

Adult Corrections

**Senate Finance Committee
November 15-16, 2007**

Introduction

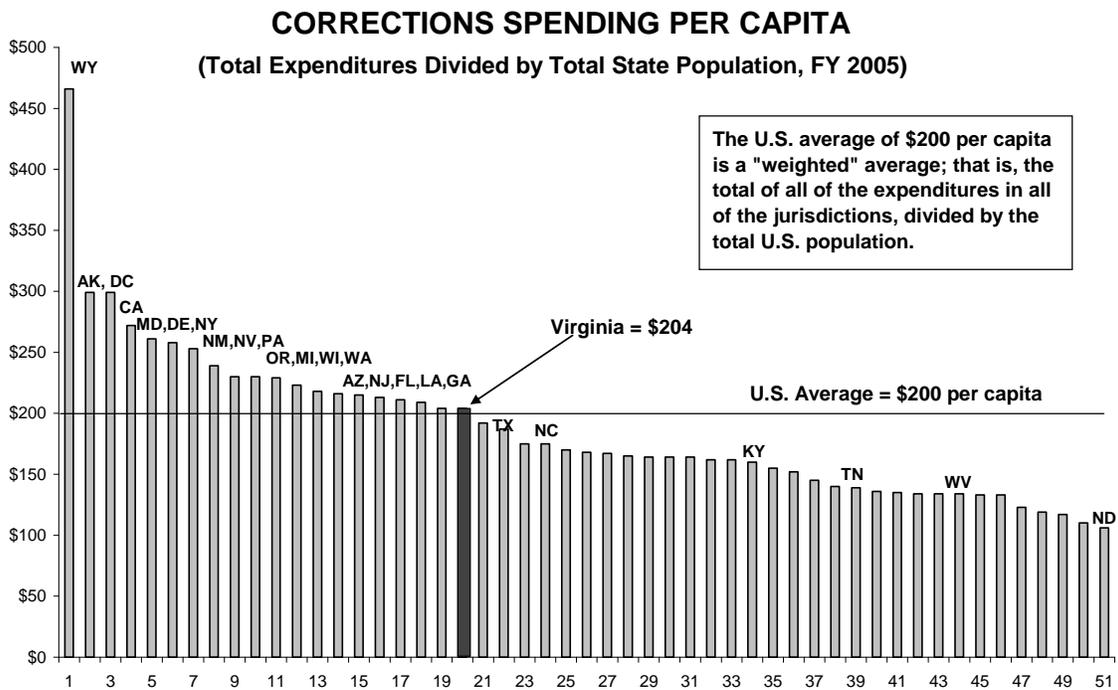
- Virginia's state- and local-responsible adult offender population continues to grow.
- Accordingly, after 2010, even when construction of the new prison in Grayson County has been completed, the Department of Corrections (DOC) will still need additional secure facilities.
- Correctional facilities are very expensive to build and operate, but there are potential opportunities to reduce the growth in the offender population.
 - One promising strategy is to support evidence-based programs that have been shown to reduce the rate of recidivism.
 - Even modest reductions in recidivism can slow the rate of offender population growth.
- At the same time, DOC must also maintain security, while planning for increasing requirements for health, mental health, and geriatric services for inmates.

Scope of State and Local Corrections

- DOC is the largest state agency in FTE employment, with 13,760 authorized positions, and a \$1.025 billion budget (from all funds) in FY 2008.
- As of June 2007, Virginia's state-responsible offender population was 38,007 (felons sentenced to one year or more in prison), including:
 - 32,651 housed by DOC in 30 major prisons, 10 field units, six work release centers and one private prison.
 - The other 6,356 were in local and regional jails, of which about 2,500 were "out-of-compliance."
- DOC also supervised almost 57,000 offenders through 43 district probation offices, and operated nine detention and diversion centers and 10 day reporting centers.
- In addition, Virginia's local-responsible population of 21,000 offenders (with sentences of 12 months or less) was housed in 66 local and regional jails, and another 19,000 misdemeanants were under the supervision of local pre-trial and community corrections programs.
- In other words, 135,000, or one in every 44 Virginians age 18 and over, were in prison or jail, or were under state or local probation supervision, as of June 30, 2007.

Per Capita Spending on Corrections

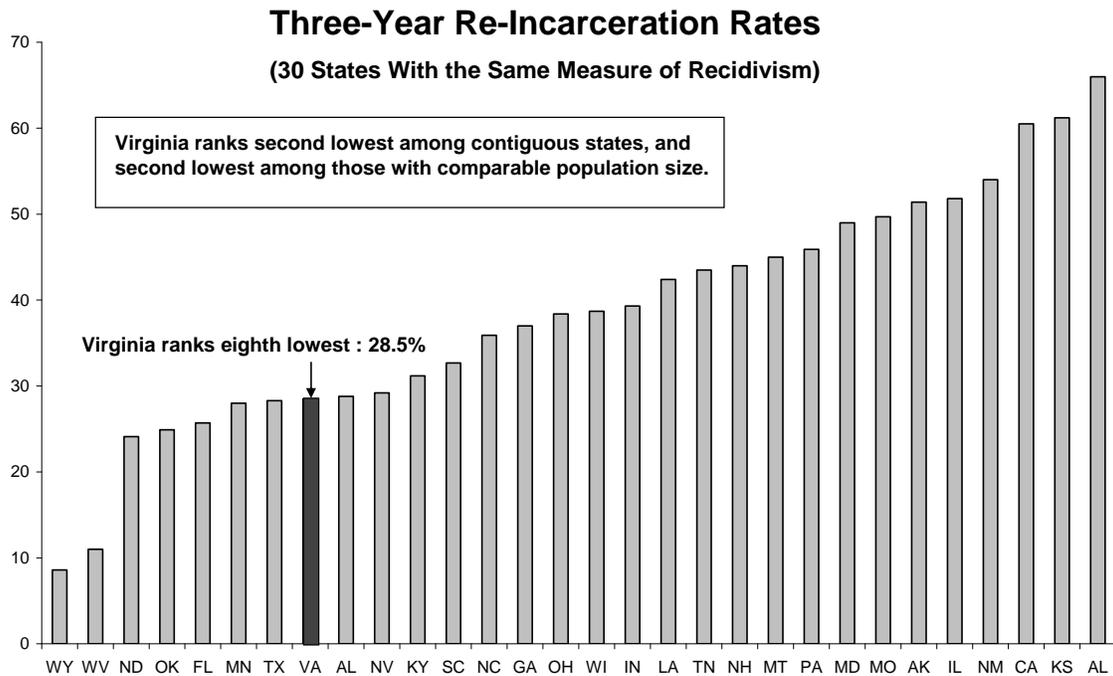
- Virginia spent \$204 per capita on corrections in 2005, ranking 20th highest among the 50 states and the District of Columbia.



- This measure includes both state and local expenditures for adult and juvenile corrections, including institutions as well as community corrections.

Virginia's Recidivism is 28.5 Percent

- Virginia defines recidivism as re-incarceration in a DOC facility within three years of release from prison.
- For the first time, DOC has compared Virginia's rate of recidivism with the 29 other states which use the same measure of recidivism. The preliminary conclusion is that Virginia compares favorably.



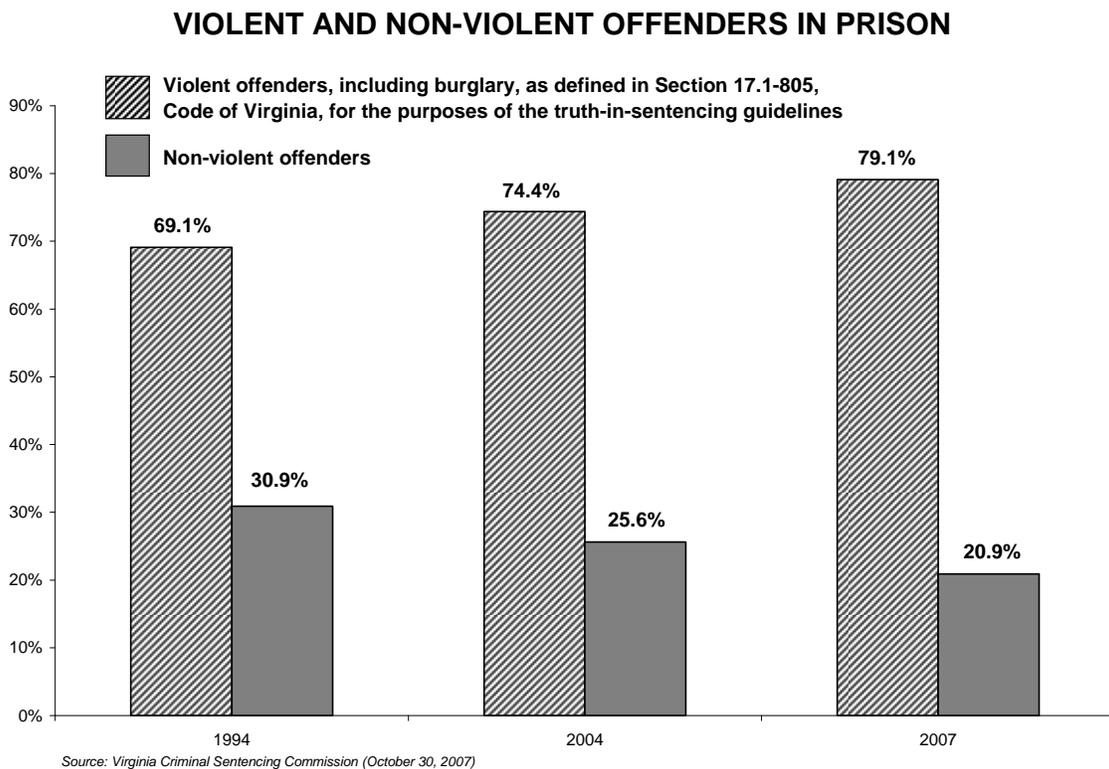
- However, additional research is needed. For example, Virginia prisoners who are re-incarcerated in Maryland or the District of Columbia are not counted.

Effects of Parole Abolition

- Since abolishing parole in 1994, Virginia has successfully implemented new felony sentencing guidelines.
- Under Virginia's guidelines, felons sentenced to prison will serve at least 85 percent of their nominal sentence.
- Based on Section 17.1-805 of the Code of Virginia, offenders are defined as violent based on the totality of their criminal careers, both current and prior offenses, including burglary, and including juvenile adjudications.
- As intended, the guidelines have resulted in longer actual time served for violent and repeat offenders, compared to the old parole system.
 - The Virginia Criminal Sentencing Commission staff is aware of no other state that reports actual times served for violent and repeat offenders that are longer than the actual times served in Virginia.
- For non-violent offenders, actual time served has not changed significantly from the old parole system.
- Unlike federal sentencing guidelines, Virginia's system is voluntary. Over the past three years judicial compliance has averaged over 80 percent.

More Violent Offenders are in Prison

- When parole was abolished, the General Assembly intended that expensive prison beds should be reserved more for violent and repeat offenders, and less for non-violent, lower-risk offenders. In fact, this has occurred.



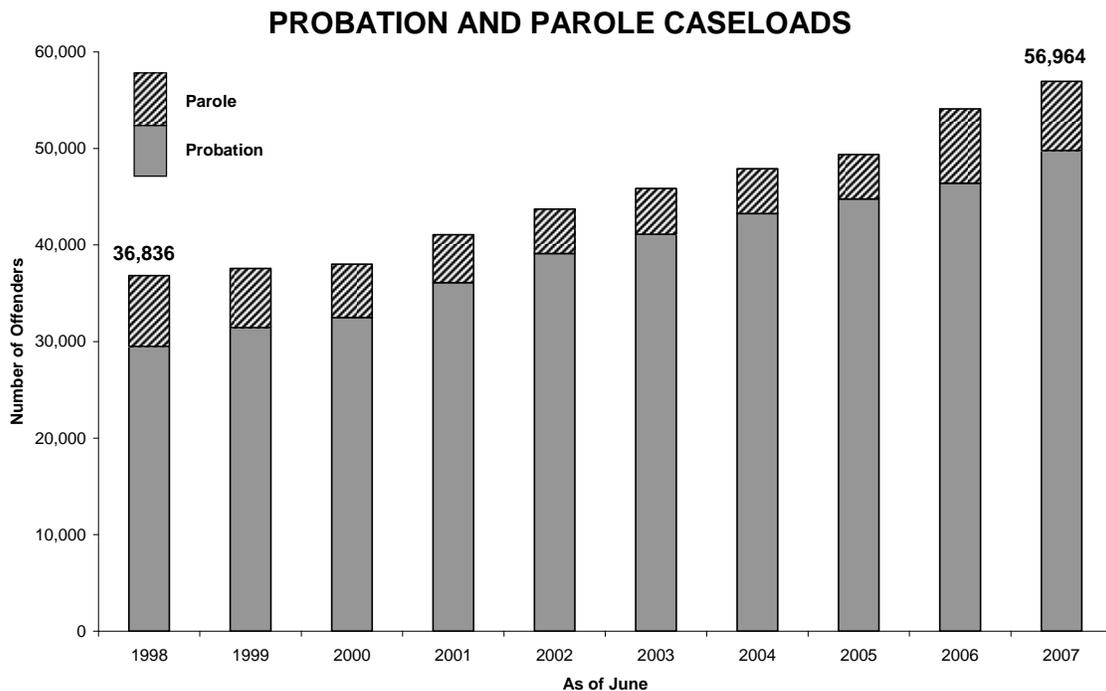
- Since 1994, the proportion of offenders in state facilities with a current or prior violent offense, including burglary, has increased from 69 to 79 percent, based on the most recent analysis by Sentencing Commission staff.

Many Non-Violent Offenders are Diverted

- When parole was abolished, the General Assembly also approved legislation to expand Virginia's community corrections system (both state and local).
- Included within that legislation was the directive for the Sentencing Commission to develop risk assessment guidelines, with the goal of diverting up to 25 percent of lower-risk, non-violent offenders.
- In the process of accomplishing this goal, Virginia became the only state to implement risk assessment guidelines in all judicial circuits, starting in 2002.
 - These guidelines use objective factors, based on empirical research, to predict the likelihood that an offender will commit another offense.
- Virginia has exceeded the 1994 goal of diverting up to 25 percent of lower-risk, non-violent felony offenders.
- Virginia appears to have maximized the opportunities for diverting lower-risk, non-violent offenders into alternatives to incarceration.

Community Corrections Has Grown

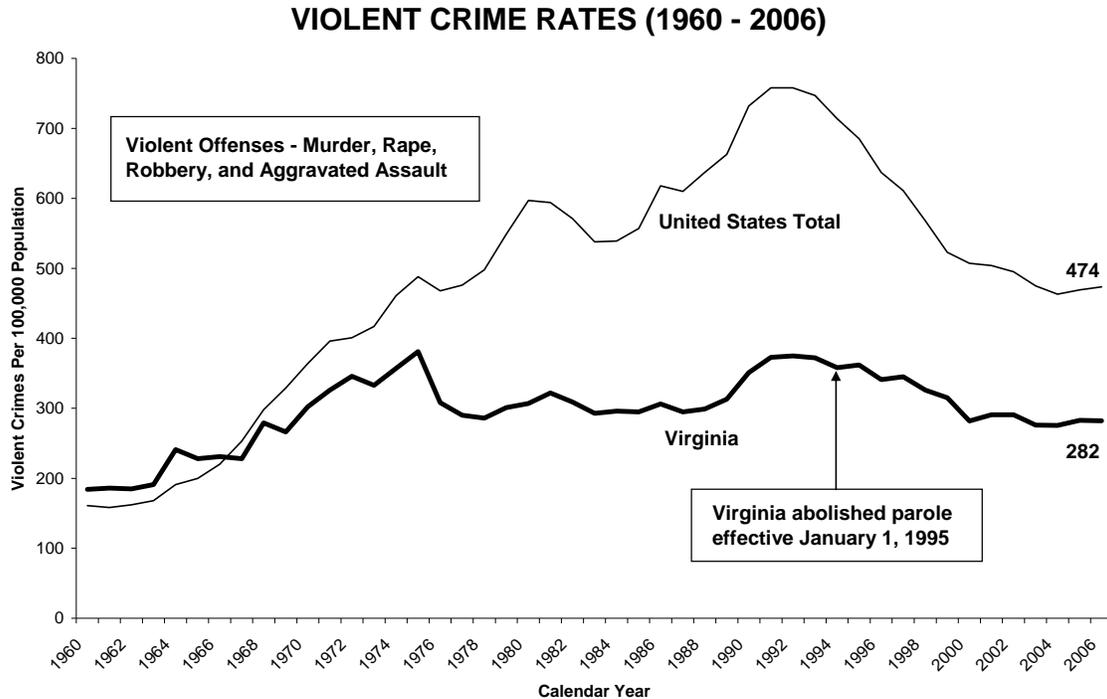
- As of June 2007, there were almost 50,000 offenders under state probation supervision and over 7,000 on parole, for a total caseload of almost 57,000 offenders under state DOC community supervision.



- The number of offenders on probation has increased over 68 percent from 1998 to 2007, while the number of offenders on parole has declined slightly.
- The probation caseload has grown more than twice as fast than the state-responsible offender population, which has increased by almost one-third during the same time.

Virginia's Crime Rate Has Fallen

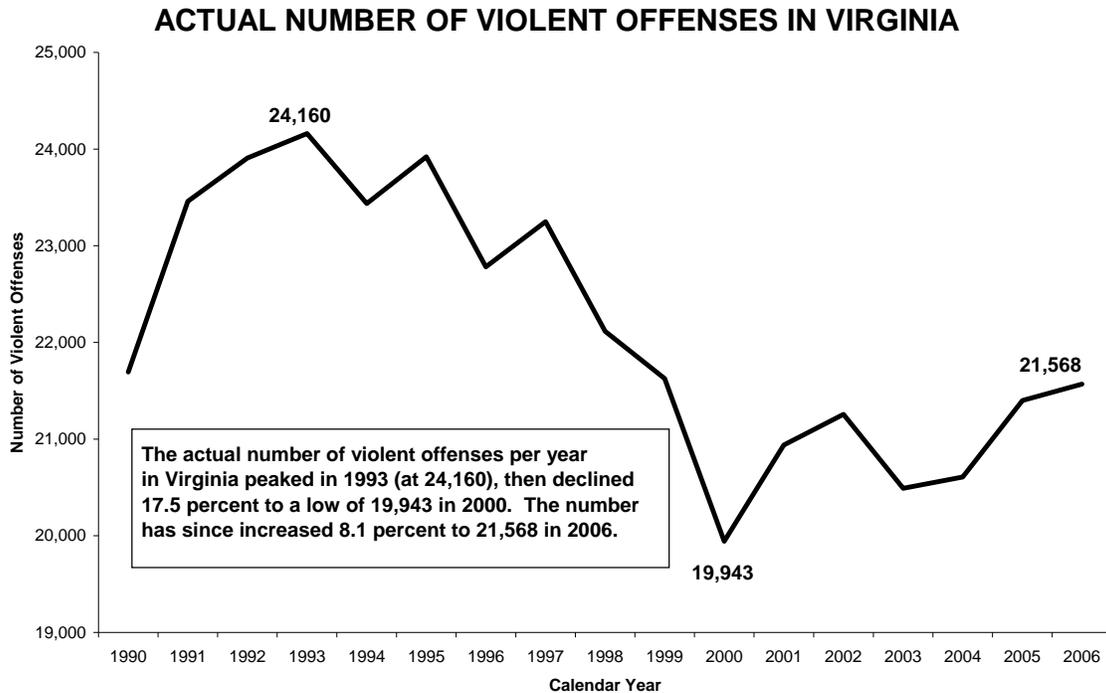
- Virginia consistently ranks among the low-crime states, in terms of numbers of offenses per 100,000 population, usually about 37th out of the 50 states.



- In Virginia, the rate of violent crimes reported to the police has dropped over 23 percent since the peak in 1991, and the rate of property crimes has dropped almost 38 percent during the same 15-year period.
- However, despite the drop in the rate, the actual number of violent offenses has increased since 2000.

The Number of Offenses is Increasing

- The actual number of violent offenses dropped sharply from 1993 to 2000, but has increased over eight percent from 2000 to 2006.



- The rate of each state's population growth influences the changes in its violent crime rate.
 - Virginia's population increased 23.5 percent from 1990 to 2006 (from 6.2 to over 7.6 million).

Arrests and Felony Cases are Increasing

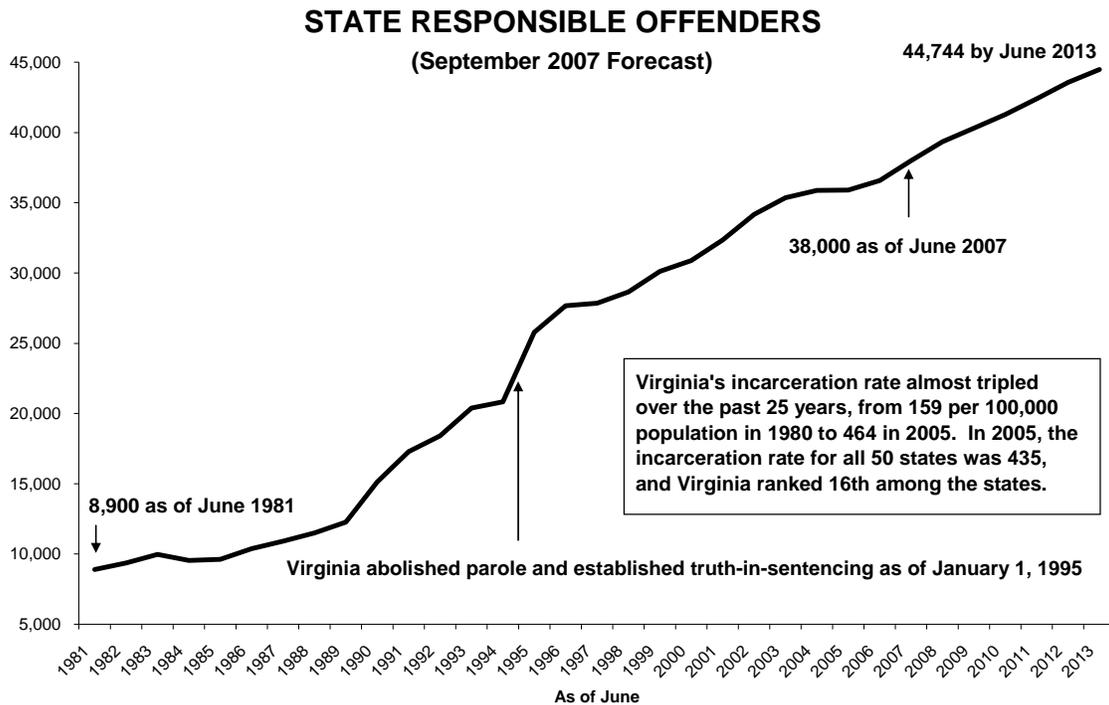
- From 2000 to 2006, Virginia has seen a steady increase in the numbers of arrests, felony cases concluded in Circuit Court, and new court commitments to prison:
 - Adult arrests – up 26 percent;
 - Felony cases concluded – up 25 percent; and,
 - New court commitments – up 33 percent.
- Unfortunately, the percentage of court cases not concluded within the Supreme Court’s time processing guidelines is also increasing.
 - The guidelines call for 90 percent of felony cases to be concluded within 120 days of arrest (and within 60 days for misdemeanors).
 - More than half of all felony cases in Circuit Court and a fourth of all misdemeanor cases in District Court are not meeting the guidelines.
 - This suggests the courts are struggling to keep up with their growing workload.

Key Factors Driving the Forecast

- Each year the Secretary of Public Safety publishes an updated, consensus forecast for both the state- and local-responsible offender populations.
- Three key factors drive the state forecast: prison admissions, average length of stay, and releases.
 - 1) Admissions grew an average of 5.4 percent each year from 1999 to 2006, and are projected to increase an average of 3.1 percent each year through 2013.
 - 2) Average length of stay has increased from 38 to over 40 months from 1999 to 2006.
 - 3) The number of releases is expected to continue to increase, but at a slower rate than admissions.
 - As of December 2006, about 9,000 inmates were still in prison under the old parole system (out of almost 32,000 inmates).
 - The discretionary parole grant rate for those remaining prisoners eligible for parole is only about five percent.

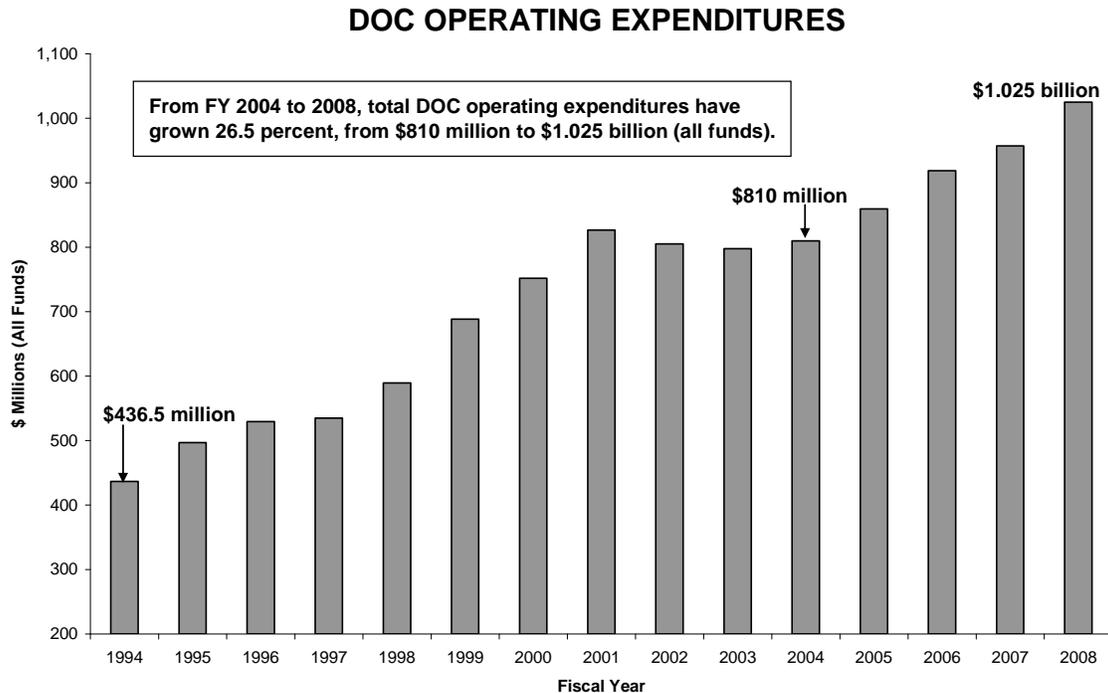
Virginia's Offender Population is Growing

- Over the next six years, the number of state-responsible adult offenders with prison sentences (those sentenced to one year or more) is projected to increase almost 18 percent – adding over 6,700 offenders by 2013.



- Since 1990 the General Assembly has approved financing for over 21,000 new correctional facility beds, at a capital cost of over \$1 billion.

Prison Expenditures Are Growing

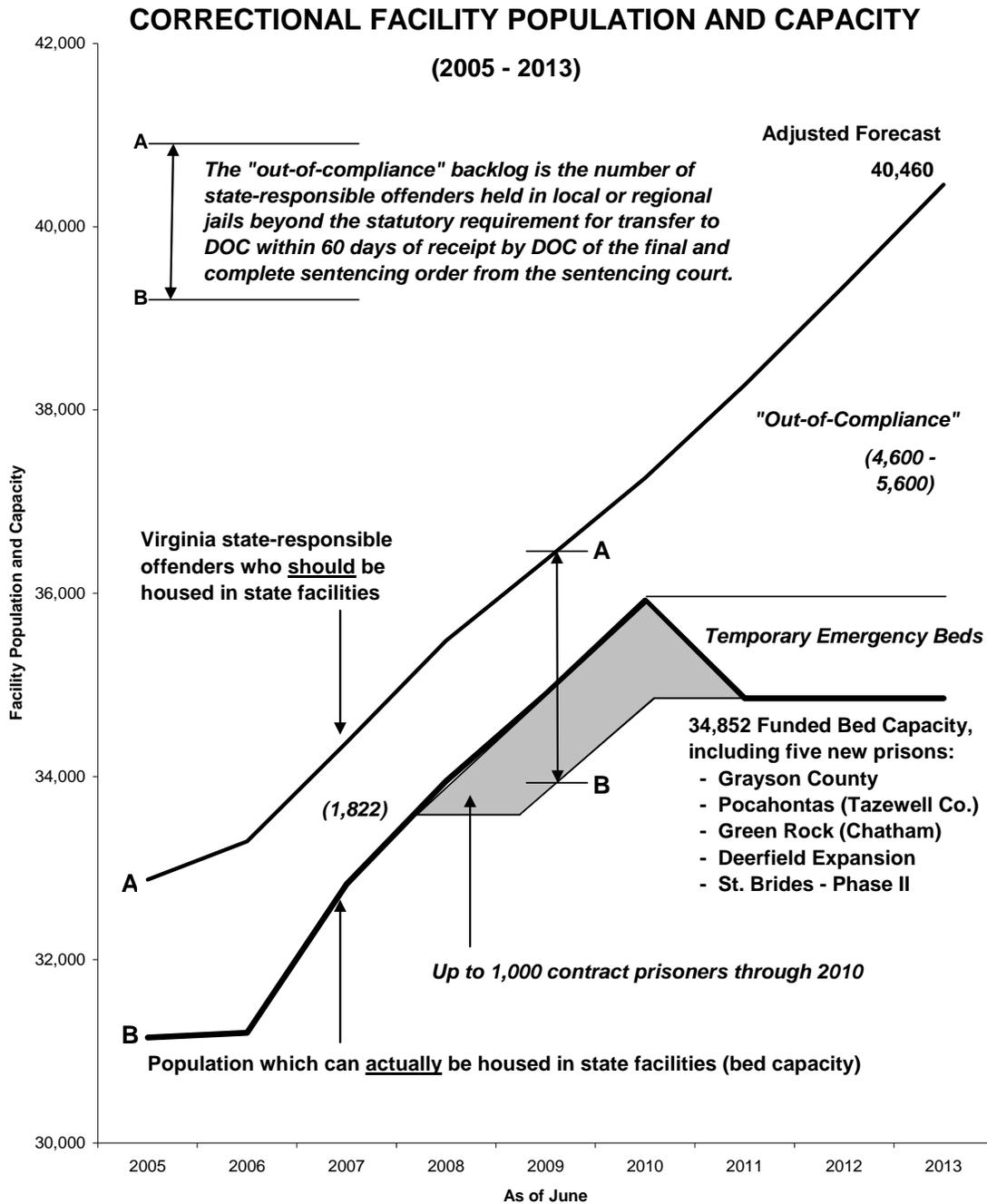


- Over the next six years (June 2007 to 2013), the forecast suggests Virginia's prison population will grow by the equivalent of one new prison each year.
- Each new 1,000-bed facility will require an initial capital construction cost of at least \$100 million, usually financed through general fund-supported bonds issued by the Virginia Public Building Authority (VPBA).
- As of 2010, each new facility will add \$25 million (\$25,000 per bed) to the annual DOC operating budget.

This Year's Forecast is Higher

- The most recent state-responsible forecast for 2012 is sharply higher (by 1,358 beds) than last year's forecast.
 - Our report at last year's retreat noted the forecast risk was that the trend line could be higher. The same cautionary note applies this year.
- At the same time, the October 1 budget reduction target for DOC calls for about \$19 million in savings in each fiscal year 2008, 2009, and 2010.
 - Under current circumstances, there appear to be no good options to generate recurring savings.
- The most significant proposed budget reduction strategy is for DOC to generate additional revenue by contracting to hold as many as 1,000 non-state offenders (probably illegal aliens) through 2010.
 - DOC housed as many as 4,000 out-of-state prisoners between 1998 and 2002.
- The proposal to house non-state offenders, at the same time additional space is needed after 2010, adds a new layer of complexity to planning for additional facilities.

Does DOC Have Excess Capacity?



Key Factors to Consider

- To answer this question, the General Assembly must balance the desired level of security with the need for additional revenues, in light of several key factors:
 - The physical limits of existing water supply and sewage treatment infrastructure;
 - Continued use of temporary emergency beds;
 - Increased use of vacant beds in lower security facilities, such as correctional field units;
 - The size of the “out-of-compliance” jail backlog;
 - The level of crowding in jails; and,
 - The risk that our own population may grow faster.
- The proposal to house up to 1,000 contract offenders will place additional strains on Virginia’s correctional facilities, and eliminate needed flexibility to respond to short-term emergencies or fluctuations in population.
- Any contracts for non-state prisoners should end after 2010, given the projected growth in Virginia’s own state-responsible population.

Growing Numbers of Probation Violators

- In 2006, there were 12,523 new court commitments.
- Of these, 47 percent (or 5,875) were probation revocations.
- Four-fifths of these (or 4,690 of the probationers who were revoked) had committed new crimes.
- The remaining one-fifth of the revocations (1,185 offenders), had not (yet) committed a new crime, but they had violated the terms of their probation to the extent that commitment to a facility was warranted.
 - DOC defines these 1,185 offenders as HTPV's, or "habitual technical probation violators."
 - Almost half of these have a violent offense in their criminal history, or medical/mental health issues, but the remaining 628 may be appropriate for placement in an alternative facility or program.
- With at least 1,185 admissions per year, and with a median sentence length of 22 months, DOC projects that a total of 3,000 "habitual technical probation violators" will be housed in state correctional facilities by 2013.
 - Over half of these may be appropriate for a lower-security, return-to-custody facility.

A Return-to-Custody Facility

- The 2006 General Assembly authorized DOC to move forward with plans for a new facility in Charlotte County, which could be privately-operated.
 - The 2007 General Assembly provided \$1.2 million for this project; however, this funding has been eliminated in the October budget reductions.
- DOC has recommended that the GEO Corporation be selected to build and operate the new facility.
- The projection of 3,000 habitual technical probation violators by 2013 presents an opportunity to reduce capital costs and expand programs to reduce recidivism.
- The Charlotte County facility could be designed, either in whole or in part, as a lower-security, return-to-custody facility for habitual technical probation violators.
- DOC estimates 57 percent of these offenders are drug users, and 25 percent are heavy drug users.
- Accordingly, a return-to-custody facility might emphasize substance abuse treatment, vocational education, and intensive planning for re-entry services.

Conclusions

- Virginia's adult state-responsible offender population is projected to grow by more than 6,700 offenders (from 38,000 to over 44,700) by 2013.
 - The Governor's proposal for DOC to contract for up to 1,000 non-state offenders through 2010 adds a new layer of complexity to the discussion of planning for additional facilities.
 - Unfortunately, under today's circumstances, there appear to be no better alternatives to meet the required budget reduction targets.
- In order to ensure sufficient space is available in 2010 and beyond, the 2008 General Assembly may wish to consider financing the proposed new facility in Charlotte County.
- At the same time, over the next several years, focusing on evidence-based strategies to reduce recidivism may help to lower the rate of growth in the offender population, thereby offsetting future prison costs.