

Interim Staff Report to the
Joint Commission on Health Care
Study: Quality of Health Care Services in Virginia Jails and
Prisons, and Impact of Requiring Community Services
Boards to Provide Mental Health Services in Jails

Joint Subcommittee to Study Mental Health Services
in the Commonwealth in the 21st Century - Work Group #2
Criminal Justice Diversion
November 28, 2017

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Study Background

- This is an interim report of a two year study concerning health care services provided in jails and prisons based on resolutions that did not pass out of House Rules committee but were approved by the JCHC members at the May 23, 2017 Work Plan Meeting.
 1. HJR 616 by Delegate O'Bannon: A study of the quality of health care services in jails and prisons including:

A review of:

 - Quality and oversight of the delivery of health care services
 - The process for the development and implementation of performance measures
 - Enforcement of contracts

Development of recommendations for improving the quality of health care services
 2. HJR 779 by Delegate Holcomb: A study of jails to determine:
 - Whether to require Community Services Boards to provide mental health services in jails
 - The impact of requiring Community Services Boards to provide mental health services in jails, including the costs and benefits

Legal Obligation to Provide Health Care to the Incarcerated

By law VADOC and the local and regional jails are required to provide adequate health care to incarcerated offenders (U.S. Const. Amend. VIII; §53.1-32, and § 53.1-126 Code of Virginia).

Virginia Code concerning the purchase of medicine by jails and regional jails (§ 53.1-126) states: “The sheriff or jail superintendent shall purchase at prices as low as reasonably possible all foodstuffs and other provisions used in the feeding of jail prisoners and such clothing and medicine as may be necessary.”

Access to adequate health care, not quality health care, was defined by the United States Supreme Court beginning in 1976 (*Estelle v. Gamble*, 429 U.S. 97, 97 S.Ct. 285). The definition encompasses the idea of providing incarcerated offenders with a “community standard” of care that includes a full range of services. The courts identified three rights to health care for incarcerated offenders:

- The right to have access to care;
- The right to have care that is ordered by a health care professional
- The right to professional medical judgment*

The duty prison and jail officials have is to NOT be deliberately indifferent to one’s serious medical needs which the court deems cruel and unusual punishment, a violation of the 8th Amendment.

* *Conway, J.D. LL.M.; Craig A. A Right of Access to Medical and Mental Health Care for the Incarcerated. 2009. Health Law Perspectives (June)*

Legal Obligation to Provide Health Care to the Incarcerated

On July 12, 2012 a class action lawsuit was filed in federal court against VADOC over medical care at Fluvanna Correctional Center for Women. The agreement reached between VADOC and the plaintiffs at Fluvanna is comprehensive and involves all aspects of the health care system, including mental health.

Some of the agreement issues addressed include quality issues, such as: timely access to care and treatment, the following of national clinical guidelines for treatments and medical testing, admission and discharge planning, quality improvement compliance, security and treatment of pregnant women, accommodations for prisoners with special needs and compliance with the Americans with Disability Act (ADA).

Fluvanna Correctional Center's medical services are under contract with Armor Correctional Health Services.

VADOC, the jails and regional jails are legally responsible for all aspects of the offender health care system whether the care is provided directly or through a private contract.

* *Conway, J.D. LL.M.; Craig A. A Right of Access to Medical and Mental Health Care for the Incarcerated. 2009. Health Law Perspectives (June)*

Interim Report

Preliminary Meetings

- Department of Corrections (DOC)
- Department of Criminal Justice (DOCJ)
- Compensation Board
- Virginia Sheriffs' Association
- Virginia Regional Association of Jails
- Virginia Division of Risk Management (DRM)
- Department of Behavioral Health and Developmental Services (DBHDS)
- Chief Medical Examiners Office

Tours

- Virginia Beach Jail
- Hampton Roads Regional Jail
- Arlington Community Services Board (CSB) Crisis Intervention Center
- Fairfax - Falls Church CSB's Merrifield Center – Multi-purpose Crisis Intervention Center

Known Related Activity

- Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century
 - June 20, 2017 Criminal Justice Workgroup meeting
 - Ms. Leslie Weisman from the Arlington Crisis Intervention Center and a member of the Criminal Justice Diversion Expert Advisory Panel discussed the work of the Advisory Panel. This organization did a jail survey, visited five jails and is in the process of reviewing material related to mental health issues in the jails
 - Robyn de Socio, the Executive Secretary from the Compensation Board discussed a budget amendment from this past session that requires the Commissioner of DBHDS to designate a validated mental health screening instrument that can be administered by the jails. Prior to this amendment the use of varying and un-validated screening tools among different jails has led to questions of completeness in identifying the behavioral health status of those in custody

Known Related Activity

- June 20, 2017 Criminal Justice Workgroup meeting (continued)
 - Sheriff Gabriel Morgan of Newport News discussed his jail diversion program and his work with the CSB and others in the community
 - Dr. Michael Schaefer from DBHDS discussed the work the Department is doing to develop a comprehensive plan for the provision of forensic discharge planning services at local and regional correctional facilities required by budget amendments included in HB 1784 and SB 941. The plan is required to be completed by November 1, 2017, and reported to the Chairmen of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century, the House Committee for Courts of Justice, and the Senate Committee for Courts of Justice. The budget amendment requires a coordinated effort at the local level with standards, capturing data and follow up on the people being discharged
- HB 2183 requires the Department of Medical Assistance Services (DMAS) to create a work group to study how best to link people in custody with appropriate benefits upon discharge
- The Virginia Association of Regional Jails, along with the Virginia Sheriffs' Association, requested assistance in reviewing the delivery of health care in jails from the L. Douglas Wilder School of Government & Public Affairs at Virginia Commonwealth University

Known Related Activity

- The Department of Criminal Justice Services (DCJS) collaborated with the Department of Behavioral Health and Developmental Services (DBHDS) and the Compensation Board to provide funding for mental health pilot projects that will establish evidence-based behavioral health services in six local and regional jails
 - The pilot projects will use evidence-based programs and services to implement mental health screening and assessment; collaborative partnerships among local agencies and officials; crisis intervention teams; and train jail staff in dealing with mentally ill inmates
 - DCJS will report on the implementation and effectiveness of the pilot programs to the Governor, the Secretaries of Health and Human Resources and Public Safety and Homeland Security, and the Chairmen of the House Appropriations and Senate Finance committees in October 2017 and October 2018

Jail Mental Health Pilot Project Grant Awards for FY17 and FY18	
Facility	Awarded Amount
Chesterfield County	\$416,281
Hampton Roads Regional Jail	\$939,435
Middle River Regional Jail	\$536,384
Prince William-Manassas Jail	\$410,898
Richmond City Jail	\$670,813
Western Virginia Regional Jail	\$526,185

Known Related Activity

- DBHDS funds 12 jail diversion programs and 36 crisis intervention assessment sites statewide (see appendix for list of sites)
- The jail diversion programs are a cooperative effort between local law enforcement officials and CSBs to insure that people with behavioral health issues are diverted to the most appropriate setting for treatment and services. Each program is locally designed.
- The assessment sites provide local law enforcement officials with an option to transport people in crisis to an evaluation and treatment setting so that the official can return to regular law enforcement duties. The sites serve as therapeutic, non-criminal justice-affiliated alternatives to incarceration.

Data Collected

- Compensation Board data from their Mental Health Survey and Jail Cost Reports
- DBHDS Forensic Admissions
- Risk Management Data
- In Custody Death Data

- A 15 question landscape survey was developed by JCHC with the assistance of the Virginia Sheriffs' Association and the CSB Association. The survey was sent to all of the local jails and regional jails in the Commonwealth through the Virginia Sheriffs' Association and the Virginia Association of Regional Jails
 - The purpose of the survey was to create a foundation of information of the jails and their health services systems

Joint Commission on Health Care Landscape Survey

JCHC Landscape Survey: Quantitative Findings

- **40 of the 66 local and regional jails responded to the survey**
- 32 reported using a third party vendor to provide all or most of their health care services
 - 10 different vendors were reported
- 20 jails reported having electronic health records
- 32 jails indicated having a relationship with their CSB for mental health (MH) services
 - 20 of those reported using the CSB for both MH and Substance Use Disorder (SUD) services
- 19 jails reported using tele-health services
 - 8 of the jails with vendor contracts provide both tele-health and tele-psychiatric services
 - 11 use tele-services for psychiatric care only
- The average number of people passing through these 40 local and regional jails in a year is a little over 302,000 and the average daily census (ADC) is approximately 22,000 for them
- Of the 40 jails reporting, 12 listed no accreditations

JCHC Landscape Survey: Quantitative Findings

- 29% (6,309) of the 22,000 Average Daily Census (ADC) reported to JCHC have known behavioral health conditions (BH) with less than 1% waiting for a transfer to a state psychiatric facility
 - 9.76% of the inmates with known behavioral health conditions were in custody due to minor misdemeanor charges
 - 14.6% of inmates with known BH conditions were court ordered to jail without a felony charge or an order for a competency hearing

Data and Statistics from State Agencies

Basic Statistics from 2015 (most recent for all sources)

- State Prison Population
 - 29,285 (VADOC)
- City/County Jails and Regional Jails – Average Daily Population
 - 29,601 (VA-Compensation Board)
 - 53% of the ADP are in 23 designated Regional Jails
 - 47% are in city and county jails
 - During the month of June 2015 jails reported distributing
 - 11,052 psychotropic medications
 - 41% of the psychotropic medications were prescribed antipsychotics (25%) or mood altering (16%) medications such as thorazine, clozaril and/or lithium
 - 59% of the psychotropic medications were prescribed for depression (44%) or anxiety (15%)
- 95 deaths in state prisons
 - 87 were classified as natural (92%)
 - The balance were classified as accidental (5), suicide (1), homicide (1) and undetermined (1)
- 54 deaths in jails
 - 23 were classified as natural (43%)
 - 12 were classified as suicide (22%)
 - The balance were classified as accidental (10), homicide (6) and undetermined (3)

Basic Statistics from 2015 (most recent for all sources)

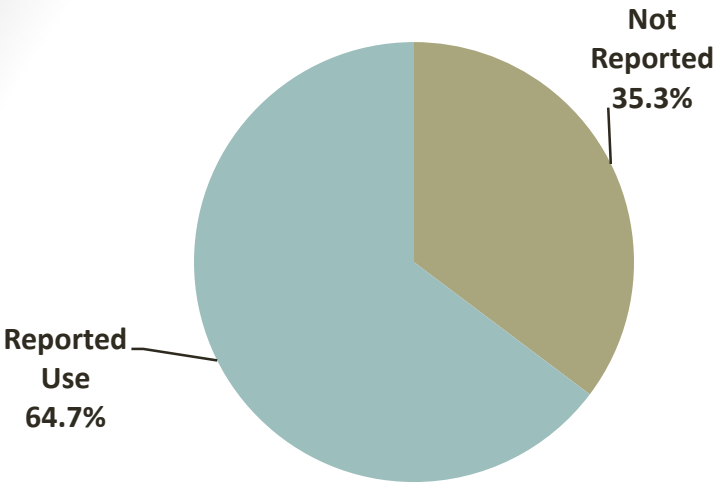
- 5,086 annual admissions statewide to State Psychiatric Hospitals
 - 23.5% (1,195) were admitted from jails or prisons
 - 80% were admitted for “emergency treatment” or “incompetent to stand trial”
 - The average daily census for the State Psychiatric Hospital system is 1,305
- 43 classified medical complaints to Risk Management
 - 31 from the prisons
 - 12 from the jails

Virginia Department of Corrections: Trends

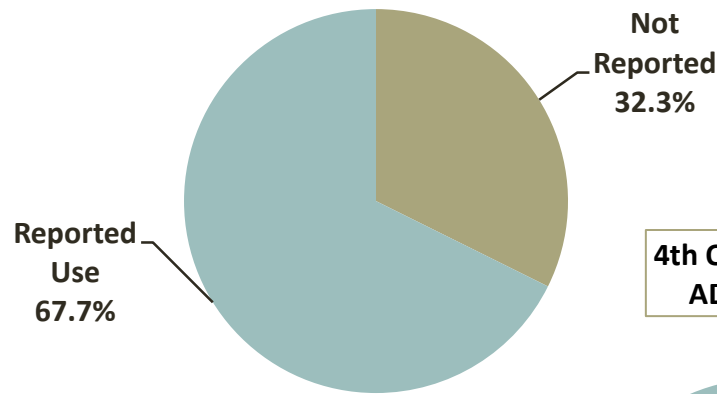
VADOC

Point in Time Data: Reported Alcohol Use

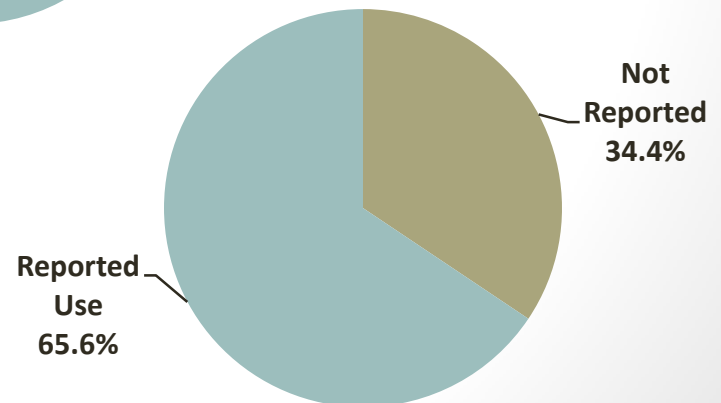
Fourth Quarter 2012
ADP, 29,671



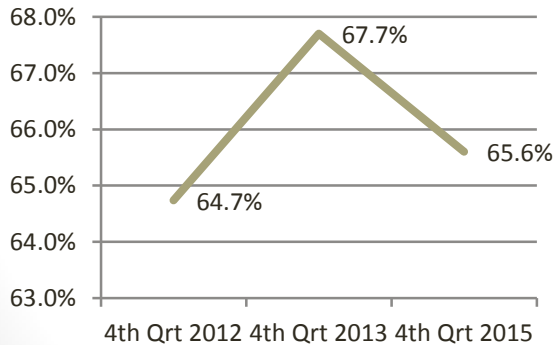
4th Quarter 2013
ADP, 29,987



4th Quarter 2015
ADP, 30,346



Percent of ADP W/ Reported Alcohol Use



Notes:

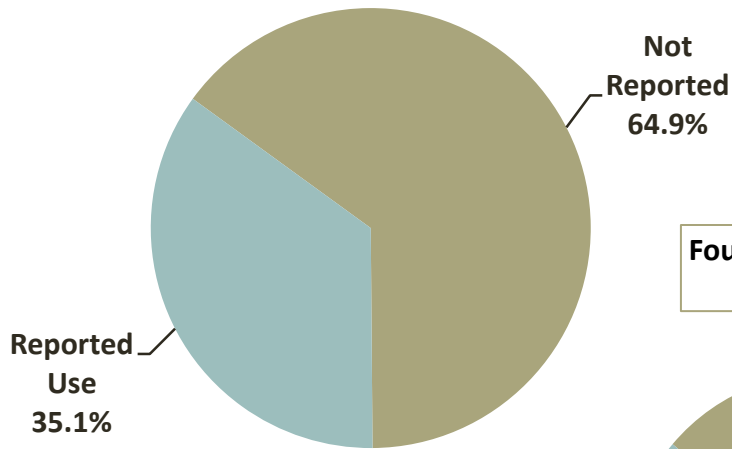
Self-reported by offenders upon intake

Not reported includes: Alcohol Not Used/Unknown/Not Reported

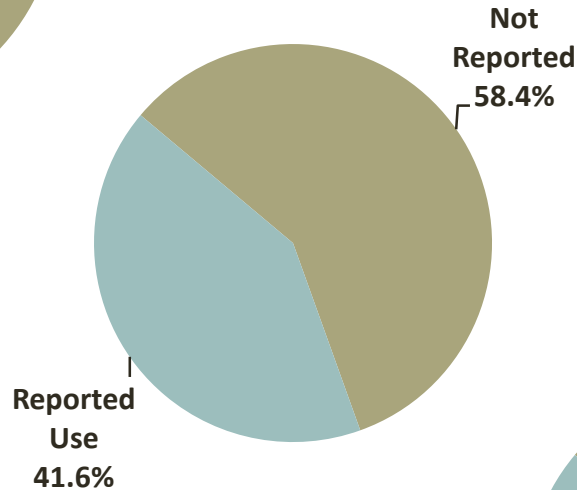
Source: Department Of Corrections - Quarterly Reports to General Assembly

VADOC Point in Time Data: Reported Drug Use

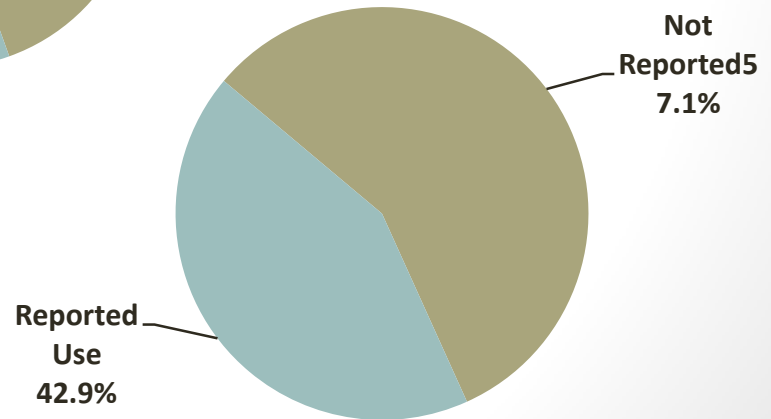
**Four Quarter 2012
ADP, 29,671**



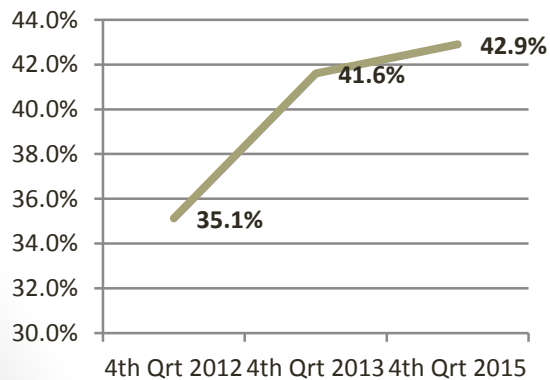
**Fourth Quarter 2013
ADP, 29,987**



**Fourth Quarter 2015
ADP, 30,346**



**Percent of ADP W/ Reported
Drug Use**



Notes:

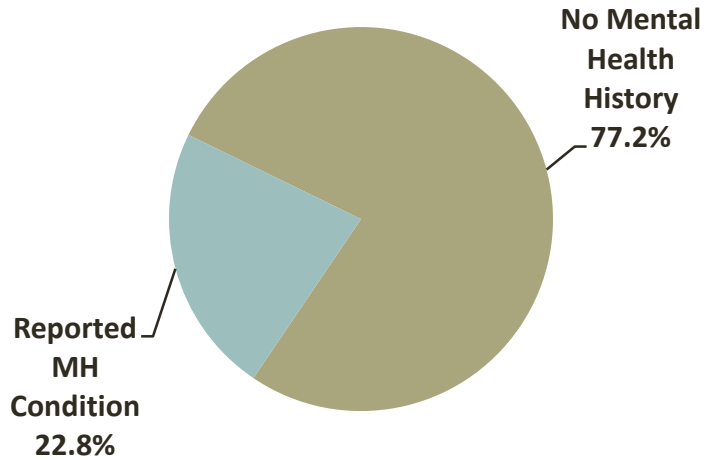
Self-reported by offenders upon intake

Not reported includes: Drug Not Used/Unknown/Not Reported

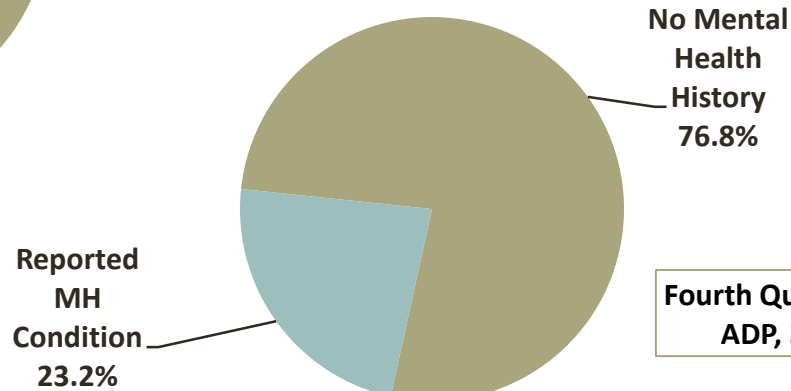
Source: Department Of Corrections – Quarterly Reports to General Assembly

VADOC Point in Time Data: Reported Mental Health History

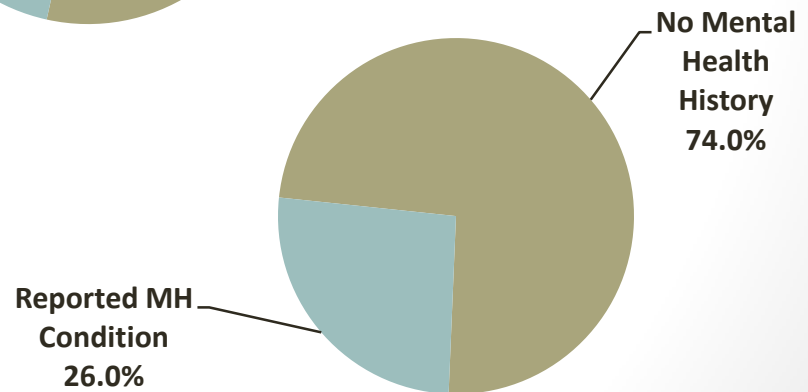
**Fourth Quarter 2012
ADP, 29,671**



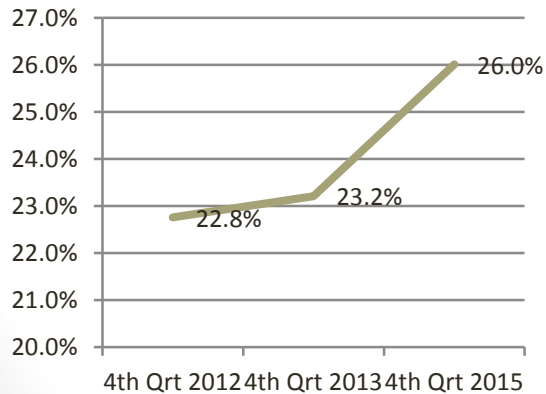
**Fourth Quarter 2013
ADP, 29,987**



**Fourth Quarter 2015
ADP, 30,346**



**Percent of ADP W/ Reported
MH Condition**



No Mental Health History includes: No Code Assigned and No History or Current Evidence of Impairment.

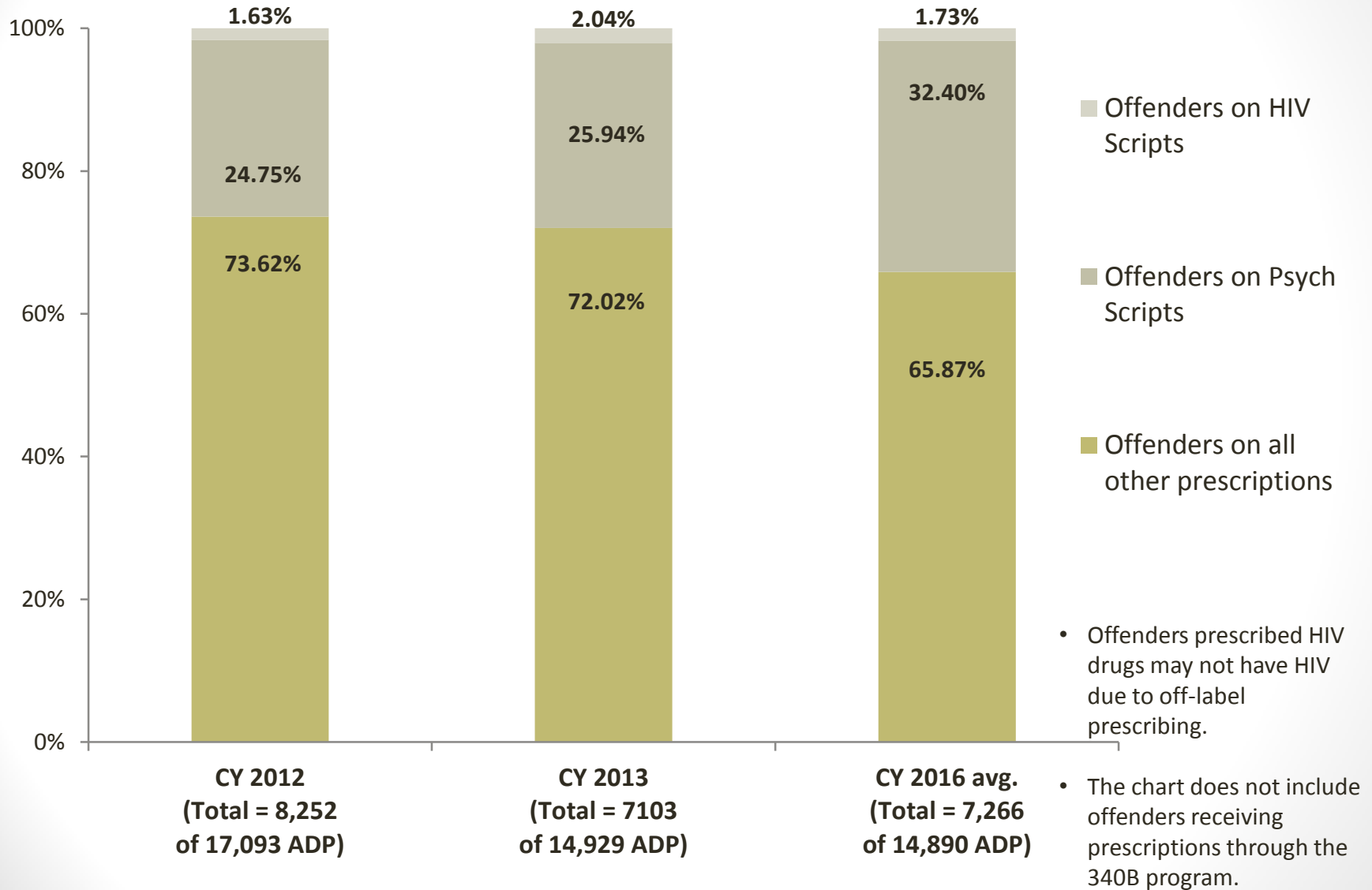
MH information is not self-reported by the offender.

Source: Department Of Corrections - Quarterly Reports to General Assembly

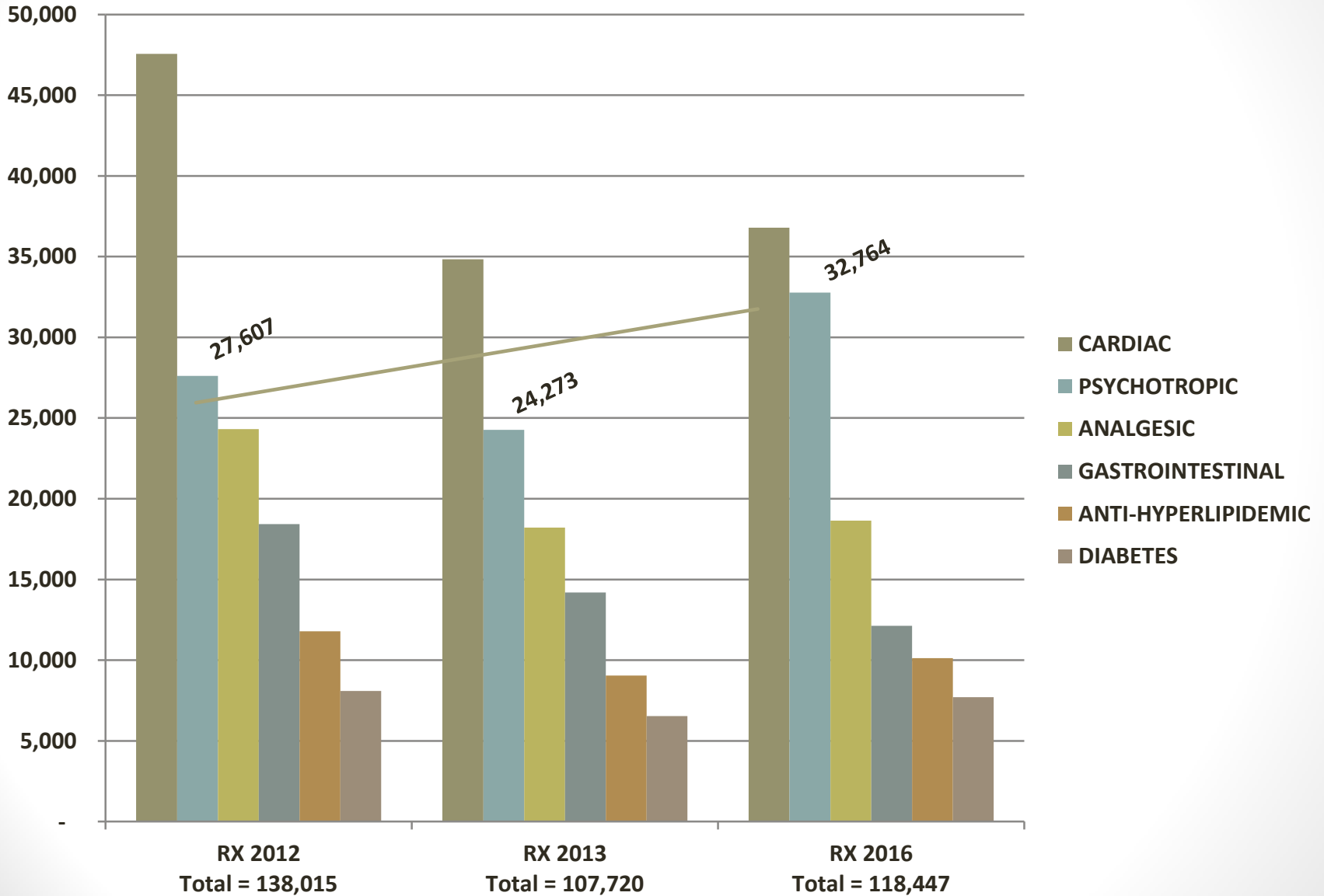
Virginia Department of Corrections:

Pharmacy Trends in Prisons Without Comprehensive Health Care Contracts

**Diamond Pharmacy Services
Monthly Report Analysis for VADOC Health Services
(Does not include Armor, Mediko or GEO)**



Six Month - Diamond Report to VADOC
Number of Prescriptions by Therapeutic Class
 (Does not include Armor, Mediko or GEO)



JCHC Landscape Survey: Qualitative Findings

- The Division of Risk Management (DRM) indicated that they provide liability insurance coverage to jails and prisons and that malpractice insurance for certain jails, and separate contracts with physicians, may be done in a variety of ways by DRM depending on the jail. DRM indicated that they don't collect health services contracts from the local/county jails or regional jails.
- The Virginia Department of Corrections inspects jails based on criteria established by the Board of Corrections. The inspections involve procedures and processes not the quality or actual provision of health care services. They do not provide any oversight of jail health services contracts.
- A variety of avenues exist for a person in custody who wishes to file an official complaint related to health care services. Official complaints can be sent to: the Department of Corrections; the Attorney General's Office; and/or the Division of Risk Management. The system among the various agencies appears to be uncoordinated.
- Throughout all of the visits and meetings an issue was raised concerning how much health information can be shared between various entities due to Health Insurance Portability and Accountability Act (HIPAA).
- Knowledge of which jails have contracts for comprehensive health services and the accrediting organizations for each jail are currently unknown at the state level.
- While health and mental health data are routinely collected from the jails by the Compensation Board through annual Jail Mental Health Survey, the data is not audited for accuracy.

Issues Discussed During Meetings

- How should quality health care in jails and prisons be defined?
- The Chief Medical Examiner's office indicated that an independent Fatality Review Committee made up of health and behavioral health care experts, along with jail and prison experts, can provide valuable information to the jail and prison systems on how to define and address quality through a focused, confidential and independent review of medical records.
- Some of the services that can be used to define quality for behavioral health issues are currently being developed by VADOC, DBHDS and the Compensation Board, i.e. screening and discharge planning.
- For the behavioral health programs, are there resources and assistance available to all CSBs and jails to help insure that people with behavioral health issues are properly screened and routed into the most appropriate setting for care and treatment?

Preliminary Findings

- Jails and the CSBs need to share data on a daily basis to determine a person in custody's history with both the behavioral health system and the jail system
 - There is a gap of information and understanding between the state, the jails and CSBs partly due to a lack of understanding of HIPPA law
 - HIPPA includes a “lawful custody exception” in 45CFR 164.512 that allows all jails and CSBs to exchange information
 - A legal opinion from the Attorney General providing clarification to all of the jails and CSBs in the Commonwealth may facilitate necessary data sharing
- Data collected by the Compensation Board concerning behavioral health should be audited periodically for accuracy and consistency in reporting
 - One jail indicated that the lack of consistency calls into question whether the information being collected is useful and the best reflection of a point in time
- The JCHC survey found 19 of 40 jails reported using a form of tele-health/tele-psychiatry
 - The Compensation Board data shows that 17 of 66 jails reported some level of medical consultations through video
 - 8 jails utilize video consultations less than 50% of the time
 - 6 used tele-psychiatry for CSB Prescreening for TDOs in 2016

Preliminary Findings

- Health care service contracts and vendor names should be reported to the Virginia Department of Corrections as part of their compliance program
 - Contracts should be reviewed for consistency and to assure that they meet the Virginia Board of Corrections standards
 - Contracts also should include provisions for compliance review
- As mentioned previously, 20 of the surveyed jails reported using Electronic Health Records (EHR). The data collected using EHR should be reported to the Virginia Compensation Board to be used for overall health care management of the jail populations

Preliminary Findings

- A Fatality Review program should be created within the Chief Medical Examiners Office for inmate deaths. The statutes creating the team may be modeled after the Adult Fatality Review Team, the Child Fatality Review Team and the Family Violence Fatality Review Team. The purpose of such a team would be to identify and report on system wide gaps in the jail and prison health care system.
 - The Inmate Fatality Review Team may be made up of medical, mental health and program experts selected or appointed from either professional associations or state agencies or both
 - The team would review selected inmate deaths upon completion of any law enforcement investigation or prosecution
 - The team also would gather any fatality reviews performed at the local level
 - A summary report should be made available annually to the public
 - Person identifiable material and information used in the OCME fatality review should be kept confidential and excluded from the Virginia Freedom of Information Act
 - Meetings of the review team should be closed to the public to protect confidentiality and allow for a complete and thorough review of each death
- Estimated operational/ongoing cost to establish such a team: \$120,000 annually

Preliminary Findings

- Consideration should be given to establishing within CSBs a community level Advocacy Program for Behavioral Health to review and provide assistance to people in jail who have known behavioral health issues
 - During meetings with the Chief Medical Examiner's Office it was noted that there is often a lack of an independent advocate for the mentally ill when they are in custody
 - A task force or work group may be established to define the program and the level of training such advocates may need to serve the interests of those in jail with behavioral health issues

Appendix I

Local/County Jails and Regional Jails Responding to JCHC Survey	
Alexandria City	Northern Neck Regional
Blue Ridge Regional	Northwestern Regional
Bristol City	Page County
Central Virginia Regional	Pamunkey Regional
Charlotte County	Patrick County
Chesterfield County	Piedmont Regional
Culpeper County	Pittsylvania County
Danville City	Portsmouth City
Fairfax County	Prince William / Manassas Regional
Fauquier County	Rappahannock Regional County
Gloucester County	RSW Front Royal
Hampton Roads Regional	Richmond City
Henry County	Riverside Regional
Loudoun County	Roanoke City
Meherrin River Regional	Southside Regional
Middle Peninsula Regional	Southwest Virginia Regional
Middle River Regional	Virginia Beach
Newport News City	Virginia Peninsula Regional
Norfolk City	Western Tidewater Regional
Northampton County	Western Virginia Regional

Appendix II

Health Care Service Providers listed in JCHC Survey
Armor
Comprehensive Health Care Services
Corizon Health
Correct Care Solutions
Correctional Medical Care, Inc.
Danville - Pittsylvania Community Services
Mediko
Naphcare, Inc.
Psychology Associates And Creative Health Care
Rappahannock Creative Health Care Medical And Psychiatric Services

Appendix III

Various Accreditation/Certification Programs Listed by Jails from the JCHC Survey

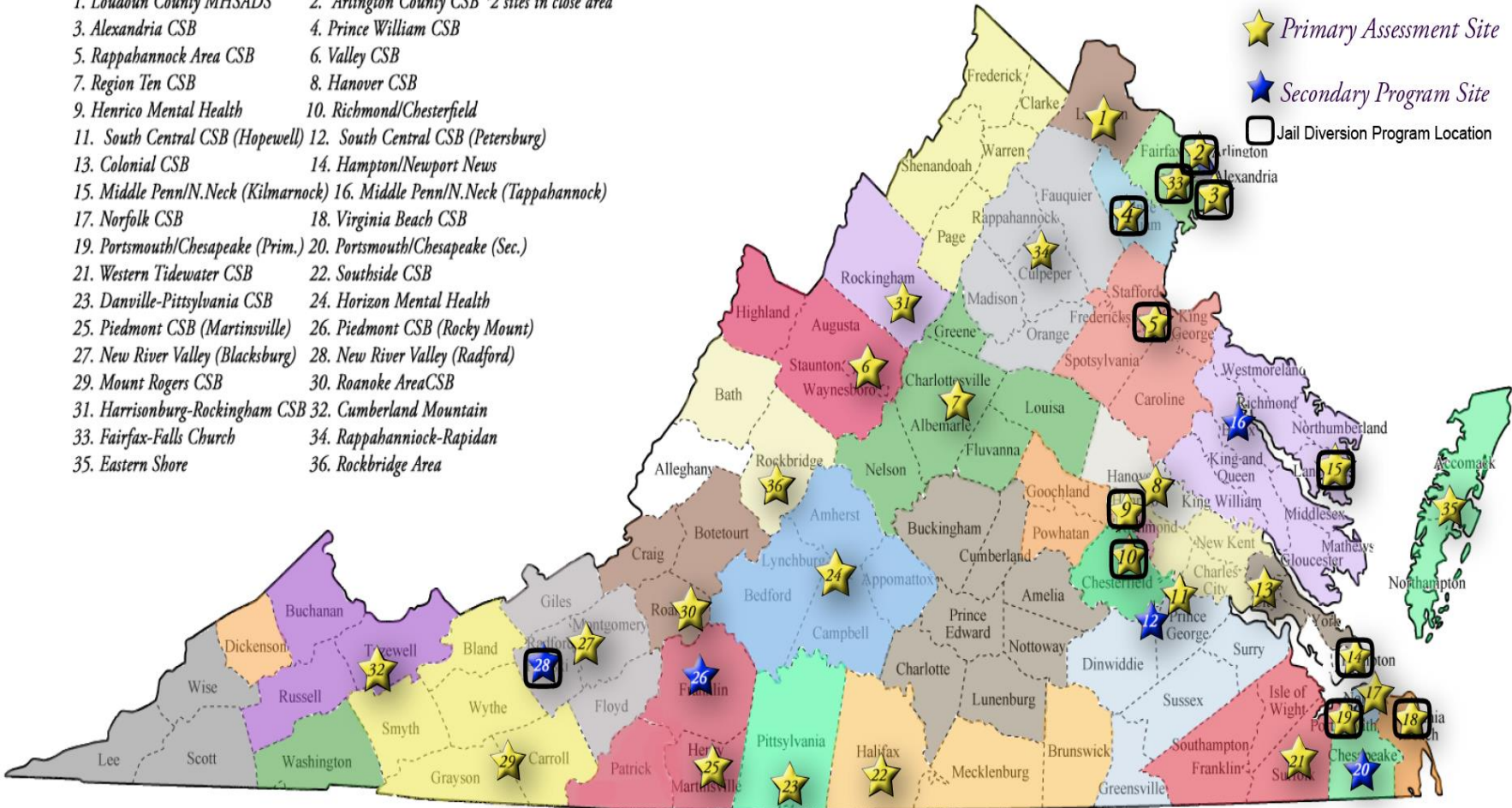
Acronym	Accreditation / Certification
ACA	American Correctional Association
PREA	Prison Rape Elimination Act
DOC	Virginia Department of Corrections
FBP	Federal Bureau of Prisons
USM	US Marshals
NCCHC	National Commission on Correctional Health Care
ICE	U.S. Department of Homeland Security Immigration and Customs Enforcement
VLEPSC	Virginia Law Enforcement Professional Standards Commission
CALEA	Commission on Accreditation for Law Enforcement Agencies
DOJ	Department of Justice

Appendix IV

Crisis Intervention Assessment & Jail Diversion Locations

1. Loudoun County MHSADS
2. Arlington County CSB *2 sites in close area
3. Alexandria CSB
4. Prince William CSB
5. Rappahannock Area CSB
6. Valley CSB
7. Region Ten CSB
8. Hanover CSB
9. Henrico Mental Health
10. Richmond/Chesterfield
11. South Central CSB (Hopewell)
12. South Central CSB (Petersburg)
13. Colonial CSB
14. Hampton/Newport News
15. Middle Penn/N. Neck (Kilmarnock)
16. Middle Penn/N. Neck (Tappahannock)
17. Norfolk CSB
18. Virginia Beach CSB
19. Portsmouth/Chesapeake (Prim.)
20. Portsmouth/Chesapeake (Sec.)
21. Western Tidewater CSB
22. Southside CSB
23. Danville-Pittsylvania CSB
24. Horizon Mental Health
25. Piedmont CSB (Martinsville)
26. Piedmont CSB (Rocky Mount)
27. New River Valley (Blacksburg)
28. New River Valley (Radford)
29. Mount Rogers CSB
30. Roanoke Area CSB
31. Harrisonburg-Rockingham CSB
32. Cumberland Mountain
33. Fairfax-Falls Church
34. Rappahannock-Rapidan
35. Eastern Shore
36. Rockbridge Area

- ★ Primary Assessment Site
- ★ Secondary Program Site
- Jail Diversion Program Location



Appendix V

State Prisons and Average Daily Population (ADP)

* Health services managed by VADOC

* Health services managed by a Vendor

DOC Managed Facilities

Facility	ADP (8/2016)	Facility	ADP (8/2016)
Appalachian Detention Center	107	James River Work Center	292
Baskerville	386	Keen Mountain	708
Bland	647	Marion Correctional and Treatment Center	298
Buckingham	1,152	Nottoway	1,421
Caroline Unit 2	120	Nottoway Work Center	194
Central Virginia Unit 13	225	Patrick Henry Unit 28	115
Chesterfield Detention and Diversion Center	128	Pocahontas State	1,031
Cold Springs Detention Center & Unit 10	98	Red Onion State Prison	863
Deep Meadow	726	River North	976
Dillwyn	899	Rustburg	135
Green Rock	1,031	Stafford Diversion Center	105
Halifax Unit 23	230	Virginia Correctional Center for Women	444
Harrisonburg Detention Center	94	Wallens Ridge State Prison	1,084
Haynesville Unit 17	94	Wise Unit 18	105
Haynesville	912		
		Total	14,620

Privately Managed Facilities for Health Care

Facility	Vendor	ADP (8/2016)
Brunswick Women's Pre-Release Center	Armor	197
Deerfield – Infirmary & General Population	Armor	1,066
Deerfield Work Center - Men	Armor	202
Deerfield Work Center - Women	Armor	155
Fluvanna Center for Women – Infirmary & General Population	Armor	1,223
Greensville Work Center	Armor	229
Greensville - Infirmary & General Population	Armor	2,972
Indian Creek	Armor	1,013
Lunenburg	Armor	940
Powhatan Reception Center (includes Medical Unit and Infirmary)	Armor	453
St. Brides	Armor	1,184
Sussex I	Armor	1,148
Sussex II	Armor	1,247
Augusta	Mediko	1,329
Coffeewood	Mediko	984
Lawrenceville	The Geo Group	1,567
Total		15,909