed to the Governor and General Assembly in January.

The drug study is proceeding closely with the objectives and activities as projected in the workplan. Additionally, the program objectives as described in the evaluation plan have been carried out through the subcommittee meetings and public hearings, and through the research conducted by the staff and presented to the subcommittees and full task force. Fifteen findings, forty-eight recommendations and sixty-five activities were developed and appear in the interim report as a plan of action for the task force in 1990.

During 1990, the staff of the Commission will be working with state and local agencies, law enforcement associations and in coordination with the Governor's office to complete the activities requested in the interim report. The three subcommittees will hear the results of the activities and formulate recommendations at the June, July, and August meetings. The full task force will come together in September to receive and approve preliminary study recommendations from the subcommittees. In October the task force will receive public and agency reaction to its proposed preliminary study recommendations. A task force meeting will be held in November to finalize study recommendations. The task force will conclude its work in December when the members meet to approve the final study report, which will be published and presented to the Governor and 1991 General Assembly.

In order to accomplish the objectives of the drug study, the 1990 Appropriations Act calls for the Secretaries of Public Safety, Health and Human Resources and Education to work in cooperation to implement the recommendations and provide the reports as requested in the interim report of the Commission's Task Force on Drug Trafficking, Abuse and Related Crime. The Secretary of Public Safety is responsible for ensuring that the reports requested by the Commission are completed by the designated agencies, and that the work is coordinated with that requested by the Commission on Prison and Jail Overcrowding.

In addition, the 1990 Appropriations Act directs the Secretary of Public Safety and the Governor's Council on Alcohol and Substance Abuse Problems to develop a program to assist localities in developing and funding Drug Abuse Resistance Education programs. A report on the program is to be submitted to the Crime Commission by August 31, 1990.

VII. 1989 FORMAL STUDIES

In addition to the drug trafficking study described in the previous section, the Crime Commission undertook six formal studies in 1989 on criminal justice and related issues. Of the six, three were authorized by joint resolutions of the General Assembly, two were undertaken pursuant to formal letters of request and one was a continuation of a study from 1988.

The Commission's study of shock incarceration was authorized by HJR 321 (1989), its study of nondetectable firearms and courtroom security by HJR 367 (1989), and its study of education of handicapped jail inmates by HJR 283 (1989).

The Virginia Parole Board formally requested that the Crime Commission study the Youthful Offender Act and Senator J. Granger Macfarlane requested a study of transportation of juveniles to and from detention centers.

Finally, the Commission's study of victims and witnesses of crime was a continuation of the study originally begun in 1987 by authority of HJR 225 (1987) and continued through 1988 pursuant to HJR 48 (1988) and HJR 184 (1988). The 1989 continuation of the study was conducted under authority of § 9-125 of the *Code of Virginia* in order to address unresolved issues as well as new issues.

The following is a brief summary of the issues, findings and recommendations of each of the above studies. A more detailed report has been published as a legislative document for each of the six formal studies. Copies of those reports are available upon request from the Crime Commission.

A. Shock Incarceration (Boot Camp Prisons)

Introduction

The Virginia State Crime Commission was directed and authorized by House Joint Resolution 321 (1989), sponsored by Delegate Vincent F. Callahan, Jr., to (i) study the Shock Incarceration Program as an alternative to lengthy, costly incarceration for suitable inmates, (ii) review the Shock Incarceration Program and other alternative types of incarceration that have been implemented in other states and (iii) determine the feasibility of such an alternate program, the expected benefits or detriment of such a program and identify the type of inmate who can be best served in the Shock Incarceration Program, if one is adopted.

Typically, shock incarceration programs are short-term programs lasting from 90 to 180 days and are offered as a "shock" deterrent to young nonviolent first offenders. The boot camp environment is designed, via rigid discipline and hard work, to significantly reduce recidivism and to be less costly to the state than ordinary incarceration.

The purpose of the Crime Commission study was to decide if, and how, such a program should or could be put in place in Virginia.

The study subcommittee thoroughly researched the mode of operation and efficiency of the existing eight state programs and toured the shock probation camp at the Thames Correction Center in Rembert, South Carolina.

Subcommittee Members

The Commission Chairman, Senator Gray, selected Reverend George F. Ricketts, Sr., to serve as the chairman of the Corrections Subcommittee which conducted this study. Members of the Crime Commission who served on the subcommittee are as follows:

Rev. George F. Ricketts, Sr., of Richmond
Senator Howard P. Anderson of Halifax
Delegate Robert B. Ball, Sr., of Henrico
Mr. Robert C. Bobb of Richmond
Senator Elmo G. Cross, Jr., of Hanover
Senator Elmon T. Gray of Sussex
Delegate Raymond R. Guest, Jr., of Front Royal
Speaker A. L. Philpott of Bassett

Issues Addressed

The major task before the subcommittee was to determine if shock incarceration was a viable alternative to ordinary incarceration in specialized cases (nonviolent first offenders) and, if so, to develop a plan to implement a program. The discrete issues facing the subcommittee were, therefore, to:

1. Determine the effectiveness of SI programs with respect to:

   a. deterrence
   b. rehabilitation
   c. punishment
   d. incapacitation
   e. reduction of prison overcrowding
   f. reduction of costs
   g. reduction of recidivism

2. Define the goals of such a program and its potential benefit to the Commonwealth.

3. Determine whether there is an available boot camp site in Virginia or whether one must be constructed.

4. Establish criteria for inmate eligibility to participate if an SI program were adopted.

Findings

After five meetings, one of which was held at the Rembert, South Carolina, shock probation facility, and after careful consideration of voluminous information on the subject, the subcommittee found shock incarceration worthy of a pilot program in Virginia. The specific findings made by the subcommittee are as follows:

1. There is little solid information available on the effectiveness of shock incarceration. Most shock incarceration programs are short-lived, the oldest having begun in 1983 in Oklahoma. As a result, little empirical study has been done and no absolute statements on recidivism or rehabilitation have been offered. However, programs such as South Carolina's, which also emphasize education and counseling components, are reporting encouragingly low rates of recidivism. A program should be evaluated for its effectiveness over time.

2. Available data suggest shock incarceration costs, on a daily basis, as much as or more than ordinary incarceration. To reduce prison costs through shock incarceration, therefore, the length of stay must be shorter and the program must target offenders who would otherwise have certainly received a longer sentence.

3. As with No. 2 above, and notwithstanding a reduction in recidivism, prison overcrowding can be reduced through shock incarceration only if those committed to it would otherwise have certainly received a longer sentence.

4. Placement of shock incarceration facilities near ordinary prisons has the potential benefit of providing the participants with a view of prison life without experiencing its dangers.

5. The Southampton Youthful Offender Center is an appropriate site for a shock incarceration camp in Virginia. (The subcommittee also studied the Youthful Offender Program this year and recommended that the program be operated in *any* suitable facility, not solely the Southampton facility. As a result, the Southampton facility would be available for shock incarceration.)

6. The cost per bed space for shock incarceration should approximate that for the Youthful Offender Program - $24,000 annually or $6,000 per inmate (90-day term).

Recommendations

In accordance with the findings above, the subcommittee recommended a pilot program for Virginia with the following major components:

1. *Participants*
   - 18 to 24-year-old males
   - nonviolent felony offenders
   - never sentenced to incarceration as an adult
   - physically and mentally healthy
   - female participation will be determined upon evaluation of the pilot program

2. *Eligibility to enter and continue program*
   - voluntary, upon defendant's motion
   - must be adjudged mentally and physically compatible with the program by Department of Corrections and Parole Board
   - loss of eligibility for intractable behavior, violation of court's terms or voluntary withdrawal

3. *Sentencing*
   - offender to be sentenced as probationer to boot camp incarceration
   - term of years suspended in favor of boot camp incarceration
   - all or part of suspended sentence and probation may be revoked after hearing if offender withdraws, is intractable or violates court's terms

4. *Location*
   - to be determined by Department of Corrections (Southampton projected for male offenders)

5. *Capacity*
   - 100 males

6. *Inmate Stay*
   - 90 days or more (to be determined by the Department of Corrections)

7. *Special Program Components*
   - military drill, ceremony, physical training
   - physical labor
   - drug/alcohol education
   - Adult Basic Education (ABE) program
   - Graduate Equivalency Diploma (GED) program
   - vocational assessment

8. *Pilot Program Length*
   - begins January, 1991
   - sunsets December, 1995

House Document No. 9 (1990) presents to the Governor and General Assembly the Crime Commission's full report on shock incarceration. A copy is available from the Crime Commission upon request.

B. Nondetectable Firearms and Court Security

Introduction

The Virginia State Crime Commission was directed and authorized by House Joint Resolution No. 367 (1989), sponsored by Delegate G. Steven Agee, to "(i) evaluate the state of the art of manufacture of nondetectable firearms and firearms or explosives containing materials other than metal, (ii) determine what, if any, danger is presented to the Commonwealth by the existence of such weapons, (iii) determine the adequacy and effectiveness of jailhouse and courtroom weapons detection devices to detect metallic or nonmetallic firearms and explosives, (iv) evaluate the impact on the Commonwealth of recent federal legislation regarding plastic guns and whether similar state legislation is appropriate and (v) make any recommendations the Commission finds appropriate including minimum standards, if appropriate, for detection devices."

During the 1989 Session, the legislature amended the *Virginia Code* to add §18.2-308.5, effective July 1, 1989. The statute makes manufacture, import, sale, transfer or possession of a plastic firearm punishable as a Class 5 felony. This measure was introduced by Delegate Franklin P. Hall of Richmond.

The 1989 study arose from a 1987 Crime Commission study of firearms and ammunition whereby the Commission learned that at least one manufacturer, Byron Inc., was about two years from production of an all-plastic (with the exception of seven springs) .22 caliber pistol.

Moreover, the recently enacted federal Undetectable Firearms Act of 1988 makes illegal the manufacture, import, sale, possession, etc., of any firearm that is not detectable by walk-through metal detectors or is undetectable by airport x-ray equipment.

In light of the recent developments in both the law and the potential availability of weapons designed to escape detection, the Commission was directed to determine the effectiveness of Virginia's court and jailhouse security.

Subcommittee Members

The Commission Chairman, Senator Gray, selected Delegate Raymond R. Guest, Jr., to serve as the chairman of the Law Enforcement Subcommittee which conducted this study. Members of the Crime Commission who served on the subcommittee are as follows:

Delegate Raymond R. Guest, Jr., of Front Royal, Chairman
Delegate Robert B. Ball, Sr., of Henrico
Mr. Robert C. Bobb, of Richmond
Senator Elmon G. Cross, Jr., of Hanover
Senator Elmon T. Gray, of Sussex
Mr. Robert F. Horan, Jr., of Fairfax
Mr. H. Lane Kneedler, Attorney General's Office
Delegate Warren G. Stambaugh of Arlington

Issues Addressed

Pursuant to explicit requirements of HJR 367 and additional recommendations made by Delegate G. Steven Agee, its sponsor, the subcommittee identified the following issues and objectives:

1. Determine whether the technology exists to produce plastic firearms or explosives undetectable to conventional x-ray machines and magnetometers.

2. Use survey results to determine whether jailhouses and courtrooms in Virginia are sufficiently protected from the threat of plastic weapons.

3. Determine the implications of the federal Undetectable Firearms Act.

4. Determine the state of readiness of Virginia's current detection systems.

5. Determine and/or recommend minimum standards for detection devices.

Findings

At the request of the subcommittee, the staff conducted a mail survey of each sheriff's office in Virginia to determine the state of readiness of electronic security devices and other security measures at each jail and courthouse.

The subcommittee obtained a copy of the Report on Undetectable Firearms and evaluation of state-of-the-art detectors, prepared by the Bureau of Alcohol, Tobacco and Firearms (BATF).

Officers of companies engaged in the manufacture of modern firearms were interviewed and the production facilities were toured to ascertain the state of the art of "undetectable weapons" technology.

Based on the above and other research, the subcommittee found the following:

1. In Virginia's jails and courthouses there is a vast array of detection devices in use — hand-held and walk-through. No particular problems were reported. Almost all devices functioned properly when properly maintained.

2. The BATF report concluded that two detectors failed to detect a North American Arms .22 short revolver, a weapon BATF used as its "exemplar" and which is capable of being concealed in a bogus "paging device" to confound a visual inspection. Neither of the detectors is in use in Virginia.

3. BATF concluded that operational location of a detector can detrimentally affect its performance. This was confirmed by Commission staff at an on-site courthouse test. It was found, additionally, that routine maintenance and calibration of detectors is imperative.

4. Development of an "all-plastic" firearm is not a priority among major arms manufacturers. Existing "plastic guns" contain the legally required 3.7 ounces of electromagnetic material and are detectable by existing detection devices. Byron, Inc., has abandoned its project to produce a plastic weapon.

Recommendations

1. Caution law enforcement agencies about the camouflage paging device.

2. Provide Law Enforcement Agencies with information from the BATF Report:

   a. During laboratory testing, two detectors failed to detect the NAA22S.

b. The operational location for any walk-through detector can affect the performance of the detector.

c. Walk-through metal detectors must be routinely adjusted to ensure proper performance.

House Document No. 10 (1990) presents to the Governor and the General Assembly the Crime Commission's full report on nondetectable firearms and jail/courthouse security. A copy is available from the Crime Commission upon request.

C. Education of Handicapped Jail Inmates

Introduction

The Virginia State Crime Commission was directed and authorized by House Joint Resolution 283 (1989), patroned by Delegate Warren G. Stambaugh, to "determine (i) the number of handicapped youth requiring services, (ii) the resources required to provide services, (iii) the most efficient method of service delivery, and (iv) the cost of providing such services."

The study arose as a result of the urging of the U.S. Department of Education's Office for Civil Rights (OCR) that Virginia develop a plan for the education of handicapped (mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, health impaired, learning disabled) individuals in its jails. Prison inmates currently receive such education. Public Law 94-142 (U.S. Code 20 U.S.C. 1401 et seq.) and Virginia law require that all such individuals receive a free and appropriate education until the age of twenty-two. A Massachusetts case, *Green v. Johnson*, 513 F. Supp. 965 (D. Mass. 1981), interpreted Public Law 94-142 to mean that the entitlement to special education extended to jail inmates. The OCR was alerted to the lack of such a program in Virginia by a complaint filed against the Richmond City jail. The complaint was ultimately withdrawn.

The subcommittee's considerable task was to develop a functional, workable and cost-effective method for delivery of special education services, to determine where the responsibilities lay for implementation, and to determine how many inmates would require such services at what cost.

The Virginia State Crime Commission received the report of the subcommittee on October 17, 1989, and adopted its findings and recommendations.

Subcommittee Members

The Commission Chairman, Senator Gray, selected Delegate Clifton A. Woodrum to serve as the chairman of the Treatment Issues Subcommittee which conducted this study. Members of the Crime Commission who served on the subcommittee are as follows:

Delegate Clifton A. Woodrum of Roanoke, Chairman
Delegate Robert B. Ball, Sr., of Henrico
Delegate V. Thomas Forehand, Jr., of Chesapeake
Delegate Raymond R. Guest, Jr., of Front Royal
Mr. Robert F. Horan, Jr., of Fairfax County
Mr. H. Lane Kneedler, Attorney General's Office
Rev. George F. Ricketts, Sr., of Richmond
Delegate Warren G. Stambaugh of Arlington

Issues Addressed

1. Methods to identify handicapped jail inmates entitled to special education

2. The projected number of jail inmates eligible for special education services and the services' cost

3. The most effective and efficient way to provide such services given the existence of ninety-five jails in Virginia, most of which do not have special education facilities

4. Agencies or entities to be responsible for identification, notification, testing and education of handicapped jail inmates

Findings

1. The subcommittee determined that machinery is already in place to identify handicapped inmates and that no herculean effort should be made to add personnel or significant additional identification procedures.

2. Basing its conclusions upon the best data available from Virginia's jails and prisons, the Departments of Education and Correctional Education, and the State of Massachusetts (which is currently the sole provider of handicapped jail education), the subcommittee was able to predict a range of between 46 and 228 eligible inmates annually in the local jail population (and a like number for locally incarcerated state-responsible felons). The only way to ascertain a true number of eligible inmates and cost of the services is to actively engage in the program. The subcommittee determined, however, upon weighted average cost figures, that the approximate cost per inmate for delivery of special education services is $6,750 annually or a total annual cost of between $310,500 and $1,539,000.

3. The subcommittee found that the best place to educate jail inmates is locally. The subcommittee also acknowledged that conducting education would be virtually impossible in many Virginia jails; classrooms and personnel do not exist. It was determined, however, that many jails do currently provide some nonhandicapped education. At some jails, physical facilities are already available and many sheriffs indicated a willingness to work with local school programs to implement on-site handicapped education. The subcommittee acknowledged that such was certainly not feasible at every location, however. Additionally, the subcommittee determined that construction of a single separate (statewide) facility or numerous regional facilities for jail special education would, likewise, be infeasible because of the speculative nature of population predictions and doubts as to utilization by eligible inmates; it could be immediately overcrowded or remain empty.

4. The subcommittee determined that the responsibility for implementation of local jail special education should logically be with the local educational authority (local school division) and that the agency responsible for development of program guidelines and ensuring the proper conduct of the program should be the state educational authority (Virginia Department of Education).

Recommendations

After significant research and careful consideration of numerous options, many of which were thoroughly investigated and then properly abandoned as unworkable or impractical, the subcommittee made the following recommendations:

1. That identification of handicapped jail inmates be done by probation and parole officers during the ordinary course of the presentence investigations. If identification is made while the offender is not incarcerated, he would be referred to the local school system for services. If the inmate is incarcerated, the jail administrator would be notified of his handicapped status. The recommendation would entail no additional investigation by the probation and parole officers except to maintain a keen eye for any evidence suggesting a handicap.

2. That only sentenced inmates be offered special education services since the stay in jail of nonsentenced residents is unpredictable, frequently quite short and not consistent with providing a complete evaluation (a process requiring as much as 110 days), much less providing education services.

3. That any incarcerated, potentially eligible inmate be notified by the sheriff/jail administrator of the availability of special education. The inmate would execute a signed request for, or waiver of, such services.

4. That eligible state-responsible inmate should be transferred to the Department of Corrections as soon as possible, under a priority system to be developed by the

Department, after his written request for special education. Transfer of such inmates would be subordinate to transfer of those with significant health problems or those who present a threat to the safety of other inmates or jail staff.

5. That local inmates be educated if possible after they are sentenced to incarceration, either (1) on-site where resources are available or can be made available per agreement between the jail administrator and school division superintendent, or (2) in the local school system pursuant to a special educational release program agreed upon by the jail administrator and division school superintendent. The subcommittee recommended statutory amendment to §53.1-131 to provide for special education release.

6. That neither the jails nor local school divisions should incur additional costs for provision of such services; that the Department of Education would allocate funds made available to it from the general fund. The subcommittee recommended amendment to §2.1-701 of the Code to provide for 100% state funding.

7. That the Department of Correctional Education continue to provide necessary technical assistance to the jails as needed to carry out the programs recommended by the Commission; that the Department of Education develop appropriate placement guidelines and an appropriate budget proposal for 100% state funding; that the local school divisions be the entities responsible for providing special education services; that the local sheriffs and jail administrators continue the process of inmate "swapping," to match inmates to services where feasible; and that local sheriffs notify potentially eligible inmates of their rights.

The bill incorporating the amendments proposed by the Commission (HB 225, Woodrum) was carried over to 1991. House Document Number 16 (1990) presents to the Governor and the General Assembly the Crime Commission's full report on the study of education of handicapped jail inmates. A copy is available from the Commission upon request.

D. Youthful Offender Act

Introduction

Pursuant to a formal letter of request dated March 31, 1989, from the Virginia Parole Board by its chairman, Clarence L. Jackson, the Virginia Crime Commission undertook a study of "the intent of statutory requirements and the correlative procedures for implementation" of the Youthful Offender Act. Mr. Jackson's letter noted "a number of inconsistencies in the interpretation and application of the statute," *Virginia Code* §19.2-311 et seq.

Subcommittee Members

The Crime Commission Chairman, Senator Gray, selected Reverend George F. Ricketts, Sr., to serve as the chairman of the Corrections Subcommittee conducting this study. Members of the Crime Commission who served on the subcommittee are as follows:

Reverend George F. Ricketts, Sr., of Richmond, Chairman
Senator Howard P. Anderson of Halifax
Delegate Robert B. Ball, Sr., of Henrico
Mr. Robert C. Bobb of Richmond
Senator Elmo G. Cross, Jr., of Hanover
Senator Elmon T. Gray of Sussex
Delegate Raymond R. Guest, Jr., of Front Royal
Speaker A. L. Philpott of Bassett

Problem Analysis

The law applicable at the time of the study was deemed by both the Parole Board and the Department of Corrections to be ambiguous on a number of points. Both entities sought clarification or rectification of the following issues:

1. Post-sentence assessment and evaluation for eligibility of youthful offenders often requires more than twenty-one days. In those cases where the assessment revealed an offender to be unqualified for the program, the sentencing court would have no opportunity to resentence if returned to the court after the expiration of twenty-one days from sentencing. (*See*, Rules of Court 1:1.)

2. When opportunity to resentence was lost, as above, or when a youth was removed from the facility for "intractable behavior," the statute offered no provision for removal from youthful offender status. The offender was then in limbo, potentially with no parole review, an indeterminate sentence, and no access to the facilities offered by the program.

3. A designated facility existed for male youthful offenders but not for females.

4. During the course of the study it was determined that the availability of programs and facilities at the St. Bride's Correctional facility is equivalent, if not superior, to Southampton's.

5. An offender is eligible for status as a youthful offender only upon a first offense. Upon a second conviction and sentencing to a determinate period of incarceration, no statutory mechanism exists for combination of the sentences.

Issues Addressed

Having identified the broad issues before it, the subcommittee addressed the following discrete issues/objectives:

1. Develop a different testing/assessment mode to avoid conflict with the twenty-one-day rule (Rule 1:1).

2. Accommodate youthful offenders who are removed from the program for either intractable behavior or a second offense.

3. Accommodate youthful offenders who have received both an indeterminate sentence and a determinate sentence (for a second offense).

4. Accommodate female youthful offenders in a manner equal to that for male youthful offenders.

5. Incorporate the programs and facilities existing at St. Bride's or other suitable facilities into the Youthful Offender Program.

Findings and Recommendations

1. The subcommittee found that the testing and evaluation process conducted by the Parole Board and Department of Corrections to determine the suitability of an individual for the Youthful Offender Program should be conducted prior to sentencing rather than afterward. Accordingly, the subcommittee recommended an amendment to the Youthful Offender Act to provide for testing/evaluation during a sixty-day period after a finding of guilt but prior to sentencing. Thus, if an offender is found unsuitable for the program, the court may sentence him to an ordinary determinate sentence and the problem of resentencing during the twenty-one day period of limitation of Rule 1:1 is avoided.

2. The subcommittee found the Act to be ambiguous regarding treatment of an offender who is removed from the program for intractable behavior or for a second conviction. The subcommittee therefore proposed amending the Youthful Offender Act to provide that when a youth is so removed from or opts out of the program he should lose his eligibility to use youthful offender programs and facilities but remain under an indeterminate sentence with continuous parole evaluation. The amendment also specifically provided that any second sentence is to be served consecutively upon parole from indeterminate commitment.

3. The subcommittee found that other facilities within Corrections might provide programs and facilities equivalent or superior to those at the Southampton Youthful Offender Facility (e.g., St. Bride's); therefore, it recommended a statutory amendment that would provide that incarceration of youthful offenders

at *any* facility authorized by the Board of Corrections, having offenders of approximately the same age, and offering programs suitable to the offender. The statute, as amended, would, in effect, allow for expansion of the program to more than 100 (total population at the Southampton facility), provide for placement where appropriate programs exist, and remove the potential discrimination against women in the program.

4. Finally, the subcommittee discovered that no accurate recidivism statistics exist for the Youthful Offender Program. It recommended, therefore, that recidivism rates be tracked for all programs within Corrections.

Senate Bill 353, patroned by Senator Elmo G. Cross and which incorporated all of the Crime Commission's recommended statutory amendments, was passed by the General Assembly. House Document No. 43 (1990) presents to the Governor and the General Assembly the Crime Commission's report on the Youthful Offender Act. A copy is available upon request from the Commission.

E. Transportation of Juveniles

Introduction

By letter from Senator J. Granger Macfarlane dated February 1, 1989, the Virginia State Crime Commission was requested to study the transportation of juveniles to and from local detention homes.

During the 1989 Session, Delegate Alan Diamonstein and Senator Macfarlane offered identical legislation to transfer part of the transportation burden from local sheriffs' offices to the detention centers themselves. The bills met with opposition due to an initial $1.2 million fiscal impact estimate and were withdrawn pending further examination. Senator Macfarlane requested the Crime Commission to conduct this examination.

With the participation and cooperation of the Department of Corrections, the Department of Youth Services, and numerous sheriffs' departments and detention centers, the subcommittee undertook a thorough investigation of the situation statewide. Included in that study was an independent assessment of the efficiency of juvenile transportation conducted by Morgenthau & Plant Associates at the behest of the Department of Corrections.

Subcommittee Members

The Commission Chairman, Senator Gray, selected Delegate Clifton A. Woodrum to serve as chairman of the Treatment Issues Subcommittee studying juvenile transportation. Members of the Crime Commission who served on the subcommittee are as follows:

Delegate Clifton A. Woodrum of Roanoke, Chairman
Delegate Robert B. Ball, Sr., of Richmond
Delegate V. Thomas Forehand, Jr., of Chesapeake
Delegate Raymond R. Guest, Jr., of Front Royal
Mr. Robert F. Horan, Jr., of Fairfax County
Mr. H. Lane Kneedler, Attorney General's Office
Rev. George F. Ricketts, Sr., of Richmond
Delegate Warren G. Stambaugh of Arlington

Issues Addressed

In response to the concern that sheriffs' offices were being saddled with the duty of transporting nonviolent children to and from detention homes at the expense of removing deputies from other responsibilities, the subcommittee addressed the following major issues/ objectives:

1. Determine which local agencies could best perform transportation duties;

2. Develop criteria for division of responsibility if the transportation would be done by more than one local agency.

3. Ascertain the difference in cost to the Commonwealth and localities of a different scheme for transportation of juveniles if one were proposed.

4. Ascertain the benefits/detriment of a different transportation scheme, e.g., freeing up deputies, taxing the staffs of other agencies.

Findings and Recommendations

After thorough study of data generated by the involved agencies, the subcommittee found that it was inefficient to continue the current practice of having fully trained and equipped deputy sheriffs transport nonviolent, low-risk juveniles between detention homes and local medical, dental and other service appointments. The subcommittee found these transports would be more efficiently and appropriately handled by personnel employed by the juvenile detention homes.

It also found that the number of transports could be reduced by providing some services in the detention home on a purchase of services basis. The responsibility for transporting the low-risk individuals may serve as an additional impetus for reducing the number of transports.

The Commission submitted its findings to Senator Macfarlane, who introduced Senate Bill 147 in the 1990 Session. Senator Macfarlane's bill, which will become effective July 1, 1991, provides that detention homes be responsible for the transportation of low-risk children to medical and dental appointments, and psychiatric evaluations, and that court service units

be responsible for transportation of special placements. The responsibility for transportation of violent and disruptive children will be designated by the chief judge of the juvenile and domestic relations court based upon guidelines issued by the Youth Services Board.

House Document No. 55 (1990) presents to the Governor and General Assembly the Crime Commission's full report on transportation of juveniles. A copy is available from the Crime Commission upon request.

F. Victims and Witnesses of Crime

Introduction

The Virginia State Crime Commission was directed and authorized by House Joint Resolution 225 (1987), sponsored by Delegate V. Thomas Forehand, Jr., to "(i) evaluate the effectiveness of current services provided to victims and witnesses of crime throughout the Commonwealth of Virginia, (ii) to study the concept of a 'Bill of Rights for Victims and Witnesses of Crime,' and (iii) to make any recommendations the Commission finds appropriate." The Commission was subsequently directed and authorized by House Joint Resolution 48 (1988), sponsored by Delegate Clifton A. Woodrum, to "continue its examination of victim input statements, victim input in the parole process, confidentiality of designated victim counseling, the right of victims' families to be present during the trial and other issues as the Commission deems appropriate."

Finding that a number of the many issues before it required more study, the Commission voted to continue its study of victim/witness issues for an additional year, for report to the 1990 General Assembly.

There were four major issues before the subcommittee in 1989: (i) a testimonial privilege for sexual assault and domestic violence victims, (ii) courtroom attendance for victims and victims' family members, (iii) prohibition of profits from crime ("Son of Sam" law), and (iv) restructuring of crime victim compensation criteria.

After in-depth study of the issues and receipt of significant input, the study subcommittee submitted its findings and recommendations to the full Crime Commission on December 19, 1989. The Commission unanimously adopted the report, findings and recommendations.

Subcommittee Members

The Commission Chairman, Senator Gray, selected Delegate Warren G. Stambaugh to serve as chairman of the Victim/Witness Subcommittee. Members of the Crime Commission who served on the subcommittee are as follows:

Delegate Warren G. Stambaugh of Arlington, Chairman
Mr. Robert C. Bobb of Richmond
Senator Elmo G. Cross, Jr., of Hanover
Delegate V. Thomas Forehand, Jr., of Chesapeake
Delegate Raymond R. Guest, Jr., of Front Royal
Mr. H. Lane Kneedler, Attorney General's Office
Reverend George F. Ricketts, Sr., of Richmond
Delegate Clifton A. Woodrum of Roanoke

Issues Addressed

1. Whether there should be enacted a victim/counselor testimonial privilege protecting exchanges between victims of sexual assault or domestic violence and their counselors; whether such a privilege, if enacted, should be limited or absolute.

2. Whether, despite a motion to exclude as a witness, a victim or a member of his family, or both, should be permitted to remain in a courtroom during a trial.

3. Whether to enact legislation prohibiting a perpetrator to profit from his crime by sale of the story of his criminal act ("Son of Sam" law).

4. Crime Victims' Compensation:

   a. Whether to allow compensation for a crime victim's emotional injury;

   b. Whether to modify statutory language to permit receipt of compensation by any victim despite a familial relationship or a shared residence with the perpetrator of the crime who might, thus, benefit from the compensation;

   c. Whether to expand/increase confidentiality of information received by the Division of Crime Victims' Compensation (CVC).

   d. Whether to increase victim funeral expense compensation from CVC; and

   e. Review of the recommendations (and responses by CVC) made in a 1989 JLARC study, House Document 17, which reported on the operation of Crime Victims' Compensation.

Findings and Recommendations

1. The subcommittee, in cooperation with Virginians Aligned Against Sexual Assault (VAASA), developed statutory language for a victim/counselor testimonial privilege. However, VAASA requested that introduction of this legislation be postponed.

2. Responding to the appeal of families of victims who argued that they were being denied the opportunity to attend the trials of their victimized family members by being called as witnesses by defense counsel and excluded from trial, the subcommittee proposed legislation to permit a victim, a parent or guardian of a minor victim, or the parent of a homicide victim to remain in court during the trial, upon the ruling of the court. The Crime Commission offered the legislation in the house, and substantively similar bill was offered in the Senate. Neither passed.

3. Responding to the public desire to legislatively deny criminals a means of profiting from their crimes, the subcommittee investigated the issue of "Son of Sam" laws. Though the issue raised constitutional concerns, the subcommittee found that, so long as the defendant had first been found guilty of the crime from which he might profit, restriction of his profit-making opportunity would be just. It proposed statutory language which was offered to the General Assembly. After minor amendment the House and Senate unanimously passed the measure.

4. Crime Victim Compensation Issues:

   a. The subcommittee determined that in certain circumstances crime victims suffer emotional harm (without physical harm) for which they should be compensated. The Commission recommended inclusion of robbery, abduction, and attempted robbery and abduction victims in the definition of "victim." This amendment allows these victims to collect counseling expenses from CVC when their injury is emotional and not necessarily physical. This bill passed.

   b. Finding that to deny crime victim compensation to someone solely because he or she is married to or lives with the perpetrator is unjust, the subcommittee recommended legislation to enable any victim to collect from CVC so long as the award will not unjustly enrich the offender even if the victim resides with or is married to the offender. The bill passed.

   c. Finding that the Division of Crime Victims' Compensation (CVC) requires complete information to process claims in a timely fashion, the subcommittee voted to ensure the confidentiality of information from police agencies and to permit greater latitude for the submitting agencies as to the extent and form of the information submitted. This measure passed.

   d. Because crime victims' funeral expenses have increased, the subcommittee voted to increase the statutory limit for reimbursement from $1,500 to $2,000. The measure passed the General Assembly.

House Document No. 62 (1990) presents to the Governor and the General Assembly the Crime Commission's full report on victim and witness issues. A copy is available from the Commission upon request.

VIII. CRIMINAL JUSTICE ISSUES ADDRESSED IN 1989

Introduction

In addition to completing formal studies, developing legislative and administrative recommendations, and conducting inquiries, the Commission monitors on behalf of the legislature the on-going operation of the criminal justice system. This section focuses on the most significant of the issues that arose during the year.

A. Federal Equity Sharing

At the request of the Virginia State Crime Commission, Senator John W. Warner and Congressman Rick Boucher successfully introduced several pieces of legislation in the U. S. Senate and House of Representatives to permit law enforcement agencies to continue benefitting from the federal adoptive forfeiture and equity sharing system. This system allows federal agencies to return to local and state law enforcement agencies up to ninety percent of the proceeds gained from the sale of drug dealers' forfeited property. The Boucher bill guaranteed continued use of the federal system for an additional two years, which was the period necessary for Virginia to change its Constitution and be eligible for continued participation in equity sharing. In further action, the armed forces appropriations bill, amended by Senator Warner, provides for a total repeal of the current restrictive prohibition on equity sharing.

On October 1, 1989, Virginia's law enforcement agencies became ineligible to participate in the federal equity sharing process whereby states receive money from drug dealers' forfeited assets. This resulted from a provision in the 1988 Anti-Drug Act that had the effect of prohibiting distribution of these assets to Virginia (and other states) because Virginia's Constitution requires the money to be deposited in the Literary Fund. Since 1988, members of the Crime Commission, its Executive Director and the Attorney General's Office have worked closely with Virginia's Congressional delegation to secure relief for Virginia from this federal restriction.

Under the adoptive forfeiture and equity sharing program, the FBI or Drug Enforcement Administration (DEA) would assist a local or state law enforcement agency at the conclusion of a drug investigation by "adopting" or handling under federal law the seizure and forfeiture of the drug dealer's land, automobiles, etc. After sale of these items, up to ninety percent of the proceeds would be given back to the local or state agencies by the U. S. Marshals' Service under the U. S. Attorney General's guidelines which require the money then to be used solely for law enforcement purposes. A 1988 study by a Crime Commission subcommittee, chaired by House Speaker A. L. Philpott, revealed that this practice was utilized in virtually all drug case seizures of significant value. In comparison, the Crime Commission found that the state forfeiture system was used mostly for cases of lesser significance, in part because the proceeds would be lost to the Literary Fund under state law. Another consideration was the more expedient and streamlined forfeiture process available under federal law.

Without passage of the Warner and Boucher legislation, law enforcement agencies stood to lose up to several million dollars earmarked for fighting the war on drugs. While the Virginia General Assembly has taken steps toward amending the Virginia Constitution to allow money and property seized from drug dealers to be used for law enforcement purposes, the amendment process cannot be completed until 1991 at the earliest.

While we are currently enjoying the repeal of the problematic federal prohibition, we must remember that some Congressmen strongly opposed Virginia's repeal effort and the problem could resurrect. The 1990 General Assembly responded by adopting Senator Joseph Gartlan's Senate Joint Resolution 27 and Delegate Ford Quillen's House Joint Resolution 51, which call for a referendum in November 1990 to allow Virginia voters to authorize the needed change in the Constitution. SJR 36, the 1989 predecessor to SJR 27, was introduced at the recommendation of Attorney General Mary Sue Terry and formally endorsed by the Virginia State Crime Commission after its 1988 study of asset seizure and forfeiture. The study was conducted pursuant to 1988 House Joint Resolution 40 introduced by Delegate George F. Allen.

Once the Constitution is amended, Virginia should no longer be at risk should a federal restriction resurface.

According to 1989 House Document No. 7, published by the Virginia State Crime Commission, the Literary Fund received total revenues of approximately $66 million in the 1987-88 fiscal year, of which $150,221 came from all forfeitures. Drug asset forfeitures generated only a portion of the $150,221. Therefore, based on 87-88 figures, it is estimated that the proposed constitutional amendment would reduce the Literary Fund's total revenue by less than $150,221, which is two-tenths of one percent of total revenue.

Senator Elmon T. Gray, Chairman of the Crime Commission, on behalf of the entire Commission extends sincere appreciation to Senator Warner and Congressman Boucher for their hard-fought victory in this matter of critical importance to all Virginians. Without their capable leadership, Virginia's law enforcement officers on the front line would have been cut off from the resources necessary to fight the plague of illegal drugs. Senator Gray also commends the efforts of President Earl Sasser and Executive Director John W. Jones of the Virginia State Sheriffs' Association, Chief Pat Minetti of the Virginia Association of Chiefs of Police, H. Lane Kneedler, Steve Rosenthal and John B. Russell, Jr., of the Attorney General's Office, and especially Col. J. C. Herbert Bryant, Jr., of the Armored Response Group United States for their untiring work in supporting the fine efforts of Senator Warner and Congressman Boucher.

B. Convenience Store Workers' Safety

During 1989, Delegate George H. Heilig, Jr., of Norfolk brought to the attention of the Commission the perils faced by individuals such as night clerks at convenience stores. As a result of his interest, Commission staff met in Virginia Beach with Ms. Nancy Venable and her sister Ms. Jean Berrier, whose father had been murdered while working at night as a convenience store clerk in South Carolina. After considering the information gathered at this

meeting, Senator Gray invited Ms. Venable and Ms. Berrier to address the Commission at its December 19, 1989, meeting in Richmond.

Ms. Berrier and Ms. Venable urged the Commission to investigate ways to reduce the risk of harm from violent crime to those persons who earn their living as convenience store clerks. Ms. Venable suggested examining the system used in Gainesville, Florida, where, since January 1987, a sixty-six percent reduction in convenience store robberies is reported. The Gainesville plan involves physical security, certain staffing and other requirements for those stores operating at night.

An editorial titled "Clerks at Risk" in the Virginian Pilot (December 28, 1987) described the job of the night clerk as being more dangerous than that of a policeman. The paper noted that 50,000 convenience stores dot the United States and that the clerks are more likely to be robbed, raped, maimed or murdered than just about any other group of workers. The editorial called for architectural defenses (crime prevention through environmental design) or two clerks on duty at night. Of course, these concepts must be carefully balanced against government intervention in small business operations.

Although the Commission is interested in this important issue, the Commission's current work obligations prevent it from undertaking a legislative study in 1990. Instead, Senator Gray is requesting the Crime Prevention Resource Center of the Department of Criminal Justice Services to begin collecting information during 1990 on the scope of the problem in Virginia. (The Commission in 1989 introduced budget amendments in which the General Assembly provided $160,000 in funding and two positions to staff this center). In 1991, the Commission intends to examine the information collected by Criminal Justice Services and consider the issue of criminal attacks on convenience store clerks.

C. Forensic Science

Drug Cases, Staffing, Photo-processing

In the early 1970's the Virginia State Crime Commission recommended legislation which established the state Forensic Science Laboratories to provide services to all law enforcement agencies in the Commonwealth. This was the first state-owned and state-operated laboratory of this type in the country, and it has consistently received praise for its high quality work and progressiveness. The Commission continued to monitor the level of service provided to state and local law enforcement by the Forensic Science Laboratories.

The Commission takes this opportunity to commend Governor Gerald L. Baliles and his Secretary of Administration, Carolyn Jefferson-Moss, Governor L. Douglas Wilder and the General Assembly for being extremely responsive in their commitment to provide the ever increasing resources needed to keep Virginia's Forensic Science Laboratories the finest in the nation. The Commission likewise has only high praise for the Director of the Department of General Services, Wendell L. Seldon; the Deputy Director, D. B. Smit; Forensic Labs Director, Dr. Paul B. Ferrara; and all of the employees of the Forensic Science Laboratories. Their dedication and willingness to "do what it takes to get the job done" are exemplary.

In the past three annual reports of the Commission, we have attempted to keep legislators, criminal justice officials and the public informed about the efforts of the laboratories in keeping pace with the growing number of drug cases being submitted. Of course, drug analysis is only a part of the work of the laboratories. Forensic photography, serology, fingerprint identification, trace evidence analysis and firearms examination are only a few of their very important functions. However, the spiraling increase in drug cases has been of much interest to judges, police and prosecutors over the past several years.

The most critical problem facing the forensic labs has been the increasing number of cocaine cases without a concomitant increase in personnel. In 1986, the laboratories received some 1,200-1,300 cases monthly, which the twenty-four chemists could complete within about ten days of reception.

January 1987, with 1,700 new cases monthly, saw the beginning of the problem that has plagued the laboratories. Since that time, the laboratories have entered a cycle of backlog, and appropriations for drug chemists to attract new personnel, reduction of the backlog, and, with more law enforcement officers collecting more evidence, yet additional drug cases. Currently, the backlog remains at 450 cases, down from a high of 2,800 in mid 1989. Thirty-five chemists now analyze approximately 2,000 new drug cases each month, completing eighty percent of the cases within ten days. The 1990 General Assembly approved twelve new positions effective July 1, 1990, and seven more effective July 1, 1991. In recognition of the laboratories' work, the 1990 General Assembly approved the Crime Commission's recommendation to elevate the Bureau of Forensic Science to Division status.

A chronological outline of events from 1986 to the present appears as Appendix D of this report.

Staffing: Drug Chemists

Over the past several years, Virginia has received federal funding directed at anti-drug efforts. A portion of this money was expended for fifty-eight drug enforcement positions within the Department of State Police (FY 88-90 Appropriations Act), five special drug prosecutors, and important drug enforcement programs. When these initiatives became a reality, Virginia recognized an increase in drug cases submitted to the forensic laboratories. However, no additional drug chemists were funded or pre-planned and hence a backlog was again created.

With the endorsement of the Crime Commission, the Subcommittee on Law Enforcement, chaired by Delegate Raymond R. Guest, Jr., wrote to the Secretary of Transportation and Public Safety, Vivian E. Watts, on October 17, 1989, and issued a formal recommendation on this matter. The Commission suggested that Secretary Watts and Secretary of Administration Moss coordinate efforts in allocating any new federal anti-drug funds to ensure sufficient drug chemist positions to support additional drug enforcement positions which may be federally funded under the anticipated anti-drug funds.

Staffing: Forensic Science Police Officers

During 1989, the Law Enforcement Subcommittee, chaired by Delegate Guest, learned that the Department of Personnel and Training reclassified the police officers who serve at the state's four forensic laboratories from grade 6 down to grade 5. In comparison, the Commission found deputy sheriffs are at grade 7, campus police officers at grade 8, correctional officers (B) at grade 7, game wardens at grade 9, and Capitol police at grade 8.

In addition to providing much needed security and protection at the labs, these officers receive evidence from local and state law officers, thereby relieving forensic chemists and other scientists from this time-consuming function. In one laboratory, for example, the officer was a fully trained veteran police officer and a graduate of the state's Forensic Science Academy. This officer regularly screened the packaging of the evidence and provided continuing guidance to other officers on the proper methods of evidence collection, preservation and submission for analysis.

The Crime Commission recommended, and in 1989 the Governor and General Assembly fully funded, eleven new positions for the Bureau of Forensic Science. Three of these new positions were for police officers. Therefore, the Commission was very much interested in the issue of classification and compensation of the police officers who serve at the state's four forensic laboratories.

After exploration of the issue by the subcommittee, Delegate Guest wrote, on behalf of the Commission, to the acting director of Department of Personnel and Training (DPT), Ms. Karen F. Washabau, on July 17, 1989, expressing the Commission's concerns. On August 15, 1989, Ms. Washabau responded that based upon a study of these and other security positions in various agencies, DPT did allocate the Forensic Science positions to the class Security Officer (grade 5). However, upon reconsideration of that initial decision, based upon additional information submitted by affected agencies after the study, it was concluded that positions in the Security Officer class are performing work that indeed warrants allocation to grade 6. In turn, a salary memorandum was issued regrading these Security Officers to grade 6. The action taken restored any lost salary to those employees adversely affected by the initial decision.

The Commission commends Ms. Washabau and staff at the Department of Personnel and Training for their efforts and affirmative response to this issue.

Crime Scene Photograph Processing:

During the last month of 1989, the Commission heard from law enforcement officials that the turn-around time on crime scene photographs being processed by the Forensic Science Laboratories had become problematic. An inquiry by the Commission revealed the turn around time had grown from five to sixty days. The lapse in quick service resulted from a simultaneous loss of personnel and a breakdown in equipment. The Commission contacted Dr. Paul Ferrara, who took immediate remedial action. As of this writing, the equipment has been replaced and the vacant staff position filled. By early spring, the turn-around time for crime scene photographs should be greatly improved.

D. Friends and Families Against Crime Today

At the request of Delegate Alan A. Diamonstein, Mr. Robert Fanton, president of Families and Friends Against Crime Today, testified on June 20, 1989, before the Subcommittee on Law Enforcement asking for a permanent state multi-jurisdictional task force similar to North Carolina's, to investigate unsolved murders.

Following the Commission's meeting, Mr. Fanton and friends delivered 24,000 signatures to Governor Baliles' office to draw attention to this matter.

Delegate Guest asked staff to follow up on the matter. On June 21, 1989, staff spoke with representatives of Governor Baliles' office, who asked the Superintendent of State Police to meet with Mr. Fanton. Staff then spoke with Mr. Wayne Garrett, deputy assistant director of Bureau of Criminal Investigation (BCI), who contacted the North Carolina State Bureau of Investigation and determined its major unsolved crimes task force consists of eight special agents spread across the state. These eight agents have special training and expertise in homicide investigation and usually work in pairs. This task force will re-open unsolved murders which the State Police initially investigated and which are more than five years old; however, the task force will reopen cases originally handled by local police only at the request of the local police or prosecutor.

As a result of the FFACT presentation, a meeting of all involved agencies was called, and the cases were discussed in detail. Furthermore, in each instance, agencies completed forms for the Violent Criminal Apprehension Program (VCAP), a relatively new program initiated by the FBI.

Mr. Fanton also suggested that the Crime Line (Crime Solver) number should be toll-free at public telephones. At Delegate Guest's request, staff contacted the Crime Prevention Center at Department of Criminal Justice Services, which will ascertain if a toll-free number is feasible, or if perhaps local police, in agreement with the phone company, could place a sticker on each pay phone listing the "crime solver" number.

E. Sheriffs' Car Markings

House Bill 1196, as introduced in the 1989 Session of the General Assembly, would have permitted taupe coloring on sheriffs' uniforms and vehicles. On February 3, 1989, Delegate Gladys Keating, who chairs the House Militia and Police Committee, wrote the Crime Commission requesting a review of the bill and any recommendation. The Commission was subsequently informed that the Commission on Accreditation for Law Enforcement Agencies (CALEA) had a standard which addresses various reflectorized and conspicuous markings on patrol vehicles, including the display of the agency's telephone number. The Commission sought to determine the exact accreditation requirements so that the members could ensure that the existing *Code* did not inadvertently preclude Virginia's sheriffs from earning this prestigious accreditation.

In November, the Commission's staff contacted Sheriff Kavanaugh of Roanoke County and also Sheriff John Isom of Loudoun County, whose office just this year had earned the accreditation. Both sheriffs sent the Commission a copy of CALEA's standard 41.2.10, which reads "vehicles used in routine or general patrol service must be conspicuously marked." The commentary from CALEA explaining the intent of standard 41.2.10 suggests (but does not require) that marked cars include (1) exterior mounted emergency lights, (2) the agency's name, (3) the emergency telephone number, and (4) reflective materials place on the sides and rear of the vehicle, such as reflective striping, lettering OR decals. Loudoun County Sheriff John Isom, whose office just this year earned accreditation noted in a letter to the Commission that "...this particular standard is optional to all law enforcement agencies, regardless of size. An agency is allowed to waive 20% of the optional standards and still receive accreditation."

Commission staff contacted Ken Medeiros, Executive Director of CALEA, regarding car markings. After reviewing §15.1-90.3 (3) of the Code of Virginia, Mr. Medeiros reported that any vehicle so marked would clearly satisfy the requirement of CALEA's standard 41.2.10 for conspicuously marked vehicles. He further noted that the language in the standard itself is the binding requirement and the four items listed in the commentary section are merely desirable. However, he affirmed that this particular standard was optional and could be waived.

Because the Sheriffs' Association initiated the Commission's original 1987 study and proposal, Senator Gray asked that an official position on this matter from the Virginia State Sheriffs' Association be considered by the Crime Commission before it issued its recommendation to Delegate Keating.

In a December 17, 1989 letter, the Virginia State Sheriffs' Association's executive director notified the Crime Commission, that no changes were recommended to §15.1-90.3 of the *Code of Virginia.*

The Commission found no conflict between the provisions of §15.1-90.3 of the *Code of Virginia* and standard 41.2.10 of the Commission on Accreditation for Law Enforcement. Further, the Commission was not convinced of the advisability of any changes to the uniform standard.

Therefore, based on the information it received, the Commission notified Delegate Keating, on January 23, 1990, that it recommended no changes to the *Code of Virginia* regarding sheriffs' uniforms and car markings.

F. Employment Opportunities for Parolees

Earlier this year, Senator J. Granger Macfarlane of Roanoke suggested to the Commission that Virginia establish a linkage between prisons' mechanical schools and manufacturers; for example, the prison automotive repair facilities and vehicle manufacturers. The linkage would provide employment opportunities for inmates who excel in a prison school program tailored to the needs of manufacturers.

Consequently staff visited the automotive repair shop and school at Brunswick and provided the following report on the excellent program there:

- Corrections Enterprises operates the automotive mechanics/upholstery and body repair shops, an operation augmented by a preparatory school administered by the Department of Correctional Education (DCE). Therefore, in addition to hands-on training and experience, the Brunswick facility offers classroom courses in auto mechanics, auto body repair, and upholstery repair.

- Equipment is well maintained and generally up-to-date. instructors receive ongoing education and review in contemporary techniques and practices. Thus, training received by inmates in the program prepares them for competent engine repair, as well as repair of all other aspects of the vehicle.

- Each of these two programs operates in cooperation with the other. Indeed, inmates will not be hired by Corrections Enterprises until they participate in the classroom instruction offered by DCE.

- Representatives of these programs also maintain close association with factory representatives and other commercial repair shops.

- While not all participants in the programs were polled, individual responses praise the programs, both in terms of the training being received and the degree of productivity accomplished.

The subcommittee then formally requested Dr. Osa Coffey, superintendent of DCE, and Dr. Tom Dertinger, director of Vocational Education for DCE, to initiate the necessary inquiries to address Senator Macfarlane's suggestion. Dr. Coffey's findings are summarized as follows:

- DCE investigated the prospect of establishing a linkage between the state's automotive manufacturing industry and the Department's vocational automotive training. Two manufacturing plants were contacted, Ford and Volvo.

- Interest could not be generated at the local level of the Ford Plant, and DCE was directed to Ford headquarters in Michigan. At this point, DCE was told that they should contact the U.A.W. Interest could not be generated at the U.A.W. offices.

- The personnel office of the Volvo plant explained that an original call for employees resulted in an applicant pool of over 7,000 individuals, and to date, less than 500 have been employed. All future interviews are drawn from the original applicants.

- Although these experiences did not result in concrete proposals, DCE is always interested in developing linkages with the employment community.

- Currently, DCE and Department of Corrections employees assist inmates by means of informal relationships in the community to secure employment opportunities.

- In addition, DCE is restructuring its vocational curricula to a format that will provide better information for employers. Based on job titles in the Dictionary of Occupational Titles (DOT), DCE will now be able to report training to employers via the standardized DOT code.

- DCE has also initiated a transition program within the youth facilities. The transition coordinators will not only assist in the return of younger students to the public schools, but will also help place the older student in appropriate employment.

- DCE has made steady progress towards meeting its responsibility to inmates. In addition to providing academic and vocational programming, DCE is designing a delivery system to include pre-employment skills, job retention skills, and placement support. There is a long way to go, but with continued support, DCE reports it will continue to improve its efforts to increase the opportunities for inmates to find and keep gainful employment upon release.

The 1989 Commission on Prison and Jail Overcrowding (COPJO) also recognized the importance of offering training in the trades to inmates to prepare them to pursue employment opportunities upon release. Recommendation No. 51 of the 1989 COPJO report suggests that "Memoranda of Understanding should be developed between the Department of Corrections, the Department of Correctional Education, colleges, local boards of education, state employment and labor agencies, local private industry councils and nongovernmental agencies (both private for-profit and nonprofit) by December 1, 1990. These agreements should be for the purpose of enhancing educational (including basic literacy training) and vocational training opportunities for inmates while incarcerated, and facilitating reintegration of inmates into the community and into jobs or further educational and training opportunities."

G. Prison and Jail Population Forecasts

House Joint Resolution 237 of the 1989 Session of the General Assembly directed the Secretary of Transportation and Public Safety to provide for a systematic process for forecasting both state prison and statewide jail inmate population and to... "submit the report to the Virginia State Crime Commission and to the 1990 General Assembly...."

On October 17, 1989 Secretary Vivian E. Watts presented a report, excerpted as follows, on the projected jail and prison populations to the Commission.

The official annual forecast of Virginia's prison and jail populations projects that by June 1995 Virginia will house between 44,451 and 49,130 inmates in state prisons and local jails, numbers that will rise to approximately 57,485 to 66,685 by June 2000. These projections were

generated using a complex new projection model which tracks over 120 elements. To improve accuracy, this model mimics the legislative, administrative and judicial processes that govern whether a person will be sent to prison and how long he will stay. The model has been under development for several years by the Department of Corrections and the National Council on Crime and Delinquency.

In October 1989 Virginia had approximately 14,000 state felons and 9,500 local inmates, for a combined total of 25,500. The projections call for this population to nearly double over the next six years.

The state prison system will be required to house between 25,903 and 28,629 by 1995, rising to between 32,166 and 35,740 inmates by year 2000.

The balance of the projected populations will consist of felons, misdemeanants, and persons awaiting trial in local jails. Based on current trends, growth in these categories is projected to be even greater than the state felon population. While the state prison population may double by 2000, local jail inmates could increase threefold.

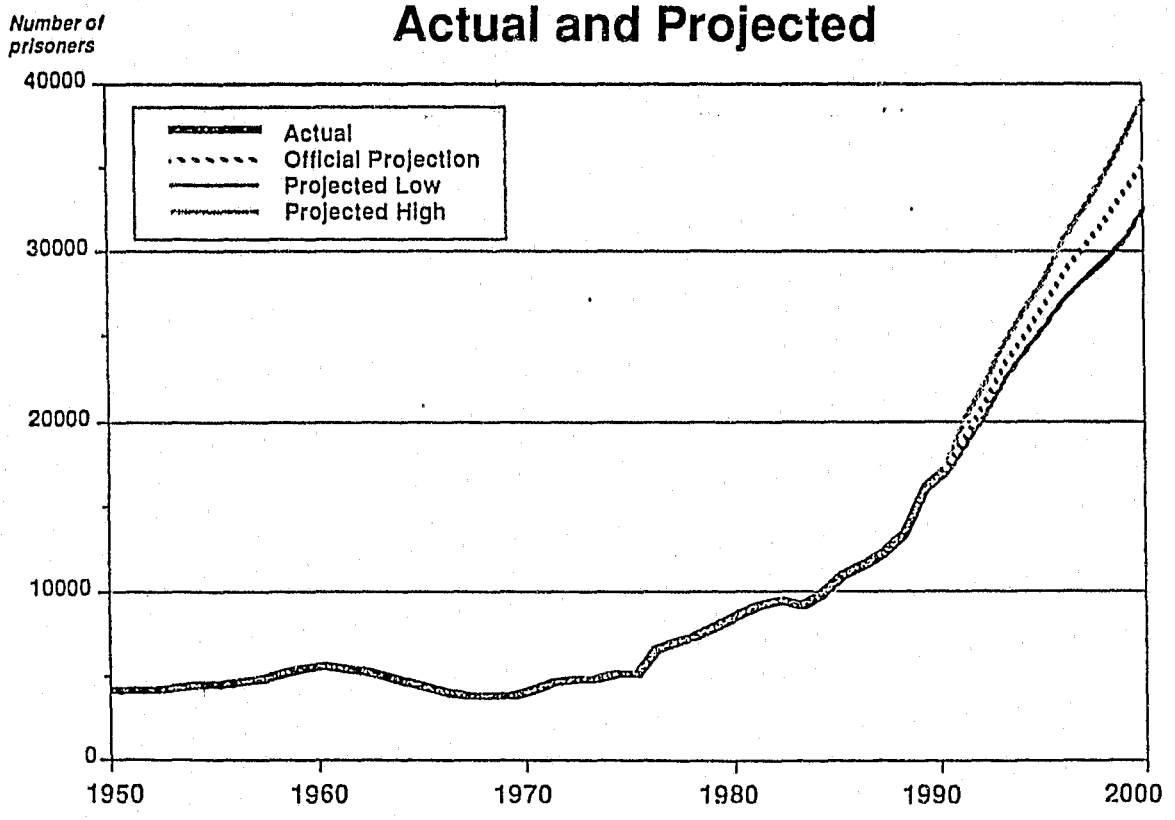
These projections include key assumptions that:

- The unprecedented growth in arrests and convictions which began in 1988 will continue for the next several years.
- Deterrence efforts or enactment of additional alternatives may begin to moderate this extremely high growth rate by 1993.
- The number of persons sentenced for drug offenses will continue to increase until drug offenders represent thirty percent of all prison admissions by 1994.

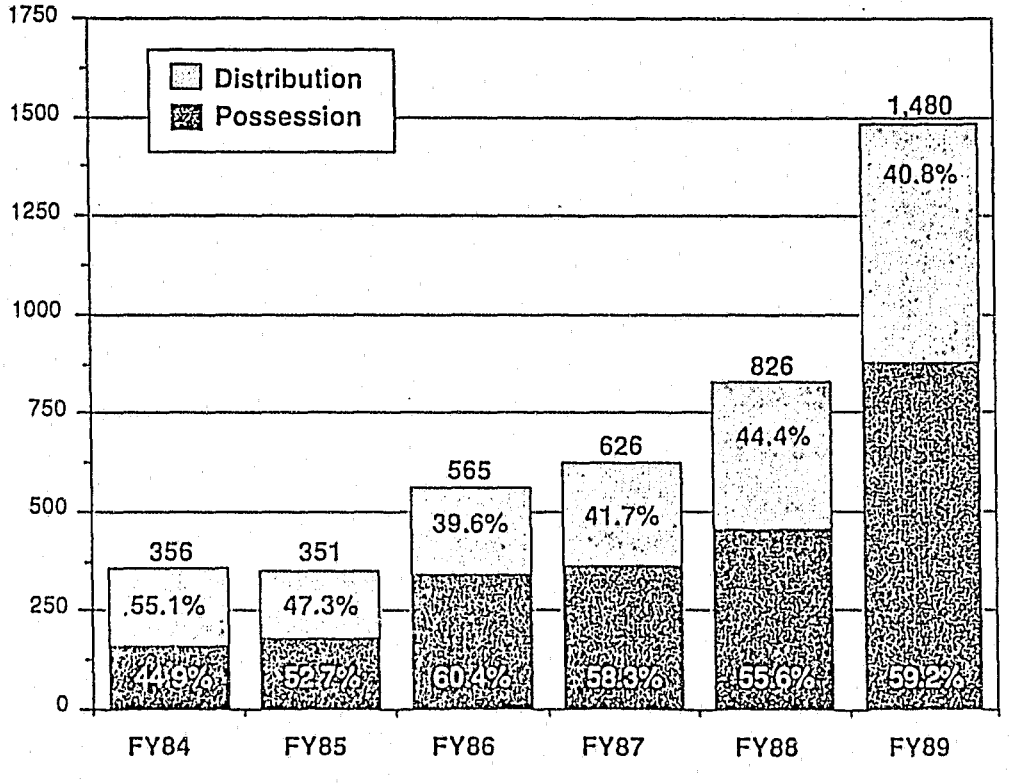
In the last year persons sentenced to prison on drug charges increased from 826 to 1480, which represented twenty percent of all prison admissions for FY89 compared to only eight percent of the admission in FY84.

The Baliles administration initiated construction of housing for over 4500 prisoners at approximately $220 million. In addition, the 1989 General Assembly significantly increased state funding for construction of regional jails to cover fifty percent of the cost. The budget for the Department of Corrections, including state support of local jail operation and construction, is over $1 billion, and except for Medicaid, has been the fastest growing category of General Fund spending. The graphs presented on the following pages provide an overview of the major issues addressed in regard to the prison and jail populations.

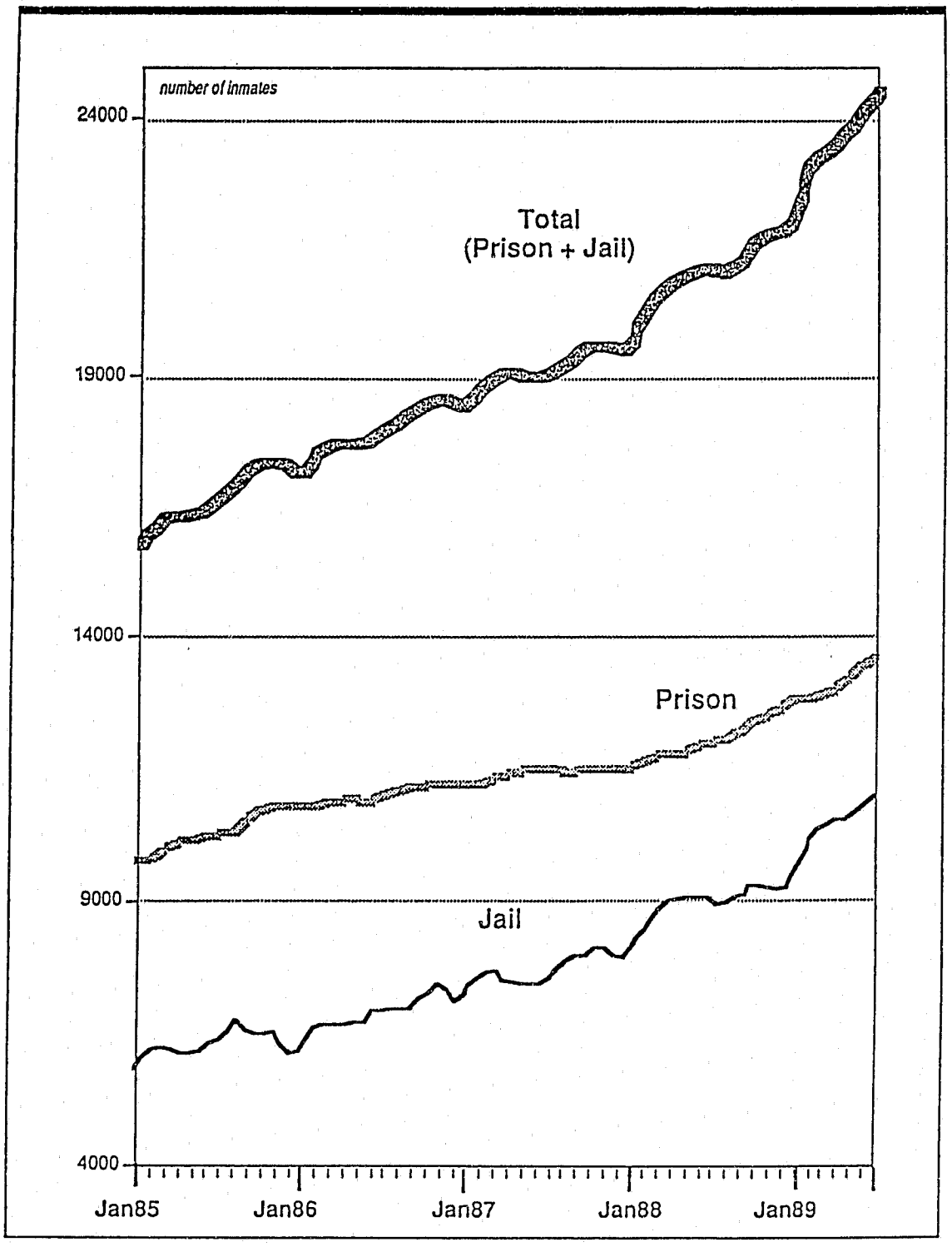
State Responsible Population
Actual and Projected



Drug Offenders Sentenced to Incarceration



Virginia's Incarcerated Population



IX. LEGISLATION PROPOSED IN THE 1990 SESSION

This list combines the Crime Commission's legislative recommendations derived from public hearings, formal legislative studies and other inquires during 1989.

A. Commission Initiatives

HB 320 **Chief Patron: House Speaker A. L. Philpott**
Passed

Forensic Laboratories. Governor Wilder, in his address to the Virginia General Assembly on January 15, 1990, voiced his support for establishing a Division of Forensic Science within the Department of General Services. HB 320 accomplishes this important step in strengthening Virginia's criminal justice system.

In discussions with Secretary of Administration Carolyn Jefferson-Moss during 1988, the Commission described difficulties that had been experienced by having the Bureau of Forensic Science organizationally placed under the umbrella agency, the Division of Consolidated Laboratory Services, along with the two (regulatory) Bureaus of Microbiology and Chemistry. The Commission specifically inquired as to the feasibility of removing Forensic Science from this configuration and making a separate Division of Forensic Science equal in stature to the Division of Consolidated Laboratories (Microbiology and Chemistry). Members of the Commission believed that a Division of Forensic Science directly under the Department of General Services would possibly remove an additional layer of bureaucracy and increase the responsiveness of the forensic labs to the law enforcement community. Thus, the Commission formally recommended that an evaluation of the organizational placement be conducted by the Secretary of Administration and a report be presented to the Commission.

During 1989, Secretary Moss responded to the Commission's request and initiated a management study which was conducted by the Department of Information Technology's Management Consulting Division. Secretary Moss appeared before the Crime Commission on October 17, 1989, and, based on the study results, proposed creating the *Division* of Forensic Science under the Department of General Services. The Crime Commission unanimously endorsed her proposal and upon motion of House Speaker A. L. Philpott voted to introduce this legislation to create within the Department of General Services a Division of Forensic Science.

This bill amends §§2.1-1.6, 2.1-384, 2.1-426, 2.1-427, 2.1-429, 9-6.25:1, 18.2-253, 18.2-267, 18.2-268, 19.2-187, 19.2-187.01, 29.1-738.2, 46.2-341.25, 46.2-341.26, and 53.1-23.1 of the *Code of Virginia*; adds §§2.1-434.1 through 2.1-434.12; and repeals §§2.1-429.1, 2.1-429.2, 2.1-429.3, 2.1-431, 2.1-432, 2.1-432.1, 2.1-432.2, 2.1-433, and 2.1-434.

B. Legislative Proposals from the December 19, 1989, Public Hearing

At the December 19, 1989, annual public hearing, various groups and individuals interested in the criminal justice system brought suggestions for legislation to the Commission. On January 16, 1990, the Virginia State Crime Commission met and formally approved a package of legislative proposals derived from the public hearing for the 1990 General Assembly to consider. Ten legislative recommendations were adopted and are listed below, along with their source of request.

HB 222 Chief Patron: Delegate Clifton A. Woodrum
Stricken from calendar at patron's request

Form for refusal to take blood or breath test. Amends §§18.2-268, 29.1-738.2 and 46.2-341.26 to give responsibility for providing this form to the Supreme Court instead of the Division of Consolidated Laboratory Services. The effect of the bill is accomplished via a Senate amendment to House Bill 320. Requested by Forensic Laboratories.

HB 223 Chief Patron: Delegate Clifton A. Woodrum
Passed

Firearm silencers. As introduced, would have added §18.2-308.6 to parallel federal restrictions and make possession of an unregistered firearm muffler or firearm silencer punishable as a Class 4 felony. As passed, the bill sets the offense as a Class 6 felony. Currently, federal officers are authorized to arrest for possession of a firearm silencer not registered in the National Firearms Registration and Transfer Record while a local or state officer is not. Requested by Detective Michael Arrighi, Richmond City Police.

HB 224 Chief Patron: Delegate Clifton A. Woodrum
Passed

Prima facie evidence of custody of materials. Amends §19.2-187.01 to allow materials described in certificates of analysis to be transferred for analysis between the four laboratories of the Division of Consolidated Laboratory Services without breaking the chain of custody. The amendment will insert "the Division" in place of "such laboratory" to treat the four labs within the Forensic Science laboratory system as one and ensure that the chain of custody is maintained as evidence is transferred within the Division. An amendment requested by the patron further clarified that the current Division of Consolidated Laboratory Services may transfer materials to and from the newly created Division of Forensic Science. Requested by Forensic Laboratories.

HB 226 **Chief Patron: Delegate Clifton A. Woodrum**
Passed

Admissibility of certificates of analysis. Amends §19.2-187 to authorize certificates of analysis prepared by the Naval Investigative Service Crime Laboratory to be admitted into evidence as evidence of the facts stated therein in criminal proceedings. Requested by Forensic Laboratories.

HB 291 **Chief Patron: Delegate Warren G. Stambaugh**
Carried Over

Possession of firearms by juveniles. Adds §18.2-287.2 to limit possession of loaded firearms by juveniles as follows:

"The governing body of any county, city or town is hereby empowered to adopt ordinances making it unlawful for any person under the age of eighteen to carry or have in his possession while in any public place or upon any public highway a loaded firearm unless engaged in lawful hunting. This section shall not apply to a person in his own home or the curtilage thereof nor to a person acting at the time in defense of persons or property. The penalties for a violation of such ordinance shall be no more than $100 and the weapon may be forfeited to the Commonwealth pursuant to the provisions of § 18.2-310."

In many areas, especially cities, police are endangered by juveniles carrying assault rifles. Requested by Virginia State Lodge of Fraternal Order of Police.

HB 293 **Chief Patron: Delegate Warren G. Stambaugh**
Failed

Assault and battery. Amends §18.2-57.1 to provide that an assault and battery against a law-enforcement officer, not involving a firearm, is punishable as a Class 1 misdemeanor, the sentence for which is to include a mandatory thirty-day term of confinement in jail. Simple assault against a law-enforcement officer by the shooting of a firearm would remain punishable as a Class 1 misdemeanor with a six-month mandatory term of confinement. This bill strikes language regarding "assault and battery" of a law enforcement officer by the shooting of a firearm since it is more correctly covered under the malicious wounding statute. Requested by Blue Ridge Chiefs of Police.

HB 299 **Chief Patron: Delegate Warren G. Stambaugh**
Passed

Police lines. Virginia Code §18.2-414.2 makes it a Class 3 misdemeanor to cross police lines established pursuant to §15.1-140.1. This latter section amends §15.1-140.1, which limits the establishment of a police line to fires, accidents, wrecks, explosions, crimes or riots, to add "or other emergency situations where life, limb or property may be endangered." Amends §18.2-414.2, which makes it a Class 3 misdemeanor to cross police lines established pursuant to §15.1-140.1, to replace "cross" with "cross or remain within." This is a housekeeping bill to clarify that the fire need not be actual and to cover occurrences such as floods. Further, there is no specific prohibition on remaining within the line if it was established after a crowd gathered. Requested by Captain Philip Broadfoot, Waynesboro Police.

HB 387 **Chief Patron: Delegate V. Thomas Forehand**
Passed

Wearing body armor. Adds §18.2-287.2 to establish that anyone who commits a crime of violence as described in §18.2-288 and who at the time of commission of such crime (i) has in his possession any knife or firearm and (ii) is wearing body armor designed to diminish the effect of the impact of a bullet or projectile is guilty of a Class 4 felony. This bill is aimed at punishing those individuals who pose an extraordinary threat to the public and police officials. Requested by Virginia State Lodge of Fraternal Order of Police.

HB 985 **Chief Patron: Delegate Raymond R. Guest, Jr.**
Passed

Tuition-free undergraduate education. Amends §23-7.1:01 to entitle to tuition-free undergraduate education by a surviving spouse of any police officer, firefighter or rescue squad member who is killed in the line of duty, if the spouses were living together as husband and wife at the time of the death. This will permit the surviving spouse to obtain education necessary to raise the family income to a level equal to that before the spouse was killed. Requested by Virginia State Lodge of Fraternal Order of Police.

BUDGET AMENDMENT **Patrons: Senator Howard P. Anderson**
Failed **Delegate Robert B. Ball, Sr.**

Introduces language in the 1990 Appropriations Act to allow the Governor to exempt from the commuting charge for permanently assigned state vehicles those personnel in the Department of Corrections whose responsibilities require responding to take command of emergency situations and those personnel whose duties involve the surveillance of parolees or probationers. As a result of a JLARC study, the 1989 General Assembly strictly limited the exemption from the commuting charge to law enforcement officers and those state employees who do not report to a regular office. The two groups requesting this change have reported various difficulties under the new law and asked for reconsideration. Requested by the Department of Corrections, and the Probation and Parole Officers Association.

C. Endorsements

SB 4 **Chief Patron: Senator William E. Fears**
Passed
HB 86 **Chief Patron: Delegate William S. Moore**
Passed

Tolls. Endorsed SB 4 and HB 86 to allow sheriffs and deputies traveling on official business to use the Chesapeake Bay Bridge-Tunnel without the payment of a toll. Requested by Virginia State Sheriffs' Association.

BUDGET REQUEST
Passed

Victim input coordinator. Endorsed the Parole Board's request for one FTE the first year and the second year to provide a victims' input coordinator. This position will replace a part-time grant-funded position which is due to expire June 30, 1990, unless re-approved. Requested by the Virginia Parole Board.

D. Legislative Proposals from Formal Studies

The Crime Commission conducted a number of formal legislative studies during 1989. Several of these studies resulted in legislative proposals which are described below:

HB 225 **Chief Patron: Delegate Clifton A. Woodrum**
Carried Over

Education of handicapped jail inmates. The Office for Civil Rights of the U.S. Department of Education had suggested in 1987 that Virginia have a plan developed by December 1989, to provide the special education mandated by law to certain jail inmates. By January 1989, the affected agencies had not developed a plan and the matter was referred to the Commission by the 1989 General Assembly for study and resolution (HJR 283).

The Massachusetts federal district court found, in *Green v. Johnson*, 513 F. Supp. 965 (D. Mass. 1981), that handicapped jail inmates have a legal entitlement under Public Law 99-142 to receive an appropriate, free education while incarcerated. Pursuant to a Virginia case in which a Richmond City Jail inmate sought such services (the case was dropped), the U.S. Department of Education Office for Civil Rights (OCR) encouraged Virginia to develop a plan for providing such services. Deeming a central facility or regional facilities as impractical given the unpredictability of the number of inmates who might seek such services, the Commission's bill offers a local solution. With passage of this bill, Virginia would be the second state in the Union, with Massachusetts, to have a formal handicapped jail inmate education program. Without passage, the Office for Civil Rights may inquire further into Virginia's degree of compliance with federal law in this area.

The proposed bill provides for such entitled education to take place either in the local jail or the local school system through a cooperative education release program agreed upon by the local school division director and the local jail administrator. Education services would be provided by the local school division; the statewide program would be administered by the Department of Education.

The proposed bill also establishes an additional purpose for the Interagency Assistance Fund for Non-educational Placements of Handicapped Children; the Fund would also now pay for the education of handicapped jail inmates younger than twenty-two. The Commonwealth would thus provide 100% funding.

The bill amends §§2.1-701, 22.1-215 and 53.1-131 and adds §22.1-216.1. Resulted from the Commission's study on special education services for handicapped jail inmates.

HB 292 **Chief Patron: Delegate Warren G. Stambaugh**
Passed

Son of Sam - Profits from crime. This bill establishes a "Son of Sam law" and adds §§19.2-368.19 through 19.2-368.22, relating to profits from crime. This bill denies a convicted criminal from profiting from his criminal activity by sale of the story of his deeds. Under current Virginia law, there is no prohibition on an offender's sale of and profit from an account of his criminal acts. Forty-three states have such a law. Though a victim or his estate has ordinary civil remedies available against a perpetrator, should the victim be unable or choose not to sue, an offender could sell his story and reap all profits.

This bill allows for forfeiture of such profits to escrow for five years in the Criminal Injuries Compensation Fund, upon motion of the attorney for the Commonwealth, after conviction. Upon acquittal after appeal, the defendant would receive 100% of any such profits. Otherwise, upon expiration of the five year escrow, seventy-five percent of the escrow amount would be deposited to the Criminal Injuries Compensation Fund, and twenty-five percent would go to the offender. Resulted from the Commission's study of victims and witnesses of crime.

HB 294 **Chief Patron: Delegate Warren G. Stambaugh**
Passed

Crime Victims' Compensation. This bill, which has two purposes, amends §19.2-368.4 relating to crime victims awards.

First, the bill allows a Virginia resident to be eligible for an award if the crime occurred outside of Virginia and the state in which it occured does not have a comparable fund to compensate non residents.

Second the bill ensures that a crime victim who is otherwise eligible to receive compensation from the Criminal Injuries Compensation Fund is not denied compensation because the perpetrator, by virtue of his familial relationship with, or sharing a residence with, the victim, might also receive an indirect benefit from the compensation.

The amendment removes all five prior classifications of victims who could be eligible for receipt of compensation notwithstanding a familial or spousal relationship and replaces those five classifications with a simple singular classification: All persons otherwise eligible to receive an award shall remain eligible "unless the award would directly and unjustly benefit the person who is criminally responsible."

The federal Office of Victims' Compensation (OVC) which administers the federal Victims of Crime Act (VOCA) sought removal of Virginia's classification system for determination of victim eligibility in the case of possible benefit to the perpetrator for two reasons: (1) to avoid the possibility of denying a

claim, simply because of the classification, in a case where the perpetrator would probably not benefit and (2) to bring Virginia's language within the realm of VOCA's uniform language, thus guaranteeing continuing receipt of substantial federal assistance to Virginia's victims compensation program. Resulted from the Commission's study of victims and witnesses of crime.

HB 295 **Chief Patron: Delegate Warren G. Stambaugh**
Failed

Victim and witness court attendance. This bill amends §19.2-265.1 to allow, at the judge's discretion, victims, the parents of a homicide victim, or a minor victim's parent or guardian to remain in the courtroom during a criminal trial.

This bill responds to victims' and victims' families' concern that, in some criminal cases, victims and their family members are excluded from the trial by defense counsel because they are to be called as witnesses. This bill would allow the judge to determine the probative value of the witness' testimony out of the presence of the jury and, if such witness' presence in the courtroom would not do harm to the trial, allow such person to remain in the courtroom. Resulted from the Commission's study of victims and witnesses of crime. A Senate bill amending §19.2-265.1 by adding the work "material" to the description of those witnesses who may be excluded was carried over. Thus, a non material witness could be permitted to remain in the courtroom.

HB 296 **Chief Patron: Delegate Warren G. Stambaugh**
Passed

Crime Victims' Compensation. This bill amends §19.2-368.3 to clarify that the Industrial Commission's Division of Crime Victims Compensation (CVC) may receive information relating to criminal investigations which is necessary to determine the eligibility of a crime victim to receive compensation and which would otherwise be protected by the Freedom of Information Act. The CVC's use of such information is limited to carrying out its stipulated duties, and the information may not be disseminated further. Agencies from which information is requested are given flexibility as to the format of such information.

The bill thereby reduces reluctance on the part of police agencies to provide the information by allowing the provider to craft his own format for providing the information, e.g., a summary, and by ensuring no further dissemination of the information. This assists the CVC in determining victim compensation eligibility in a more timely fashion. Resulted from the Commission's study of victims and witnesses of crime.

HB 297 **Chief Patron: Delegate Warren G. Stambaugh**
Passed

Crime Victims' Compensation. This bill amends §19.2-368.2 to expand eligibility to receive an award from the Criminal Injuries Compensation Fund to those victims who "suffer personal emotional injury as a direct result of being the subject of a robbery, abduction or attempted robbery or abduction."

The bill accommodates victims who might require counseling for an emotional injury and who would otherwise be ineligible for any compensation for lack of suffering physical injury. Resulted from the Commission's study of victims of crime.

HB 298 **Chief Patron: Delegate Warren G. Stambaugh**
Passed

Crime Victims' Compensation. This bill amends §19.2-368.11:1 to increase victims' funeral expense payments from the Criminal Injuries Compensation Fund from $1,500 to $2,000 to accommodate the increase in the cost of funeral expenses. The Virginia Network for Victims and Witnesses of Crime, noting increased funeral expenses, asked for this adjustment in reimbursement. Resulted from the Commission's study of victims and witnesses of crime.

HB 382 **Chief Patron: Delegate V. Thomas Forehand**
Passed

Use of minor in drug distribution. This bill amends §18.2-255, relating to involvement or use of a minor in drug distribution activities, to expand the enhanced penalty provided by this section for distributing drugs to a minor to include use or involvement of a minor in illegal drug distribution.

As the drug trade becomes better organized and more sophisticated, dealers increasingly use children as lookouts and carriers to assist in drug distribution. Because children are in the more visible positions in a drug distribution scheme, they are more likely to be arrested. Drug dealers include children in lower level drug operations for a number of reasons: if caught, the courts are usually easier on a child because children can and should be assisted by the system. Additionally, this provides a layer of protection for drug dealers between themselves and the criminal justice system. Children are easily influenced, especially by the prestige and money that flow from drug dealing.

A violation of §18.2-255 for distribution of a Schedule I, II or III drug or marijuana to a juvenile is punishable by ten to fifty years in prison, and a fine of up to $50,000. This bill imposes the same penalty on a person convicted of using or involving a juvenile in a drug distribution scheme. Additionally, §18.2-255 presently penalizes distribution of an imitation controlled substance to a juvenile as a Class 6 felony, which imposes a term of one to five years, or in the court's or jury's discretion, a jail term of up to one year, and/or a fine of not more than $1,000. This bill punishes use or involvement of a juvenile in the distribution of an imitation controlled substance as a Class 6 felony. Recommended in the Commission's interim report of its task force study on drug trafficking, abuse and related crime.

HB 392 **Chief Patron: Delegate Warren G. Stambaugh**
Passed

Safe school zones. This bill amends §18.2-255.2, relating to safe school zones, to extend the definition of safe school zone to include any public or private educational facility or program, or any property open to the public within the safe school zone.

Under the current provisions of §18.2-255.2, the safe school zone law imposes a separate penalty for drug trafficking on public or private school properties, and on public property within 1,000 feet of the school. The intent of the safe school zone law is to provide additional protection for children from drug trade during the school day when their parents cannot monitor their activities directly. However, the safe school zone law presently is deficient in providing the needed protection because it fails to encompass the areas open to the public within 1,000 feet of school that can be attractive to children. Private properties open to the public that are located close to schools can become known hangouts for children, and provide drug dealers with easy access to young people. Such facilities include convenience stores, grocery stores, shopping malls and community centers.

Additionally, the safe school zone law, by focusing on school properties, fails to offer protection to children during the remainder of the school day, or during the summer and school vacation periods. During such times children are often in day care, after-school, or summer recreational programs on school properties while their parents are at work. As a result, a child can be more easily influenced by drug dealers, just as during the time the child is in school.

The original intent of §18.2-255.2 was to impose a penalty on drug dealers who prey on young children while they are at school and away from the supervision of their parents. Children also spend a great deal of time away from their parents in child care or other educational or recreational programs. Their need for protection from drug dealers is just as critical during these times as when they are in school. Therefore, an amendment to §18.2-255.2 to expand the safe school zone law would, through the enhanced penalty, provide this protection by discouraging drug dealers from taking advantage of unsupervised children.

The current separate penalty for violation of this section is one to five years and a fine of up to $100,000. Recommended in the Commission's interim report of its task force study on drug trafficking, abuse and related crime.

SB 263 **Chief Patron: Senator Johnny S. Joannou**
Passed

Illegal drug penalties. This bill provides an enhanced penalty (five years to life and a fine of up to $100,000) for a second or subsequent offense involving distribution of Schedule I or II controlled substances.

Under the current provisions, §18.2-248, the enhanced penalty for a second or subsequent conviction applies only to opiates and synthetic opiate drugs. At present, such highly abused drugs as heroin, cocaine and cocaine derivatives, including crack, are excluded from the enhanced penalty. This measure allows Virginia to impose an enhanced penalty upon a second or subsequent conviction for any Schedule I or Schedule II drug.

The bill extends the penalty to second or subsequent convictions involving not only opiates or synthetic opiate drugs, as the Code presently states, but all Schedule I or II drugs, so that cocaine, crack and heroin, the more-widely trafficked drugs, are included. Recommended in the Commission's interim report of its task force study on drug trafficking, abuse and related crime.

SB 264 **Chief Patron: Johnny S. Joannou**
Carried Over

Joint trials. This bill amends §18.2-256 relating to joint trial for drug offense conspiracy, to allow the Commonwealth to join co-defendants to be tried for drug conspiracy when the Commonwealth can show that the rights of any defendant would not be unduly prejudiced.

Drug dealing rarely involves independent individuals. It has become an organized and violent criminal enterprise that in many cases involves several layers of personnel. As such, several members of a drug trade operation may be arrested and charged based on one set of operative facts and overt criminal acts. The separate trials of multiple defendants charged with drug crimes arising from the same set of operative facts can last for months or even more than a year, costing thousands of dollars and unnecessarily burdening court dockets. Additionally, it becomes increasingly difficult to retain witnesses to testify at multiple trials over a period of time. In at least two cases in Virginia, witnesses have been killed prior to testifying in drug trials. The increasingly violent nature of the drug trade has caused witnesses to be afraid to testify, and has made it more difficult to convict subsequent defendants after the first defendant is tried. Joinder of co-defendants in a drug conspiracy is allowed in the federal courts and in some other states.

This proposal as originally conceived, would allow Virginia to try drug co-conspirators in the same proceeding and by the same jury provided that at least twenty-one days before trial the court finds the Commonwealth has established by clear and convincing evidence (i) that the charges arise from contemporaneous and related acts or occurrences and (ii) that a joint trial would not constitute a manifest injustice to any of the defendants. Recommended in the Commission's interim report of its task force study on drug trafficking, abuse and related crime. This bill was passed by the Senate in an amended form and carried over by the House Courts of Justice Committee until 1991.

SB 352 **Chief Patron: Senator Elmo G. Cross, Jr.**
Failed

Revocation of drivers license. This bill amends §18.2-248, relating to revocation of a driver's license for use of a motor vehicle for drug trafficking, to impose the penalty of revocation of a driver's license when such driver is convicted of a drug distribution scheme that involves a motor vehicle.

The "Abuse and Lose" law in §16.1-279 penalizes juveniles who violate alcohol laws by depriving the young offenders of their driving privileges. The rationale behind the "Abuse and Lose" law is that juveniles value their driving privileges and will be deterred from alcohol abuse. Likewise, because motor vehicles are important components of drug transportation and distribution schemes, it is reasonable to deprive a driver of his driver's license when he uses a motor vehicle in drug distribution. Confiscating a convicted drug dealer's automobile does not hinder significantly his trafficking activities since he can rent or purchase another vehicle. Revocation of a convicted drug dealer's driver's license, however, might serve as a hindrance to continued drug dealing operations.

This proposal imposes a one-year revocation of a driver's license upon conviction for a felony violation with respect to a Schedule I or II substance, when the person in question was driving or

operating a motor vehicle in conjunction with such a violation. This proposal gives the court discretion to revoke the offender's license for any period up to one year for a misdemeanor violation of §18.2-248.

Recommended in the Commission's interim report of its task force study on drug trafficking, abuse and related crime.

SB 353 **Chief Patron: Senator Elmo G. Cross, Jr.**
Passed

Youthful Offender Act. During 1989, the Commission, at the request of the Virginia Parole Board, conducted a study of the youthful offender program. The Commission found that the information received by the subcommittee suggested the need for amendments to the Youthful Offender Act to resolve ambiguities in the Code and to create an efficient process of moving youths into and out of the program.

The legislation corrects procedural difficulties in implementing Code requirements. The bill amends §§19.2-311, 19.2-316, 53.1-63, 53.1-64, 53.1-66, and 53.1-67 and repeals §19.2-312 of the *Code of Virginia.*

Currently (i) after finding of guilt, (ii) the defendant's case is reviewed by the Department of Corrections, (iii) the judge sentences, (iv) a second review or assessment takes thirty to sixty days and is conducted by Corrections and the Parole Board, (v) the youth could then be rejected from participation, (vi) because twenty-one days have elapsed since sentencing, the judge has no jurisdiction to change the sentence, thus (vii) the youth is "trapped."

In contrast, SB 353 requires (i) finding of guilt, (ii) Parole and Corrections conduct all evaluations and assessments within sixty days and report to the court, and (iii) judge issues an appropriate sentence.

Currently, the law does not clearly address how to handle youths in the program who are disruptive or receive additional criminal convictions carrying determinate sentences. SB 353 in effect provides that a youth, upon receiving a second criminal sentence, will be eligible to be paroled to the second sentence at the discretion of the Parole Board. Thus, the indeterminate and determinate sentences run consecutively.

In addition, those youths who voluntarily withdraw from participation in the program, who are disruptive or who receive a second conviction are to be removed from the youthful offender programs and from access to other youths in the program but would continue to receive parole review on the indeterminate sentence.

Conflicting Code sections are confusing regarding the ability of the Department of Corrections to utilize suitable facilities at any location other than the facility located at Southampton. The Crime Commission visited Southampton and St. Bride's, finding quite suitable programing available at the latter. In addition, Corrections officials felt restricted from utilizing special placements in the system.

SB 353 allows the Board of Corrections to designate, within the growing system, suitable facilities for housing youthful offenders. This change potentially allows more program participants and removes any disparity between male and female programs. Resulted from the Commission's study of the Youthful Offender Program.

SB 417 **Chief Patron: Senator Howard P. Anderson**
Passed

Shock incarceration (boot camp prison). Establishes a pilot Boot Camp Incarceration Program for first offenders between the ages of eighteen to twenty-four who have been convicted of a nonviolent felony. Participants' sentences are suspended pending completion of program. The Department of Corrections is to establish the program by January 1, 1991. The goal is to deter such youthful offenders from prison life and to reduce recidivism by imposing a short-term stay (ninety days) in an environment with discipline, wellness training, hard work and intensive short-term rehabilitative programs. The effect, if successful, will be a reduction in recidivism, a return to society of worthwhile, respectful young citizens, and a reduction in prison housing costs due to the short stay of ninety days. Whereas ordinary prison seems to instill neither a sense of community nor self-respect, this incarceration concept embodies team building, self-esteem building, and respect for others through its programs. Following the boot camp, a period of probation supervision would be required. It is hoped that a short-term, intensely regulated stay in a unit among similar non-career criminals may turn a young offender toward a productive, law-abiding life.

The enabling legislation sunsets in 1995, allowing a determination of whether the goal of shock incarceration has been met. This bill adds §§19.2-316.1 and 53.1-67.1. This bill and an accompanying budget amendment were both approved by the 1990 General Assembly and resulted from the study of shock incarceration.

1990 BUDGET AMENDMENT **Patrons: Senator Elmon T. Gray**
Passed **Delegate Robert B. Ball, Sr.**

Expansion of drug detection dog program. The Department of Corrections (DOC) drug detection dog program should be expanded to enhance drug detection capabilities in correctional facilities. The amendment provides DOC for four full-time dog handlers (and four additional drug detection dogs) for the 1990-92 biennium. Personnel, training and start-up equipment would cost $190,640 the first year. During the second year $107,163 in personnel costs and four FTE's would be needed. Recommended in the Commission's interim report of its task force study on drug trafficking, abuse and related crime. This proposal was approved by the General Assembly with funding to derive from federal anti-drug grants.

BUDGET AMENDMENT **Patrons: Senator Elmon T. Gray**
Passed **Delegate Robert B. Ball, Sr.**

Office of Youth Risk Prevention. Key professional positions within the Department of Education should be full-time classified positions to attract and retain qualified personnel in the areas of substance

abuse education, prevention and early intervention. Currently, certain key positions are federally funded temporary positions and part-time wage positions.

Currently, all five positions in the DOE Office of Youth Risk Prevention are federally-funded grant positions, and only one is a permanent full-time position. The workload has outgrown the existing staffing level, and it is difficult to retain qualified professionals in P-14 positions. Therefore, this budget amendment will add four FTE positions and $167,657 the first year and four FTE positions and a like amount the second year to provide a supervisor, two professionals and a secretary to institutionalize the efforts of this office. Figures given include a twenty-six percent fringe benefit calculation. Additionally, one or more restricted federally funded positions could be retained to handle the increased workload, but only as needed and subject to surplus funds.

Supervisor.....	$55,004
Assistant Supervisor.....	$46,011
Assistant Supervisor.....	$46,011
Secretary.....	$20,631

DOE should redirect the salary savings from the current federally funded grant positions to devote $139,000 to implement School/Community Team Approach Training Levels I and II as needed statewide. School/Community Team Training Level I would allow the remaining fifty school divisions to be offered training during 1990-91. Level I training assists schools and communities to identify needs, develop action plans and implement comprehensive community-wide substance abuse prevention programs. Implementation of Level II training would make it possible to teach previously-trained divisions how to replicate innovative programs like the Henrico County "Insight" program and the Staunton City "Pulsar" program. At this time, there are several highly promising innovative programs worthy of replication, but funds have not been available for this level of training. Continuing technical assistance and training must be available to all communities as they complete training and implement programs. Recommended in the Commission's interim report of its task force study on drug trafficking, abuse and related crime.

1990 BUDGET AMENDMENT **Patrons: Senator Elmon T. Gray**
Passed **Speaker A. L. Philpott**

Surveillance vans for drug law enforcement. This budget amendment proposed appropriating $440,000 in FY 91 for the Virginia State Police to purchase and maintain as many as eight specially equipped surveillance vans for use primarily by local law enforcement agencies. The Department requested $40,000 for FY 92 for maintenance. The vans would be assigned to Virginia State Police headquarters and to the seven divisional headquarters and leant to local law enforcement agencies for drug law enforcement on a first-come, first-served basis. These vans would be specially equipped with audio and video monitoring capability.

The task force learned that local law enforcement agencies are very much in need of various highly specialized and expensive items to safely and effectively conduct drug investigations on the streets of their communities. The special surveillance vans were found to be the one item which most agencies could not afford on an individual basis but for which there was a significant need. A major advantage to placing the vans across the state at State Police facilities is that the vans can be circulated around

the state to avoid being recognized by local drug dealers. A second advantage is the consistency in maintaining the vehicle and its sensitive electronic equipment. Recommended in the Commission's interim report of its task force study on drug trafficking, abuse and related crime. This initiative was favorably received by the Senate Finance and House Appropriations Committees. The Department of Criminal Justice Services has agreed to provide funding from federal anti-drug grants.

1990 Budget Amendment
Failed

Patrons: Senator Elmon T. Gray
Delegate Robert B. Ball, Sr.

Full-time positions for DARE program. The State Compensation Board submitted a budget request for forty-eight FTE and $1,058,729 the first year, and forty-eight FTE and $1,080,638 the second year to provide sufficient deputy sheriffs to fully implement Drug Abuse Resistance Education (DARE) in 473 elementary schools in eighty-eight localities. The task force found that DARE was an extremely promising program designed to curb drug abuse by young people. A professional review of the effectiveness of DARE is underway and is being conducted by faculty at Virginia Commonwealth University. The preliminary results are most encouraging.

The drug study task force during 1990 will evaluate the staffing requirements for fully implementing the DARE program in counties and cities with police departments and report to the Governor and 1991 General Assembly. Recommended in the Commission's interim report of its task force study on drug trafficking, abuse and related crime. The budget amendment was not adopted by the 1990 Session in light of the difficult financial situation facing the Commonwealth.

X. RECOGNITION OF ORGANIZATIONS IN CRIMINAL JUSTICE

The Commission enjoys the opportunity to work with a variety of individuals and organizations in addition to a host of state and local government agencies. Each year the Commission selects several organizations within the state which have made a significant contribution to improving Virginia's criminal justice system.

In this section of the report, we recognize those organizations and offer a brief overview of each so that interested persons across the state may become aware of their efforts.

Over the last two years, the Commission highlighted the efforts of the Sandy Cochran Committee, the Virginia Tactical Association, the Virginia Network for Victims and Witnesses of Crime, the Virginia Silver Star Foundation, the Virginia Crime Prevention Association, and the Armored Response Group United States (ARGUS).

This year, it is with great pleasure that the Commission recognizes and commends the Virginia Association of Chiefs of Police, the Virginia Forensic Science Academy Alumni Association, and the Virginia State Sheriffs' Association for their dedication to strengthening Virginia's criminal justice system and improving the quality of life in the Commonwealth.

A. Virginia Association of Chiefs of Police

The Virginia Association of Chiefs of Police is a statewide organization of law enforcement executives that was founded in 1926.

The purposes of the Association are (i) to promote the professional development of all executive and management personnel within law enforcement agencies in Virginia; (ii) to encourage close cooperation of all law enforcement agencies in the prevention and detection of crime and the apprehension of those responsible for the commission of crime; (iii) to promote the highest standards of the police profession through selection and training of law enforcement officers; and (iv) to generally pledge and strive for the highest degree of respect for law and order throughout the Commonwealth of Virginia.

Activities of the Association include:

Two membership meetings annually; one a conference featuring workshops and exhibits.

Annual executive development schools for chiefs of police and deputy chiefs.

Sponsorship of the Virginia Law Enforcement Officers Torch Run for Special Olympics.

Formal recognition of acts of valor by police officers and outstanding contribution to law enforcement by sworn officers and others.

In an effort to keep its members informed on legislative issues and to provide input to the legislative process, the Association monitors the progress of legislation through the General Assembly. It works in close cooperation with the Virginia State Crime Commission and legislative study committees. Member representation is provided to such entities as the Criminal Justice Services Board, the Virginia Consolidated Labs Advisory Board, and numerous other committees or task forces involved with Virginia's criminal justice system.

The governing body is a ten-member Executive Board comprised of chiefs of police who are elected by the membership and serve in a voluntary role without compensation. Responsibility for the day-to-day management of the Association's business lies with an Executive Director appointed by the Executive Board.

The President of the VACOP is Chief Richard W. Presgrave of Harrisonburg. The immediate past president is Chief Pat Minneti of Hampton. For more information contact Col. John Pearson, executive director at (804) 285-8227

B. Virginia Forensic Science Academy Alumni Association

The use of new technologies in the modern forensic laboratory to aid the crime scene investigator has become paramount in the apprehension, prosecution and conviction of criminals. The crime scene investigator has placed many suspects at the scene without the luxury of the confession using the services of the forensic laboratory. The examination and scientific interpretations of physical evidence are unbiased and objective and can provide information which assists investigators in numerous ways.

During the 1974 Session of the Virginia General Assembly, the Virginia State Crime Commission sponsored House Joint Resolution No. 132, which directed the Crime Commission to study the advisability and feasibility of establishing a Forensic Science Academy to be operated by the Division of Consolidated Laboratory Services in conjunction with the Crime Commission. Former Delegate Theodore V. Morrison, Jr., headed the study subcommittee.

The purpose of the proposed Forensic Science Academy was to give law enforcement officers the necessary training to enable them to fully utilize the expertise of the state laboratory system. A grant was obtained to fund a pilot course. Candidates were nominated by sheriffs and chiefs of police from across the state to participate in the twelve-week intensive training program. The program originally included only six officers, but because of the interest it was expanded to ten officers.

As a result of the pilot program, the Academy was formally established by the General Assembly, under §2.1-429.2 of the *Code of Virginia*, and became a reality July 1, 1976.

The Virginia Forensic Science Academy Alumni Association was formed in early 1977 following studies and meeting involving the Academy Director, Daniel Grinnan, Jr. and graduates of the first five Academy sessions. This Association has grown to 319 graduates with approximately 250 still active in law enforcement. There are some 107 law enforcement agencies represented by the graduates, illustrating the statewide coverage of the Alumni Association. Each geographic region is represented by an Alumni Director who serves along with other officers on an Executive Board. The Academy Alumni Associations' Executive Board meets several times during the year to discuss current trends in physical evidence, and legislation affecting the forensic science field.

The Association supported the AFIS fingerprint computer program before the Crime Commission and General Assembly. To promote academic achievement and to foster class cohesiveness, the Alumni Association developed the Donald Benson award to be presented to one graduate each session for academic achievement and leadership qualities. The award is in memory of Donald Benson, a graduate of the ninth session, who was shot to death in the line of duty.

The Forensic Science Academy Alumni Association is a statewide resource for graduates of the Forensic Academy to use in their investigative pursuits. To insure graduates keep abreast

of changes in the areas of forensic science and evidence handling, graduates attend a three day retraining seminar each year, as well as regional workshops. The Association through its members and in conjunction with the Bureau of Forensic Science publishes a semi annual newsletter on new techniques and crime trends across the state.

The Association's officers 1989-1990 are as follows:

President	Steve Rush, Bedford Co. Sheriff's Dept.
1st Vice President	Ewell Hunt, Franklin Co. Sheriff's Dept.
2nd Vice President	Jim Gogan, Fairfax Co. Police Dept.
Secretary	Wolfgang Gholson, Virginia State Lottery
Treasurer	David Clayton, Roanoke City Police Dept.
Sergeant At Arms	Buddy Gordon, Virginia State Police

C. Virginia State Sheriffs' Association

The Virginia State Sheriffs' Association enjoys 100% membership of all 125 sheriffs and approximately 4,000 deputy sheriffs throughout Virginia. The Association strives for professionalism of its members and the enhancement of the criminal justice system. The Association has coordinated a number of other criminal justice related functions which directly benefit the sheriffs, deputy sheriffs and general public.

The Association was founded over fifty-five years ago, however, only in the past twelve years has it been significantly involved in legislative and training related matters. For example, the Association has worked to enhance salaries and benefits for law enforcement, courts, and jail officers across the state. Since sheriffs provide primary law enforcement coverage in eighty-seven counties, the Association is strongly endorsing increasing the number of deputies available for this duty. The Association is also pursuing state funding for deputies to staff the Drug Abuse Resistance Education (DARE) program in many of Virginia's suburban and rural elementary schools. Of course, seeking legislative changes to enhance the service of literally millions of civil papers each year and to ensure protection of the courts and its officers is of vital importance.

The Association has worked closely with the Governor's office, Secretary of Transportation and Public Safety, Commission on Prison and Jail Overcrowding, and the Crime Commission on various projects to improve Virginia's criminal justice system.

Training is also an important issue for the Association. For example, several years ago, the Virginia sheriffs saw a need to raise additional funds for training and research, and accordingly, developed an affiliate organization known as the Virginia Sheriffs' Institute. The Virginia Sheriffs' Institute is primarily responsible for most of the training programs and is funded entirely by contributions from approximately 15,000 Virginia citizens annually.

The Association's officers for 1989-90 are as follows:

President	Earl Sasser, Greensville Co.
Immediate Past Pres.	C. W. Dobson, King George Co.
1st Vice President	J. Irving Baines, Suffolk
2nd Vice President	W. Alvin Hudson, Roanoke
Secretary	Vernie Francis, Southampton Co.
Treasurer	Carlton Baird, Charlottesville
Legislative Comm. Chair.	Clay Hester, Newport News

For more information contact John W. Jones, executive director at 9507 Hull Street Road, Suite D, Richmond, Virginia 23236 (804) 745-3720.

XI. REVIEW OF THE COMMISSION'S ACCOMPLISHMENTS: 1986-1989

The "original" Crime Commission was created in 1966 as a temporary study commission. It became a state agency in 1972, and was eventually phased out of existence in 1984.

The 1986 Session of the General Assembly recognized the need for a permanent agency under the legislature to actively monitor and assist the criminal justice system. The 1986 General Assembly thus appropriated funding for the State Crime Commission to be re-established July 1, 1986. Senator Elmon T. Gray was elected as chairman and Delegate Robert B. Ball, Sr., as vice-chairman. The current executive director was hired, upon the recommendation of the hiring committee, the motion made by House Speaker A.L. Philpott, to assume duties on September 1, 1986. Offices were located in the General Assembly Building and by year's end funding allowed a secretary to be hired full-time.

Since that time much has been done. The accomplishments and successes of the Commission were possible only because of the support the General Assembly gave to the Commission's recommendations. Virginia's elected leaders have demonstrated time and time again their commitment to a strong criminal justice system. The following items represent only a few of the Commission's accomplishments and attest to that commitment. This list does not include the most recent year's major accomplishments which are reported elsewhere in this report.

Police Retirement

The Commission recommended that a special joint subcommittee examine the feasibility of a twenty-five-year retirement system for police officers. The General Assembly adopted Delegate Ball's HJR 105 and established the legislatively directed study which ultimately resulted in such a retirement system for State Police and sheriffs (1988 HJR 105, Delegate Ball).

Police Salaries

The Commission conducted a legislative study in 1987 of Virginia's state-funded law enforcement salaries as compared to other Southeastern states. As recommended by the Commission, ABC agents, game wardens and deputy sheriffs received increased compensation in 1988. As a result of this action, a number of other state-funded law enforcement officers, campus police and Marine Resources Commission Officers, for example, subsequently received salary realignment and increases.

Additional Forensic Labs Staff

During the 1989 Session, the Commission recommended a budget amendment which, in conjunction with an initiative of Governor Gerald Baliles, caused the addition of twelve new positions to the Bureau of Forensic Science (1987, Delegate Frank Hall). These positions focused on fingerprint identification, drugs, serology and photography. Over the next eighteen months, the drug case backlog began to increase and reached crisis proportions during late 1988. The Commission contacted Governor Baliles and the leadership of the General Assembly, who during the 1989 Session, fully funded the laboratories' request for $560,000 and eleven new positions.

Drug Abuse and Driver Education

The Commission endorsed Delegate Clement's HB 174, which now requires alcohol and drug abuse education to be included in all drivers education programs (1988 HB 174, Delegate Clement).

Attempting to Elude Police

The General Assembly passed the Commission's legislative proposal to make attempting to elude a police officer in a reckless manner punishable by up to one year in jail and a $1,000 fine, instead of as a Class 2 misdemeanor (1988 HB 397, Delegate Woodrum).

Firearms and Drugs

The General Assembly approved Commission-sponsored legislation that, for the first time, established a separate penalty for mere possession of any firearm while simultaneously in possession of dangerous illegal drugs (1987 HB 1049 , Delegate Reynolds).

Local Jail Education Programs

The Commission proposed legislation that allowed the Department of Correctional Education to provide assistance to local jails in establishing or improving educational programs for inmates (1987 HB 1331, Delegate Guest).

Tuition Reimbursement for Police

The Commission successfully proposed a budget amendment which increased, by over thirty percent, the funds available to law enforcement officers for college tuition reimbursement under the State Law Enforcement Education Program (1988).

DNA Genetic Fingerprinting

In 1987, the Commission took the lead in recommending that Virginia acquire DNA genetic fingerprinting technology and worked with Secretary of Administration Carolyn Jefferson-Moss to secure $40,000 during October of 1987 to send the first two serologists to DNA school. The 1988 General Assembly then provided over $200,000 during the FY 88-90 biennium to continue the program.

In 1988, the Virginia Association of Chiefs of Police and the Virginia State Sheriffs' Association actively sought passage of legislation to establish a DNA data base. The Commission fully endorsed HB 1765 (1989) patroned by Commission members Warren G. Stambaugh and House Speaker A. L. Philpott, and other legislators. This bill authorized creation of a DNA genetic profile data base from incarcerated persons convicted of sex crimes. A companion bill, HB 1823 introduced by Delegate James Almand and Delegate Stambaugh, clearly placed the responsibility for operation of the data base with the Bureau of Forensic Science.

Senator E. M. Holland introduced SJR 127, which created a joint subcommittee to conduct a study during 1989 of the detailed procedures and funding required for bringing the data base on-line.

Sheriffs' Uniforms and Car Markings

The 1988 General Assembly adopted legislation resulting from a Crime Commission study which determined the advisability of standardized car markings and uniforms for sheriffs and their deputies (1988 HB 9, Delegate Keating).

Victims of Crime

The Commission conducted a three-year study of issues related to victims and witnesses of crime. The accomplishments of the third year of the study are detailed elsewhere in this report and will not be reported here. During the 1987 and 1988 studies, a number of significant measures were proposed which greatly improved the treatment of victims and witnesses of crime. As a result, the General Assembly approved legislation which:

- increased the fee offenders must pay into the Criminal Injuries Compensation Fund, required DUI offenders to pay the fee and made DUI victims eligible to collect from the fund, and eliminated the $100 deductible (1988 HB 399, Delegate Woodrum).

- mandates that courts consider victim impact statements in personal offenses, upon motion of the prosecutor (1989 HB 1374, Delegate Stambaugh).

- requires probation and parole officers to notify victims of personal offenses of their right to parole input (1989 HB 1372, Delegate Stambaugh).

- requires the Department of Corrections to notify victims (who have so requested) of the offender's pending release from incarceration (1989 HB 1371, Delegate Stambaugh).

- established minimum standards for victim/witness programs which receive state funds (1988 HB 410, Delegate Stambaugh).

- prohibits employers from penalizing victims who miss work to attend court (1988 HB 412, Delegate Stambaugh).

- prohibits the address of a victim of a personal offense to be disclosed in open court, unless deemed necessary by the court (1989 HB 1373, Delegate Stambaugh).

In addition to legislative initiatives, the Commission:

- recommended development of a brochure describing parole input and facilitating victim impact statements. This was published in 1989.

- updated an earlier Crime Commission publication, *Criminal Sexual Assaults: A Handbook For Victims*. This was published in 1989.

Constitutional Amendment: Drug Dealers Assets

The Crime Commission conducted an in-depth study of asset seizure and forfeiture during 1988 and endorsed the Attorney General's proposal introduced by Senator Gartlan (Senate Joint Resolution 36) and a House version proposed by Delegate Ford Quillen to amend Article VIII, Section 8, of the Virginia Constitution to allow the return of drug crime-related forfeited assets to law enforcement. Currently, all such forfeited assets go to the state Literary Fund. This proposal requires all drug crime-related forfeited assets be used to benefit law enforcement efforts. This measure was reenacted by the 1990 General Assembly and must be approved by the voters in November of 1990 to become effective. The Commission found that less than one-half of one percent of the annual revenue in the literary fund derives from forfeited assets because most forfeitures are handled through the federal system. To ensure the continued ability to participate in the federal system and to provide Virginia's law enforcement with adequate resources at the state level, the Commission endorsed and actively supported the resolutions.

State Forfeiture Procedures

The Commission's 1988 study of asset seizure and forfeiture also resulted in a new forfeiture law which streamlined procedures in cases brought in state courts (1989 HB 1345, Delegate Reynolds).

Part-Time Law Enforcement Officers

The Commission sponsored legislation which established minimum training standards for most paid part-time law enforcement officers, where standards did not previously exist under statute. The bill also requires volunteer auxiliary officers who carry firearms to complete basic and in-service police firearms training (1989 HB 1431, Delegate Guest).

Crime Prevention Resource Center

The Commission learned of the pending expiration of federal funds which had been used to support the 140 local law enforcement agencies and numerous community and business groups that provided crime prevention services by responding to 800 requests for technical assistance, training 900 law enforcement officers and citizens, and distributing 250,000 pieces of crime prevention literature.

The Crime Commission recommended that $160,000 and two positions be allocated to the Department of Criminal Justice Services to staff and provide material for a central crime prevention resource center. This center is now available to law enforcement officials and other interested parties and provides printed material, public service announcements, and audio visual material. Additionally, technical assistance on all areas of crime prevention is available. The budget amendment was approved by the 1989 General Assembly.

User's Fee For Forensic Services Opposed

In 1988, a management study within the Division of Consolidated Laboratory Services considered the advisability of initiating user's fees for laboratory functions, including charging local and state police agencies for analyzing physical evidence in criminal cases. The Commission's director was then named to the study and went on record for the Commission as strongly opposed to initiating any user's fees. The Commission prevailed in its position and the concept of a user's fee for police agencies was abandoned.

XII. INTO 1990: A YEAR OF CHALLENGE

The overwhelming majority of efforts of the Commission in 1990 will be directed at completing the two-year study on drug trafficking, abuse and related crime. Between March and August, Commission staff, with the substantial aid of staff assistants from the Departments of State Police, Criminal Justice Services, Education, Mental Health, Mental Retardation and Substance Abuse Services, Corrections and other agencies, will be striving to complete thirty-six projects and studies. All of these projects must be presented for consideration and development of recommendations by the task force subcommittees in June, July and August. With such a monumental task before us, many other functions of the Commission will be suspended until September so that the members and staff can devote their full attention and efforts to this critical area.

Later in 1990, the Commission's task force will meet monthly until findings and recommendations are fully developed and a formal report is published as a Senate document. As the Commission's task force begins to complete the project, the Commission will then turn to several issues directed to it by the 1990 Session of the General Assembly.

A resolution (HJR 20) introduced by Delegate Harry J. Parrish of Manassas directs the Commission to study portions of the *Code of Virginia* governing local jails and to recommend amendments as necessary to accurately reflect the authority of both administration of regional jails and sheriffs who run local jails. Apparently, certain provisions of Title 53.1 of the Code of Virginia have created confusion over the respective authority of sheriffs and regional jail administrators. The Commission is to report to the Governor and 1991 General Assembly.

Parallel Senate and House Joint Resolutions (SJR 33 and HJR 79), patroned by Senator Joseph V. Gartlan, Jr., of Mason Neck and Delegate William Roscoe Reynolds of Martinsville, direct the Commission to study and identify improvements in the decision-making process with respect to pretrial detention of persons accused of crimes. The Commission is to examine statutes relating to bail and bond, bail risk assessment training for magistrates and judges, and methods for enhanced information transmittal to the decision makers. The Commission is to complete its work prior to the 1991 Session.

House Joint Resolution 147, offered by Delegate Robert Tata of Virginia Beach, recognizes the involvement of youth in various cult activities, some of which involve criminal acts. The resolution directs a Commission task force to determine the nature and extent of illegal activities and the danger posed by cults. A formal report of findings and recommendations is to be submitted to the Governor and the 1992 General Assembly.

Finally, House Joint Resolution 161, sponsored by Delegate E. R. Harris, Jr., of Lynchburg, requires the Commission to develop a program to ensure drug-free schools in the course of its study on drug trafficking, abuse and related crime. The program is to foster a coordinated relationship between law enforcement agencies, schools, and the private sector that promotes a drug-free lifestyle for youth. The task force will report on this issue in its final report prior to the 1991 Session of the General Assembly.

In addition to conducting these formal studies for the Governor and General Assembly, the Commission will continue in 1990 to keep its finger on the pulse of criminal justice in Virginia. This function will be accomplished by members and staff visiting localities across Virginia, and meeting with the officers on the beat, the correctional officers in prisons, sheriffs and deputies, police chiefs, wardens, judges, prosecutors and especially concerned citizens. Also important is the Commission's contact with national associations, Congress, federal law enforcement authorities and other organizations which track national and interstate crime trends and related law enforcement initiatives.

In conclusion, as a legislative commission, the Virginia State Crime Commission works closely with all segments of criminal justice and has received the support of different administrations, legislators, citizens, and local and state agencies in accomplishing its legislative charge. In this essential role in state government, the Commission has striven to build an environment and spirit of cooperation and confidence. This spirit is manifested in the many individuals and agencies that work with and rely upon the Commission in strengthening the criminal justice system.

During 1990, the Commission will follow up on previous recommendations and will re-examine the implementation and effectiveness of its past accomplishments. In addition to its formal studies, the Commission, on behalf of the General Assembly, will seek to identify new initiatives in addressing methods to solidify and enhance the effectiveness of this Commonwealth's efforts in criminal justice. Appendix A provides a proposed schedule of meetings for both the full Commission and the drug study task force in 1990. Interested parties are encouraged to attend and should contact Commission staff for locations and confirmed times and dates.

APPENDIX A

VIRGINIA STATE CRIME COMMISSION

Proposed Schedule of Full Commission Meetings

Remainder of 1990

Does NOT include Drug Study Task Force Meetings

Date	Time	Meeting	Purpose
Tuesday, April 17th	2:00 p.m.	Full Crime Commission	Various Issues
Tuesday, October 16th	10:00 a.m.	Full Crime Commission	Various Issues
Tuesday, December 18th	2:00 p.m.	Full Crime Commission	Annual Hearing

VIRGINIA STATE CRIME COMMISSION
DRUG TRAFFICKING STUDY - SJR 144

1990 - TASK FORCE MEETINGS

Proposed Schedule of Meetings and Work Plan

LWNF = Law Enforcement
EDUC = Education and Prevention
CORR = Corrections and Treatment

Tuesday, April 17, 1990
3:30 - 5:00 p.m.
Full Task Force
Meeting with the Governor and Secretary of Public Safety

NO MAY MEETINGS

Work Session: Receive and Discuss Staff Studies

• Tuesday, June 19	10:00 - 4:30 p.m.	LWNF Subcommittee
• Wednesday, June 20	10:00 - 4:30 p.m.	EDUC Subcommittee
• Thursday, June 21	10:00 - 4:30 p.m.	CORR Subcommittee

Work Session: Receive and Discuss Staff Studies

• Tuesday, July 17	10:00 - 4:30p.m.	LWNF Subcommittee
• Wednesday, July 18	10:00 - 4:30 p.m.	EDUC Subcommittee
• Thursday, July 19	10:00 - 4:30p.m.	CORR Subcommittee

(A.M.) Work Session: Receive and Discuss Staff Studies
(P.M.) Discuss and Agree to Final Subcommittee Recommendations

• Tuesday, Aug. 21	10:00 a.m. - 4:30 p.m.	LWNF Subcommittee
• Wednesday, Aug. 22	10:00 a.m. - 4:30 p.m.	EDUC Subcommittee
• Thursday, Aug. 23	10:00 p.m. - 4:30 p.m.	CORR Subcommittee

Receive Recommendations from the Subcommittees:
Agree to Preliminary Study Recommendations

• Tuesday, Sept. 18	10:00 - 4:30p.m.	Full Task Force

Receive Public and Agency Reaction to
Proposed Preliminary Study Recommendations

• Tuesday, October 16	2:00 p.m. - 4:00 p.m.	Full Task Force

Discuss and Agree to Final Study Recommendations:

• Tuesday, Nov. 13	10:00 a.m. - 4:30 p.m.	Full Task Force

Concluding Meeting to Approve Final Study Report

• Tuesday, Dec. 18	1:00 p.m. - 2:00 p.m.	Full Task Force

APPENDIX B

LIST OF MEETINGS HELD IN CALENDAR YEAR 1989

January 10, 1989	Legislative Subcommittee
January 17, 1989	Full Commission
April 18, 1989	Full Commission
June 19, 1989	Treatment Subcommittee
June 20, 1989	Full Commission
June 20, 1989	Corrections Subcommittee
June 20, 1989	Law Enforcement Subcommittee
July 27, 1989	Law Enforcement Subcommittee
July 27, 1989	Treatment Subcommittee
July 28, 1989	Corrections Subcommittee
July 28, 1989	Victims & Witnesses Subcommittee
August 1, 1989	Drug Study Kickoff
August 14, 1989	Treatment Subcommittee
August 14, 1989	Victims & Witnesses Subcommittee
August 15, 1989	Corrections Subcommittee
August 15, 1989	Drug Task Force (Educ)
August 25, 1989	Drug Task Force (LWNF)
August 29, 1989	Drug Task Force (Corr)
September 18, 1989	Treatment Subcommittee
September 18, 1989	Law Enforcement Subcommittee
September 19, 1989	Victims & Witnesses Subcommittee
September 19, 1989	Corrections Subcommittee
September 19, 1989	Task Force Public Hearing
September 20, 1989	Drug Task Force (LWNF)
September 29, 1989	Drug Task Force (Educ)
September 29, 1989	Drug Task Force (Corr)
September 29, 1989	Task Force Public Hearing
October 17, 1989	Drug Task Force (Educ)
October 17, 1989	Full Commission
October 17, 1989	Drug Task Force (LWNF)
October 18, 1989	Drug Task Force (Corr)
November 14, 1989	Victims & Witnesses Subcommittee
November 14, 1989	Drug Task Force (LWNF)
November 15, 1989	Drug Task Force (Educ)
November 15, 1989	Drug Task Force (Corr)
December 18, 1989	Corrections Subcommittee
December 19, 1989	Law Enforcement Subcommittee
December 19, 1989	Full Commission Public Hearing
December 19, 1989	Drug Task Force
December 20, 1989	Treatment Subcommittee

APPENDIX C

VIRGINIA STATE CRIME COMMISSION

Drug Study Task Force - SJR 144

Senator Elmon T. Gray, *Chairman*
Delegate Robert B. Ball, Sr., *Vice Chairman*

Task Force Steering Subcommittee

Senator Elmon T. Gray, *Chairman*
Delegate Robert B. Ball, Sr., *Chairman, Corrections-Treatment*
Senator Howard P. Anderson, *Chairman, Education*
Speaker A. L. Philpott, *Chairman, Enforcement*
Mr. H. Lane Kneedler, *Attorney General's Office*

Study Subcommittees

Enforcement

Speaker A.L. Philpott, *Chairman*
Col. J.C. Herbert Bryant, Jr.
The Honorable W.M. Faulconer
The Honorable Robert F. Horan, Jr.
Mr. H. Lane Kneedler
Senator Johnny S. Joannou
Delegate Warren G. Stambaugh

Education

Senator Howard P. Anderson, *Chairman*
Mr. Robert C. Bobb
Delegate V. Thomas Forehand, Jr.
Senator Elmon T. Gray
Delegate Raymond R. Guest, Jr.
Delegate Thomas M. Jackson
Chief Richard W. Presgrave

Corrections-Treatment

Delegate Robert B. Ball, Sr., *Chairman*
Senator Elmo G. Cross, Jr.
Senator Edward M. Holland
The Honorable Christopher W. Hutton
Delegate Clinton Miller
Rev. George F. Ricketts, Sr.
Delegate Clifton A. Woodrum

VIRGINIA STATE CRIME COMMISSION
1989 SUBCOMMITTEES
(This does not include drug-crime study assignments)

Executive
-Handle administrative matters.
-Develop task force nominations.

Senator Gray, *Chairman*
Senator Anderson
Delegate Ball
Mr. Kneedler
Speaker Philpott

Corrections and Rehabilitation
-Monitor on-going correctional issues.
-Study shock incarceration: HJR321.
-Study Youthful Offender Act.
-Review population forecasting: HJR237.

Rev. Ricketts, *Chairman*
Senator Anderson
Delegate Ball
Mr. Bobb
Senator Cross
Senator Gray
Delegate Guest
Speaker Philpott

Treatment Issues
-Study handicapped inmates: HJR283.
-Study transportation of juveniles.

Delegate Woodrum, *Chairman*
Delegate Ball
Delegate Forehand
Delegate Guest
Mr. Horan
Mr. Kneedler
Rev. Ricketts
Delegate Stambaugh

Legislative
-Develop annual legislative package.

Senator Anderson, *Chairman*
Senator Cross
Delegate Forehand
Mr. Horan
Mr. Kneedler
Speaker Philpott
Delegate Stambaugh
Delegate Woodrum

Law Enforcement
-Monitor law enforcement issues.
-Study nondetectable firearms.
-Track activities of the Forensic Labs.
-Omnibus Drug Initiative Act.

Delegate Guest, *Chairman*
Delegate Ball
Mr. Bobb
Senator Cross
Senator Gray
Mr. Horan
Mr. Kneedler
Delegate Stambaugh

Victims and Witnesses of Crime Study
-Continue study of issues (1988-HJR48).
-Review progress reports from Division of Crime Victims Compensation.

Delegate Stambaugh, *Chairman*
Mr. Bobb
Senator Cross
Delegate Forehand
Delegate Guest
Mr. Kneedler
Rev. Ricketts
Delegate Woodrum

APPENDIX D

DRUG CASES - A CHRONOLOGY OF EVENTS

In the past three annual reports of the Commission, we have attempted to keep legislators, criminal justice officials and the public informed about the efforts directed at keeping pace with the growing volume of drug case submissions. The Commission felt that providing this following chronological outline of events would be of benefit to those interested in the issue.

1986 - The labs were receiving 1,200 - 1,300 drug cases monthly and had been for some time.

95% of those analyses were completed in ten days.

Dr. Ferrara tells the Commission that more cocaine and less marijuana cases are being seen. Cocaine takes much longer to analyze than does marijuana.

Each chemist can complete an average of fifty drug cases monthly. Thus, twenty-four chemists multiplied by fifty cases equals 1,200 analyses.

Eight of twenty-four chemists had resigned by the year's end, many for pay reasons.

1987 - By January 1987, a backlog of drug cases had grown to 1,700.

The Commission recommended and the General Assembly approved the addition of twelve new positions on July 1, 1987, to the forensic labs. Four of these were for drug chemists. This brought the total to twenty-eight. (28 x 50 = 1,400 cases).

A 9.3% pay increase was approved by the Baliles administration across the board for forensic scientists (drug chemists) to attack the turnover problem.

Pending the implementation of the above, the backlog grew to 2,500 cases by July 1. The backlog at Northern Virginia alone had risen to 1,100 cases.

Northern Virginia cases being received increased from 300 to 450 monthly. Richmond, Roanoke, and Tidewater did not see this increase at that time.

The Richmond lab began assisting in case work for Northern Virginia.

On October 15, 1987, Delegate Warren G. Stambaugh and Commission staff met with local and lab officials at the Northern Virginia lab. Strategies were discussed for reducing the backlog and were implemented.

By December 31, 1987, the backlog had been reduced from 2,500 to only 802 cases.

1988 - January through March monthly submissions increased, especially in Tidewater and Northern Virginia.

March 1988: a record 1,535 drug cases were received during March statewide. One year earlier 1,200-1,300 cases monthly were typical.

July 1988: the backlog grew from 802 on January 1 to 2,599 cases on July 1, 1988.

August 16, 1988: Secretary Moss met with the Crime Commission and detailed the drug case backlog and the resources needed to diminish it. The Commission at this meeting endorsed the Drug Item Reduction Program (DIRP) to help address the backlog. (Example: 10 needles are submitted with a 5 pound bag of white powder in the same "drug case." If the powder proves to be cocaine, there is likely no reason to spend time testing the needles The lab would test the needles if law enforcement specifically requested, but not otherwise.)

September 12, 1988: Senator Gray wrote to Governor Baliles and the leadership of the General Assembly requesting support for the labs' proposed request of eleven new positions (including four chemists) and over $560,000 in funds.

October 1988: the state's forensic chemists mount an all-out attack on the backlog of 2,157 cases on hand. In only thirty days, the backlog was reduced to 1,176 cases. This accomplishment was possible due to the Drug Item Reduction Plan, extensive overtime, staff returning from medical leave, and extremely hard work by the forensic chemists.

1989 - January 1989: Governor Baliles fully funds the lab's request in his budget proposal which is approved by the 1989 General Assembly. Eleven new positions are approved and begin April 1, 1989, along with funds for overtime. Four positions are drug chemists. The new total is thirty-two chemists. (32 x 50 = 1,600 cases.)

March 1989: a new record of 2,201 cases is set. Only one year earlier, the record high was 1,535.

April 1989: the new staff begin coming on-line; however, several resigned.

May 1989: drug case monthly submissions rem. in in the 2,200 range, and five vacancies exist out of thirty-two approved forensic chemist positions.

June 1989: Secretary Carolyn Moss meets with the entire drug staff and management of the Bureau of Forensic Science to kick off a crash program to resolve the drug case backlog (by now over 2,800 cases):

a. Three additional drug chemist positions are created and transferred from vacant positions within the Department of General Services.
b. Mandatory overtime for drug chemists is instituted for the period of June 1, 1989, to September 30, 1989.
c. Payment for this overtime is authorized at the rate of time and one-half.

September 1989: After more than 2,000 hours of overtime, the personnel of the Bureau of Forensic Science had reduced the drug backlog to 668 cases.

October 1989 through February 1990: The backlog was further reduced to 450 cases. This, in turn, translates to almost eighty percent of all drug cases statewide being completed within ten working days of receipt. Average receptions continue at over 2,000 per month.

January 1990: Governor Wilder informs the General Assembly he supports the Crime Commission's recommendation to elevate the Bureau of Forensic Science to Division status.

Drug case submission will increase. Cocaine has become more prevalent and takes longer to process. As listed above, the General Assembly has given priority to the forensic labs in terms of resources. Dr. Ferrara and the lab employees have worked above and beyond the call of duty to keep pace. Strategies have been implemented to increase pay and reduce turnover, add staff, and increase the efficiency of the labs while (most importantly) maintaining analytical integrity.

The 1990 General Assembly has just approved twelve new positions beginning July 1, 1990 and seven additional positions on July 1, 1991, totaling nineteen new forensic scientists and support staff to handle drug cases. This new level of staffing is commensurate with the projected increases in drug case submissions over the next two years. The Commission commends Governor Baliles, Governor Wilder, and the 1990 General Assembly for taking a proactive stance in maintaining the quick turnaround time in drug case processing, especially in such tight fiscal times.

APPENDIX E

CHAPTER 20.

VIRGINIA STATE CRIME COMMISSION.

§ 9-125. Commission created; purpose. — There is hereby created the Virginia State Crime Commission, hereinafter referred to as the Commission. The purpose of the Commission shall be, through the exercise of its powers and performance of its duties set forth in this chapter, to study, report and make recommendations on all areas of public safety and protection. In so doing it shall endeavor to ascertain the causes of crime and recommend ways to reduce and prevent it, explore and recommend methods of rehabilitation of convicted criminals, study compensation of persons in law enforcement and related fields and study other related matters including apprehension, trial and punishment of criminal offenders. The Commission shall make such recommendations as it deems appropriate with respect to the foregoing matters, and shall coordinate the proposals and recommendations of all commissions and agencies as to legislation affecting crimes, crime control and criminal procedure. The Commission shall cooperate with the executive branch of government, the Attorney General's office and the judiciary who are in turn encouraged hereby to cooperate with the Commission. The Commission will cooperate with governments and governmental agencies of other states and the United States. (1972, c. 766.)

The numbers of §§ 9-125 through 9-138 were assigned by the Virginia Code Commission, the numbers in the 1972 act having been 9-117 through 9-130.

Law Review. — For survey of Virginia law on criminal law for the year 1971-1972, see 58 Va. L. Rev. 1206 (1972).

§ 9-126. Membership; appointment; terms; vacancies; chairman; expenses. — The Commission shall be composed of thirteen members: six shall be appointed by the Speaker of the House of Delegates from the membership thereof; three shall be appointed by the Privileges and Elections Committee of the Senate from the membership of the Senate; three shall be appointed by the Governor from the Commonwealth at large; and the Attorney General of Virginia shall serve as an ex officio member with full voting privileges. One-half of the initial appointments made by the Speaker of the House of Delegates, and two-thirds of the initial appointments made by the Governor and by the Privileges and Elections Committee of the Senate shall be members of the Virginia State Crime Commission created by House Joint Resolution No. 113 of the 1966 Regular Session of the General Assembly and continued by subsequent legislative action. The term of each appointee shall be for four years; with the exception of the Attorney General whose membership on the Commission shall be concurrent with his term as Attorney General of Virginia. Whenever any legislative member fails to retain his membership in the House from which he was appointed, his membership on the Commission shall become vacated and the appointing authority who appointed such vacating member shall make an appointment from his respective House to fulfill the vacated term. The Commission shall elect its own chairman annually. Members of the Commission shall receive compensation as provided in § 14.1-18 of the Code of Virginia and shall be paid their necessary expenses incurred in the performance of their duties. Provided, however, that all such expense payments shall come from existing appropriations to the Virginia Crime Commission. (1972, c. 766; 1974, c. 527; 1979, c. 316.)

§ 9-127. **Studies and recommendations generally.** — The Commission shall have the duty and power to make studies and to gather information and data in order to accomplish its purposes as set forth in § 9-125, and in connection with the faithful execution and effective enforcement of the laws of the Commonwealth with particular reference but not limited to organized crime and racketeering, and to formulate its recommendations to the Governor and the General Assembly. (1972, c. 766.)

§ 9-128. **Studies of operations, etc., of law-enforcement agencies.** — At the direction or request of the legislature by concurrent resolution or of the Governor, the Commission shall, or at the request of any department, board, bureau, commission, authority or other agency created by the Commonwealth, or to which the Commonwealth is a party, the Commission may, study theoperations, management, jurisdiction, powers and interrelationship of any such department, board, bureau, commission, authority or other agency, which has any direct responsibility for enforcing the criminal laws of the Commonwealth. (1972, c. 766.)

§ 9-129. **Cooperation with agencies of other states.** — The Commission shall examine matters relating to law enforcement extending across the boundaries of the Commonwealth into other states; and may consult and exchange information with officers and agencies of other states with respect to law-enforcement problems of mutual concern to this and other states. (1972, c. 766.)

§ 9-130. **Commission to refer cases of crime or official misconduct to appropriate authorities.** — Whenever it shall appear to the Commission that there is reasonable cause, for official investigation or prosecution for a crime, or for the removal of a public officer for misconduct, the Commission shall refer the matter and such information as has come to its attention to the officials authorized and having the duty and authority to conduct investigations or to prosecute criminal offenses, or to remove such public officer, or to the judge of an appropriate court of record with recommendation that a special grand jury be convened. (1972, c. 766.)

§ 9-131. **Executive director, counsel and other personnel.** — The Commission shall be authorized to appoint and employ and, at pleasure remove, an executive director, counsel, and such other persons as it may deem necessary; and to determine their duties and fix their salaries or compensation within the amounts appropriated therefor. (1972, c. 766.)

§ 9-132. **Reports to Governor and General Assembly.** — The Commission shall make an annual report to the Governor and the General Assembly, which report shall include its recommendations. The Commission shall make such further interim reports to the Governor and the General Assembly as it shall deem advisable or as shall be required by the Governor or by concurrent resolution of the General Assembly. (1972, c. 766.)

§ 9-133. **Publication of information.** — By such means and to such extent as it shall deem appropriate, the Commission shall keep the public informed as to the operations of organized crime, problems of criminal law enforcement in the Commonwealth and other activities of the Commission. (1972, c. 766.)

§ 9-134. **Powers enumerated.** — With respect to the performance of its functions, duties and powers subject to limitations contained herein, the Commission shall be authorized as follows:

a. To maintain offices, hold meetings and functions at any place within the Commonwealth that it may deem necessary;

b. To conduct private and public hearings, and to designate a member of the Commission to preside over such hearings;

c. Pursuant to a resolution adopted by a majority of the members of the Commission, witnesses attending before the Commission may be examined privately and the Commission shall not make public the particulars of such examination. The Commission shall not have the power to take testimony at private or public hearings unless at least three of its members are present at such hearings;

d. Witnesses appearing before the Commission at its request shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the Commonwealth, if such witnesses request such fees and mileage. (1972, c. 766.)

§ 9-135. **Construction of chapter.** — Nothing contained in this chapter shall be construed to supersede, repeal or limit any power, duty or function of the Governor or any department or agency of this Commonwealth, or any political subdivision thereof, as prescribed or defined by law. (1972, c. 766.)

§ 9-136. **Cooperation of other state agencies.** — The Commission may request and shall receive from every department, division, board, bureau, commission, authority or other agency created by this Commonwealth, or to which the Commonwealth is a party or any political subdivision thereof, cooperation and assistance in the performance of its duties. (1972, c. 766.)

§ 9-137. **Disclosure of certain information by employee a misdemeanor.** — Any employee of the Commission who shall disclose to any person other than the Commission or an officer having the power to appoint one or more of the Commissioners the name of any witness appearing before the Commission in a private hearing or disclose any information obtained or given in a private hearing except as directed by the Governor, a court of record or the Commission, shall be guilty of a misdemeanor. (1972, c. 766.)

§ 9-138. **Impounding of certain documents.** — Upon the application of the Commission or duly authorized member of its staff, the judge of any court of record may impound any exhibit or document received or obtained in any public or private hearing held in connection with a hearing conducted by the Commission, and may order such exhibit to be retained by, or delivered to and placed in custody of the Commission, provided such order may be rescinded by further order of the court made after five days' notice to the Commission or upon its application or with its consent, all in the discretion of the court. (1972, c. 766.)