

OLD DOMINION COURT SERVICES



ANNUAL REPORT FY 2014

MESSAGE FROM THE COMMUNITY CORRECTIONS CHIEF

It is with pleasure the Annual Report for Fiscal Year 2014 is submitted as a representation of functions the Old Dominion Court Services – Pretrial Services & Local Probation. The Old Dominion Court Services provides critical functions at both the pre and post adjudication stages of the criminal justice system.

Old Dominion Court Services provides pretrial investigations and supervision for the City of Winchester, and the Counties of Clarke and Frederick. It is designed to aid the courts in the initial processing of defendants, reducing jail overcrowding, and upholding public safety. The program accomplishes these tasks by providing assessments and background information about defendants to the judiciary at court hearings, as well as, providing supervision for defendants awaiting trial.

Old Dominion Court Services provides local probation supervision to the City of Winchester and the Counties of Clarke, Frederick, Page, Shenandoah and Warren. It is designed to provide the judicial system with sentencing alternatives for misdemeanants and certain non-violent felons for whom the court may impose a jail sentence and who may require less supervision than institutional custody.

If you would like further information regarding services provided by this agency, please contact me or any of our staff at 540.535.7155.

S. Kimberly, Chmura
Community Corrections Chief

MISSION STATEMENT

The Mission of Old Dominion Court Services - Pretrial Services and Local Probation is to assist in the administration of justice through the supervision of Pre-trial Defendants and Post-Sentenced Offenders through sound supervision principles and utilization of Evidence-Based Practices; promoting public safety and reducing recidivism by encouraging pro-social behavior in the client.

ACKNOWLEDGEMENTS

Sincere appreciation is extended to all the Pretrial Officers, Probation Officers and Support Staff. Through their dedication, professionalism and significant contributions, Old Dominion Court Services is able to provide quality services to those under our care while enhancing public safety.

Special thanks are expressed to the members of the Old Dominion Community Criminal Justice Board. This is an advisory board, and these members serve voluntarily. They generously donate their time and efforts to guide and assist Old Dominion Court Services. We recognize the essential support of Stephen M. Gyurisin, Chairman, and Timothy S. Coyne, Vice Chair, whose contributions enhance and improve our services.

Immense appreciation is given to the very supportive members of the Boards of Supervisors/City Council and the County Administrators/City Manager in the counties and city served by Old Dominion Court Services, specifically, Mr. John Riley and Frederick County Board of Supervisors as Frederick County is the administrative and fiscal agent for our program. Without this assistance, Old Dominion Court Services would not be able to operate.



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HISTORY OF OLD DOMINION COURT SERVICES

In August of 1995, the Common Council of the City of Winchester and the Board of Supervisors for the Counties of Frederick, Clarke, Warren, Shenandoah, and Page, by joint action, resolved to implement the



**1 OLD DOMINION COURT SERVICES ON CAMERON STREET
ODCS MOVED IN JULY 2011**

Comprehensive Community Corrections for Local Responsible Offenders and the *Pretrial Services Act*. By said resolution, the former Blue Ridge Community Diversion Incentive (CDI) Program, which had been responsible for supervision of locally responsible offenders from all said localities since 1981, was renamed the Old Dominion Community Corrections Program and was made responsible for the implementation of the CCCA.

Also at that time, the Northwestern Regional Adult Detention Center [NRADC] established the Pretrial Services Program. This joint resolution established the Old Dominion Community Criminal Justice Board and named the County of Frederick as the administrative and fiscal agent of the Old Dominion Community Corrections Program and the Pretrial Services Program.

In 2007, the Common Council for the City of Winchester, and the Boards of Supervisors in Clarke County and Frederick County reaffirmed the establishment of this agency.

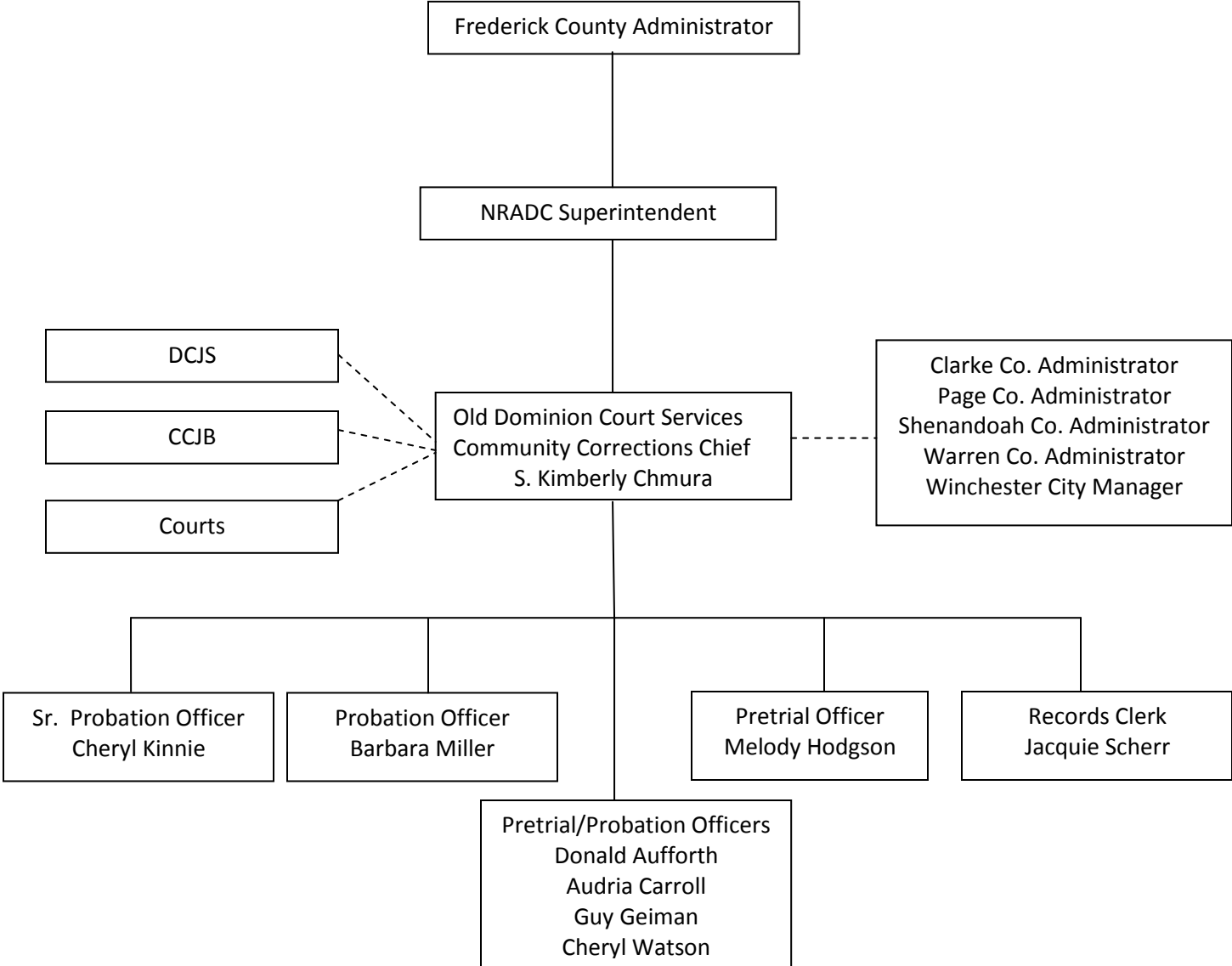
In July of 2011, both programs were merged into a single agency with the County of Frederick remaining the administrative and fiscal agent. The Old Dominion Community Criminal Justice Board continued to be an advisory board to these agencies. NRADC remained the department in which both programs reported to. The official name of these programs is Old Dominion Court Services – Pretrial Services and Local Probation Agency.

CCJB MEMBERS

Member Name	Representing
The Honorable Timothy Coyne, Vice Chairman	Public Defender Office
Mr. Stephen M. Gyurisin, Chairman	Winchester City
Ms. Nancy Haden	Northwestern Community Service Board
The Honorable W. Dale Houff	Warren County General District Court
The Honorable Dennis L. Hupp	26 th Judicial Circuit Court
Chief Probation & Parole Officer Tessie Lam	Shenandoah County/District 11 P&P
The Honorable Brian Madden	Warren County/Commonwealth
Chief Magistrate Monica Martin	26 th Magisterial District
Major Jason Pettit	Page County/ Jail
Mr. John Riley	Frederick County
Sheriff Tony Roper	Clarke County
Dr. Beverly Brown Schulke PhD	Shenandoah University
The Honorable William Sharp	Juvenile Domestic Relations Court
The Honorable David S. Whitacre	Frederick/Winc. General District Court
Chief Neal White	Law Enforcement

The CCJB is an advisory board for the operation of pretrial services and local probation. The establishment, makeup and duties of the Board are outlined in the *Code of Virginia*. The Board is responsible to advise ODCS on the development and operation of the programs, as well as provide evaluation and monitoring. The Board reviews the submission of all criminal justice grants. It is to assist community agencies and organizations in establishing and modifying programs and services for defendants and offenders on the basis of an objective assessment of the community's needs and resources, as well as facilitate local involvement and flexibility in responding to the problem of crime in our communities. It may also develop and amend the criminal justice plan for approval by the local governing bodies.

ORGANIZATIONAL CHART





Pretrial Services are provided to Clarke and Frederick Counties and the City of Winchester. All pretrial defendants are seen in the Main Office. The main office is located at 860 Smithfield Avenue, Winchester, VA 22601.

Probation supervision is provided to Clarke, Frederick, Page, Shenandoah and Warren Counties, as well as the City of Winchester. Probationers may report to any of our offices:

860 Smithfield Avenue
Winchester, VA 22601

101 East Main Street
Front Royal, VA 22630

23 West Main Street
Luray, VA 22835

215 Mill Road Suite 108
Woodstock, VA 22664

LEGAL AND EVIDENCE BASED PRACTICES FOR PRETRIAL SUPERVISION

LEBP are interventions and practices that honor the legal and constitutional rights afforded to defendants while implementing interventions that research has proven to be effective in reducing non-compliance while on community supervision. In January 2013, the pretrial officers attended training for “Strategies for Effective Pretrial Supervision – STEPS”. Since that time, PSA has practiced these skills in Learning Teams, been observed and monitored by paid Trainers/Facilitators and implemented the skills in case supervision. As all defendants are innocent unless proven guilty, ODCS does not discuss the circumstances of the alleged offense. The STEPS model does allow acknowledgment of pro-social behavior and correction of undesirable behavior, as well as encouraging appropriate defendants to address thinking errors and practice problem solving/conflict resolution.

EVIDENCE BASED PRACTICES FOR PROBATION

As one of the four original pilot sites for EBP, many practices have become routine course of business for the staff. Change is “the norm” for the staff as new research is available and new innovative strategies are developed.

The Eight EBP Fundamentals:

1. Risk/Need: Assess Actuarial Risk: ODCS uses the validated M/OST screening tool to determine supervision level and criminogenic needs.



2. Enhance Intrinsic Motivation: All staff have completed Effective Communication and Motivation Interview/Strategies (ECMI/S).

3. Target Interventions: In 2009 DCJS approved ODCS to implement Differential Supervision. This allows the Probation Officers to spend the most time with those higher risk/needs offenders and to not over supervise low risk offender, thus increasing their likelihood of non-compliance.

4. Skill Train with Directed Practice: Probation Officers utilize many of our local resources. Additionally, the probationer may be referred to the ODCS facilitated MRT program that addresses criminal thinking. Often interventions may occur during the office visits with structured

questioning, role play and followed up with assignments for the client to complete prior to the next visit.

5. Increased Positive Reinforcement: Staff strive to have 4 positive reinforcements to every 1 negative reinforcement. Also, ODCS utilized the use of sanctions and incentives.

6. Engage On-going Support in Communities: Offenders are encouraged to develop pro-social peers, as well as pro-social recreational activities and habits.

7. Measure Relevant Practices: The staff are in the process of completing refresher training for the assessment and case planning. Also a statewide client survey was completed where the offenders reported that their probation officers treat them fairly, that they care about them and that they are not unnecessarily tough on them. ODCS also completed an organizational assessment and is awaiting the results of the recidivism report, but at this time results are not available.

8. Provide Measurement Feedback: ODCS maintains data to evaluate the types of violations, basic demographics of offenders and the number of the sanctions/incentives imposed. It is also able to access reports from DCJS to monitor M/OST completion rates and other supervision reporting. Much of this data is discussed with the staff and reported to DCJS and the CCJB.

PRETRIAL INVESTIGATIONS

If a defendant is held by the Magistrate or does not post bail by the next court hearing, then the defendant is interviewed by the Pretrial Investigator. The Pretrial Investigator is responsible to provide the Court additional information for the bail hearing. Criminal history is acquired via VCIN, paperwork for defense counsel is reviewed and a Virginia Pretrial Risk Assessment Instrument (VPRAI) is completed. This validated tool assesses a defendant’s risk level in 5 different categories, low to high. Once the paperwork is provided to the Courts, the bail hearing is conducted via video arraignment. During FY 14, ODCS completed 629 investigations.



VPRAI risk levels of those detained defendants who were investigated by Pretrial				
Low	Below Average	Average	Above Average	High
5.6%	14.3%	22.3%	24.6%	33.2%

In FY 14 of those who appeared at Video Arraignment, 84% of the defendants were given bail and 57% of defendants were ordered to Pretrial Supervision as a condition of the bail.

If a defendant is not released within seven (7) days, the Pretrial Investigator will attempt to ascertain the nature of the detention. Occasionally, it is due to lack residence or inability to contact family/friends which the Investigator works to resolve. If it is due to lack of funds due to the amount of a secure bond, the Investigator may assist the defendant in contacting defense counsel.

PRETRIAL SUPERVISION

Placement into pretrial supervision flows either from video arraignment or direct placements from the Magistrates and the Circuit Court Judges. In FY 14, there were a total of 751 defendants ordered to pretrial supervision; 353 defendants charged with misdemeanor crimes and 398 defendants charged with felony crimes.

The average length of supervision for misdemeanants is 3.5 months. Felons’ average length of supervision is 5 months. The frequency of face to face contact is based on the VPRAI level, overall compliance and current stability factors.

**Pretrial Supervision
Performance Measures**

Court Appearance Rate: 96%

Safety Rate: 90%

In FY 14, 607 placements were closed with an overall success rate of 84%. The successful closure rate for FY 13 was 80%. The nationally accepted performance measures for pretrial supervision are Court Appearance Rate and Safety Rate. Court appearance rate is defined as the percentage of supervised defendants who make all scheduled court appearances, ODCS Court Appearance Rate is 96%. Safety rate is defined as the percentage of supervised defendants who are not charged with a new offense during the pretrial supervision, ODCS Safety Rate is 90%.

Placements into pretrial supervision have increased by 74% in the past 5 years. While actual saving to NRADC may not be easily determined, more importantly, by using the VPRAI tool and providing quality supervision, the jail detains those defendants who pose a flight or public safety risk and are releasing those defendants who are appropriate for more cost-effective alternatives, such as pretrial supervision.

LOCAL PROBATION

Local probation supervision is an alternative sentencing option for adult misdemeanants from the General District Courts or Juvenile Domestic Relations Court and for non-violent felons from the Circuit Court. These courts may refer any defendant with aailable offense to ODCS – Local Probation with a totally or partially suspended sentence or deferred disposition proceeding.

The total number of probationers ordered into local probation for FY 14 was 395, 289 misdemeanants and 106 non-violent felons. Over the past 5 years, the number of misdemeanants ordered to local probation has decreased while the number of felons has increased significantly.

	FY 10	FY 11	FY 12	FY 13	FY 14
Misdemeanants	622	557	381	334	289
Felons	34	61	77	80	106
Total	656	618	458	414	395

In addition to this trend, the average length of supervision has also increased for both misdemeanants and felons. This increase has allowed for more in-depth interaction with the probationers.

ODCS administers a validated risk/needs assessment, namely the Offender Scoring Tool (OST). This tool indicates the supervision level, as well as highlights the criminogenic needs of the offender. The criminogenic needs are addressed with appropriate interventions outlined in a case plan. Probationers could be instructed to participate in substance abuse treatment, anger management, batterer’s intervention (for family abuse), and shoplifter treatment. Often the probationers are encouraged to attend 12 step recovery programs. In addition, the probationer may receive appropriate interventions during office visits where the probation officer engages the offender using effective communication and motivational strategies. These office visits may include “homework” where the client is given a guide to address specific criminogenic needs.

This year ODCS was able to offer Moral Reconciliation Therapy (MRT) to probationers and defendants at no cost to the participant. MRT is a cognitive-behavioral counseling program that combines education, group and individual counseling, and structured exercises designed to foster moral development in treatment-resistant clients. It is an evidence based program that can be utilized with a substance abusing client or a client with anti-social thinking and values.

The following chart outlines the number of placements from the different jurisdictions and courts.

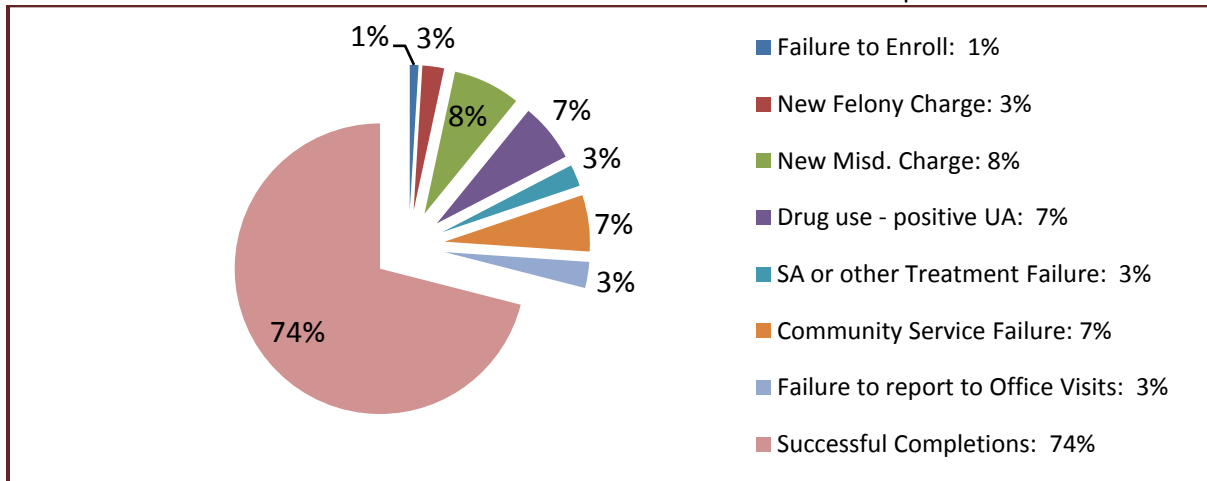
	GDC	JDR	Circuit	Total
Clarke	16	0	0	16
Frederick	32	2	33	68
Page	47	4	6	57
Shenandoah	18	0	11	29
Warren	41	4	7	52
Winchester	41	15	57	113
Transfer IN	72	33	14	119
Total	267	59	128	454

Probation Performance Measures are the rate of completion of the assessment tools, successful closure rate and recidivism rate.

OST completion rate for FY 13 was 70% and in FY 14, we have increased our OST completion rate to 82%. The OST score determines the frequency of officer to client contact or level of supervision. There are 3 supervision levels, administrative (low), standard (medium) and comprehensive (high). For FY 14, 47% of our probationers were in administrative supervision, 45% were in standard supervision and 9% were in comprehensive. This distribution has remained consistent over the past few years.

The overall successful closure rate is 74% or 7 out of every 10 probationers successfully complete probation. Successful completion of probation is defined as completing any specific court ordered obligation such as alcohol education, substance abuse evaluation and community service; remaining of good behavior; and compliance with any other instructions, such as refraining from illegal drug or alcohol use.

The chart below illustrates the nature of the unsuccessful closures for local probation.



In looking at success rate within each supervision level, as expected the lower risk level probationers complete probation successfully more often than standard supervision or medium risk probationers. The actual numbers for comprehensive supervision shows very little deviation, but due to the small population there are wide variations in the percentage.

	FY13	FY 14
Administrative Supervision – low risk	80%	85%
Standard Supervision – medium risk	62%	62%
Comprehensive Supervision – high risk	46%	29%

Other Local Probation Accomplishments

- ✓ Total Amount of Restitution Facilitated: \$8,175
- ✓ Total Amount of Court Cost and Fines paid by Probationers: \$52,482
- ✓ Community Services Hours performed: 14,346 hours for non-profits and governmental agencies. Basing number of hours on \$7.25 minimum wage rate is equivalent to \$104,008 in volunteer work
- ✓ For probationers who were found guilty and ordered to probation in lieu of a sentence, there were 34,051 days of suspended jail time. Average daily cost for an inmate incarcerated in our local jails is approximately \$78 per day.

ANECDOTAL EVIDENCE OF SUCCESS

Scenario #1: In April of 2013 Winchester GDC placed a 53 year old black male on pretrial supervision for a charge of Assault on a LEO. The client failed to report to ODCS. The PO submitted a violation letter, at which time the Public Defender's Office made arrangements for the client to report to ODCS. The client has schizophrenia and depression. He was under the care of NWCSB, but had run out of medication and was not functioning well. Out of concern for the client and his likelihood to appear in court, the PO spoke with the NWCSB doctor's office to have the medications refilled and the PO coordinated with his NWCSB case worker so that transportation to and from court could be arranged. The client reported to all his scheduled court dates and, at disposition of the charge, his pretrial supervision case was closed successfully.

Scenario #2: In March of 2013 Shenandoah Circuit Court placed a 39 year old white female on supervised probation with a deferred disposition for Possession of Heroin. The client was a mother of 4 children and had been widowed twice by this age. All children have been removed by social services and were placed in foster care or with family members. During supervision period, client received counseling. She was referred for psychiatric care for PTSD, as well as medication management. Not only did she complete all her probation conditions, she maintained employment and became a co-facilitator for the Women and Recovery (WAR) program. She maintained weekly visitations with her children throughout her entire period of supervision. She had her nursing license reinstated. Besides referrals, the biggest role of the PO in this case was to provide constant reinforcement to the client that if she kept doing the right thing each and every day, life would get better. Boosting confidence and self-esteem were key ingredients in the success of this probation case. As she completed all court ordered obligations, her case was dismissed and there is a plan for the children return to home as soon as possible.

Scenario #3: In May of 2014 Frederick JDR court placed a 28 year old white female on pretrial supervision for a charge of assault and battery. At intake, she had been drinking and could not do the intake due to her positive BAC. She was rescheduled and was given a brochure on AA meetings. At her next intake, she was sober when tested. The client shared with the PO that she was 4 months pregnant and needed help. She was given information on ABBA Care. During one of her subsequent office visits, she advised she had become homeless; she was referred to emergency housing. Also, she was given the job leads. Unfortunately, she had some health problems and the child was born premature and died. Referrals to NWCSB and Counseling and Behavioral Services, LLC were provided. Her case closed successful, at which time she had called both agencies and was waiting to hear back.

Scenario #4: In September of 2012 Winchester JDR placed a 37 year old white male on supervised probation for an A&B on a Family Member. At intake, client was out of the family home and temporarily residing with his Father-in-Law. He had two children who were under the age of 18. He received social security disability. Through the assessment tool, it was determined the client was med/high risk. Over the course of his supervision, he completed a mental health evaluation and received MH counseling and became medication compliant. He received Anger Management counseling through his religious affiliation. While he had some mental health issues and A&B on Family Member, the driver of his criminal behavior was criminal thinking with underlying substance abuse issues. He was ordered to complete Thinking for a Change, which he did. He was sanctioned to substance abuse treatment which he completed a 26 week SA TX program with Dr. Crandell, as well as received Co-Occurring Treatment with Winchester Community Mental Health Center. During office visits, substance abuse triggers and

relapse prevention were discussed. Additionally, he attended parenting class, received rapid housing assistance from NWCSB and was able to pay his costs/fines via community services. While he was non-compliant during some of his probation period, he ultimately received the necessary interventions to address the deficiencies in his life. Both he and his PO were proud to close his case successfully.

Scenario #5: In December of 2013 Frederick GDC placed a 21 year old white male on pretrial supervision for a charge of DWI 1st, with the conditions to refrain from the use of alcohol and illegal drugs. During the intake appointment the client stated he suffered from PTSD and he thought that he may be bi-polar. The client reported he had recently sought mental health treatment. The PO supported the client's plan to seek help. He was placed on medications and continued to report to pretrial services. The PO discussed appropriate expectations of other people, stress management and encouraged journaling of feelings and moods. He continued to meet with his doctors and counselors. The client was compliant with supervision and provided negative alcohol/drug testing; therefore the frequency of reporting was reduced. The client received positive reinforcement from the PO in regards to his pro-social behavior. While on pretrial supervision, the client was placed on the correct medications and his mood began to stabilize. The client was compliant with the conditions of his bail and appeared in court as scheduled. His pretrial case was closed successfully allowing the client to be prepared to be successful on probation.

Scenario #6: In May of 2013 Warren GDC placed a 19 year old white female on supervised probation with a deferred disposition for possessing alcohol while underage. She was ordered to complete the alcohol education class facilitated by ASAP, completed 50 hours of community services, remain of good behavior. After completing the validated risk/needs assessment tool, it was determined that standard supervision was appropriate and her criminogenic risks centered on drug/alcohol abuse and antisocial family and social relationships. As a result of the assessment tool, a case plan was developed with the primary driver of the criminal behavior being antisocial companions. Over several office visits, the client was instructed to complete homework that helped her identify her pro-criminal friends and correlate those relationships to her negative behavior. With the assistance of the PO, she was able to develop future goals and strategies to mend her relationships with her pro-social family members. The client completed her community service hours and alcohol education class. She paid court cost and supervision fees. In November of 2013, her case was dismissed and her probation supervision ended successfully.

Scenario #7: In October of 2013, Frederick JDR and GDC placed a 19 year old white male on pretrial supervision for JDR assault, escape, vandalism x2, assault x2, and burglary. According to the VPRAI assessment, he was average risk. He reported as instructed and all drug and alcohol tests were negative. He maintained employment while awaiting trial. His positive behavior was acknowledged and the benefits of continued appropriate behavior were outlined. He committed to continuing this behavior and the frequency of his office visits was reduced. During office visits, his PO discussed situations and associates that may impact his success and developed plans to avoid or reduce the risk of these situations and peers. The client continued to be compliant with his bail conditions. He appeared at all court hearings and was not re-arrested while on pretrial supervision. In February of 2014, his court cases were finalized and his pretrial case was closed successfully.

§ 19.2-102. In what cases bail allowed; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, any judge, magistrate or other person authorized by law to admit persons to bail in this Commonwealth may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned upon his appearance before a judge at a time specified in such bond and upon his surrender for arrest upon the warrant of the Governor of this Commonwealth. (Code 1950, § 19.1-66; 1960, c. 366; 1975, c. 495.)

§ 19.2-152.2. Purpose; establishment of pretrial services and services agencies.

It is the purpose of this article to provide more effective protection of society by establishing pretrial services agencies that will assist judicial officers in discharging their duties pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of this title. Such agencies are intended to provide better information and services for use by judicial officers in determining the risk to public safety and the assurance of appearance of persons age 18 or over or persons under the age of 18 who have been transferred for trial as adults held in custody and charged with an offense, other than an offense punishable by death, who are pending trial or hearing. Any city, county or combination thereof may establish a pretrial services agency and any city, county or combination thereof required to submit a community-based corrections plan pursuant to § 53.1-82.1 shall establish a pretrial services agency. (1994, 2nd Sp. Sess., cc. 1, 2; 1999, cc. 829, 846; 2004, c. 378; 2007, c. 133.)

§ 19.2-152.4:1. Form of oath of office for local pretrial services officer; authorization to seek capias.

Every pretrial services officer who is an employee of a local pretrial services agency established by any city, county or combination thereof or operated pursuant to this article shall take an oath of office as prescribed in § 49-1 and to provide services pursuant to the requirements of this article before entering the duties of his office. The oath of office shall be taken before any general district or circuit court judge in any county or city which has established services for use by judicial officers pursuant to this article. In addition, any officer of a pretrial services agency established or operated pursuant to this article may seek a capias from any judicial officer for the arrest of any person under the agency's custody and supervision for failure to comply with any conditions of release imposed by a judicial officer, for failure to comply with the conditions of pretrial supervision as established by a pretrial services agency, or when there is reason to believe that the person will fail to appear, will leave, or has left the jurisdiction to avoid prosecution. (2000, c. 1040; 2007, c. 133.)

§ 19.2-152.4:3. Duties and responsibilities of local pretrial services officers.

- A. Each local pretrial services officer, for the jurisdictions served, shall:
1. Investigate and interview defendants arrested on state and local warrants and who are detained in jails located in jurisdictions served by the agency while awaiting a hearing before any court that is considering or reconsidering bail, at initial appearance, advisement or arraignment, or at other subsequent hearings;
 2. Present a pretrial investigation report with recommendations to assist courts in discharging their duties related to granting or reconsidering bail;
 3. Supervise and assist all defendants residing within the jurisdictions served and placed on pretrial supervision by any judicial officer within the jurisdictions to ensure compliance with the terms and conditions of bail;

4. Conduct random drug and alcohol tests on any defendant under supervision for whom a judicial officer has ordered testing or who has been required to refrain from excessive use of alcohol or use of any illegal drug or controlled substance or other defendant-specific condition of bail related to alcohol or substance abuse;
 5. Seek a *capias* from any judicial officer pursuant to § 19.2-152.4:1 for any defendant placed under supervision or the custody of the agency who fails to comply with the conditions of bail or supervision, when continued liberty or noncompliance presents a risk of flight, a risk to public safety or risk to the defendant;
 6. Seek an order to show cause why the defendant should not be required to appear before the court in those cases requiring a subsequent hearing before the court;
 7. Provide defendant-based information to assist any law-enforcement officer with the return to custody of defendants placed on supervision for which a *capias* has been sought; and
 8. Keep such records and make such reports as required by the Commonwealth of Virginia Department of Criminal Justice Services.
- B. Each local pretrial services officer, for the jurisdictions served, may provide the following optional services, as appropriate and when available resources permit:
1. Conduct, subject to court approval, drug and alcohol screenings, or tests at investigation pursuant to subsection B of § 19.2-123 or following release to supervision, and conduct or facilitate the preparation of screenings or assessments or both pursuant to state approved protocols;
 2. Facilitate placement of defendants in a substance abuse education or treatment program or services or other education or treatment service when ordered as a condition of bail;
 3. Sign for the custody of any defendant investigated by a pretrial services officer, and released by a court to pretrial supervision as the sole term and condition of bail or when combined with an unsecured bond;
 4. Provide defendant information and investigation services for those who are detained in jails located in jurisdictions served by the agency and are awaiting an initial bail hearing before a magistrate;
 5. Supervise defendants placed by any judicial officer on home electronic monitoring as a condition of bail and supervision;
 6. Prepare, for defendants investigated, the financial statement-eligibility determination form for indigent defense services; and
 7. Subject to approved procedures and if so requested by the court, coordinate for defendants investigated, services for court-appointed counsel and for interpreters for foreign-language speaking and hearing-impaired defendants. (2003, c. 603; 2007, c. 133; 2008, cc. 551, 691.)

ARTICLE 2.

Comprehensive Community Corrections Act for Local-Responsible Offenders.

§9.1-173. Purpose. --It is the purpose of this article to enable any city, county, or combination thereof to develop, establish and maintain local community-based probation services agency to provide the judicial system with sentencing alternatives for certain misdemeanants or persons convicted of felonies, that are not felony acts of violence as defined in 19.2 – 297.1 and sentenced pursuant to 19.2 – 303.3, for whom the court imposes a sentence of 12 months or less and who may require less than institutional custody.

The article shall be interpreted and construed so as to:

1. Allow individual cities, counties, or combinations thereof greater flexibility and involvement in responding to the problem of crime in their communities;
2. Provide more effective protection of society and to promote efficiency and economy in the delivery of correctional services;
3. Provide increased opportunities for offenders to make restitution to victims of crimes through financial reimbursement or community service;
4. Permit cities, counties or combinations thereof to operate and utilize local community-based probation services specifically designed to meet the rehabilitative needs of selected offenders; and
5. Provide appropriate post-sentencing alternatives in localities for certain offenders with the goal of reducing the incidence of repeat offenders. (1980 c. 300, § 53.1-180; 1982, c. 636; 1983, c. 344; 1990, c. 578; 1992, c. 196; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 1996, c. 568; 2000, c. 1040; 2001, c. 844; 2002, c. 491; 2007, c. 133.)

§ 9.1-174. Establishment of a community-based probation services agency. – To facilitate local involvement and flexibility in responding to the problem of crime in their communities and to permit locally designed community-based probation services agency that will fit its needs, any city, county or combination thereof may, and any city, county or combination thereof that is required by 53.1-82.1 to file a community-based corrections plan shall establish a system of community-based services pursuant to this article. This system is to provide alternative programs for (i) offenders who are convicted and sentenced, pursuant to 19.2-303.3, and who are considered suitable candidates for probation services that require less than incarceration in a local correctional facility and (ii) defendants who are provided a deferred proceeding and placed on probation services. Such programs and services may be provided by qualified public agencies or by qualified private agencies pursuant to appropriate contracts. (Code 1950, 53-128.17; 1980, c. 300; 1982, c. 636; 53.1181; 1983, c. 344; 1992, c. 196; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 1999, c. 372; 2000, c. 1040; 2001, c. 844; 2006, c. 883; 2007, c. 133.)

§ 91.175. Board to prescribe standards; biennial plan. – The Board shall approve standards as prescribed by the Department for the development, implementation, operation and evaluation of local community-based probation services and facilities authorized by this article. Any city, county or combination thereof which establishes and provides local community-based probation services pursuant

to this article shall submit a biennial criminal justice plan to the Department for review and approval. (Code 1950, 53-128.18; 1980, c. 300; 1982, c. 636; 53.1-182; 1994, 2nd Sp. Sess., cc. 1, 2; 1999, c. 372; 2000, c. 1040; 2001, c. 844; 2002, c. 491; 2007, c. 133.)

§ 9.1-176.1. Duties and responsibilities of local community-based probation officers.

- A. Each local community-based probation officer, for the localities served, shall:
1. Supervise and assist all local-responsible adult offenders, residing within the localities served and placed on local community-based probation by any judge of any court within the localities served;
 2. Ensure offender compliance with all orders of the court, including the requirement to perform community service;
 3. Conduct, when ordered by a court, substance abuse screenings, or conduct or facilitate the preparation of assessments pursuant to state approved protocols;
 4. Conduct, at his discretion, random drug and alcohol tests on any offender whom the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana, or synthetic cannabinoids, or the abuse of alcohol or prescribed medication;
 5. Facilitate placement of offenders in substance abuse education or treatment programs and services or other education or treatment programs and services based on the needs of the offender;
 6. Seek a Capias from any judicial officer in the event of failure to comply with conditions of local community-based probation or supervision on the part of any offender provided that noncompliance resulting from intractable behavior presents a risk of flight or a risk to public safety or to the offender;
 7. Seek a motion to show cause for offenders requiring a subsequent hearing before the court;
 8. Provide information to assist any law enforcement officer with the return to custody of defendants placed on supervision for which a Capias has been sought;
 9. Keep such records and make such reports as required by the Department of Criminal Justice Services; and
 10. Determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 and, if no sample has been taken, require an offender to submit a sample for DNA analysis.
- B. Each local probation officer may provide the following optional services, as appropriate and when available resources permit:
1. Supervise local-responsible adult offenders placed on home incarceration with or without home electronic monitoring as a condition of local community-based probation;
 2. Investigate and report on any local-responsible adult offender and prepare or facilitate the preparation of any other screening, assessment, evaluation, testing or treatment required as a condition of probation;
 3. Monitor placements of local-responsible adults who are required to perform court-ordered community service at approved work sites;
 4. Assist the courts, when requested, by monitoring the collection of court costs, fines and restitution to the victims of crime for offenders placed on local probation; and
 5. Collect supervision and intervention fees pursuant to § 9.1-182 subject to local approval and the approval of the Department of Criminal Justice Services. (2003, c. 142; 2007, cc. 133, 528; 2011, cc. 384, 410.)

§ 9.1-177 Form of oath of office for local community-based probation officers. – Every local community-based probation officer who is an employee of a local community-based probation agency, established by any city, county or combination thereof, or operated pursuant to this article, that provides probation and related services pursuant to the requirements of this article, shall take an oath of office as prescribed in § 49-1 before entering the duties of his office. The oath of office shall be taken before any general district or circuit court judge in any city or county that has established services for the judicial system pursuant to this article. (2000, c. 1040, 53.1-182.1:1; 2001, c. 844; 2007, c. 133.)

§ 9.1-177.1 Confidentiality of records and reports on adult persons under investigation by or placed on probation supervision with a local community-based probation services agency.

- A. Any investigation report, including a presentencing investigation report, prepared by a local community-based probation officer is confidential and is exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) Such reports shall be filed as a part of the case record. Such reports shall be made available only by court order and shall be sealed upon final order by the court; except that such reports shall be available upon request to (i) any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; (ii) any agency where the accused is referred for assessment or treatment; or (iii) counsel for the person who is the subject of the report.
- B. Any report on the progress of an offender under the supervision or of a local community-based probation agency and any information relative to the identity of or inferring personal characteristics of an accused, including demographic information, diagnostic summaries, records of office visits, medical, substance abuse, psychiatric or psychological records or information, substance abuse screening, assessment and testing information, and other sensitive information not explicitly classified as criminal history record information, is exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, such information may be disseminated to criminal justice agencies as defined in § 9.1-101 in the discretion of the custodian of these records.

§ 9.1-178. Community criminal justice boards.

- A. Each county or city or combination thereof developing and establishing a local pretrial services or a community-based probation services agency pursuant to this article shall establish a community criminal justice board. Each county and city participating in a local pretrial services or a community-based probation services shall be represented on the community criminal justice board. In the event that one county or city appropriates funds to these services as part of a multi-jurisdictional effort, any other participating county or city shall be considered to be participating in a program if such locality appropriates funds to these services. Appointments to the board shall be made by each local governing body. In cases of multi-jurisdictional participation, unless otherwise agreed upon, each participating city or county shall have an equal number of appointments. Boards shall be composed of the number of members established by a resolution or ordinance of each participating jurisdiction.
- B. Each board shall include, at a minimum, the following members: a person appointed by each governing body to represent the governing body; a judge of the general district court; a circuit court judge; a juvenile and domestic relations district court judge; a chief magistrate; one chief of police or the sheriff in a jurisdiction not served by a police department to represent law enforcement; an attorney for the Commonwealth; a public defender or an attorney who is

experienced in the defense of criminal matters; a sheriff or the regional jail administrator responsible for jails serving those jurisdictions involved in the local pretrial services and community-based probation services; a local educator; and a community-based board administrator. Any officer of the court appointed to a community criminal justice board pursuant to this subsection may designate a member of his staff approved by the governing body to represent him at meetings of the board. (Code 1950, 53.128.19; 1980, c. 300; 1982, c. 636; 53.1-183; 1983, c. 344; 1988, c. 557; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc 502, 574, 768; 1996, c. 342; 1997, c. 339; 2000, c. 1040; 2001, c. 593; 2001, c. 844; 2002, c. 491; 2004, c. 395; 2007, c. 133.)

§ 9.1-179. Withdrawal from program. – Any participating city or county may, at the beginning of any calendar quarter, by ordinance or resolution of its governing body, notify the Director of the Department and, in the case of multi-jurisdictional programs, the other member jurisdictions, of its intention to withdraw from participation in local community-based probation services. Withdrawal shall be effective as of the last day of the quarter in which the notice is given. (Code 1950, 53-128.20; 1980, c. 300; 1982, c. 636, 53.1-184; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 2000, c. 1040; 2001, c. 844; 2002, c. 491; 2007, c. 133.)

§ 9.1-180. Responsibilities of community criminal justice boards.

On behalf of the counties, cities or combinations thereof which they represent, the community criminal justice boards shall have the responsibility to:

1. Advise on the development and operation of local pretrial services and community-based probation services and services pursuant to §§ 19.2-152.2 and 9.1-176 for use by the courts in diverting offenders from local correctional facility placements;
2. Assist community agencies and organizations in establishing and modifying programs and services for defendants and offenders on the basis of an objective assessment of the community's needs and resources;
3. Evaluate and monitor community programs and pretrial and local community-based probation services and facilities to determine their impact on offenders;
4. Develop and amend the criminal justice plan in accordance with guidelines and standards set forth by the Department and oversee the development and amendment of the community-based corrections plan as required by § 53.1-82.1 for approval by participating local governing bodies;
5. Review the submission of all criminal justice grants regardless of the source of funding;
6. Facilitate local involvement and flexibility in responding to the problem of crime in their communities; and
7. Do all things necessary or convenient to carry out the responsibilities expressly given in this article.

(Code 1950, § 53-128.21; 1980, c. 300; 1982, c. 636, § 53.1-185; 1983, c. 344; 1991, c. 43; 1992, c. 740; 1944, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 2000, c. 1040; 2001, c. 844; 2002, c. 491; 2007, c. 133.)

§ 9.1-181. Eligibility to participate.

- A. Any city, county, or combination thereof, which elects to, or is required to establish services shall participate in a local community-based services agency by ordinance or resolution of its governing authority. In cases of multi-jurisdictional participation, each ordinance or resolution shall identify the chosen administrator and fiscal agent as set forth in § 9.1-183. Such ordinances or resolutions shall be provided to the Director of the Department, regardless of funding source for the established programs.
- B. Any local community-based probation services agency established pursuant to this article shall be available as a sentencing alternative for persons sentenced to incarceration in a local correctional facility or who otherwise would be sentenced to incarceration and who would have served their sentence in a local or regional correctional facility. (1992, c. 196, 53.1-185.1; 1994, 2nd Sp. Sess., cc. 1, 2; 2000, c. 1040; 2001, c. 844; 2007, c.133.)

§ 9.1-182. Funding; failure to comply; prohibited use of funds.

- A. Counties and cities shall be required to establish a local community-based probation services agency under this article only to the extent funded by the Commonwealth through the general appropriation act.
- B. The department shall periodically review each program established under this article to determine compliance with the submitted plan and operating standards. If the Department determines that a program is not in substantial compliance with the submitted plan or standards, the Department may suspend all or any portion of financial aid made available to the locality for purposes of this article until there is compliance.
- C. Funding shall be used for the provision of local community-based probation services and operation of programs and facilities but shall not be used for capital expenditures.
- D. The Department, in conjunction with local boards, shall establish a statewide system of supervision and intervention fees to be paid by offenders participating in local community-based probation services established under this article for reimbursement toward the costs of their supervision.
- E. Any supervision or intervention fees collected by local community-based probation services agencies established under this article shall be retained by the locality serving as fiscal agent and shall be utilized solely for expansion and development of services, or to supplant local costs of operation. Any local community-based probation services agency collecting such fees shall keep records of collected fees, report the amounts to the locality serving as fiscal agent and make all records available to the community criminal justice board. Such fees shall be in addition to any other imposed on a defendant or offender as a condition of a deferred proceeding, conviction or sentencing by a court as required by general law. (1994, 2nd Sp. Sess., cc. 1, 2, 53.1-185.2; 1995, cc. 502, 574, 768; 2000, c. 1040; 2001, c. 844; 2007, c. 133.)

§ 9.1-183. City or county to act as administrator and fiscal agent.

Any single participating city or county shall act as the administrator and fiscal agent for the funds awarded for purposes of implementing a local pretrial services or community-based probation services agency. In cases of multi-jurisdictional participation, the governing authorities of the participating localities shall select one of the participating cities or counties, with its consent, to act as administrator and fiscal agent for the funds awarded for purposes of implementing the local pretrial services or community-based probation services agency on behalf of the participating jurisdictions.

The participating city or county acting as administrator and fiscal agent pursuant to this section may be reimbursed for the actual costs associated with the implementation of the local pretrial services or

community-based probation services agency, including fiscal administration, accounting, payroll services, financial reporting and auditing. Any costs must be approved by the community criminal justice board and reimbursed from those funds received for the operation of the local community-based probation program, and may not exceed one percent of those funds received in any single fiscal year. (1994, 2nd Sp. Sess., cc. 1, 2, 53.1-185.3; 1995, cc. 502, 574; 1996, c. 969; 2000, c. 1040; 2001, c. 844; 2007, c. 133.)

§ 19.2-303.1. Fixing period of suspension of sentence. – In any case where a court suspends the imposition or execution of a sentence, it may fix the period of suspension for a reasonable time, having due regard to the gravity of the offense, without regard to the maximum period for which the defendant might have been sentenced. (1982, c. 636.)

§ 19.2-303.2. Persons charged with first offense may be placed on probation. – Whenever any person who has not previously been convicted of any felony pleads guilty to or enters a plea of not guilty to any crime against property constituting a misdemeanor, under Articles 5, 6, 7 and 8 of Chapter 5 (18.2-119 et seq.) of Title 18.2, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation subject to terms and conditions, which may include restitution for losses caused, set by the court. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purpose of applying this section in subsequent proceedings. (1985, c. 617.)

§ 19.2-303.3. Sentence to local community-based probation services agency; services agency; requirements for participation; sentencing; and removal from probation; payment of costs toward supervision and services.

- A. Any offender who is (i) convicted on or after July 1, 1995, of a misdemeanor or a felony that is not a felony act of violence as defined in 19.2-297.1 and for which the court imposes a total sentence of 12 months or less, and (ii) no younger than 18 years of age or is considered an adult at the time of conviction, may be sentenced to a local community-based probation services agency established pursuant to 9.1-174 by the local governing bodies within that judicial district or circuit.
- B. In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom, at the time of sentencing, the clerk of court shall determine by reviewing LIDS, in any case where there is felony conviction, whether a sample of the offender's blood, saliva, or tissue or an analysis of the sample is stored in the DNA data bank maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. If the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the offender appear within 30 days before the sheriff or community-based probation officer and allow the sheriff or community-based probation officer to take the required sample. The order shall also require that, if the offender has not appeared and allowed the sheriff or community-based probation officer to take the required sample by the date stated in the order, then the sheriff or community-based probation officer shall report to the court the

offender's failure to appear and provide the required sample. The court may order the offender placed under local community-based probation services pursuant to 9.1-174 upon a determination by the court that the offender may benefit from these services and is capable of returning to society as a productive citizen with a reasonable amount of supervision and intervention including services set forth in 9.1-176. All or any part of any sentence imposed that has been suspended, shall be conditioned upon the offender's successful completion of local community-based probation services established pursuant to 9.1-174. The court may impose terms and conditions of supervision as it deems appropriate, including that the offender abide by any additional requirements of supervision imposed or established by the local community-based probation services during the period of probation supervision.

- C. Any sworn officer of a local community-based probation services established or operated pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) may seek a Capias from any judicial officer for the arrest of any person on local community-based probation and under its supervision for (i) intractable behavior, (ii) refusal to comply with the terms and conditions imposed by the court, (iii) refusal to comply with the requirements of local community-based probation supervision established by the agency; or (iv) the commission of a new offense while on local community-based probation and under agency supervision. Upon arrest, the offender shall be brought for a hearing before the court of appropriate jurisdiction. After finding that the offender (a) exhibited intractable behavior as defined herein; (b) refused to comply with terms and conditions imposed by the court; (c) refused to comply with the requirements of local community-based probation supervision established by the agency; or (d) committed a new offense while on local community-based probation and under agency supervision, the court may revoke all or part of the suspended sentence and supervision, and commit the offender to serve whatever sentence was originally imposed or impose such other terms and conditions of probation as it deems appropriate or, in a case where the proceeding has been deferred, enter an adjudication of guilt and proceed as otherwise provided by law.

"Intractable behavior" is that behavior that, in the determination of the court, indicates an offender's unwillingness or inability to conform his behavior to that which is necessary for successful completion of local community-based probation or that the offender's behavior is so disruptive as to threaten the successful completion of the program by other participants.

- D. An offender sentenced to or provided a deferred proceeding and place on community-based probation pursuant to this section may be required to pay an amount toward the costs of his supervision and services received in accordance with subsection D of § 9.1-182. (1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 1999, c. 372; 2000, c. 1040; 2006, c. 883; 2007, c. 133, 528.)