

# EVIDENCE-BASED SUBCOMMITTEE

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## CHARGE TO THE SUBCOMMITTEE:

- 1) IDENTIFY INITIATIVES THAT HAVE REDUCED RECIDIVISM WITHIN VIRGINIA'S CURRENT SYSTEM AND EVALUATE OPPORTUNITIES TO IMPROVE CURRENT PROCESSES;
- 2) RESEARCH AND EVALUATE BEST PRACTICES IN REDUCING RECIDIVISM IN OTHER STATES;
- 3) IDENTIFY EVIDENCE-BASED ALTERNATIVES TO INCARCERATION WHILE IMPROVING PUBLIC SAFETY;
- 4) EVALUATE THE IMPACT OF INCARCERATION ON RECIDIVISM AND RE-ENTRY; AND,
- 5) ADDITIONAL RECOMMENDATIONS FOR LEGISLATIVE OR EXECUTIVE ACTION.

# 1. CAREFULLY REVIEW RECENT RESEARCH FINDINGS

- OVER THE PAST 20 YEARS THERE HAS BEEN AN ACCUMULATION OF RESEARCH LITERATURE ON EFFECTIVE PRACTICES, POLICIES, AND PROGRAMS THAT HAVE BEEN SHOWN TO REDUCE RECIDIVISM, AND PRACTICES THAT INCREASE RECIDIVISM.
- THIS RESEARCH HAS INFORMED OUR PERSPECTIVE THAT THE COMMONWEALTH OF VIRGINIA SHOULD BE EXPLORING OTHER PRACTICES AND PROGRAMS BESIDES INCARCERATION TO INCREASE THE PUBLIC SAFETY OF OUR COMMUNITIES.
- THE INCARCERATION OF NONVIOLENT OFFENDERS AND INDIVIDUALS THAT DO NOT POSE A THREAT TO THE SAFETY OF THE COMMUNITY HAS BEEN FOUND TO INCREASE CRIMINAL BEHAVIOR (NAGIN, CULLEN, & JONSTON, 2013).

# EVIDENCE BASED PRACTICES LEAD TO BETTER, POSITIVE OUTCOMES

## **HAS BEEN FOUND NOT TO REDUCE RECIDIVISM:**

PSYCHO-SOCIAL EDUCATION  
PROGRAMMING  
NON-DIRECTIVE COUNSELING  
DIRECTIVE COUNSELING  
INTENSIVE SUPERVISION WITH NO  
TREATMENT  
BOOT CAMPS  
CASE MANAGEMENT  
INCARCERATION

## **HAS POTENTIAL TO REDUCE RECIDIVISM:**

MOTIVATIONAL INTERVIEWING  
MORAL REASONING  
EMOTIONAL SKILLS  
12 STEP WITH CURRICULUM  
TREATMENT ACCOUNTABILITY FOR  
STREET CRIME  
DIVERSION TO TX  
SECONDARY EDUCATION/ED

## **REDUCE RECIDIVISM:**

COGNITIVE PROCESSING  
COGNITIVE BEHAVIORAL  
PROCESSING  
THERAPEUTIC COMMUNITY  
MEDICATION ASSISTED TREATMENT  
DRUG COURTS  
RISK-NEED-RESPONSIVITY  
SUPERVISION  
IN-PRISON TX WITH AFTERCARE  
CONTINGENCY MANAGEMENT  
MULTISYSTEMIC THERAPY

## **2. REVIEW DATA FROM OTHER STATES, INCLUDING GEORGIA, TEXAS, KENTUCKY, FLORIDA, MISSOURI**

- OTHER STATES HAVE PURSUED POLICIES AND PROGRAMS TO *REDUCE THE USE OF INCARCERATION* FOR NONVIOLENT OFFENDERS AND FELONY OFFENDERS THAT DO NOT POSE A THREAT TO THE COMMUNITY.
- EXPANDED PROGRAMS IN THE COMMUNITY SUCH AS DRUG TREATMENT, PROBLEM SOLVING COURTS, REENTRY SERVICES, SUPPORTIVE HOUSING PROGRAMS, MENTAL HEALTH SERVICES, DAY REPORTING PROGRAMS WITH COGNITIVE BEHAVIORAL PROGRAMMING AND EMPLOYMENT SERVICES; SHORT-TERM DIVERSION AND HALFBACK RESIDENTIAL PROGRAMMING.
- THE STATES HAVE PURSUED *REDUCTION IN SENTENCE LENGTHS*, ALTERING THE CRIMINAL CODE TO REDEFINE THE FELONY STATUS OF CERTAIN CRIMINAL BEHAVIOR
- DO NOT USE INCARCERATION FOR PROBATION AND PAROLE VIOLATIONS THAT RELATE TO MERELY VIOLATIONS OF CONDITIONS (PROGRAMMATIC)

### **3. SURVEY THE EXISTENCE OF COMMUNITY BASED PROGRAMS FOR “ALTERNATIVES TO INCARCERATION ” AND REENTRY SERVICES IN EACH VIRGINIA JURISDICTION**

- *THE COMMISSION WAS INFORMED THAT ABOUT HALF OF THE OFFENDERS INCARCERATED EACH YEAR ARE ELIGIBLE FOR “ALTERNATIVES TO INCARCERATION” BUT THE JUDGES DO NOT BELIEVE THAT THERE ARE SUFFICIENT AND ADEQUATE PROGRAMS FOR COMMUNITY SANCTIONS*
- TO ADDRESS THIS, WE RECOMMEND:
  1. ASSESS THE CHARACTERISTICS OF INDIVIDUALS IN EACH JURISDICTION
  2. IDENTIFY GAPS IN NEEDED SERVICES AND PROGRAMS IN EACH JURISDICTION TO BETTER MANAGE THE OFFENDER IN THE COMMUNITY
  3. DEVELOP A STRATEGIC PLAN FOR EACH JURISDICTION
  4. INCREASE AVAILABILITY OF BEHAVIORAL HEALTH SERVICES TO ADDRESS THE UNMET NEEDS OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
  5. EXPAND THERAPEUTIC ASSESSMENT “DROP OFF” CENTERS TO BENEFIT PUBLIC SAFETY
  6. ASSESS HOW SERVICES ARE DELIVERED IN EACH JURISDICTION AND WHETHER CSBS CAN ADEQUATELY HANDLE THE NEEDS OF JUSTICE-INVOLVED POPULATIONS
  7. EXPAND THE USE OF PAPIS SINCE IT PROVIDES AN INFRASTRUCTURE FOR REENTRY SERVICES

## 4. IMMEDIATE ACTION CAN BE TAKEN ON:

- **EXPAND MEDICAID TO FUND NEEDED BEHAVIORAL HEALTH SERVICES.** THE COMMONWEALTH SHOULD PURSUE MEDICAID EXPANSION AS A MEANS TO FUND BEHAVIORAL HEALTH AND CHRONIC HEALTH SERVICES FOR OFFENDERS IN THE COMMUNITY. THIS WOULD PROVIDE A FUNDING STREAM FOR NEEDED PROGRAMS AND SERVICES
- **SUPPORT PERMANENT SUPPORTIVE HOUSING EXPANSIONS.**
- **USE SAVINGS/FUNDS FROM CLOSED PRISONS TO FUND NEEDED PROGRAMS, SERVICES, AND REFORMS.** JUSTICE REINVESTMENT INITIATIVES ARE BEING USED TO CONVERT FUNDS SAVED THROUGH REDUCED INCARCERATION TO BUILD THE COMMUNITY CAPACITY TO SAFELY MANAGE OFFENDERS IN THE COMMUNITY THAT THEY RESIDE. THE SUBCOMMITTEE RECOMMENDS THAT HALF OF THE SAVINGS FROM THE CLOSING OF PRISONS AND/OR DETENTION FACILITIES SHOULD BE USED TO BUILD EVIDENCE-BASED PROGRAMMING, SERVICES, AND PRACTICES IN THE COMMUNITY. THESE FUNDS SHOULD BE DIRECTLY ALLOCATED TO BUILD COMMUNITY CAPACITY TO MANAGE THE OFFENDERS IN THE COMMUNITY.
- **INCREASE THE AMOUNT OF GOOD TIME CREDITS PROVIDED TO ENCOURAGE RECIDIVISM REDUCTION PROGRAMMING PARTICIPATION.**
- **ALLOW FELONY DRUG OFFENDERS TO HAVE ACCESS TO TANF.** TANF SHOULD BE ALLOWED FOR CERTAIN DRUG FELONY OFFENSES.
- **SUPPORT BAN THE BOX EFFORTS**
- **ALLOW OFFENDERS TO OBTAIN DRIVER'S LICENSE AND IDENTIFICATION DURING THE PERIOD OF INCARCERATION**

## 5. ADDRESS PROCEDURES AND POLICIES THAT CORRECT PRIOR ERRORS

- DURING THE PAST THIRTY YEARS THERE HAVE BEEN A NUMBER OF INSTANCES THAT REQUIRE SOME ADMINISTRATIVE PROCEDURES TO CORRECT OR ADDRESS ERRORS.
- WE RECOMMEND THAT THE GOVERNOR ESTABLISH A PROCEDURE TO ADDRESS THESE ERRORS AND TO REFORM PROCEDURES AND POLICIES FOR GERIATRIC RELEASE, COMPASSIONATE RELEASE, AND (FOR THOSE 4,000 INMATES STILL ELIGIBLE FOR OFFENSES COMMITTED PRIOR TO 1995) DISCRETIONARY PAROLE RELEASE, AND FOR CORRECTING UNFAIR AND UNINFORMED JURY SENTENCING (I.E. *FISHBACK V. COMMONWEALTH*, 532 S.E.2D 629 (VA. 2000)).

## 6. CREATE AN INFRASTRUCTURE FOR EXPANDING EVALUATIONS OF EXISTING EFFORTS

- **ESTABLISH AN INFRASTRUCTURE TO CONDUCT STUDIES ON EFFECTIVE PRACTICES AND PROGRAMS.** REQUEST THAT EACH COMMONWEALTH-FUNDED UNIVERSITY WORK WITH THE DEPARTMENT OF CORRECTION PROVIDE EVALUATION SERVICES. PROVIDE A COORDINATOR AT THE DEPARTMENT OF CORRECTIONS AND ONE GRADUATE STUDENT AT EACH PARTICIPATING UNIVERSITY.
- **ESTABLISH A COMMITTEE TO REVIEW RECIDIVISM REDUCTION EFFORTS IN THE COMMONWEALTH** INCLUDING: 1) THE DEFINITION OF RECIDIVISM (MANY STATES ARE MAKING REVISIONS TO THE DEFINITION); 2) THE METHODS TO MEASURE RECIDIVISM; AND 3) THE ESTABLISHMENT OF RECIDIVISM RATES FOR EXISTING PROGRAMS, SERVICES, INCARCERATION, ETC. BY RISK LEVEL.

## **7. RECOMMENDATIONS FOR STUDIES TO BE CONDUCTED**

- ***THE SUBCOMMITTEE RECOMMENDS THAT FURTHER STUDIES ARE NEEDED. THE PREFERENCE WOULD BE TO HAVE THE STUDIES CONDUCTED BY A VIRGINIA ORGANIZATION SUCH AS THE SENTENCING COMMISSION OR AN INDEPENDENT RESEARCH ORGANIZATION***
- ***STUDY EVIDENCE-BASED SENTENCE LENGTHS FOR VARIOUS CRIMES TO EXAMINE WHAT THE IMPACT OF REDUCING SENTENCING LENGTHS WOULD HAVE ON RECIDIVISM.*** THE VCSC REPORT SHOULD EXPLORE THE LENGTH OF SENTENCES FOR VIOLENT OFFENSES, NONVIOLENT OFFENSES, AND LIMITS ON PROBATION TERMS WHICH OTHER STATES HAVE PURSUED TO REDUCE THE COST OF CORRECTIONS.
- ***REVIEW THE NEED FOR MANDATORY MINIMUMS GIVEN THE OVERALL 90% COMPLIANCE BY COURTS WITH THE VCSC SENTENCING GUIDELINES.***

# OTHER RECOMMENDED STUDIES

- **EXAMINE THE POTENTIAL TO IMPROVE THE QUALITY OF JUSTICE AND FAIRNESS IN VIRGINIA AND TO ENSURE COST EFFECTIVE EXPENDITURES ON INCARCERATION.** THESE INCLUDE:
  - 1) THE “SECOND LOOK RECOMMENDATION” BY THE AMERICAN LAW INSTITUTE WHICH ALLOWS OFFENDERS WITH LENGTHY SENTENCES TO RETURN TO THE SENTENCING COURT OR A JUDICIAL PANEL AFTER 15 YEARS TO SEEK SENTENCE MODIFICATION, APPLICABLE TO OLD LAW AS WELL AS NEW LAW INMATES,
  - 2) VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL’S PENDING REVIEW OF FREEDOM OF INFORMATION ACT EXEMPTIONS SHOULD INCLUDE MODIFICATION OF THE PAROLE BOARD’S EXEMPTION TO PROVIDE FOR GREATER TRANSPARENCY WITH RESPECT TO ITS POLICIES AND PROCEDURES;
  - 3) REVIEW PAROLE BOARD RULES FOR GERIATRIC OR COMPASSIONATE RELEASE, AND REFORM POLICIES AND PROCEDURES FOR DISCRETIONARY PAROLE RELEASE FOR OLD LAW INMATES, AND,
  - 4) THE VIRGINIA CODE SHOULD BE REVISED TO INCREASE THE PAROLE BOARD’S EXPERTISE, INDEPENDENCE, AND DIVERSITY.
- **EXAMINE THE USE OF TAX INCENTIVES FOR BUSINESSES TO PROMOTE EMPLOYMENT OF THOSE WHO ARE ON PROBATION/PAROLE OR RECENTLY RELEASED FROM PRISON/JAIL.**

## 8. WE ARE NOT DONE!!!!

- ***CONTINUE THE WORK OF THE SUBCOMMITTEE ON EVIDENCE-BASED PROGRAMMING AND PRACTICES TO ENSURE THAT VIRGINIA HAS AN ONGOING EFFORT TO THOROUGHLY REVIEW ITS EFFORTS AT REDUCING RECIDIVISM***