

SENATE OF VIRGINIA

Senate Finance Committee

Corrections: Current Trends and Policy Choices

November 20, 2015



SENATE FINANCE COMMITTEE

Key Points

- Virginia continues to have a relatively low violent crime rate, but heroin and prescription drug abuse is a growing problem.
- Treatment for mental health and substance abuse represents one of the most important challenges in corrections.
- The juvenile offender population (state and local) continues to decline, but recidivism remains very high.
- The adult state-responsible (SR) population is growing slowly.
- The adult local-responsible (LR) population is stable, and has actually been declining in recent months.



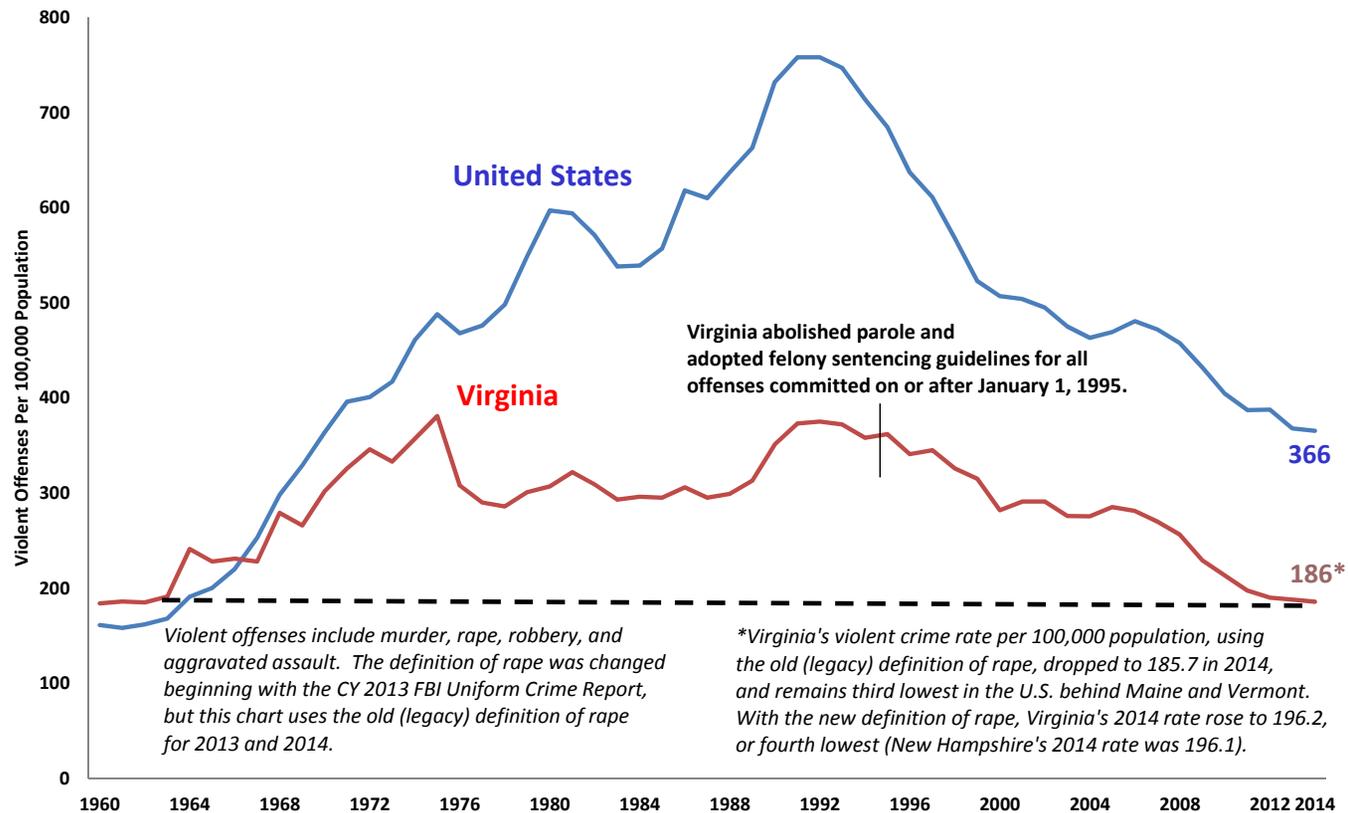
What challenges lie ahead?

- Several cities across the nation have experienced an increase in homicides in 2015. In Virginia, most (but not all) indicators suggest a continued reduction in crime.
 - Total serious offenses reported to Virginia State Police fell 6.2% in the period January to September 2015, compared to the same period in 2014.
- Other indicators point to increased heroin and prescription drug overdoses and deaths, and related criminal offenses.
- Slower growth (or decline) in offender forecasts suggests construction of traditional correctional facilities may not be needed.
 - A greater challenge may be found in the growing need for substance abuse and mental health treatment programs and facilities, along with the search for more effective ways to reduce recidivism.



What's happening to crime rates?

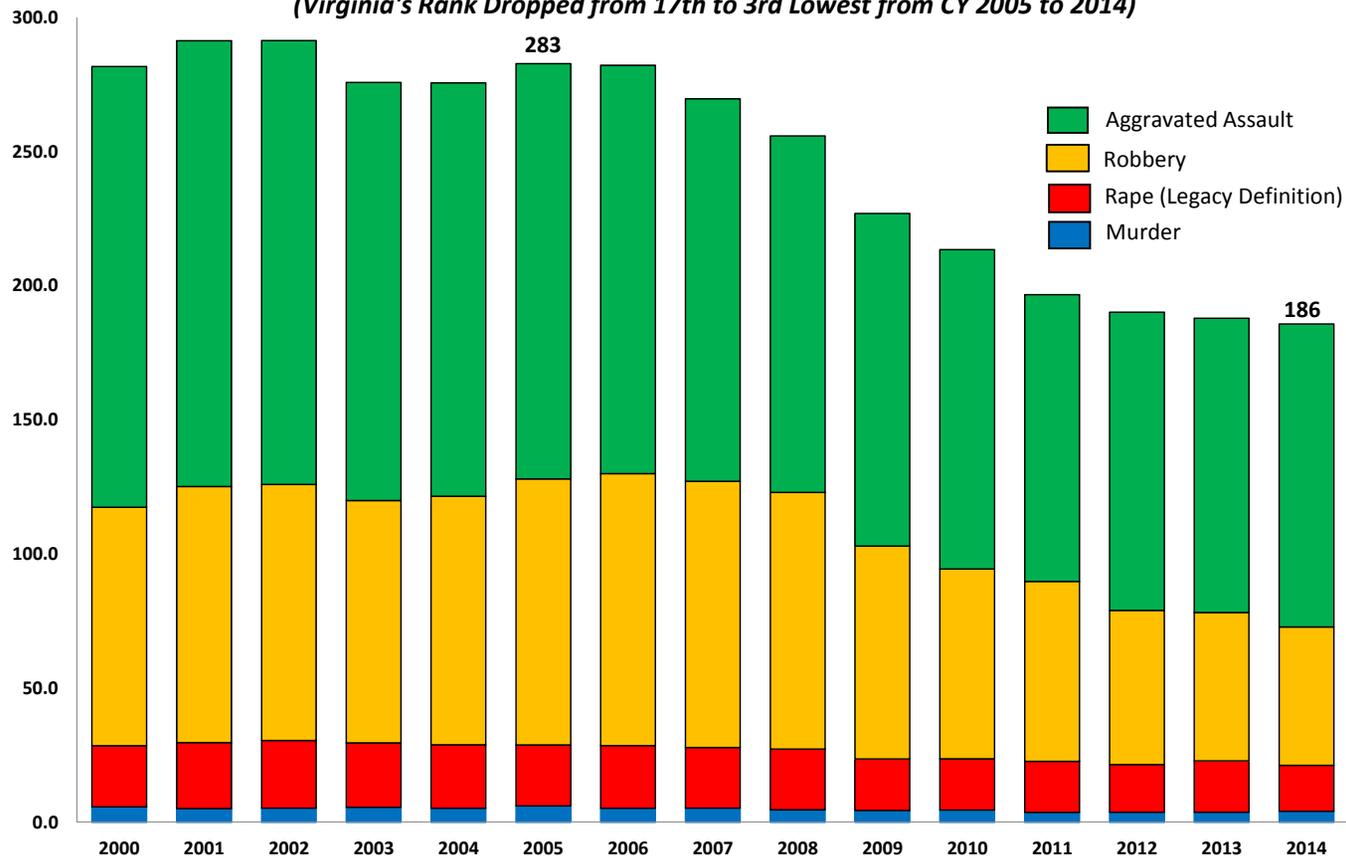
The Overall U.S. Violent Crime Rate Continued to Decline Through CY 2014, but 34 States Experienced an Increase in 2014.
(FBI Uniform Crime Reports)



Virginia's violent crime rate is lower

Virginia's Aggravated Assault and Robbery Rates Dropped Sharply Between CY 2006 and 2012.

(Virginia's Rank Dropped from 17th to 3rd Lowest from CY 2005 to 2014)



Are crime trends changing?

- Virginia's violent crime rate increased slightly in CY 2014, using the new (expanded) UCR definition of rape.
 - Murder and aggravated assault rates in Virginia increased slightly in 2014, with only the robbery rate decreasing.
 - Numbers of murders, robberies and auto thefts up slightly in CY 2015 YTD.
- Virginia's jail population has fallen in recent months, due to a drop in admissions for DUI, disorderly conduct, and drunkenness.
 - Police chiefs cite a number of factors for the decline in DUI arrests.
- Heroin arrests in Virginia more than doubled from 2011 to 2014, along with a sharp increase in overdoses and deaths from heroin and prescription drugs.
 - Heroin arrests up 7% Jan.-June 2015 compared to same period 2014.



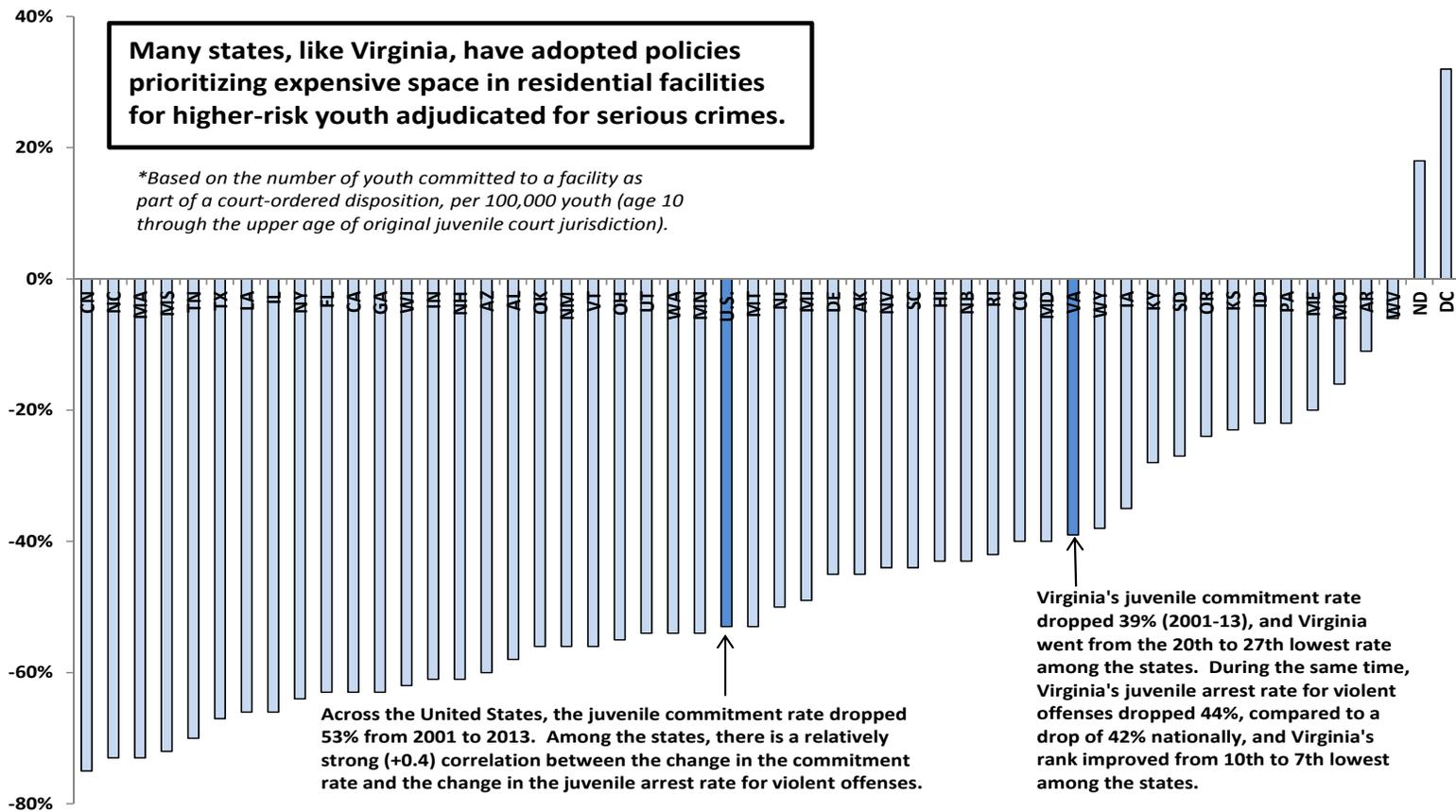
Juvenile Justice

- Nationally and in Virginia, juvenile crime rates have dropped.
 - Likewise, in Virginia, delinquency intakes to juvenile court have dropped.
- The numbers of juveniles in state, local and regional facilities have dropped sharply (and are projected to continue to decline).
 - Most of the remaining offenders in facilities have very intensive substance abuse and mental health treatment requirements.
 - Recidivism rates for these offenders are high.
- A focus on treatment outcomes and recidivism reduction is needed.
- Closing an additional state facility could provide the opportunity to re-direct limited general fund resources towards more effective programs at the local level.



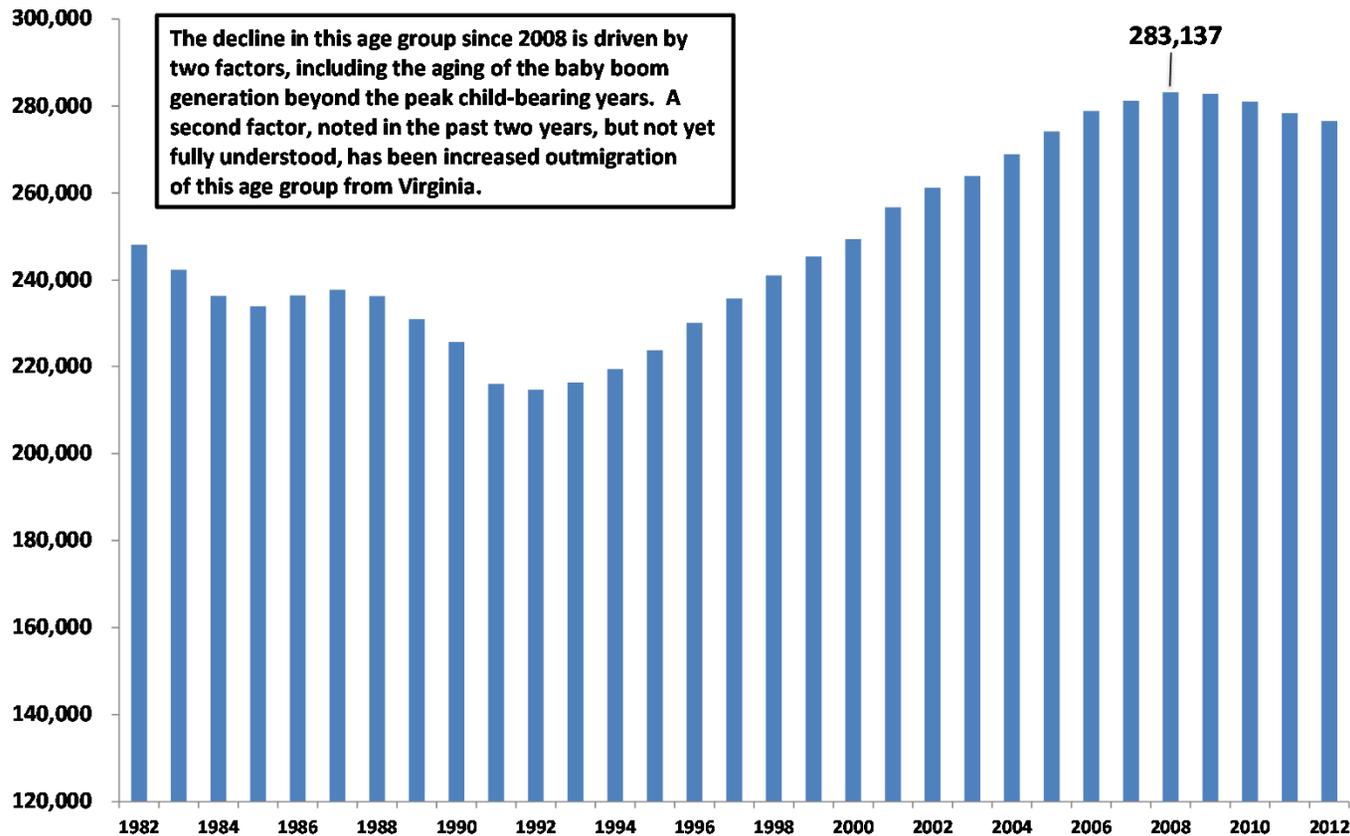
Arrests and commitments have fallen

From 2001 to 2013, the U.S. juvenile commitment rate* dropped 53%, reflecting a 42% drop in the juvenile violent arrest rate.

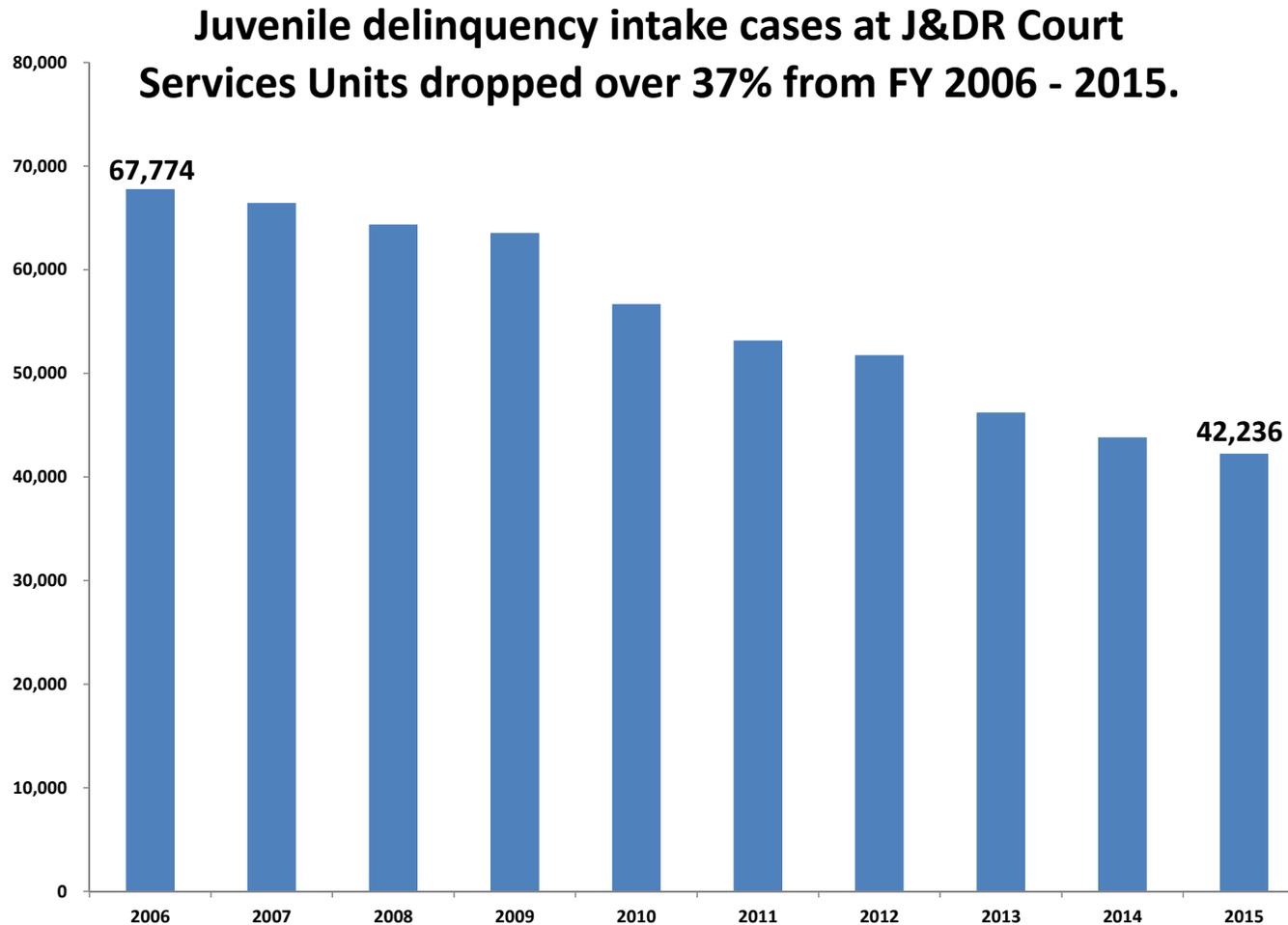


Juvenile population is declining

Virginia's male population, age 15-19, peaked in 2008, and is now declining.

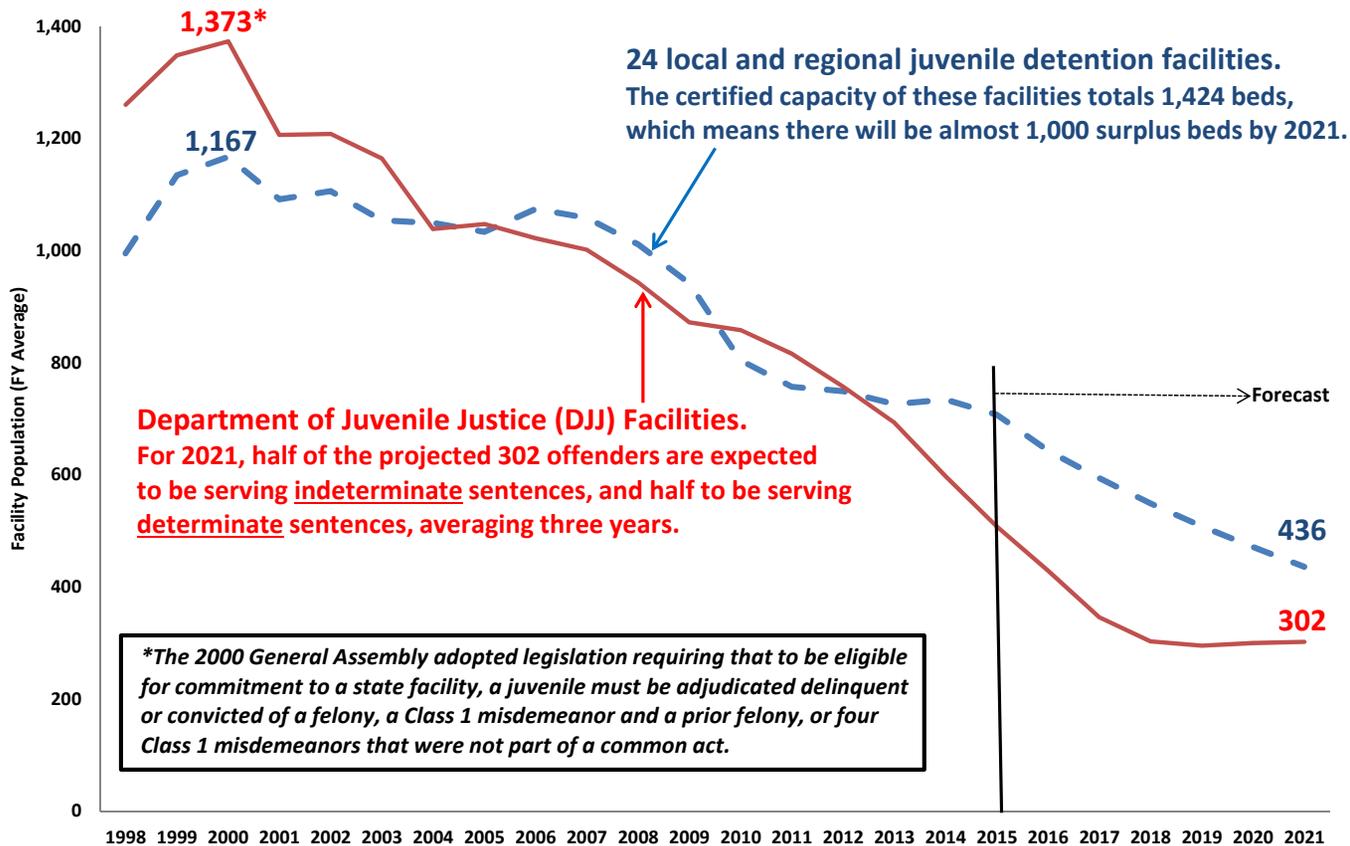


Intake cases are declining



Virginia has excess bed capacity

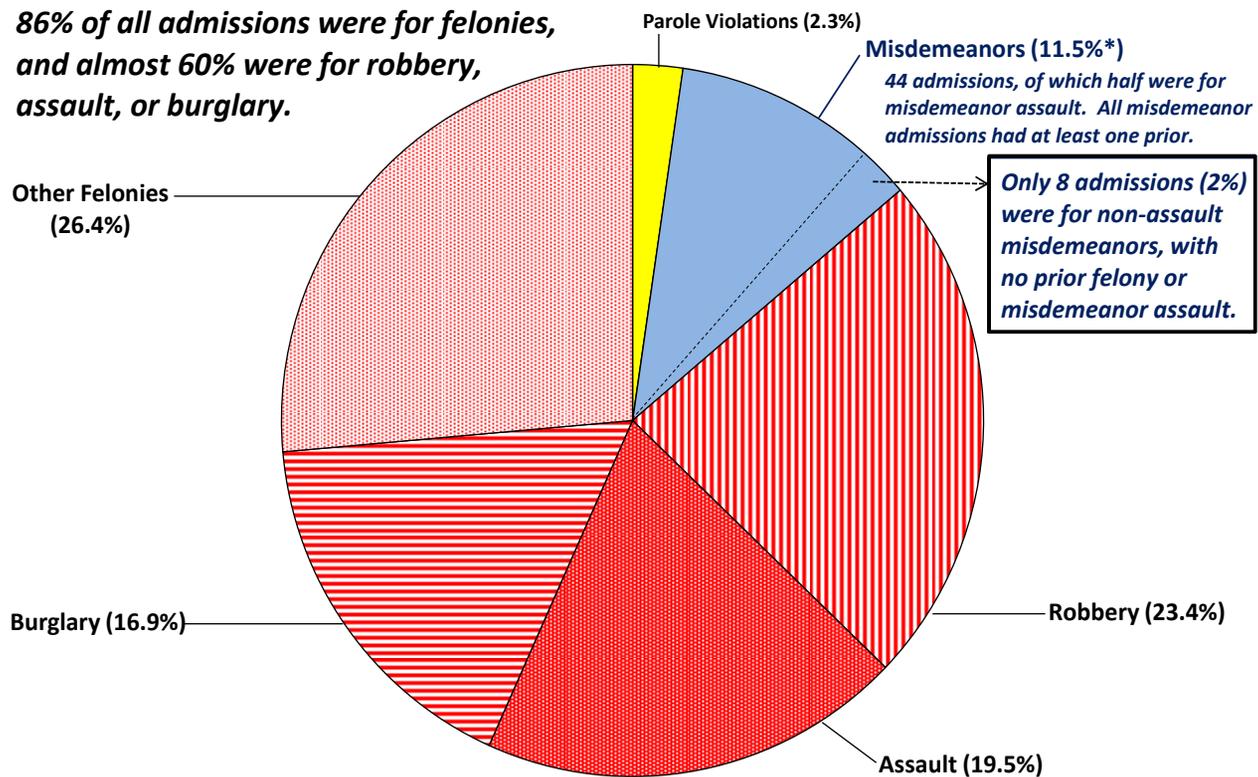
The Number of State- and Local-Responsible Juvenile Offenders Has Dropped Since FY 2000.*



Less serious offenders are diverted

- Remaining offenders have committed more serious offenses.

In FY 2015 there were 384 admissions to state juvenile facilities.



Who remains in state facilities?

- Offenders committed to state juvenile facilities have a complex array of issues that will have to be addressed if the goal is to reduce the high rate of recidivism. For example:
 - Prior abuse (59% physical abuse; 58% parent criminal activity);
 - Educational deficits (average IQ = 87; 37% need special education); and,
 - Intensive treatment requirements, including:
 - 92% need aggression management treatment;
 - 85% need substance abuse treatment;
 - 77% need mental health treatment; and,
 - 14% need sex offender treatment.
- The 36-month re-arrest rate is 75%; the re-incarceration rate is 49%.
 - The first question: what kinds of intervention have been demonstrated to be most effective in reducing recidivism?



Length-of-stay is being reduced

- Research suggests longer length of stay in state facilities is associated with less-successful outcomes. The key to lowering recidivism may be intensive treatment (closer to home, where possible).
- The Board of Juvenile Justice has recently adopted new length-of-stay (LOS) guidelines for youth committed to indeterminate sentences:
 - The proportion of offenders housed in state facilities for nine months or less is projected to double by 2021 – from 30 to 60%.
 - Many of these offenders could be housed under contract with local or regional juvenile detention facilities, or alternative programs – if funding were provided.
 - The proportion of offenders housed in state facilities for 15 months or longer is projected to drop by 2021 – from 40 to 12%.
- By 2021, only 210 juveniles are projected be held in a state facility for more than nine months.



Is building new facilities a priority?

- DJJ has proposed closing its remaining two campuses (Beaumont, Bon Air), and building two smaller facilities (156 beds, \$80 million).
- However, the secure facilities at Beaumont and Bon Air are less than 20 years old – although many buildings on these campuses are older.
 - Until there is more experience with the new LOS guidelines, Bon Air could still be productively utilized to provide secure confinement for the most serious offenders – and Beaumont could be re-purposed for adult use.
 - Any savings from closing a facility will still be needed for:
 - Essential facility renovations;
 - Mental health and other intensive treatment programs; and,
 - Contract beds in local detention facilities (or other local programs).
- Further legislative review will be essential.



Adult Corrections

- Virginia's felony sentencing guidelines are working as intended.
- The state-responsible (SR) population is growing, but at a slower pace.
 - Over the next six years, the policy choices may include:
 - Constructing (or re-opening or re-purposing) additional facilities;
 - Diverting more lower-risk, nonviolent offenders to alternatives; or,
 - Shifting more SR prisoners and costs to local and regional jails.
- The local-responsible (LR) population has stabilized, but:
 - 5,000 state prisoners in jails – projected to increase; and,
 - 3,300 prisoners in jail with a serious mental illness – few state funds.
- A key decision today is not how many new beds to build, but rather, how best to provide treatment for substance abuse and the mentally ill.



Parole and the drop in crime

- Violent crime dropped faster in states with determinate sentencing.
 - From CY 1994 to 2013, the violent crime rate fell 38% in the 15 states that have no discretionary parole for the majority of offenders, compared to a drop of only 19% for the other 35 states with parole.
 - The rate dropped even faster in Virginia – where the decline was 47.5%.
- This does not mean that abolishing parole in Virginia in 1994 caused the decline in the violent crime rate.
 - Factors contributing to the drop in violent crime include longer prison terms for violent, repeat offenders, more effective policing strategies, actions to control international drug trafficking – and many other factors.
 - It is reasonable to conclude that Virginia’s sentencing reforms contributed to the drop in crime.
 - Most criminologists have concluded the “incapacitation” effect is responsible for a significant part of the reduction in crime.



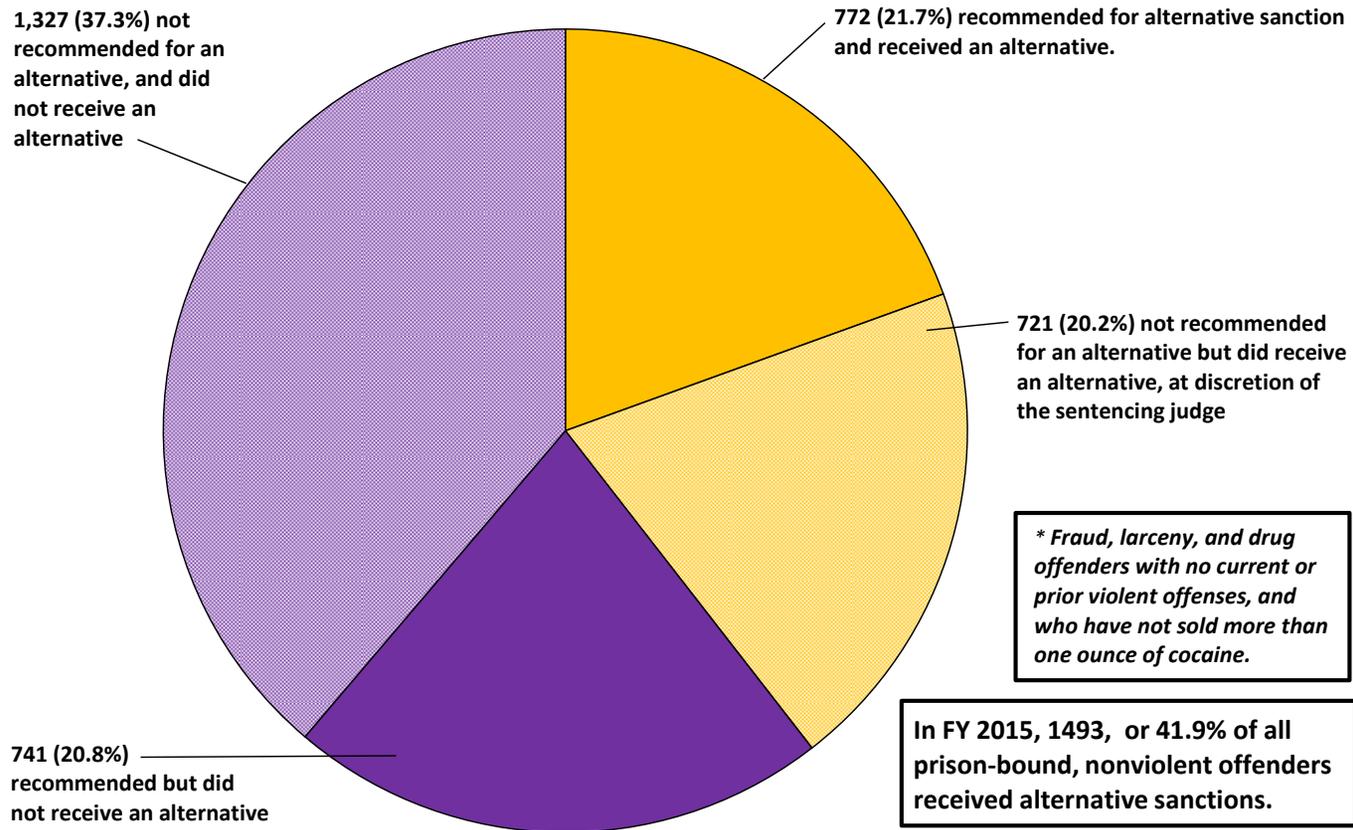
The sentencing system is working

- Virginia's sentencing guidelines have resulted in a higher proportion of prison beds occupied by violent, repeat offenders (80%).
 - Few offenders are in prison in Virginia for non-violent offenses, who do not also have multiple offenses or violent prior offenses. As of June 2014:
 - *Of 762 offenders serving a prison (SR) sentence for simple possession of Schedule I or II, only 40 did not have other felony convictions, had not served a prior term of SR incarceration, had fewer than four felony convictions for which they served prison time, and did not have a prior violent felony conviction.*
 - Key to Virginia's success has been longer sentences for violent offenders and alternatives to incarceration for lower-risk, non-violent offenders.
 - SFC staff reviews suggest other states have been no more successful than Virginia in diverting lower-risk, non-violent offenders, while achieving lower violent crime and recidivism rates.
 - However, Virginia could do more.
 - Only 36% of Circuit judges surveyed believed sufficient and effective alternatives to incarceration were available to provide intermediate sanctions, when appropriate.



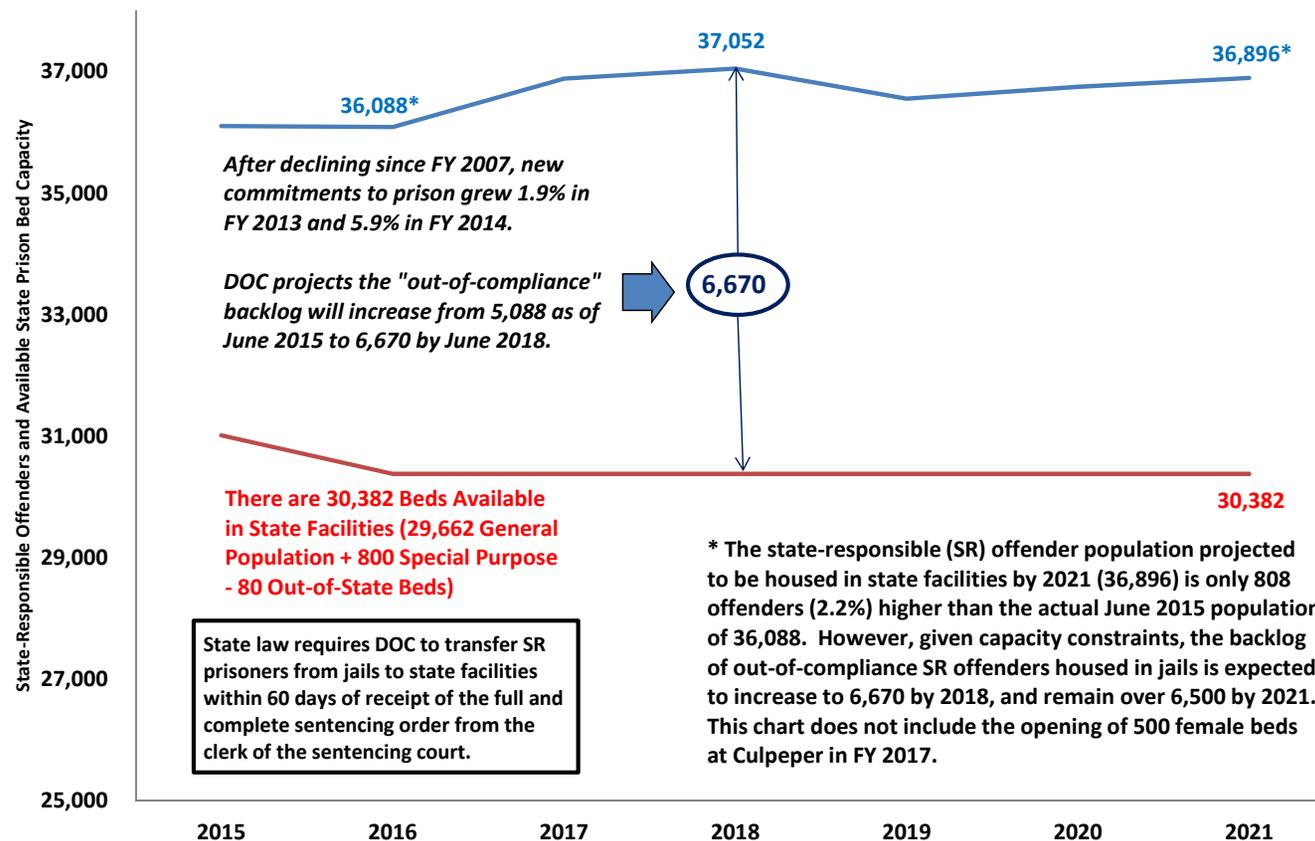
There is potential for more diversion

Risk Assessment Outcomes for Nonviolent Offenders*
3,561 offenders were recommended for prison under sentencing guidelines.
(FY 2015)



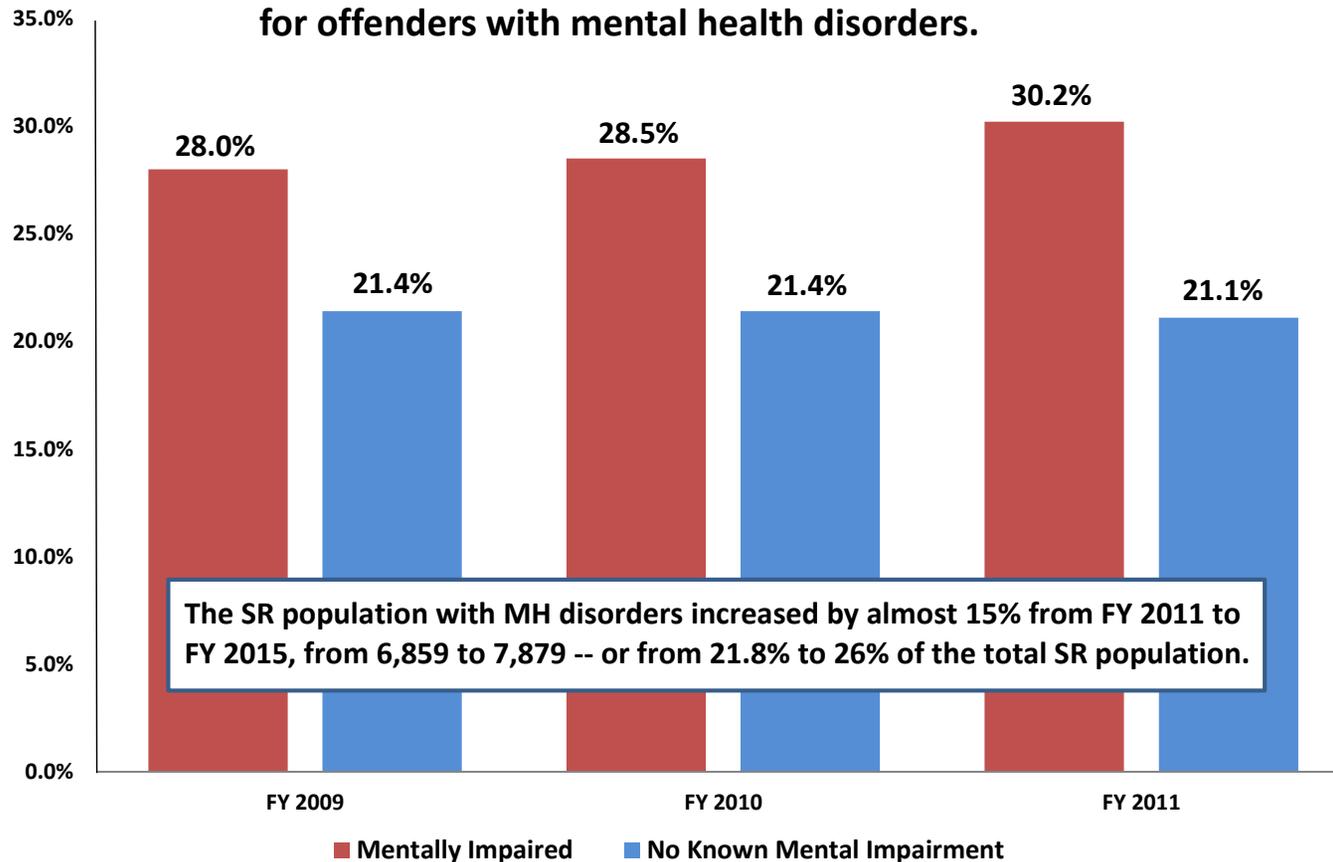
SR population is growing slowly

DOC State Facility Population and Capacity
 (Assuming September 2015 Forecast, as of June each year)



Recidivism has increased slightly

Virginia's 3-year reincarceration rate has increased slightly, from 22.8 to 23.0%, due to an increase in the rate for offenders with mental health disorders.



What are the fiscal challenges?

- Additional mental health beds may be needed more than additional prison beds.
 - DBHDS has requested capital projects to replace Central State Hospital (\$168.0 million) and expand Western State Hospital (\$22.3 million).
 - Joint Subcommittee on Mental Health (Senator Deeds) is midway through a four-year review of Virginia’s mental health system.
- Virginia’s adult prison population is aging, and the cost of providing health care for inmates is increasing.
 - *\$22.8 million request for next biennium.*
- The numbers of female offenders are increasing faster than males.
 - *\$40.9 million request to open Culpeper as 500-bed facility for women.*
- DOC has requested \$278 million to maintain existing facilities.



Texas has expanded diversion

- In 2007, Texas expanded diversion programs and substance abuse and mental health treatment beds, with the goal of avoiding a new round of expensive prison construction.
 - The initiatives funded 5,900 new lower-security beds, including :
 - Probation and parole intermediate sanction facilities & treatment (2,200 beds);
 - Substance abuse felony punishment facilities (1,500 beds);
 - Conversion of two closed juvenile facilities (1,200 beds);
 - Halfway houses (300 beds); and,
 - In-prison and probation substance abuse and mental health treatment slots.
- The 2007 Texas legislature also authorized \$273.4 million in bonds for three new prisons (3,990 beds) – but the prisons were not built.
 - Texas legislative staff credits the 2007 initiative with eliminating the need for the new prison beds, while reducing recidivism.



Policy choices for corrections

- Virginia may eventually need to consider building more prison capacity to reduce the growing numbers of state prisoners in jail, beyond the statutory limit. Potential capital projects include:
 - \$150 million to rebuild Powhatan Correctional Center;
 - \$15 million to add an additional geriatric unit; and,
 - \$5 million to add a women’s dormitory unit.
- Or, Virginia could expand alternatives to divert additional lower-risk, nonviolent offenders, expand substance abuse and mental health beds (or programs), and re-use older facilities.
- These options are not mutually exclusive.
 - The goals should be to maintain low crime rates, reduce recidivism, and lower corrections costs in the long term.



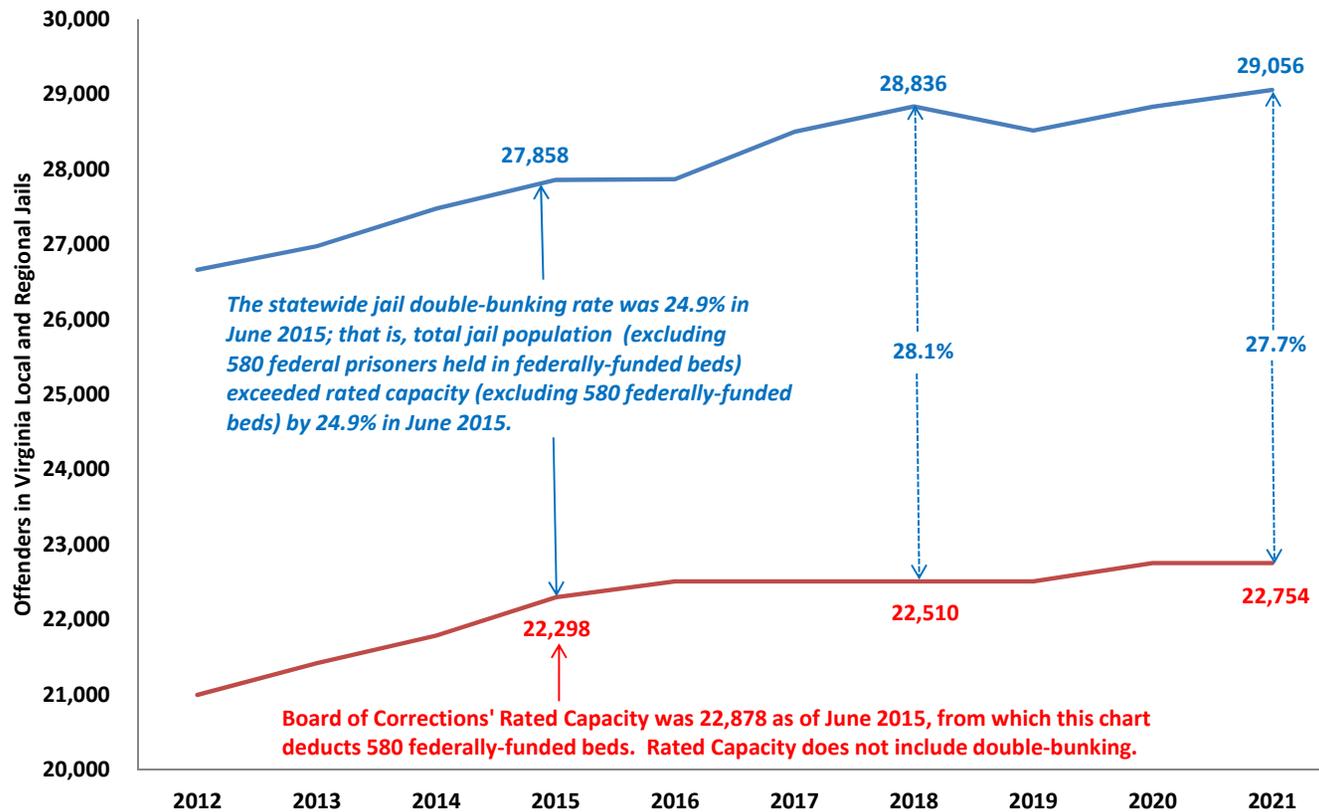
Local and Regional Jails

- Jails are not overcrowded.
 - Combined population exceeds rated capacity by only 25%.
- The General Assembly has reduced the state share of capital costs for regional jails from 50 to 25% (same as local jails).
 - Currently no new capital projects pending (but some may be proposed).
- The Commonwealth has shifted more of the cost of its prison system to local and regional jails.
 - “Out-of-compliance” backlog of 5,000+ state prisoners – may increase.
 - Recidivism rate is higher for SR prisoners held in jail.
 - 3,300+ seriously mentally ill offenders held in jail (\$4 per diem).
 - State share of total operating costs (for all jails combined) dropped from 49 to 39% from FY 1998 to 2014.



Fewer local-responsible offenders

**Jail population, including local-responsible, state-responsible, and federal inmates in excess of federally-funded beds.
(September 2015 forecast, FY average data)**



More mentally ill offenders

- Based on the Compensation Board's most recent survey, there were just over 3,300 seriously mentally ill offenders in Virginia's jails during the month of June 2015 (*see appendix, page 30*).
 - Includes schizophrenia, bi-polar/major depression, PTSD.
 - Represents 7.0% of all inmates who served time in jail during the entire month (or 13.2% of average daily population).
 - Relies on reports from jail staff, but there is no standardized screening or assessment process – better information is needed.
- There is no funding or mandate for CSBs to provide jail-based mental health services, other than pre-screening.
- The U.S. Supreme Court has determined that jails have a constitutional obligation to provide medical care, including psychiatric care.



What steps have been taken?

- Joint Subcommittee on Mental Health in the 21st Century is reviewing these issues, to determine the appropriate responsibilities for mental health treatment and funding requirements for jails.
- Jail re-entry programs are also under review (Senator Marsden).
- Compensation Board staffing standards are very limited.
 - 1 position per 25 inmates (classification, records, medical, and treatment).
 - State pays \$21,380 (two-thirds of \$32,070) per position; 283 positions short.
- \$13.1 million GF per year has been provided through DBHDS for:
 - Crisis Intervention Teams (CIT);
 - 26 operational, 6 developing, 5 in planning; 8,774 first responders trained;
 - CIT drop-off or assessment centers (12 operational, 14 more funded); and,
 - Mental health jail diversion programs (12 programs).



Conclusions

- Sentencing reforms are working as intended, but additional lower-risk, nonviolent offenders could be diverted.
- Virginia is seeing slower growth in the adult correctional population and decline in the juvenile population.
 - There is less need to build traditional facilities, especially in view of current limits on available debt capacity for capital projects.
 - Options are available to make better use of existing resources/facilities.
- The key question: what steps would be most effective to address the mental health and substance abuse issues facing state and local corrections, reduce recidivism, and protect public safety?



Appendix: Mentally ill in Jail

(2015 Compensation Board Jail Mental Health Survey)

There were 3,300 seriously mentally ill (MI) offenders in Virginia's jails in June 2015.

Jail	Jail Population*	Total MI	Seriously MI	% Seriously MI
Riverside Regional	1,717	473	250	14.6%
Hampton Roads Regional	1,370	503	244	17.8%
Chesapeake City	1,780	338	228	12.8%
Fairfax County	2,323	375	188	8.1%
Southwest Virginia Regional	2,947	489	187	6.3%
Prince Wm.-Manassas Regional	1,640	203	153	9.3%
Western Virginia Regional	883	427	142	16.1%
Blue Ridge Regional	1,712	197	131	7.7%
Richmond City	1,975	174	114	5.8%
Northwestern Regional	1,175	266	108	9.2%
Middle River Regional	1,034	207	104	10.1%
Virginia Beach City	2,937	153	100	3.4%
Arlington County	640	128	85	13.3%
Norfolk City	1,972	131	81	4.1%
Henrico County	2,132	185	79	3.7%
Piedmont Regional	724	155	68	9.4%
Alexandria City	441	96	67	15.2%
Roanoke City	977	179	66	6.8%
Albemarle-C'ville Regional	679	145	66	9.7%
Newport News City	1,019	126	64	6.3%
Chesterfield County	1,016	84	56	5.5%
Rappahannock Regional	2,072	149	52	2.5%
Sub-Total (22 Jails)	33,165	5,183	2,633	7.9%
The Other 36 Jails Reporting	13,832	1,871	670	4.8%
TOTAL (58 out of 60 Jails)	46,997	7,054	3,303	7.0%

* Jail population defined as the total number of individuals who spent time in the jail during June 2015.

