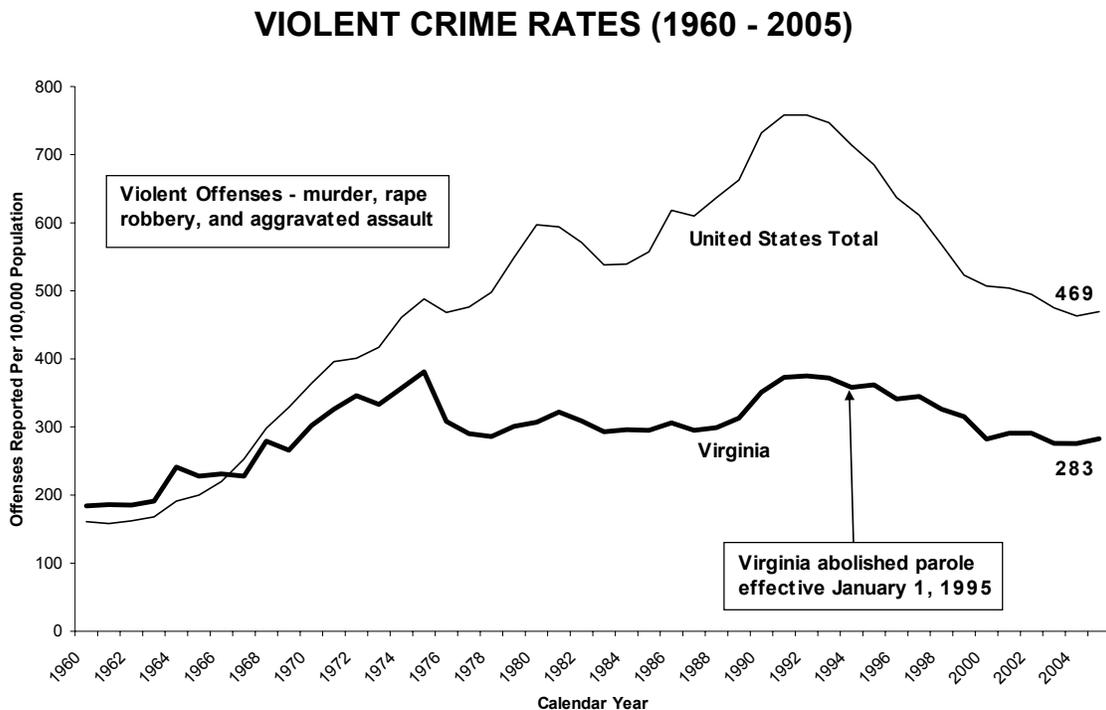


Introduction

- Virginia has made a major commitment to state and local corrections, and this is an area that will continue to grow over the next several years.
- Since abolishing parole (as of January 1, 1995) Virginia has successfully implemented new felony sentencing guidelines, based on truth-in-sentencing and longer sentences for violent, repeat offenders.
- Virginia has also achieved its 1994 goal of diverting 25 percent of lower-risk, non-violent felony offenders, so there is no significant fiscal relief to be found in diverting large additional numbers of offenders.
- Over the past several years, there has been a growing recognition that substance abuse and mental health issues are placing increasing demands on the criminal justice systems (both adult and juvenile).
- Given current pressures on the general fund, the mental health challenges in criminal justice cannot be solved in the short term, but long term direction is needed.
- The immediate task is to continue seeking better information to define this problem more clearly, and to begin identifying promising strategies.

Violent Crime Increased In 2005

- Nationally, the number of violent offenses reported increased 2.3 percent in calendar year 2005 over 2004, and the rate per 100,000 population grew 1.3 percent.
 - Are we at a turning point? We don't know.



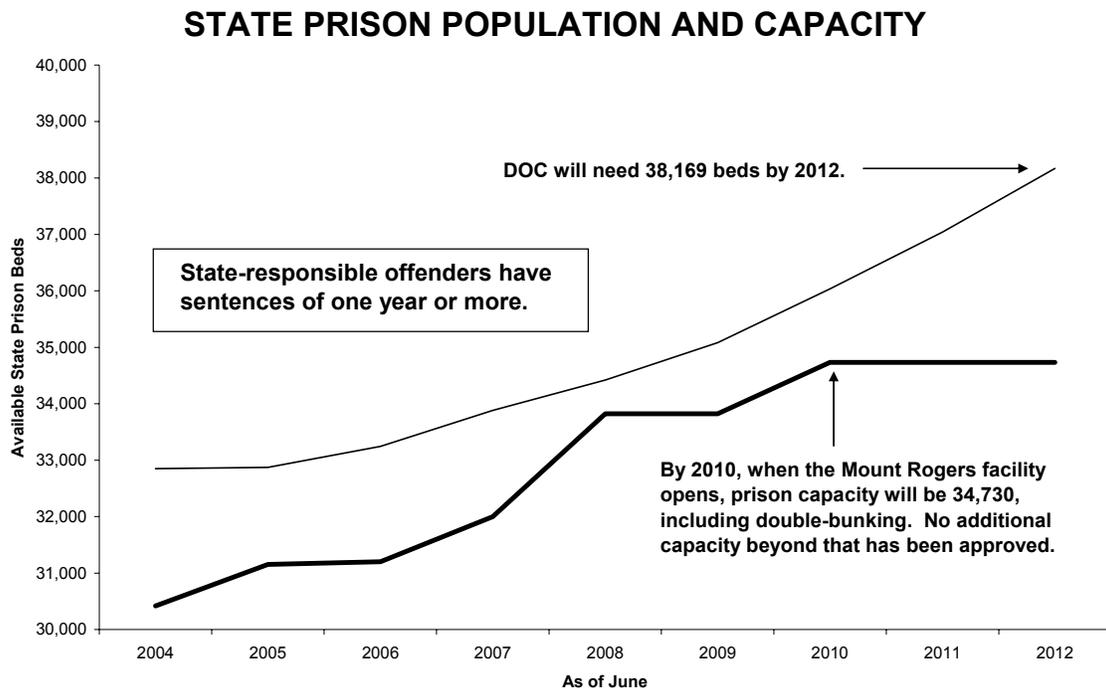
- In Virginia, the number of violent offenses increased 4.1 percent in 2005, and the rate increased 2.5 percent.
- In Virginia and nationally, the rate of property offenses reported dropped slightly.

Additional Facilities Are Needed

- Capital spending for new state prisons since 1990 has totaled over \$978 million -- adding a total of over 21,200 beds (and raising total adjusted capacity to 33,823).
 - This total includes 3,448 new beds opening in 2007, including new facilities located in Tazewell County (Pocahontas) and Pittsylvania County (Chatham).
- The “no vacancy” sign is posted at the Department of Corrections. The “out-of-compliance” backlog is 2,700 and rising (until the new beds open in 2007).
- The 2006 General Assembly approved Phase 2 of the public-private partnership for another new facility in Grayson County (expected to cost \$100 million).
- In view of the most recent forecast, the 2007 General Assembly may wish to consider initiating plans for an additional facility (beyond the Mount Rogers facility), which may be needed in about five years.
- The General Assembly has identified Charlotte County as the next likely location.

Offender Forecast Is Increasing

- For the state-responsible offender population, the most recent forecast for 2012 is slightly higher than last year's forecast. (The forecast risk is that it could be higher.)
- Based on the new forecast, DOC will be short 3,400 beds by 2012, which translates into the "out-of-compliance" backlog in local and regional jails.



- Additional facilities appear to be needed. This raises the question, have we exhausted the possibilities for diverting additional lower-risk, non-violent offenders?

Can Capital Costs Be Avoided?

- Virginia became the first and only state to implement risk assessment guidelines in all judicial circuits in 2002.
- Conceptually, Virginia appears to have maximized the opportunities for diverting lower-risk, non-violent offenders into alternatives to incarceration.
 - In 1994, when parole was abolished, the General Assembly set as a goal the diversion of up to 25 percent of low-risk, non-violent felony offenders.
 - DOC has reviewed over 118,000 cases between 1998 and 2005 for fraud, larceny and drug offenses (which make up the bulk of non-violent cases).
 - From 1998 to 2001, judges diverted 28 percent of the cases considered for alternatives.
 - From 2002 to 2005, after statewide implementation of risk assessment guidelines, the rate of diversion to alternatives remained essentially unchanged.
- This preliminary analysis suggests judges are not likely to increase the level of diversion above current levels.

Substance Abuse Treatment

- DOC released about 9,000 inmates in 1999, and of these, 29 percent returned to prison in Virginia within three years. This is the baseline rate of recidivism.
- Evaluation studies suggest that prison-based substance abuse treatment, combined with transitional services after release, can reduce the level of recidivism.
- DOC contracts with a private firm for the operation of a substance abuse treatment program at Indian Creek Correctional Center, in Chesapeake.
- DOC also contracts for substance abuse treatment programs in transitional group homes (Harrisonburg, Newport News and Richmond, for example).
- An evaluation of the program in Harrisonburg followed up the inmates for a period of four to six years after their release from prison.
 - The Harrisonburg program lasts six months (the last three months of the offender's prison sentence, plus three more months).
 - No offenders with a violent offense are allowed in the program.

- Inmates who completed the treatment program in prison, and completed the transitional program in Harrisonburg, had lower recidivism (33%) than the control group that had no treatment in prison or transitional group home program (43%).
- The results are promising (although statistically, the difference in recidivism is not significant).
- There are constraints on expanding this program.
 - Locating new group homes is a concern (NIMBY).
 - Existing group home beds are not fully utilized, which suggests there are only limited numbers of offenders who qualify.
 - Inmates have to be assigned (involuntarily) to fill the slots at the Indian Creek treatment program.
 - Only ten percent of the confined population (about 3,000 inmates) meet the substance abuse criteria, are within 24 months of release, and have no violent offense in their record.
- Given these constraints, further expansion may not be warranted for now. One useful step might be to restore eight substance abuse clinicians eliminated in 2002.

Status Report On Jails

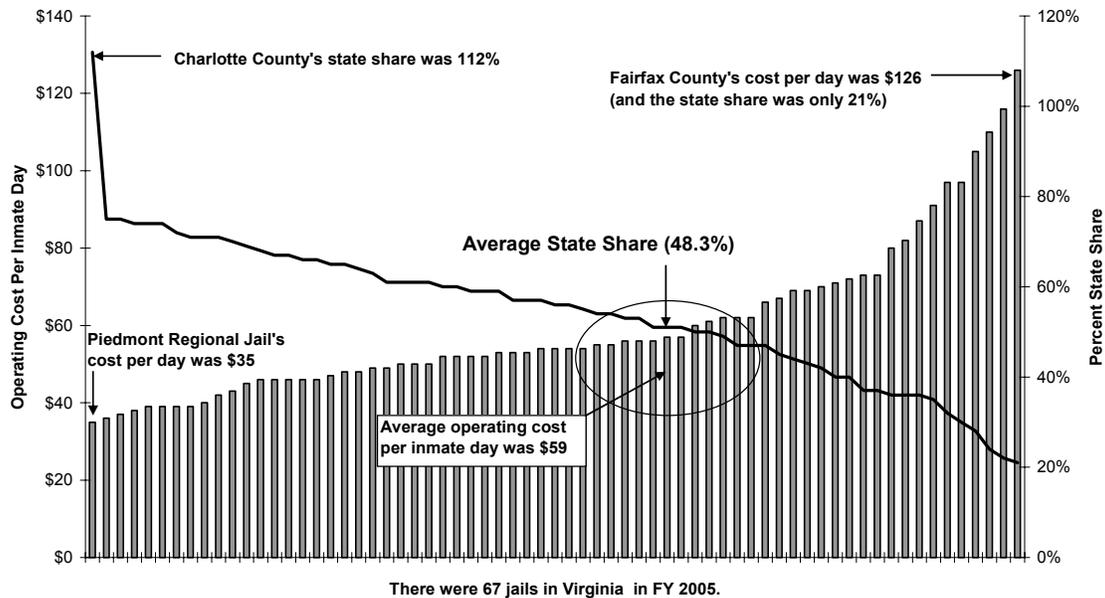
- Jails do not operate as a system. To the contrary, jails are a very diverse collection of independently-operated facilities with state oversight, and mixed funding.
- The Commonwealth pays up to 50 percent of the capital costs for regional jails (up to 25 percent for local jails).
 - Capital projects totaling \$863.9 million (all funds) since 1993 have doubled Virginia's jail capacity from 9,200 to over 18,000 beds.
 - Another \$322.7 million has been approved, which will add another 2,200 beds.
- As of September 30, 2006, the total population of all 67 jails in Virginia was 28,530, including:

- Local-responsible offenders	21,093
- State-responsible offenders	5,629
- Federal inmates	1,808
- Total jail capacity statewide was 18,051, so technically our jails were operating at 58 percent over capacity.
 - However, the State Board of Corrections, which rates the capacity of each jail, does not recognize double-bunking in setting the capacity.

Jail Operating Costs

- The Compensation Board paid \$260.9 million in salaries and benefits, per diems and other payments for jails in FY 2005. This represented 48.3 percent of the total operating costs (\$539.7 million) for all jails in Virginia.
- The average state share has declined from 58 to 48 percent over the five years (FY 2000 to 2005).

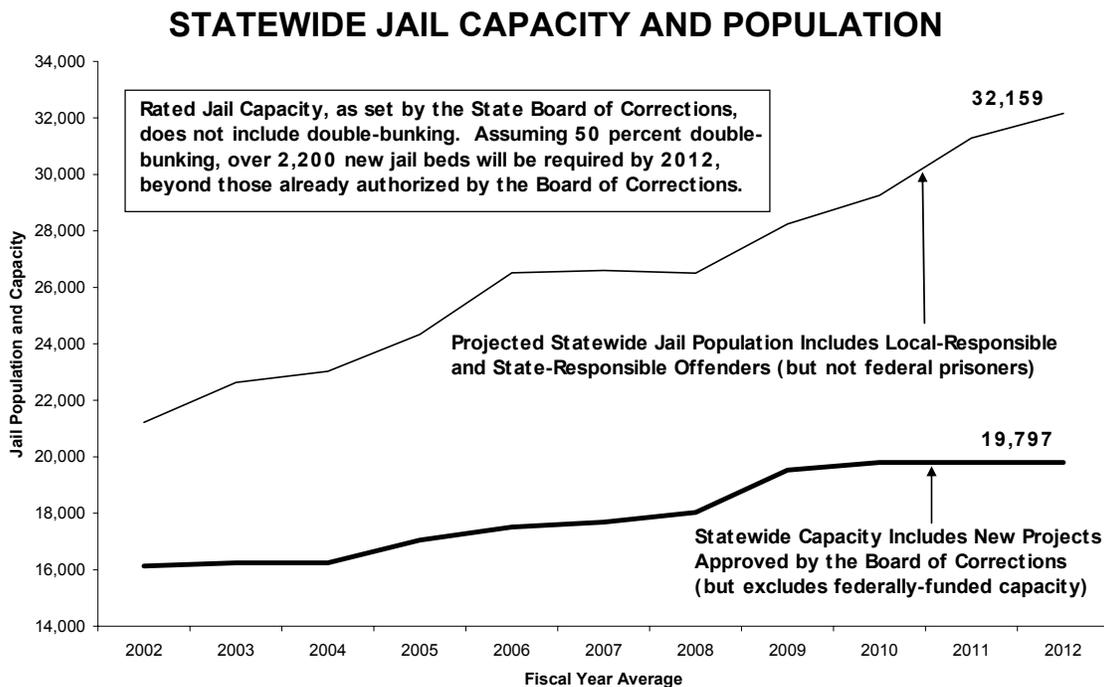
**JAIL COST PER DAY AND PERCENT STATE FUNDING
(FY 2005)**



- The average operating cost per inmate day was \$58.68 in FY 2005 (from all funds) for all 67 jails (or an average annual cost of \$21,418 per bed).

Local-Responsible Offender Forecast

- Over the past year Virginia has seen a 7.6 percent increase in the local-responsible population in jails, compared to forecast growth of 4.5 percent.
- Accordingly, the local-responsible offender forecast has increased (compared to last year's forecast) and the gap between jail population and capacity is growing.



- Additional jail capacity is required, and discussion of capacity should begin to address the future role of jails in providing mental health care (and the state role in financing care).

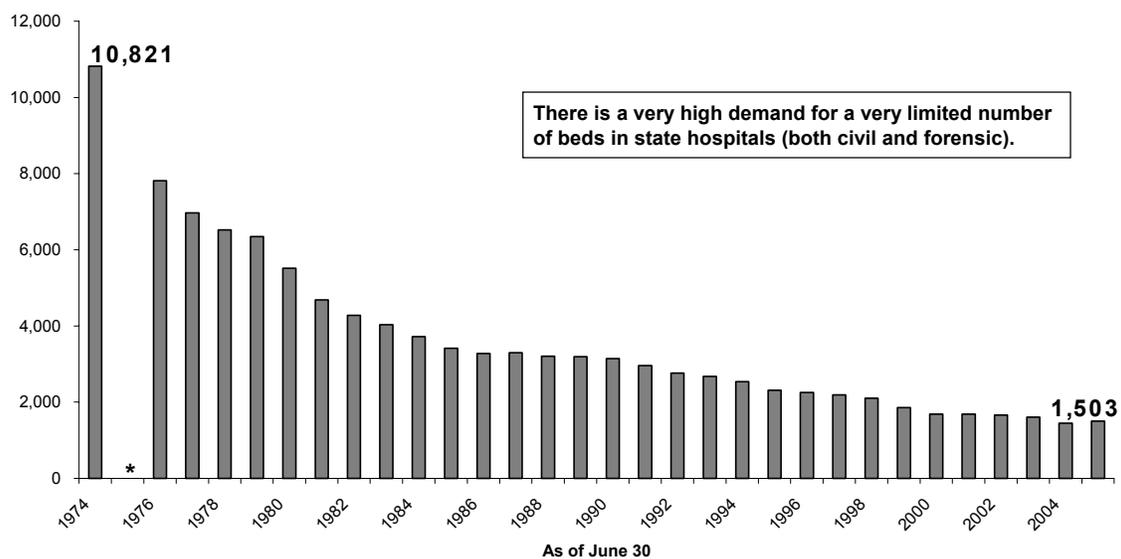
Status Report On Mentally Ill Offenders

- Nationally and in Virginia, there has been a great deal of discussion regarding the number of mentally ill offenders in the criminal justice system.
- The Departments of Corrections and Juvenile Justice by statute are responsible for mental health treatment for offenders in their respective state facilities.
- However, Sheriffs and regional jail superintendents have expressed the view that jail is not the place for the seriously mentally ill.
- The criminalization of the mentally ill is, in part, an unintended consequence of the deinstitutionalization process that began in Virginia in the early 1970's.
- With so many competing pressures on the general fund, we cannot "solve" this problem in the short term.
- This is a very complex issue. We are continuing to gather information to define this problem more clearly, and at the same time, encouraging public safety and mental health agencies to work together to identify promising strategies.

How Did We Get To This Point?

- The goal of deinstitutionalization was that the mentally ill should receive treatment in their home communities instead of in large facilities, wherever possible.
- The reduction of state hospital capacity was a response to severely overcrowded conditions and availability of new psychotropic medications.
- However, in recent years, Community Services Boards (CSBs) have faced many competing priorities.
- There are insufficient community resources, leading to homelessness and limited ability to divert persons with mental illness from the criminal justice system.

**STATE MENTAL HOSPITAL PATIENT CENSUS
(1974 - 2005)**



- Deinstitutionalization also represented a huge cost shift from the states to the federal budget.
 - From 1963 to 1994, the federal contribution for support of persons with mental illnesses increased from two to 62 percent of all expenditures.
- State hospitals are very expensive. The average operating cost per bed exceeds \$400-500 per day, and may exceed \$700 per day in forensic units.
- However, it would be an oversimplification to conclude that jail at \$59 per day is necessarily less expensive than hospitalization at \$500 to \$700 per day.
 - The \$59 per day average jail cost understates the higher cost of incarcerating mentally ill offenders.
 - Many chronically mentally ill (“frequent flyers”) cycle in and out of jail without adequate treatment, and no one has actually measured the true “life cycle” cost of their incarceration over time.
- We need to account for all of the costs, to be able to address the trade-offs involved and “right-size” both facilities and community treatment programs.
- However, the bottom line is that local and regional jails are going to have to deal with the mentally ill offender population, at least for the immediate future.

Efforts To Address The Problem

- The Joint Commission on Health Care has addressed the issue of mental health in the criminal justice system through its Subcommittee on Behavioral Health Care.
- The 2005 General Assembly added \$3.9 million per year for crisis intervention teams.
- The 2006 General Assembly added over \$28 million per year for community mental health services, including:
 - \$500,000 each year for CSB's for jail diversion;
 - \$1.0 million each year for CSB's for mental health services in local juvenile detention centers;
 - General funds (one year only) to replace expiring federal grants for Chesterfield County's day reporting center for offenders with both mental illness and substance abuse (dual diagnosis), and the New River Valley Crisis Intervention Team.
- A Commission on Mental Health Law Reform has been appointed by the Chief Justice of Virginia.

SFC Efforts To Gather Information

- A fundamental problem is the lack of information about the nature of the offender population (especially in jails) with mental illness, and the extent to which they should (or can) be diverted from the criminal justice system.
- The Senate Finance Committee in 2005 initiated a series of studies to gather basic information.

MENTALLY ILL OFFENDERS UNDER CORRECTIONAL SUPERVISION (Data as of September 2005)

Responsible Agency	Estimated Number of Mentally Ill Offenders	As a Percentage Of Total Caseload
Department of Corrections		
State Adult Correctional Facilities	4,650	15%
District Probation and Parole Offices	3,400	7%
Local and Regional Jails	4,006	16%
Local Community Corrections Programs (39 of 41 local programs reporting)	1,804	15%
Department of Juvenile Justice		
State Juvenile Correctional Facilities	402	37%
Juvenile Court Services Units	2,550	33%
Local and Regional Juvenile Detention Centers	350	37%
Total State and Local Responsibility	17,162	

Key Findings From The SFC Jail Survey

- This effort was only a first step – a “rough estimate.”
- Our 2005 survey identified just over 4,000 offenders in regional and local jails who were considered (by jail staff) to have some type of mental illness, (15.7 percent of the total jail population).

MENTALLY ILL OFFENDERS IN JAIL Survey of Regional and Local Jails (As of September 13, 2005)

Jail Facility	Inmates With Mental Illness	% Total Population	Mental Health Beds	
			Currently Dedicated	Additional Needed*
Hampton Roads Regional Jail (at Portsmouth)	510	44.0%	89	160
Fairfax County Jail	359	28.2%	13	50
Richmond City Jail	323	23.1%	12	40
Riverside Regional Jail (at Hopewell)	306	29.1%	24	60
Prince William-Manassas Regional Jail	232	31.0%	0	0
Arlington County Jail	221	35.8%	29	58
Blue Ridge Regional Jail (at Lynchburg)	138	13.9%	0	0
Roanoke City Jail	126	16.1%	0	0
Henrico/New Kent/Goochland Regional Jail	120	10.8%	42	0
Virginia Beach City Jail	113	8.9%	64	25
Alexandria City Jail	94	21.7%	24	0
Northwestern Regional Jail (at Winchester)	91	19.2%	0	10
Northern Neck Regional Jail	89	21.9%	0	0
Norfolk City Jail	88	5.0%	45	25
Roanoke County Jail	81	29.2%	0	20
Augusta County Jail **	74	32.0%	0	0
Chesapeake City Jail	72	7.5%	40	0
Charlottesville-Albemarle Regional Jail***	64	15.6%	0	0
Petersburg City Jail	63	22.9%	0	0
Rappahannock Regional Jail (at Stafford County)	58	6.7%	0	20
All other regional and local jails in Virginia	784	8.1%	101	77
Total	4,006 (a)	15.7%	483	545

This chart was updated on December 27, 2005. Senate Finance Committee staff.

- These 20 jails shown above (with the largest numbers of mentally ill offenders) as a group accounted for 3,222 offenders (over 80 percent of the total) so identified.
- Statewide, all jails reported a total of 483 dedicated mental health beds, and that another 545 beds were needed (compared to about 200 jail transfer beds available in state mental hospitals).
- Statewide, the survey reported the equivalent of about 6.00 FTE psychiatrists available to provide services.
- Statewide, the total FY 2005 cost for non-medical mental health services, including medications, was \$4.1 million, almost all of which was paid with local funds.

Updated Jail Survey Findings in 2006

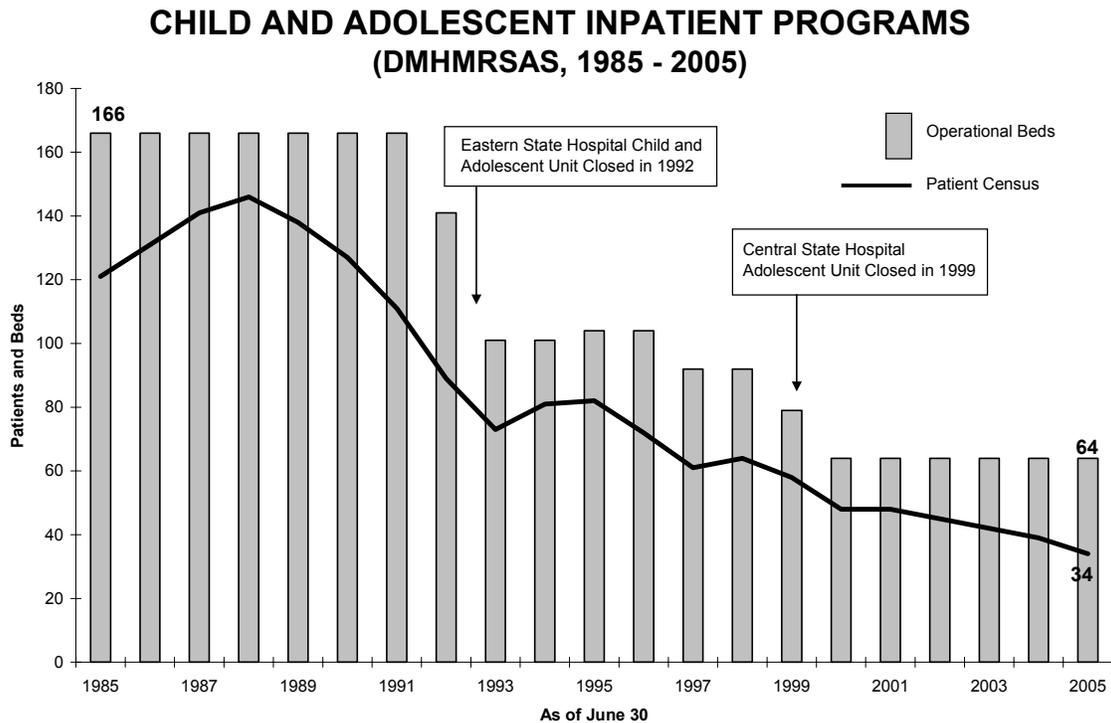
- New research by DMHMRSAS using records from several of the largest jails on their use of prescriptions for psychotropic medications indicates:
 - The number of jail inmates with actual symptoms for serious mental illness is likely to be about five to eight percent of Virginia's total jail population.
 - The ten jails (with the largest numbers of mentally ill offenders) probably have about 1,000 seriously mentally ill offenders.

Local Jail Diversion Projects

- The key to addressing this issue is to continue developing partnerships between CSBs and the local criminal justice system.
- The Fairfax County Jail, for example, with a population of 1,263, has 719 active CSB cases; in other words, 60 percent of the jail population is receiving CSB mental health or substance abuse services.
 - As of September 2006, 187 inmates were receiving psychotropic medications (about 15 percent).
- The Sheriff of Fairfax County in 2003 initiated one of Virginia's first jail diversion efforts, when he brought together key stakeholders to develop a plan to divert persons with serious mental illness and minor charges.
- The Fairfax Jail Diversion Project began operation in October, 2005. Program components include:
 - Crisis intervention training;
 - Pre-booking assessment;
 - Intensive case management teams;
 - Post-booking services; and,
 - Discharge planning.
- Arlington County and the City of Virginia Beach have adopted similar strategies.

Juvenile Mental Health Treatment

- Over the past 20 years there has been a significant reduction in the treatment capacity for children and adolescents in Virginia's state mental facilities.



- Currently, the only adolescent unit in DMHMRSAS is the Commonwealth Center for Children and Adolescents at Staunton, with 64 beds (of which only up to about 12 are used for transfers from juvenile detention homes).
- As a result, there has been a shift in the adolescent mentally ill population into the criminal justice system.

- National studies have documented as many as 65 to 70 percent of youth in the juvenile justice system meet criteria for diagnosable mental health disorders, and 25 percent experience disorders so severe that their ability to function is significantly impaired.
- The 2005 Senate Finance Committee survey identified 350 youth (37 percent of the population) in regional and local detention centers who were either admitted with a diagnosis of mental illness or who were diagnosed as mentally ill after admission.
- Over the past year, detention home superintendents have been gathering data on a monthly basis to follow up on the 2005 survey.
- As of September 12, 2006, the facilities documented that 49 percent of the total population statewide were admitted with a diagnosed mental health condition.
 - This probably represents a more accurate estimate than the data from 2005, rather than an increase in the severity of the problem.
 - This also suggests the importance of continuing to work on refining and clarifying the data.
 - This is a work in progress. Preliminary estimates will change as the quality of reporting improves.

Conclusions

- Virginia's prison and jail population is growing. If we are at the beginning of an upward trend in violent crime rates, this population will increase faster.
- Virginia appears to have maximized the diversion of lower-risk, non-violent offenders into alternatives to incarceration, so the only likely source of fiscal relief is to reduce the level of recidivism.
- At the margins, some reduction in cost may be possible by increasing the level of emphasis on substance abuse treatment in prison and after release.
- However, no magic bullet can change the fact that incarcerating this population in the future will continue to be very expensive.
- The question of mentally ill offenders in jails (and juvenile detention facilities) is not easy to resolve.
 - This is not a problem that is amenable to short-term solutions.
- The very high cost of capital construction demands that greater analytical efforts be devoted to balancing the need for additional jail, prison, and mental hospital beds with appropriate, effective diversion programs.

- This presentation raises several questions:
 - Does the General Assembly wish to take on a new fiscal commitment to address this issue?
 - Should treatment be provided in jail, or would it be better to divert offenders, where appropriate, to other alternatives -- or some combination of both?
 - If diversion is appropriate, diversion to what?
 - Finally, who should be responsible for operating these programs, and who should pay for them?
- In order to develop long-term solutions, partnerships are needed between human resources agencies and criminal justice agencies, especially at the local level.
- We have just begun to define this problem, and we will be continuing this effort over the next several years.