

Senate Finance Committee

A New Business Model For Corrections

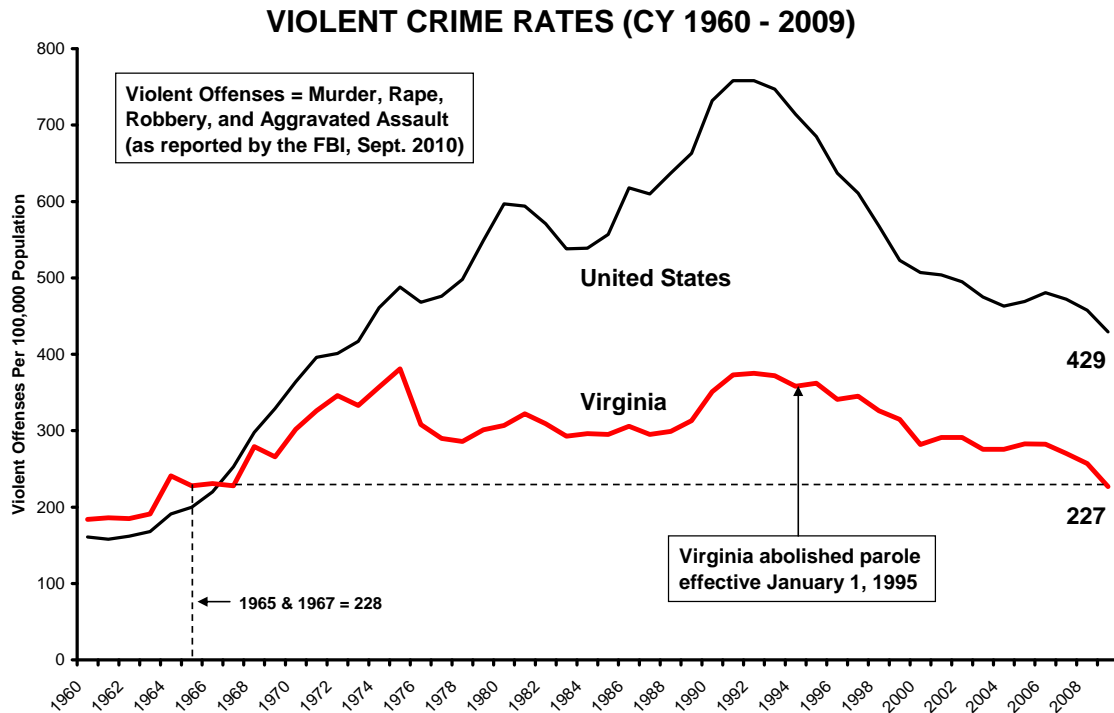
**November 18-19, 2010
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A New Business Model for Corrections

- State and local offender populations continued to drop over the past year. The six-year forecasts have been lowered again, suggesting minimal or no growth through 2016.
- This trend has made it possible for Virginia's correctional agencies to absorb unprecedented budget reductions.
- The Department of Corrections (DOC) continues to maintain a high level of security and a relatively low recidivism rate.
- However, Virginia's adult prisons are just as crowded today as ever before.
- After closing eight facilities since 2008, and reducing community corrections and treatment programs, more facility closings in adult corrections – without replacing the lost bed capacity – may run the risk of compromising security.
- A 30-year period of constructing new prisons, jails, and juvenile facilities is ending, but there are significant capital outlay needs on the horizon.
- A new business model is emerging in corrections, with an increased emphasis on reducing recidivism and encouraging alternative sanctions, where appropriate – based on sound principles of risk assessment.

Crime Rates Remain Relatively Low

- The rate of violent crime (per 100,000 population) continued to drop in the U.S. and in Virginia in CY 2009. The most recent data suggest no significant change in this trend.



- Virginia's drug arrest rate for cocaine has fallen since 2003; the total numbers of drug arrests have fallen since 2006.
- The rate of property crime has decreased since 2005; however, the total numbers of arrests for property offenses have continued to increase.
 - From 2006 to 2009, Virginia's total numbers of arrests for property crimes increased by almost 48 percent.

Virginia Compares Favorably

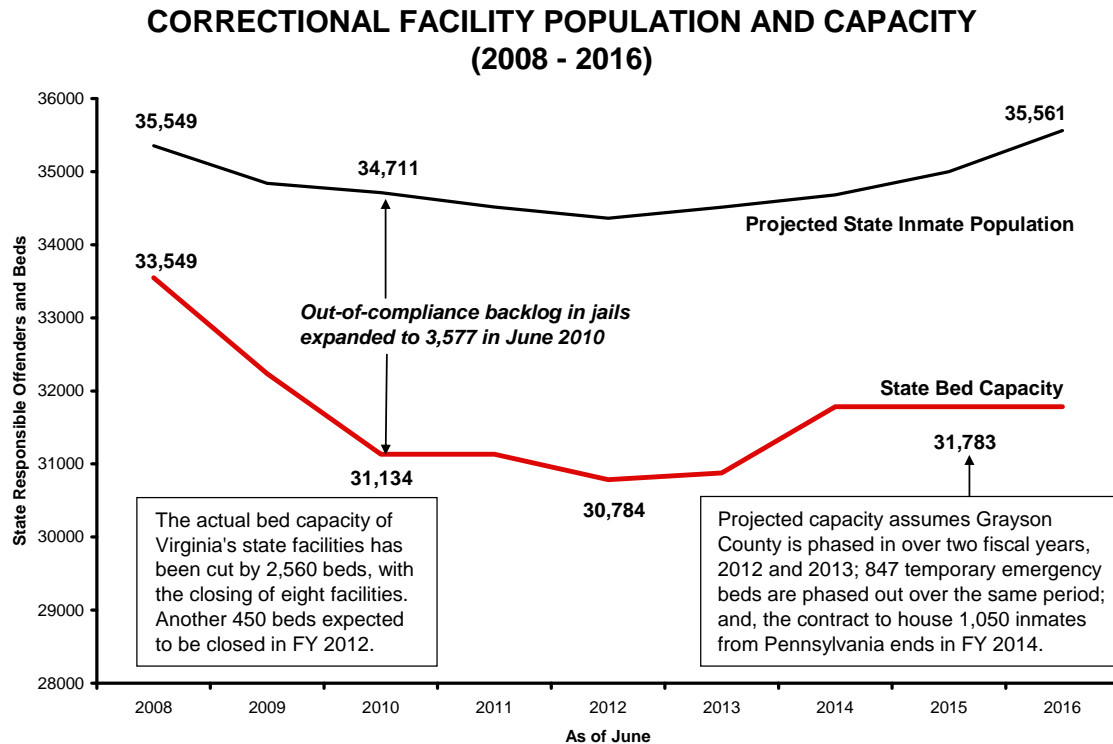
- From CY 2006 to 2009, Virginia dropped from 34th to 44th among the 50 states in violent crime rates.
- Virginia's rate of recidivism – 27.3 percent -- is tied for sixth lowest among the 38 states that use the same definition (return to prison within three years of release).
 - There are some concerns about the comparability of the data for comparing recidivism rates.
- Corrections has been consuming an increasing share of the budget in 42 states, but not in Virginia, according to the Pew Foundation, using data from the National Association of State Budget Officers:
 - In FY 2007, spending for corrections in Virginia consumed 6.7 percent of total state general fund expenditures (ranking 20th among the 50 states).
 - That share (corrections as a percentage of total GF expenditures) dropped by 8.1 percent in Virginia over the 20-year period from 1987-2007.
 - This was the largest drop of the eight states in which corrections spending declined as a percentage of total GF expenditures.
 - The national average was a 6.8 percent increase over the 20-year period (1987-2007).

Sentencing Reforms Have Worked

- The General Assembly abolished parole and established felony sentencing guidelines as of January 1, 1995.
- The guidelines are voluntary, and the compliance rate among judges remains very high, at about 80 percent.
- Embedded within the guidelines were longer lengths of stay in prison for violent and repeat offenders. Expensive prison cells were to be reserved for the most serious offenders, and prisoners were to serve at least 85 percent of their sentence.
- Length of stay was not increased for first time, nonviolent offenders. The General Assembly expressed its intent that up to 25 percent of lower-risk, nonviolent offenders should be diverted to alternative sanctions.
- As intended, the 1995 reforms have resulted in a higher utilization of prison cells for more serious offenders. The proportion of Virginia's prison population defined as violent (in the sentencing guidelines statute, Section 17.1-805) has increased from about 70 to 80 percent since 1994.
- In FY 2010, more than one-third (33.7 percent) of eligible nonviolent offenders were diverted from prison, and the data suggests that additional offenders could be diverted, if appropriate alternative sanctions were available.
- Virginia is the national leader in the use of risk assessment to determine which offenders may be diverted from prison, jail or juvenile detention, at minimal risk to public safety.

State-Responsible Offender Forecast

- The most recent forecast for 2016 is only slightly higher than the actual number of offenders in 2008.



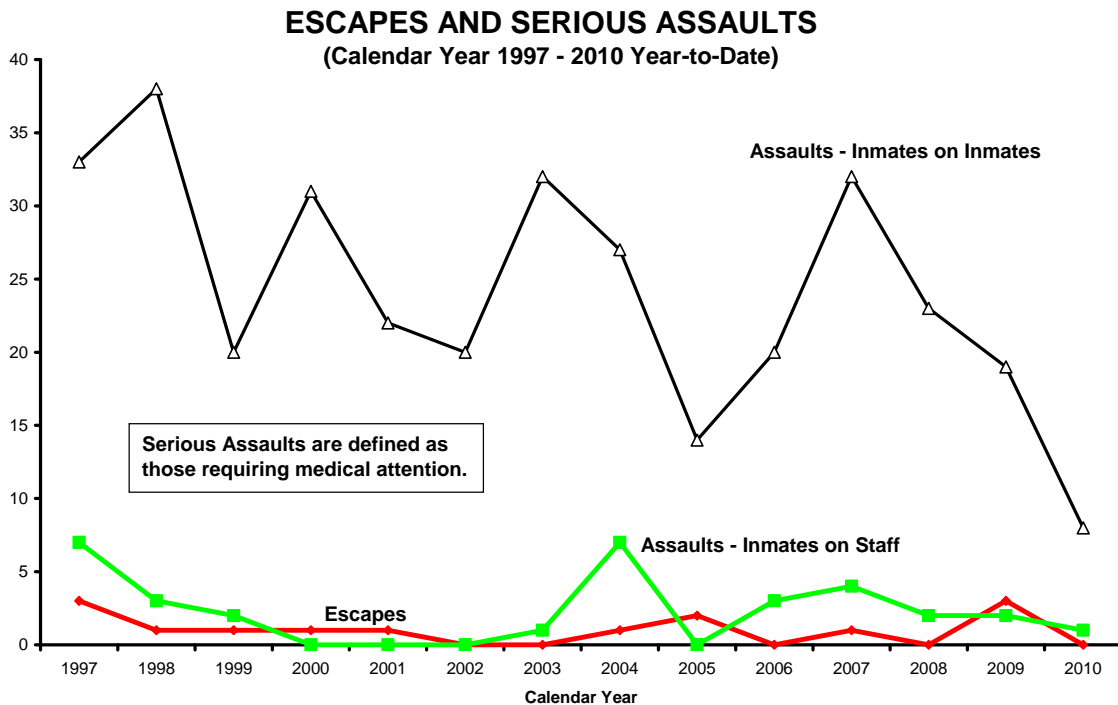
- This chart shows the gap between state prison capacity (excluding beds holding out-of-state inmates) and the adjusted, state-responsible population to be housed.
- This gap is the “out-of-compliance” backlog -- the number of state-responsible offenders in jail beyond the statutory requirement for transfer to DOC within 60 days of receipt by DOC of the final and complete sentencing order.

Virginia's Prisons Are Still Crowded

- Virginia has improved the operational effectiveness of its correctional system by replacing older prisons with modern facilities, designed to be efficient and more secure.
- Since 2002, DOC has eliminated 2,295 FTE positions, but by holding positions vacant only 60 employees were laid off, most of whom have been called back.
- Since 2008, as part of its most recent budget reductions, DOC has closed eight facilities (2,560 beds), including Brunswick and Southampton Correctional Centers.
- DOC has contracted to house 1,050 Pennsylvania inmates at the new Green Rock facility near Chatham.
- The new 1,047-bed Grayson County facility has been mothballed.
- As a result of these budget constraints, DOC is still operating at “maximum” capacity, which represents 60-65 percent double-bunking in every available cell and dormitory.
 - “Maximum” capacity is defined in a practical sense by the limits of water supply and wastewater treatment.
 - Dormitory units are double-bunked to the point that security lines of sight are compromised.
 - Capacity includes 847 “temporary emergency beds.”

Virginia's Prisons Are Secure

- Despite the continued high level of crowding, DOC has maintained an excellent record on security.



- The last national comparative report on escapes and assaults included data as of 2004. At that time, Virginia had the lowest escape rate in the nation.
- Virginia also had the third lowest assault rate on staff, and seventh lowest assault rate on other inmates.
- Since 2004, Virginia's actual numbers of escapes and assaults have stayed about the same or even improved.

Short-Term Options

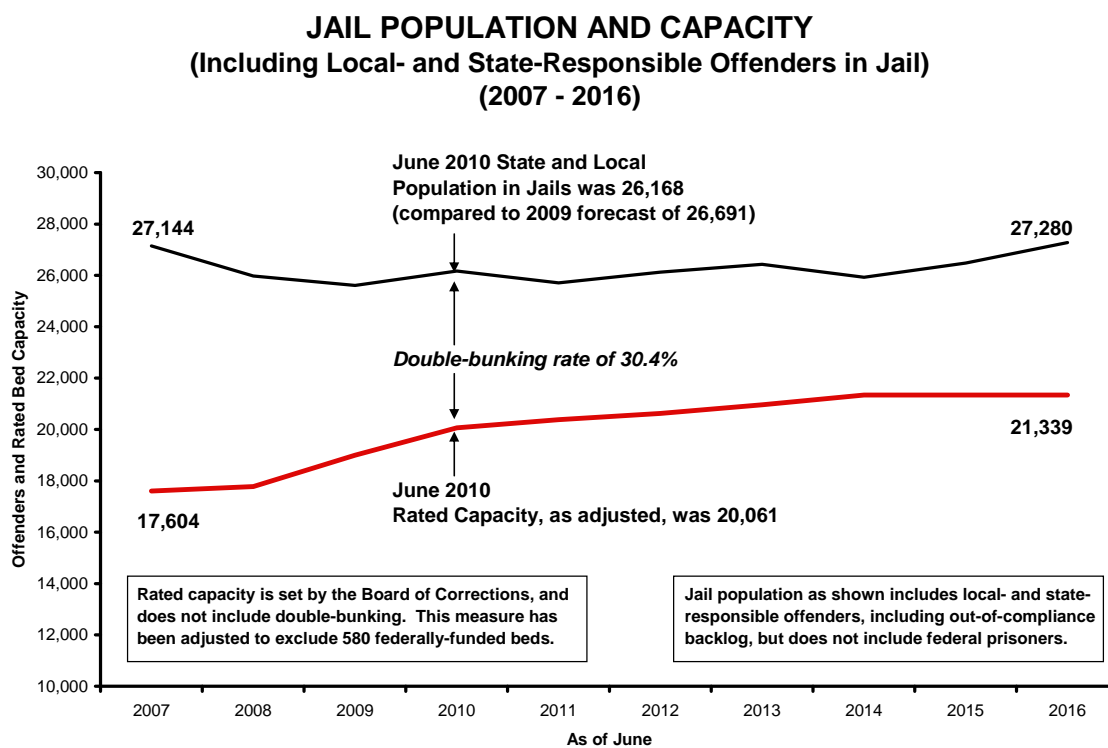
- The adopted budget for FY 2012 for DOC includes an \$11.0 million reduction in general funds to be addressed by closing one or more facilities, or other steps, in addition to a shortfall in funding for inmate health care costs.
- Closing additional facilities will continue crowded conditions into the next biennium, unless the new prison at Grayson County is opened.
- In the short-term, the General Assembly will have to balance further budget reductions against the level of crowding that can be maintained safely.
- Closing the FY 2012 budget hole of \$11.0 million would require closing about 450 more beds.
 - Offsetting the loss of those beds by opening two (of the four) housing units at the Grayson County prison would cost about \$14.4 million in FY 2012.
- Closing the 847 “temporary emergency beds” would generate minimal, if any, budget savings.
 - However, a number of local and regional jails have excess bed capacity that could be utilized.
 - Increasing the out-of-compliance jail backlog by 800 state inmates would cost the Compensation Board about \$3.6 million in FY 2012 (at \$12 per diem).

Medium-Term Options

- Beyond the current biennium, there are significant capital outlay issues to be addressed for existing facilities.
- Brunswick and Southampton Correctional Centers were closed as part of the recent budget reductions, but could be re-built and re-opened in the future, as needed.
- Powhatan Correctional Center should be replaced, according to a just-released DOC study, at an estimated capital cost of \$165 million (based on a 2008 report).
- The new DOC study also recommends replacing James River Correctional Center in Goochland County.
 - The James River site is recommended for replacement medical facilities due to its proximity to the Security Care Unit at VCU Health Systems (MCV). The capital cost is about \$150 million, based on a 2007 master plan.
- Additional geriatric units will be required as the inmate population ages.
- Maintenance costs for existing facilities will increase as the large number of facilities built beginning in the 1980's reach and exceed 30 years of age.
- The General Assembly has expressed its intent that the next new facility constructed should be in Charlotte County, but for the time being, no new prisons are needed.

Local-Responsible Offender Forecast

- Following three years of decline, the local-responsible offender population is expected to increase by about one percent each year through 2016. Accordingly, the total number of state and local offenders in jail is expected to be only half a percent higher in 2016 than in 2007:



- Regional and local jails have been able to absorb an “out-of-compliance” backlog of over 3,500 state inmates because the local-responsible population has dropped.
- Statewide, the level of double-bunking in jails has fallen from 54 to 30 percent over the past three years. (This compares to 60-65 percent double-bunking in DOC.)

Fewer Jails Are Crowded Today

- Out of 68 jails, there are 14 for which population exceeds capacity by over 100 percent, as shown below. *(Data for all jails is included as an appendix on pages 19-20.)*

	Population	Capacity	Pop. Over Capacity
Rappahannock County Jail (a)	27	7	290%
Pittsylvania County Jail (b)	128	36	256%
Patrick County Jail (c)	26	8	223%
Piedmont Regional Jail	516	181	185%
Central VA Regional Jail (d)	264	96	175%
Sussex County Jail (e)	75	28	168%
Brunswick County Jail (a)	59	24	145%
Appomattox County Jail (a)	29	12	143%
Accomack County Jail (f)	109	46	138%
Charlotte County Jail (e)	68	29	133%
Henry County Jail (e)	149	67	122%
Southside Regional Jail (g)	219	100	119%
Culpeper County Jail (h)	77	37	107%
Bristol City Jail	136	67	102%

*Note: Population includes state- and local-responsible offenders, but not federal prisoners.
Capacity excludes federally-funded beds. Population Over (Rated) Capacity is the double-bunking rate (%).*

*(a) In a new regional jail project now under construction (RSW, Meherrin River, Blue Ridge).
(b) DOC transferred Chatham Diversion Center to Pittsylvania County for local use.
(c) New Patrick County jail to be completed December 2010; total cost \$12 million, 63 beds.
(d) Population includes 90 federal inmates; and capacity excludes 146 federally-funded beds.
(e) The decision was made locally not to build or join a regional jail project.
(f) Was included in the Eastern Shore Regional Jail, but has utilized very few beds in practice.
(g) Southside Regional Jail has chosen to hold prisoners from other jurisdictions.
(h) Culpeper was granted a moratorium exemption, but has not initiated project.*

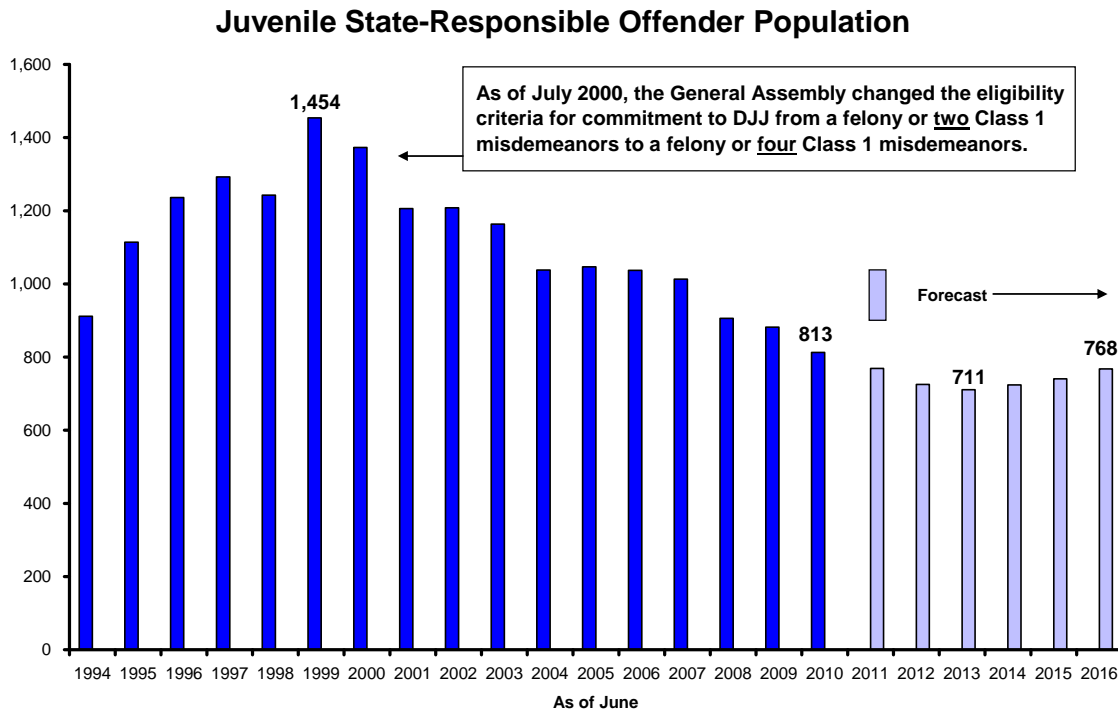
- Most of these 14 are already building replacement facilities, or have access to an expansion facility, or have chosen to contract for federal prisoners or prisoners from other jurisdictions in excess of their capacity, or have chosen not to participate in a new jail construction project.

Outlook for Virginia's Jails

- Overall, jails in Virginia are significantly less crowded than three years ago, and several have excess capacity.
- The General Assembly has tried to minimize the impact of budget cuts on Sheriffs and jails, although some jail costs have been shifted to local governments.
- As of this writing, there have been few, if any, complaints from Sheriffs or regional jail superintendents concerning the out-of-compliance backlog of state prisoners in jail.
- In 2008, the General Assembly made commitments to a few remaining jail projects for the state share of the capital cost, but the door for approving any more projects is closed.
 - Virginia's debt capacity for new capital projects of any kind, including jails, is limited.
- The Board and Department of Corrections play an important role in monitoring jails to ensure compliance with statewide construction and operating standards.
 - No other agency has the experience and expertise to provide this essential oversight of Virginia's 68 independent local and regional jails.
- Given limited resources, it may be appropriate to consider incremental steps to improve coordination of the currently available prison and jail bed capacity.

Juvenile Populations Have Fallen

- The state juvenile correctional center population has fallen by 44 percent from 1999 to 2010.



- The number of admissions has declined, but the average length of stay has increased. Accordingly, a slight upturn in population is forecast for 2016.
- A similar decline has occurred in the local and regional detention home (local-responsible) population.
- There is excess bed capacity in Virginia's state and local juvenile facilities.

A New Business Model for Corrections

- Over the past 30 years, Virginia has made a major commitment to build prison, jail, and juvenile facilities.
 - As a result, Virginia's correctional facilities are – for the most part – more secure and more efficient than the capital stock as it existed in 1980.
- However, at least for now, the rise in crime driving this commitment to construction has subsided, and offender populations have stabilized.
- It is not possible to predict the future with certainty, or whether the rate of violent crime will increase again at some point, but for now DOC has little flexibility to accommodate any expansion of its inmate population.
- The Commonwealth does not have the fiscal or debt capacity to continue to build and operate new facilities without limit, nor is new construction needed for the foreseeable future (other than for replacement and medical facilities).
- Instead, a new business model is emerging, with the goal of protecting public safety by reducing recidivism. With this in mind, the Administration is emphasizing:
 - Evidence-based practices;
 - Prisoner reentry planning; and,
 - Alternative sanctions for selected lower-risk, nonviolent offenders, using objective data to predict the risk which the individual offender poses to public safety.

Evidence-Based Practices

- Over the past several years DOC has implemented new practices that have been shown through extensive research studies to reduce the rate of recidivism. These include:
 - Changes in the psychological environment to encourage offender responsibility and success;
 - Motivational interviewing to encourage greater interaction between probation officers and offenders in the process of case planning; and,
 - Risk and needs assessment instruments to match offender risk with appropriate supervision levels and treatment programs.
- A total of 22 sites, including 17 probation and parole district offices and five detention and diversion centers, are now using this approach – covering almost half of all probationers and parolees. The preliminary results are promising:
 - Successful case closings have increased from 73 to 85 percent of all cases from FY 2005 to 2010; and,
 - Probation revocation rates are lower in EBP pilot sites (15.7 percent compared to 23.1 percent).
- Evidence-based practices are now being incorporated in all DOC community and institutional programs.

Prisoner Re-Entry

- DOC released about 13,000 prisoners in 2009. Even with a relatively low recidivism rate of 27.3 percent, over a three-year period, over 10,000 offenders will recidivate.
- The goal of prisoner re-entry is to reduce the number of prisoners returning to prison, by increasing the likelihood of successfully reintegrating them into their home communities following their release from prison.
- Building on previous efforts, the Governor has continued and renamed the Virginia Prisoner and Juvenile Offender Re-Entry Council, and has increased the emphasis on reentry.
- The Council has addressed cross-cutting issues, including veterans, juveniles, women, housing and employment, and mental health and substance abuse.
- Recognizing that funding is very limited, the Council is recommending steps that can be taken through increased inter-agency coordination and policy changes.
- For example, Virginia's state-responsible offender population in December 2009 included 1,991 veterans (5.2 percent of the total of about 38,000). Of these, 54% had been honorably discharged, and half will be released within five years.
- The Council is working to strengthen linkages between DOC, the Department of Veterans Services and Virginia Wounded Warrior Program, and the U.S. Veterans Administration.

Alternatives for Nonviolent Offenders

- The Secretary of Public Safety has continued the Task Force on Alternatives for Nonviolent Offenders.
- The task force is reviewing steps to encourage greater use of electronic monitoring.
 - The technology in this field has changed. The preferred approach today is to use GPS systems to provide continuous monitoring of the offender.
 - Misdemeanants on GPS monitoring do not receive good time sentence credits as do other misdemeanants who serve their time in jail.
 - The task force has concluded that good time credit should be given for misdemeanants who are employed, or in cases involving medical conditions, although the task force was not unanimous on this point.
- The task force has concluded that Day Reporting Centers should be restored, when funds become available
- The task force has concluded that DOC Detention and Diversion Centers should be restructured to increase their utilization, including the possibility of transferring the programs to jails which may have excess bed capacity.
- The task force has concluded that crisis intervention training for dealing with the mentally ill should be expanded.

Conclusion

- Virginia has now dropped to seventh lowest among the 50 states in the rate of violent crime.
- Offender populations appear to be stabilizing and sentencing reforms seem to be working as intended.
- Is this what success looks like? It would be premature to declare victory, but it is reasonable to recognize that much progress has been made.
- Over the past two years, unprecedented budget cuts have affected the entire criminal justice system.
 - Credit is due to state and local employees across the Commonwealth who are managing with less.
- Virginia's adult correctional facilities remain secure, and crowding in jails has been significantly reduced.
- However, overcrowding in state correctional facilities remains a serious concern. Further budget reductions and facility closures could affect security.
- A new business model is emerging in corrections, with an increased emphasis on reducing recidivism and encouraging alternative sanctions, where appropriate – based on sound principles of risk assessment.

Appendix: Jail Population and Capacity (August 2010)

Local Jails	Population	Capacity	Over or Under (-) Capacity (%)
Accomack County Jail	109	46	138%
Alexandria City Jail	178	240	-26%
Alleghany County Jail	87	56	56%
Amherst County Jail	82	50	64%
Appomattox County Jail	29	12	143%
Botetourt County Jail	89	124	-28%
Bristol City Jail	136	67	102%
Brunswick County Jail	59	24	145%
Charlotte County Jail	68	29	133%
Chesapeake City Jail	1,002	543	85%
Chesterfield County Jail	331	250	32%
Culpeper County Jail	77	37	107%
Danville City Jail	257	213	21%
Danville Jail Farm	175	120	45%
Dinwiddie County Jail	58	32	83%
Fauquier County Jail	106	56	89%
Franklin County Jail	59	49	20%
Gloucester County Jail	78	42	86%
Hampton City Jail	371	468	-21%
Henry County Jail	149	67	123%
Lancaster County Jail	27	26	3%
Loudoun County Jail	201	196	2%
Martinsville City Jail	128	79	62%
Mecklenburg County Jail	125	68	83%
Montgomery County Jail	90	60	50%
Newport News City Jail	525	300	75%
Newport News Jail Farm	133	137	-3%
Norfolk City Jail	1,361	833	63%
Page County Jail	65	34	92%
Patrick County Jail	26	8	223%
Petersburg City Jail	198	195	2%
Pittsylvania County Jail	128	36	256%
Portsmouth City Jail	422	288	46%
Rappahannock County Jail	27	7	290%
Richmond City Jail	1,386	882	57%
Roanoke City Jail	516	409	26%
Roanoke County Jail	127	108	18%
Rockingham County Jail	325	208	56%

Local Jails (continued)	Population	Capacity	Over or Under (-) Capacity (%)
Shenandoah County Jail	74	55	35%
Southampton County Jail	79	122	-35%
Sussex County Jail	75	28	168%
Virginia Beach City Jail	1,344	800	68%
Warren County Jail	129	79	63%
Regional Jails			
Albemarle-C'ville Regional Jail	549	329	67%
Arlington County (Regional) Jail	493	474	4%
Blue Ridge Regional Jail	968	800	21%
Central Virginia Regional Jail	264	96	175%
Eastern Shore Regional Jail	119	148	-20%
Fairfax County (Regional) Jail	1,200	876	37%
Hampton Roads Regional Jail	876	798	10%
Henrico County (Regional) Jail	1,179	787	50%
Middle Peninsula Regional Jail	190	121	57%
Middle River Regional Jail	628	396	59%
New River Regional Jail	702	859	-18%
Northern Neck Regional Jail	137	80	71%
Northwestern Reg. Adult Det. Ctr.	563	556	1%
Pamunkey Regional Jail	357	290	23%
Peumansand Creek Regional Jail	201	336	-40%
Piedmont Regional Jail	516	181	185%
Prince William-Manassas RJ	861	667	29%
Rappahannock Regional Jail	1,153	1,024	13%
Riverside Regional Jail	1,243	1,372	-9%
Rockbridge Regional Jail	86	56	53%
Southside Regional Jail	219	100	119%
Southwest Virginia Regional Jail	1,507	896	68%
Virginia Peninsula Regional Jail	435	290	50%
Western Tidewater Regional Jail	508	372	37%
Western Virginia Regional Jail	705	605	17%
All Local and Regional Jails	26,665	19,992	33%
<i>Notes: Population includes state- and local-responsible prisoners, but not federal prisoners. Operating capacity as defined by the Board of Corrections does not include double-bunking. Operating capacity as shown excludes 455 unopened beds (Fairfax County, 384, and Loudoun County, 71), and 580 federally-funded beds (Alexandria, 100, Central Va., 146, N. Neck, 154, and W. Tidewater, 180). Source: Compensation Board, Out-of- Compliance Report for August 2010</i>			