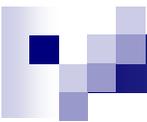


# Managing Correctional Costs in a Challenging Budget Environment

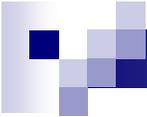
Paul Van Lenten, Jr.

November 18, 2009



# Joint Subcommittee and Task Force Created to Study Issues

- During the 2009 Session, the General Assembly authorized the creation of two joint subcommittees of the House Appropriations and Senate Finance Committees
  - These subcommittees were charged to review two separate topics affecting the management of public safety:
    - Examining the policies for the oversight, approval, and financing of local and regional jail capital projects and operational expenses
    - Examining potential actions that could reduce growth in the numbers of nonviolent, lower-risk offenders entering state correctional facilities
  - Ultimately, these two subcommittees were combined into a single Joint Subcommittee on Public Safety
- In addition, the General Assembly charged the Secretary of Public Safety with creation of a task force to develop recommendations to expand the use of alternative punishments for lower-risk, nonviolent offenders sentenced to incarceration

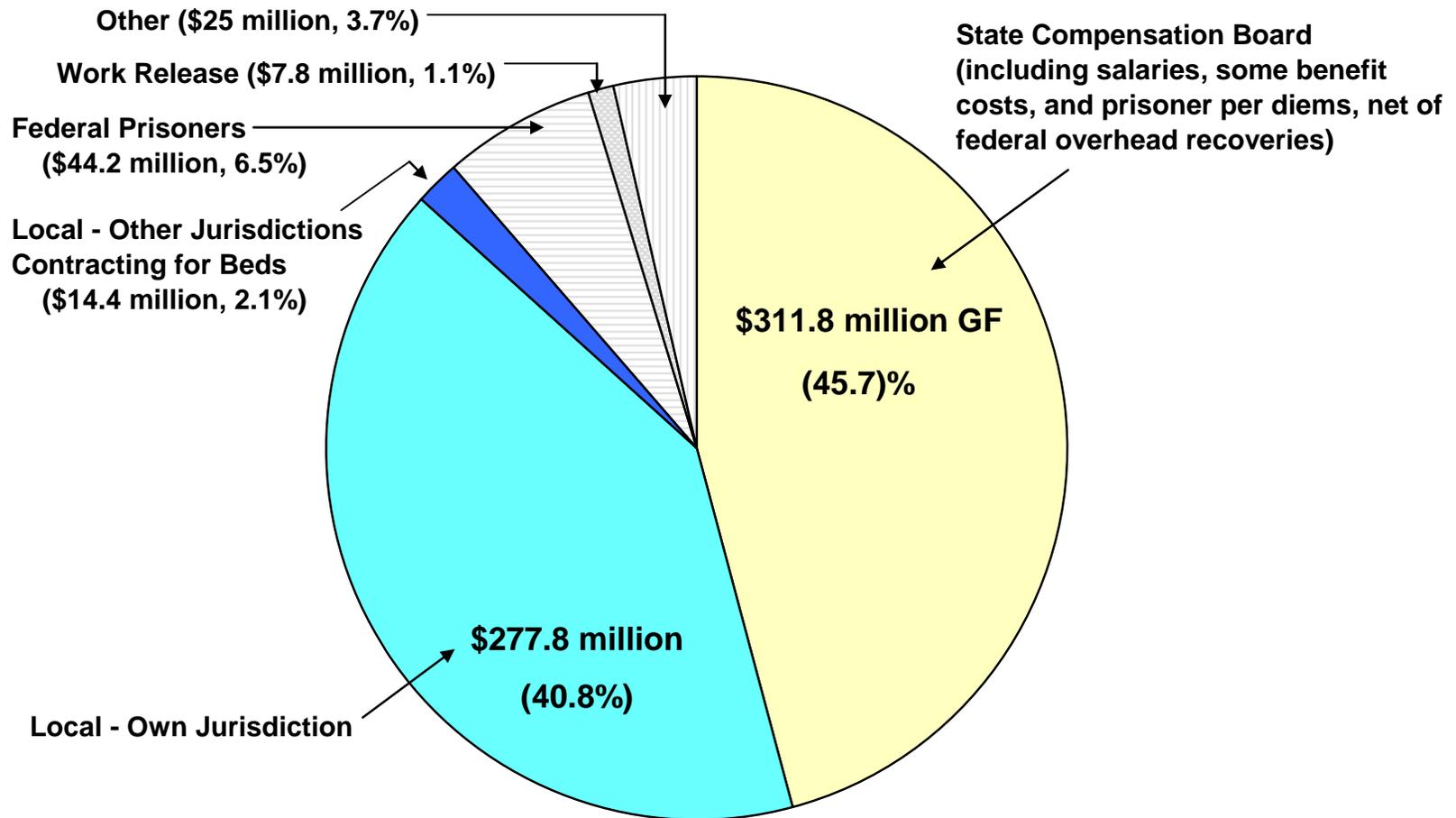


# What Prompted Creation of Joint Subcommittee?

- General fund budget reductions have affected prison capacity
  - Due to general fund revenue reductions, prison bed capacity has been reduced by 2,560 beds, including:
    - Southampton, Pulaski, Botetourt, and Brunswick Correctional Centers closed
    - Dinwiddie and Tazewell Correctional Field Units closed
    - Day reporting centers closed
- Eliminating these beds requires more state-responsible offenders to be housed in local and regional jails
  - Jails have available capacity due to a two-year decline in the local-responsible offender population and additional new jail capacity
  - Housing state-responsible offenders in jails increases per diem costs paid by the Commonwealth to localities
- Budget reductions will also prevent opening additional prison beds
  - 800 beds at St. Brides remain vacant
  - 1,038 beds under construction in Grayson County will likely be vacant

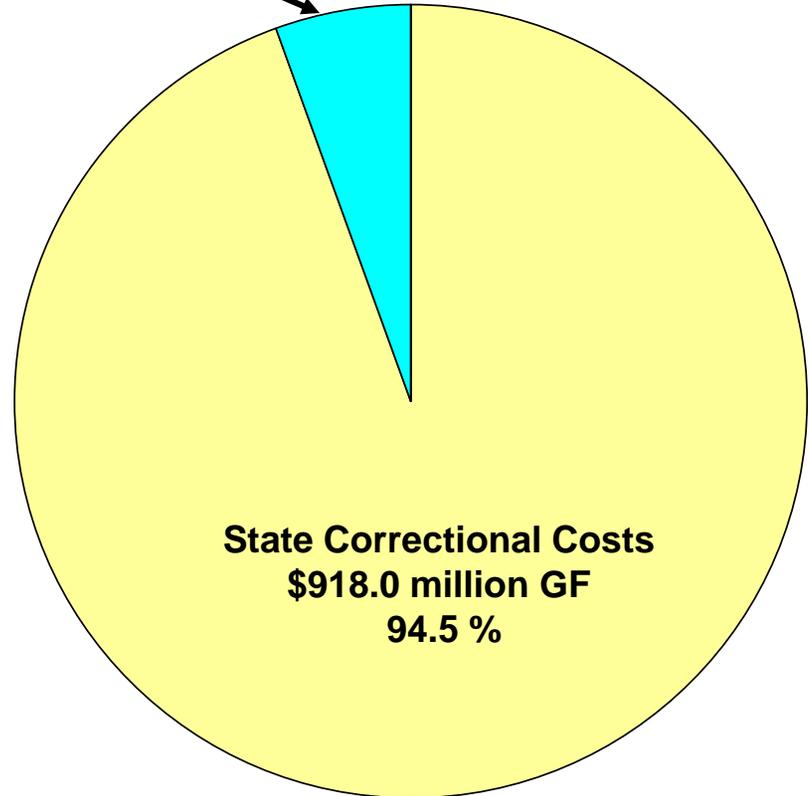
# Who Pays the Costs of Jails?

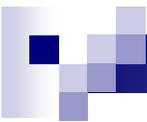
**JAIL OPERATING REVENUES TOTALED \$681 MILLION**  
(In FY 2007, From All Funds, For All 67 Jails)



# Who Pays the Costs of Prisons?

Virginia Correctional Enterprises, out-of-state inmate revenue and other inmate-supported payments (53.3 million, 5.5 %)

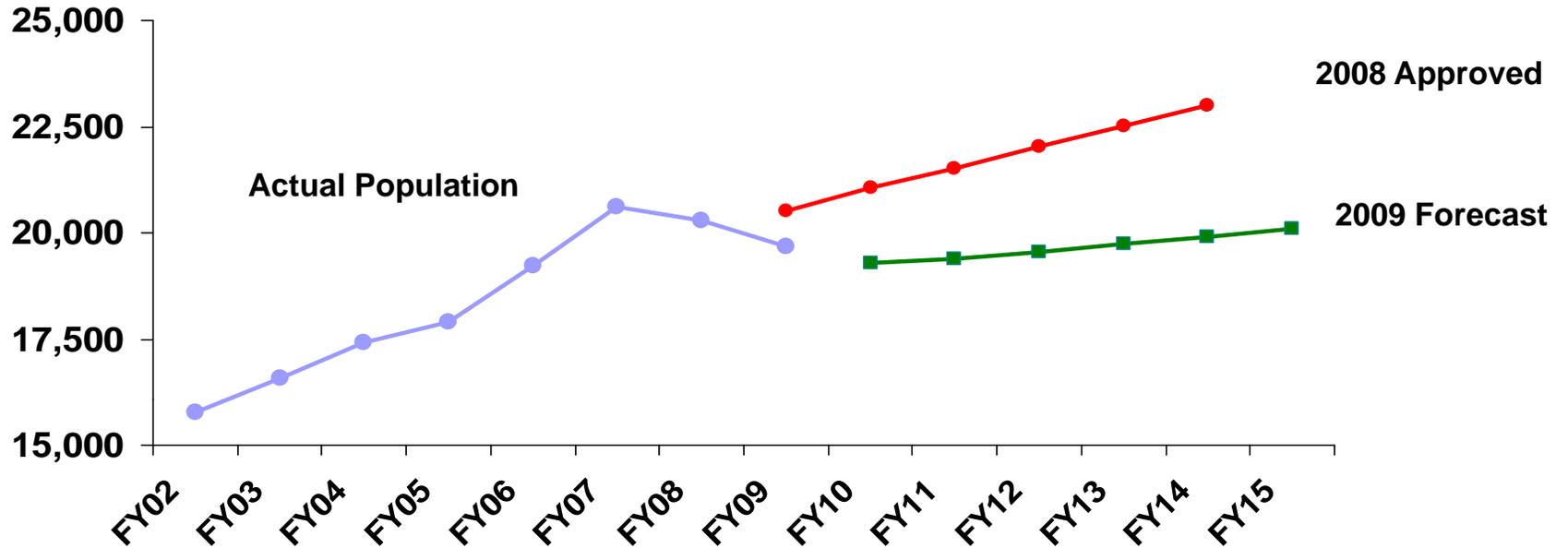




# Construction of New Jail and Prison Capacity is Expensive

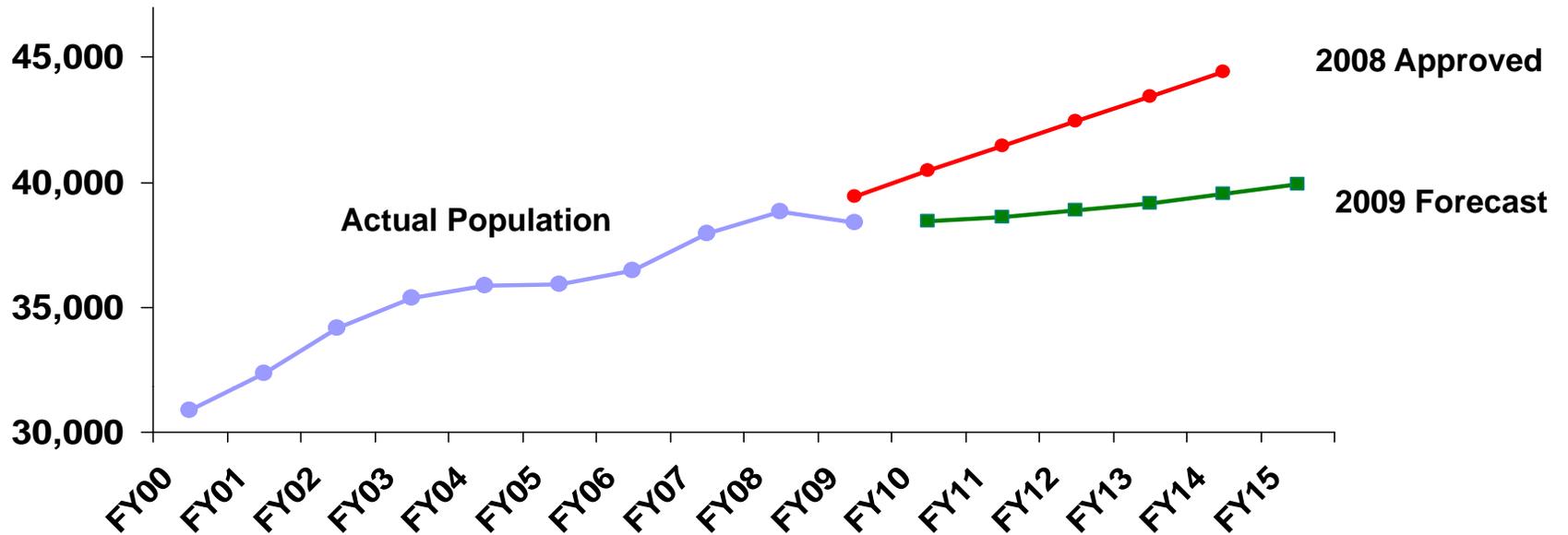
- Since 1993, the costs of 48 jail construction, expansion, and renovation projects have totaled \$1.0 billion (including state and local funds, but excluding federal funds)
  - The Commonwealth's share of the capital costs for these 48 projects totaled \$469.1 million
  - More recent projects have cost the Commonwealth about \$30 million
- Prison construction since 1994 has totaled \$547.4 million
  - Costs of new prison construction about \$100 million per facility

# Local-Responsible Population Forecast



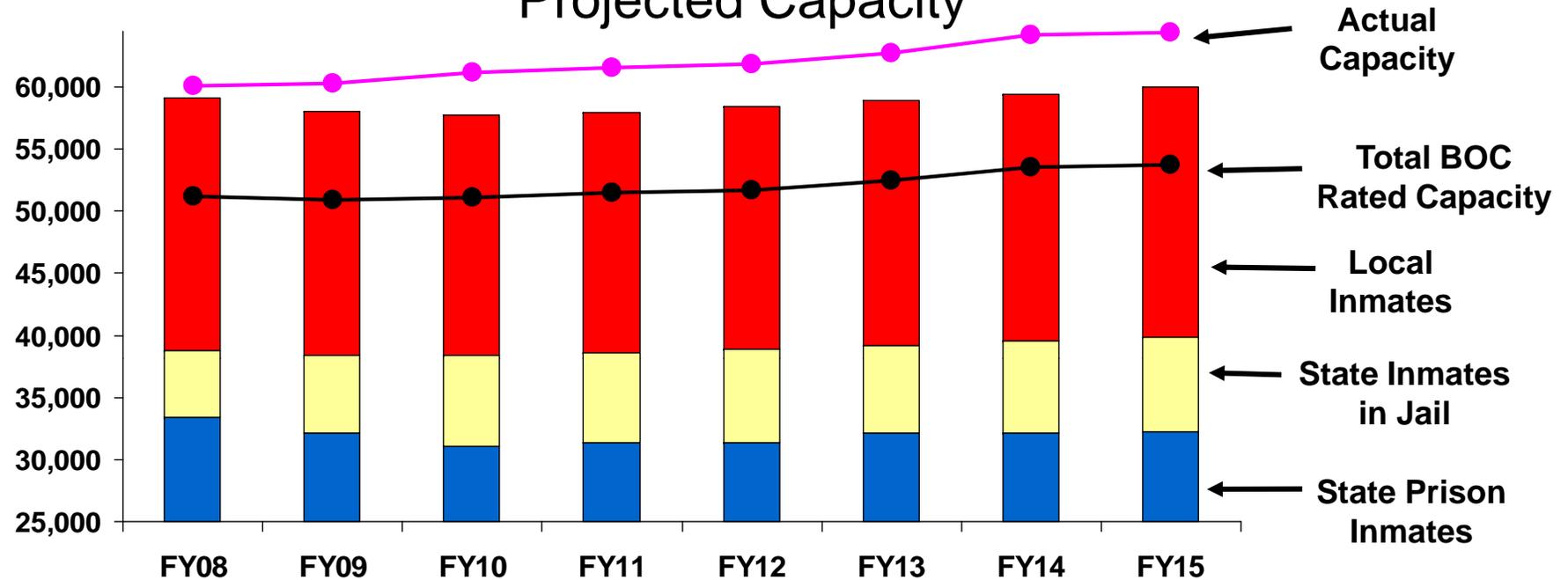
Fiscal Year	Approved 2008 Forecast	Approved 2009 Forecast	Difference
2009	20,520	19,671 (Actual)	-849
2010	21,077	19,282	-1,795
2011	21,532	19,390	-2,142
2012	22,025	19,564	-2,461
2013	22,523	19,737	-2,786
2014	23,007	19,910	-3,097

# State-Responsible Population Forecast



Fiscal Year	Approved 2008 Forecast	Approved 2009 Forecast	Difference
2009	39,431	38,387 (Actual)	-1,044
2010	40,481	38,429	-2,052
2011	41,453	38,597	-2,856
2012	42,447	38,857	-3,590
2013	43,424	39,176	-4,248
2014	44,422	39,531	-4,891

## State-Responsible and Local Jail Forecasted Populations and Projected Capacity

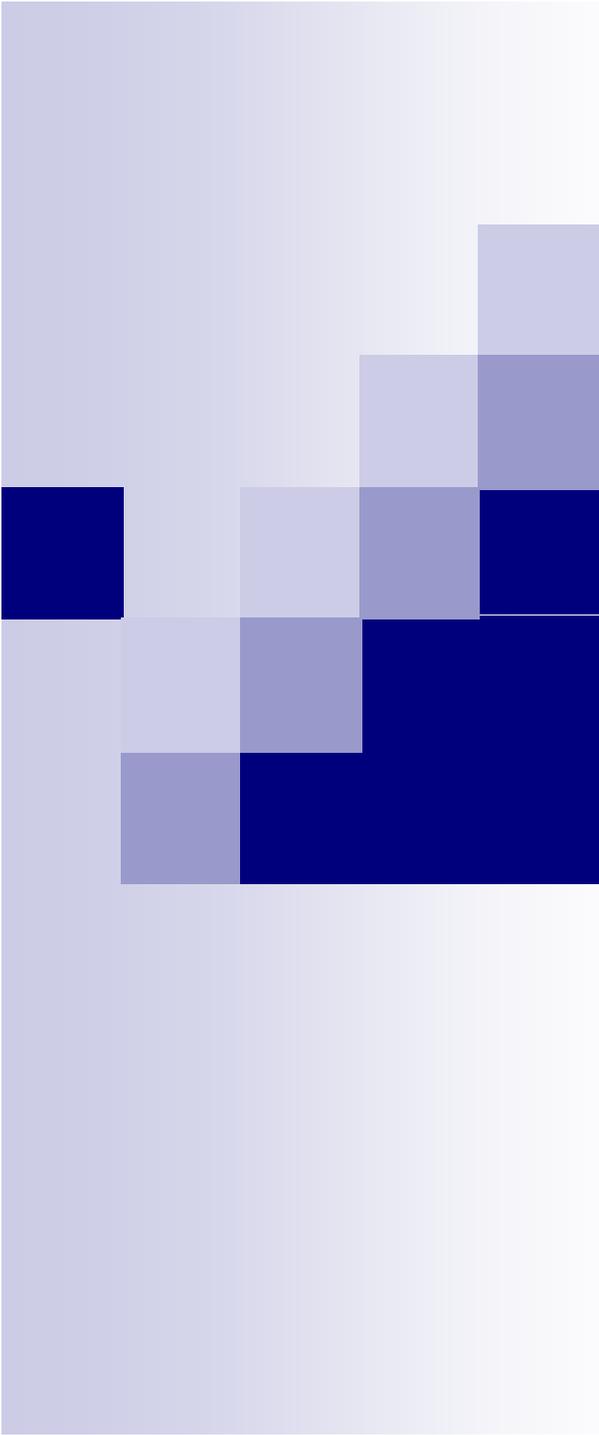


- Based upon the population forecasts, the number of offenders held in Virginia's prison and jail populations is expected to reach nearly 60,000 by FY 2015
- The State Board of Corrections rates capacity for all prisons based on double-bunking and local jail capacity on the use of single bunk cells
  - Based on the board's ratings, prisons and jails could not house the forecasted populations
- However, because many jails use double-bunking, actual capacity is about 50 percent greater than rated capacity and, therefore, Virginia has sufficient beds to hold local and state-responsible offenders



# Should Any More Capacity Be Built?

- Virginia has sufficient jail and prison bed capacity to absorb the forecasted adult offender populations through 2015
  - Prison Capacity
    - St. Brides Correctional Center has 800 vacant beds
    - Correctional facility under construction in Grayson County will provide an additional 1,038 medium security beds
    - Many correctional facilities closed by the Governor have been “mothballed” by DOC and could be reopened if necessary
  - Jail Capacity
    - 1,736 new jail beds came on-line in the current biennium
    - 240 new jail beds are projected to come on-line in the 2010-2012 biennium
    - 1,031 new jail beds are projected to come on-line in the 2012-2014 biennium
- Given current capacity and the new prison and jail capacity coming on-line in the next several years, there is no need to approve any additional prison or jail construction for the foreseeable future
- The General Assembly could also consider delaying projects that will not be operational until FY 2014 or defer operating costs for those projects until the following biennium

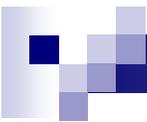


Options Presented to  
Joint Subcommittee to  
Further Restrain Jail and  
Prison Operating Costs



# Defer Jail Vehicle and Office Allowances

- As a component of the funding provided by the Commonwealth for jail operations, limited funding is provided to jails for office expenses and vehicles
  - Much of this funding was eliminated during the budget reductions implemented during FY 2002, but funding for these items continues
    - In FY 2007, payments for these items totaled \$1.8 million
- The General Assembly could consider whether any payments other than salaries and per diems should continue



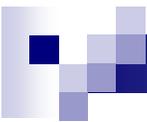
# Alter Method for Provision of “Out-of-Compliance Per Diem Rate

- The Commonwealth provides per diem payments to jails for the care and maintenance of local-responsible and state-responsible offenders housed in them
  - Jails receive \$8 per day for all local offenders, state offenders held for up to 90 days, and all state offenders held at the locality’s request
  - This per diem increases to \$14 per day for state offenders in jails longer than 90 days
- Per diem payments are controlled by language contained in the Appropriation Act
  - Consequently, they are subject to change at any time
- The General Assembly could consider phasing in the payment of the additional \$6 per diem for “out-of-compliance” state-responsible offenders
  - Assuming a per diem of \$3 per offender for 91-120 days, and \$6 thereafter, phasing in this payment would produce savings of about \$0.7 million in FY 2011 and \$0.9 million in FY 2012



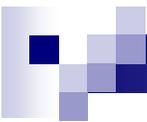
# Eliminate Jail Contract Bed Program

- DOC is permitted to contract with jails to house state-responsible offenders under a Jail Contract Bed (JCB) Program
  - JCB program is limited to the use of 500 jail beds
  - Jails receive a per diem payment of \$28 per day per state offender in JCB
    - Composed of \$14 per day for “out-of-compliance” state-responsible offender and \$14 per day for participation rate
- The General Assembly could consider eliminating the Jail Contract Bed Program
  - There is no limit to the number of out-of-compliance state-responsible offenders DOC can house in local jails at traditional \$14 per day rate
  - Eliminating the JCB program would save about \$2.5 million in both FY 2011 and FY 2012



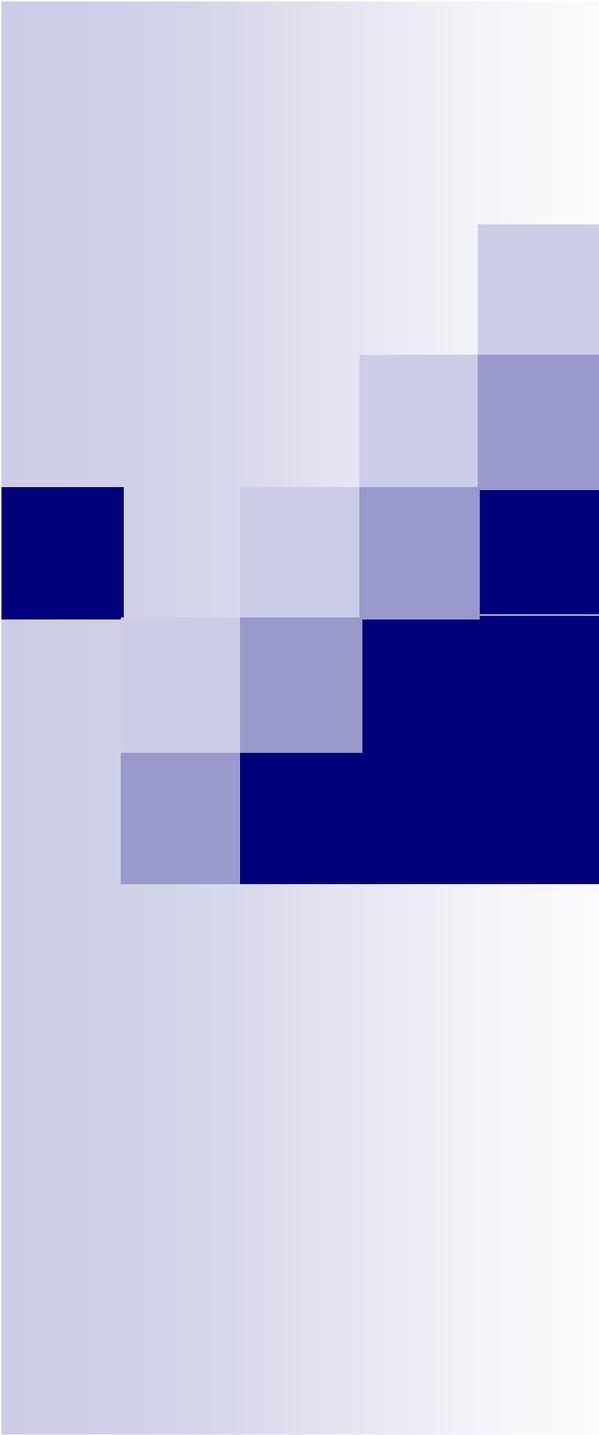
# Review State-Mandated Services on Sheriffs

- Staffing standards provide positions not only for law enforcement and jail operations, but also courtroom security and service of process
- As sheriffs deal with local and state budget reductions, are there statutes or requirements that could be examined to provide sheriffs with greater capability to manage their budgets?
  - Examining these functions could provide sheriffs with a means to better control the costs of their operations
- Courtroom security
  - Current statute requires sheriffs to provide security for courtrooms and courthouses
  - Restructuring those statutes could permit sheriffs to contract for security services for the courthouse, such as metal detector operation or other similar services
- Service of process
  - Current statutes only require that sheriffs provide service in two instances
    - Service on school property
    - Execution of a writs of confiscation of personal, real, or mixed property, and actions involving eviction
  - Otherwise, any person 18 or older, not involved in the dispute, may serve process

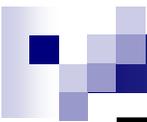


# House Field Unit Inmates in More Efficient Prison Facilities

- Currently, 800 beds in St. Brides Correctional Center are vacant because DOC does not have the resources to operate them
  - The cost of operating these beds is \$10.5 million
  - However, these beds are much more efficient to operate on a per bed basis than other older DOC facilities
- Among the budget reduction strategies included by DOC for consideration in development of the Governor's budget reduction plan were the closure of five of the agency's eight field units
  - These field units are all 40 years old or more and house 733 offenders
    - Cold Springs, Halifax, Haynesville, Rustburg, and Wise
  - Closing these units – after reserving amounts to continue agribusiness operations and provide Workforce Transition Act benefits – would be almost equal to the costs of operating the vacant beds at St. Brides Correctional Center in the first year
    - In subsequent years the closure of these facilities could yield as much as \$13 million
- The General Assembly may wish to consider examining the role and purpose of field units generally, especially given the expected completion of a new correctional facility in Grayson County
  - Other older facilities could be considered as well like James River Correctional Center, which was built in 1896 and was also part of DOC's budget reduction strategies

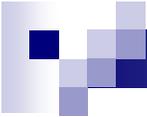


# Options Presented to Joint Subcommittee to Limit Jail and Prison Population Growth



## Expand Local Use of Home Incarceration and Electronic Monitoring

- Offenders housed in jails or assigned probation by a community corrections program may be eligible to participate in home incarceration or electronic monitoring programs
  - Participating offenders pay fees for any necessary equipment and to defray monitoring costs
- Participating offenders decreased from about 1,600 to about 300 following a 1997 Attorney General's opinion ruling these offenders ineligible for good time credits
  - Offenders housed in jails and prisons can receive good time credits of up to 15 percent of their sentence



# Expand Local Use of Home Incarceration and Electronic Monitoring

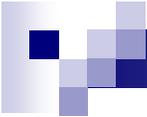
- While electronic monitoring can be used by any sheriff or regional jail superintendent, not all sheriffs and regional jails have electronic monitoring programs, because:
  - Must determine type of technology to use
    - DOC's probation and parole offices use three types of monitoring equipment: GPS, radio frequency bracelets, and voice monitoring
  - Must pay the cost of obtaining equipment and monitoring services
    - Range in cost for GPS monitoring: Norfolk pays \$6.90 per offender per day and DOC's probation and parole offices pay \$12 per offender per day (DOC only uses GPS for serious offenders like sex offenders)
    - Federal General Services Administration (GSA) has other prices for their contracts
- The use of electronic monitoring has produced savings for Norfolk
  - Norfolk's sheriff placed 239 offenders on electronic monitoring during FY 2009
  - After accounting for these placements' costs, the sheriff's office estimates Norfolk saved \$645,000 because it did not house these offenders
    - Norfolk's yearly cost of holding prisoners is a little more than \$15,000 per offender
- Development of a statewide contract for electronic monitoring equipment and services could solve technology and cost factors that may be limiting some localities from using this type of monitoring
  - Localities would still receive per diems for these offenders and would capture some revenue through the fees participating offenders pay

# Probation, Parole, and Post-Release Violators

	Probation Violators Entering as New Commitments	Percent of New Commitments
CY 2002	5504	49.1%
CY 2003	5691	49.7%
CY 2004	5732	49.5%
CY 2005	5988	50.3%
CY 2006	6754	51.8%
CY2007	6317	48.3%

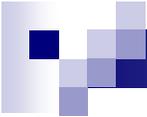
	Parole Violators		
	Total	Technical	New Crime
CY 2002	733	355 (48%)	378 (52%)
CY 2003	748	326 (44%)	422 (56%)
CY 2004	608	195 (32%)	413 (68%)
CY 2005	525	175 (33%)	350 (67%)
CY 2006	633	225 (36%)	408 (64%)
CY 2007	644	207 (32%)	437 (68%)
CY2008	535	199 (37%)	336 (63%)

Between CY 2002 and CY 2007, the number of probation violators committed to DOC increased by 15%. The number of new commitments who were not probation violators increased only 25% during the same period.



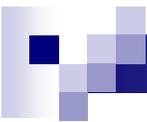
# Frontload Supervision for Offenders Released from Prison

- Research indicates that recidivism levels are highest during the first year of release from prison
  - The probability of committing a new crime or probation violation during the first month after release is nearly double the likelihood of such events occurring in the 15<sup>th</sup> month
  - This period also corresponds with released offenders' most significant need for employment, housing, and treatment services
- Frontloading probation and parole services to correspond with the period immediately following release from prison addresses the period of highest risk, better protecting the public, and potentially reducing the length of supervision services, especially for low-level offenders
  - In Michigan and Oregon, supervision officials meet with offenders before release to assess housing, treatment services, and medication needs as well as ensuring offenders understand supervision expectations
  - Frontloading resources also helps identify cases requiring longer-term supervision, again, better protecting the public from future crime



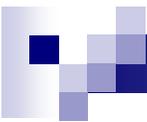
# Use Direct Referral for Probation and Parole Violators

- Probation and parole officers could at one time directly refer probation violators to detention and diversion centers
  - Probation violators typically worked while confined to these programs, earning money to repay fines and restitution, while receiving substance abuse treatment
  - Judges eventually opposed this practice because of concerns about probation violators' due process rights
- In contrast to the restrictions on probation violators, the Parole Board does have the authority to arrest parole violators
  - Probation and parole officers are now piloting the immediate arrest and imposition of limited jail stays for parole violators in Richmond and Norfolk
- The General Assembly may wish to consider providing DOC probation and parole officers the ability to administratively sanction probation violators by imposing short jail stays or by placing them in detention and diversion centers
  - Examining other states' programs may suggest how to deal with due process concerns, jail impacts, and the length of jail stays



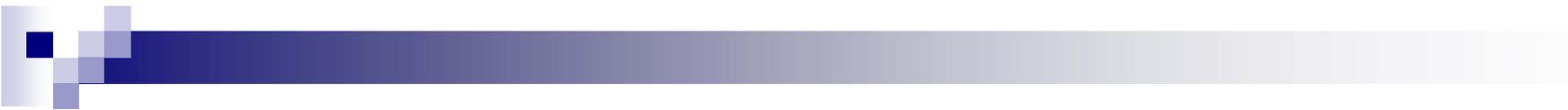
# Use Detention and Diversion Beds for Technical Violators

- Technical violators are typically sentenced to DOC prisons for 24.1 months – placement in detention or diversion centers would achieve same goal at lower cost
- DOC's Division of Community Corrections still operates six detention and diversion centers with nearly 700 beds – programs last six to nine months
  - Placement in these facilities is available only to offenders with non-violent crimes
  - Detention centers require physical labor on organized public works or community projects, while providing counseling, life skills, substance abuse treatment and education courses
  - Diversion centers permit offenders to work at paid jobs and perform community service, while receiving employment counseling and other services similar to detention centers
    - Court costs and restitution, as well as some facility costs, are deducted from diversion center offenders' paychecks
- Currently, there are about 159 vacant beds in the detention and diversion centers
  - 127 are in diversion centers and 32 in detention centers
- The General Assembly could consider using some of these beds, especially diversion centers beds, for housing technical probation violators
  - Would allow offenders to gain work experience and provide opportunities for substance abuse treatment, life skills training, and other services
  - Offenders could address costs and restitution while paying a portion of their upkeep
  - Beds recycle faster than prison beds



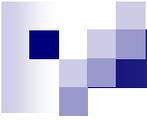
# Revise Law Ending Supervision for Failure to Pay Fines and Costs

- During the 2009 Session, the General Assembly adopted legislation that terminated supervised probation for offenders whose sole reason for supervision was a failure to make full payment of fines, fees, or costs
  - However, it required probation officers to notify each jurisdiction's court and Commonwealth's attorney to determine if they had any objection to the termination of supervised probation for an offender who owed any fines, fees, or costs
  - These notification conditions have limited the effectiveness of the legislation
- Nearly 4,500 offenders are still under supervision due to the failure to pay fines, fees, or costs
  - Without the obligation for the payment of the fines, fees, and costs, many of these offenders may have completed supervision
- The General Assembly could consider eliminating the need to notify each court and Commonwealth's attorney
  - This does not absolve the offender of the obligation to pay owed amounts
  - Offenders remain on supervised probation if they owe restitution
  - Removing these offenders from supervised probation allows more time for supervision of higher-risk offenders



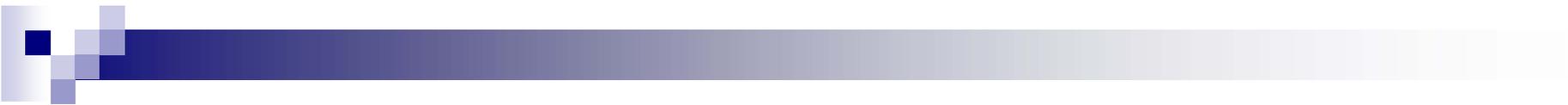
# Use Day Reporting Centers

- Unlike detention and diversion centers, day reporting centers are non-residential programs providing intensive supervision services to medium and high-risk offenders
  - Intensive supervision services include daily offender contact and monitoring, including: random inspection of daily itineraries, progress with job interviews, counseling attendance, and completion of community service requirements
  - Other services include substance abuse treatment, aftercare and relapse prevention, AA/NA group meetings, education services, life skills training, and vocational services
- Day reporting centers represented one Probation and Parole program for which released violent offenders were eligible
  - Violent offenders are ineligible for many programs by statute
  - These centers provided assigned offenders a structured service environment
- The General Assembly could, when funding is available, consider reinstating the day reporting centers
  - The costs of recreating the day reporting centers is about \$1.1 million per year



# Use of Pretrial and Community Corrections Programs to Reduce Jail Populations

- Local pretrial and community corrections programs represent an alternative to incarceration for defendants in custody pending trial and those convicted of nonviolent crimes
  - Pretrial services staff supervise about 5,000 defendants
  - Community corrections staff supervise about 21,000 offenders
- During the 2009 Session, the General Assembly provided \$1.5 million from the general fund to expand the use of pretrial services
  - Equivalent to the supervision of 3,000 additional defendants who otherwise would be in jail
    - Reduces per diems to local jails from the Commonwealth and localities
    - Local jail beds are reserved for those who are a threat to public safety
- The General Assembly may wish to consider, as funding is available, further expansion of these services to reduce the number of low-level defendants or offenders housed in local jails



# Conclusions

- Virginia has sufficient capacity in its jails and prisons to absorb the projected adult offender forecasts
  - No additional jail or prison construction should be authorized
  - Some projects not projected to be operational until 2012-2014 biennium could possibly be delayed
- There are steps that could be taken to manage existing populations that could reduce costs for either localities, the Commonwealth, or both