

EVIDENCE-BASED SUBCOMMITTEE

FAYE TAXMAN

MIRA SIGNER

SENATOR DAVE MARSDEN

GAIL ARNALL

MARCUS HODGES

JACK GRAVELY

WILLIAM RICHARDSON

TONYA CHAPMAN

SHERIFF KEN STOLLE

MARGARET SCHULTZE

ASSISTED BY: NICKY ZAMOSTNY

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 CAN 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 THOSE THAT DO NOT POSE A THREAT TO THE SAFETY OF THE COMMUNITY HAS BEEN FOUND TO INCREASE CRIMINAL BEHAVIOR.

2. REVIEW DATA FROM OTHER STATES, INCLUDING GEORGIA, TEXAS, KENTUCKY, FLORIDA, MISSOURI, CALIFORNIA AND NEW YORK

- 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.
- THEY HAVE EXPANDED PROGRAMS IN THE COMMUNITY SUCH AS DRUG TREATMENT, PROBLEM SOLVING COURTS, REENTRY SERVICES, SUPPORTIVE HOUSING PROGRAMS, MENTAL HEALTH SERVICES, DAY REPORTING PROGRAMS THAT INCLUDE COGNITIVE BEHAVIORAL PROGRAMMING AND EMPLOYMENT SERVICES, AND 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, AND NOT USING INCARCERATION FOR PROBATION AND PAROLE VIOLATIONS THAT DO NOT INCLUDE NEW CRIMINAL BEHAVIOR. THIS REVIEW CAN INFORM US AS TO KEY INITIATIVES THAT ARE ESSENTIAL

3. SURVEY THE EXISTENCE OF “ALTERNATIVES TO INCARCERATION” 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 NEEDS IN EACH JURISDICTION AND DEVELOP A STRATEGIC PLAN
 2. INCREASE AVAILABILITY OF BEHAVIORAL HEALTH SERVICES
 3. EXPAND THERAPEUTIC ASSESSMENT “DROP OFF” CENTERS FOR CIT EFFORTS
 4. ASSES WHETHER CSBS ADEQUATELY HANDLE THE NEEDS OF JUSTICE-INVOLVED POPULATIONS

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.
- **CHANGE GOOD TIME CREDITS TO BE EQUAL TO RATE USED AT THE LOCAL LEVEL.** GOOD TIME CREDITS PROVIDED BY THE COMMONWEALTH'S DOC (15% OF POTENTIAL TIME) AND THE LOCAL SHERIFFS (50% OF POTENTIAL TIME) VARY. AN EVIDENCE-BASED PRACTICE IS THE USE OF EARNED RELEASE CREDIT (E.G., FOR PARTICIPATION IN VOCATIONAL, EDUCATIONAL, OR OTHER REHABILITATIVE PROGRAMS ALONG WITH GOOD BEHAVIOR) WHICH VIRGINIA DOES NOT ROUTINELY USE. THE COMMONWEALTH SHOULD EXPAND THE USE OF GOOD TIME CREDIT TO ENSURE FAIRNESS BETWEEN INCARCERATION AT THE STATE AND LOCAL LEVEL AS WELL AS THE USE OF THE EARNED RELEASE CREDIT THAT WILL MAXIMIZE REDUCTION IN RECIDIVISM.
- **ALLOW FELONY DRUG OFFENDERS TO HAVE ACCESS TO TANF.** TANF SHOULD BE ALLOWED FOR CERTAIN DRUG FELONY OFFENSES.

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 UNIVERSITY WORK WITH THE DEPARTMENT OF CORRECTION PROVIDE EVALUATION SERVICES. PROVIDE BASE FUNDING THAT INCLUDES 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 BY VIRGINIA CRIMINAL SENTENCING COMMISSION

- ***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.***
- ***HOW BEST TO IMPLEMENT AN EARNED RELEASE CREDIT SYSTEM IN VA DOC.***

VIRGINIA CRIMINAL SENTENCING COMMISSION

OTHER 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) OLD LAW INMATES SHOULD BE PROVIDED WITH THE OPPORTUNITY TO SEEK MODIFICATION OF SENTENCE,
 - 3) REVIEW PAROLE BOARD RULES FOR GERIATRIC OR COMPASSIONATE RELEASE, AND REFORM POLICIES AND PROCEDURES FOR DISCRETIONARY PAROLE RELEASE FOR OLD LAW INMATES,
 - 4) 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; AND,
 - 5) THE VIRGINIA CODE SHOULD BE REVISED TO INCREASE THE PAROLE BOARD’S EXPERTISE, INDEPENDENCE, AND DIVERSITY.

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***