

## Spring-Summer 2017

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### Director's Corner

Summer is here and I have hopes for summer! I hope to clean up the VACURE office so I can find things. I hope to get a legislative committee started. I hope to get out another newsletter. I hope to catch up on mail. We also plan on babysitting grandchildren and some travel as well. Meanwhile, bipartisan support for legislation in Congress and the slightly increasing rate of parole grants in Virginia help keep the hopes up!

### Coalition meets with Governors' office to discuss solitary confinement

For some time Virginia CURE has been a member of a coalition addressing the issue of solitary confinement. Besides Virginia CURE, the coalition includes the ACLU, the Virginia Council of Churches and SALT (Social Action Linking Together). The coalition is led by Interfaith Action for Human Rights (IAHR).

On May 21st The coalition met with representatives of the Governor to discuss their concerns about the use of solitary confinement by the VADOC. The group presented several case histories of prisoners assigned to long term solitary. The coalition then led a discussion about the problems revealed in the cases presented.

At the conclusion of the Meeting, the group presented a copy of a DOJ document "U.S. Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing".

Also left with the Governor's staff was a summary of recommendations based upon the DOJ report, some statistics, and, copies of the individual cases presented.

A petition with thousands of signatures was delivered by a group member advocating for a relative in long term indefinite segregation. The Governor's staff promised to give the materials serious consideration.

### Recommendations for Governor McAuliffe

1. "Restrictive housing shall only be used when absolutely necessary for the least amount of time, and only when less restrictive alternatives are not available. This will ensure a prisoner's own safety, as well as the safety of staff, other inmates, and the public". (*Guiding Principle #1 DOJ report.*)

2. "For every prisoner in restrictive housing, correctional staff should develop a clear written plan for returning the prisoner to less restrictive conditions as promptly as possible. The plan shall also provide the prisoner the reasons for the initial placement in restrictive housing, reasons for continued placement in restrictive housing, and an opportunity to challenge placement in restrictive housing in a formal process that includes written documentation to be provided to the prisoner. This plan should be shared with the inmate, unless doing so would jeopardize the safety of the inmate, staff, other inmates, or the Public." (*Guiding Principle #5, DOJ report*)

3. "Prisoners with mental or intellectual disabilities, physical disabilities, and serious mental illness should not be placed in restrictive housing. Prisoners who develop these conditions while housed in restrictive housing should not continue to be placed in that setting. Restrictive housing can exacerbate these conditions." (*Guiding Principles #36-37, DOJ report, United Nations Mandela Rules, # 45*)

Further plans of the coalition include continuing advocacy for the adoption of these principles, "not only by the McAuliffe administration, but also by the next administration through meetings with the Northam and Gillespie campaigns). The group hopes to sponsor a number of screenings of the documentary, "Solitary" at various locations around the state in the fall. CURE members can help;

- by suggesting venues (churches, synagogues, community centers etc.) for the screening in your area, especially if outside northern Virginia,
- by offering suggestions for discussion leaders or panel members for post film discussions
- by helping with scheduling
- *If you would like to help in this endeavor, contact Gay at : [gaygardner@msn.com](mailto:gaygardner@msn.com).*

### Highlights VACURE/DOC meeting May 11

Present: Virginia CURE: Carla Peterson, Director; Frances Boatman, Board Member; James Bailey, Board Member; Rev. Bill Twine, Board Chair; DOC Marie Vargo, Corrections Operations

#### Visitation

As far as DOC knows, the changes to the visitation policies will be permanent. In response to our question concerning whether they were based upon evidence based practices, we were informed that this situation was so recent that there had been no research done on the problem and that this policy was a pioneering effort that they hoped would affect a positive result. The DOC was keeping track of how it was working and would have data to work with in a few months. CURE is very interested in obtaining data supporting the changes and in any data as to the results.

In the December meeting, DOC stated that after the visitor bathrooms were closed from January 6, 2016, to end of June Visitors made 22 attempts to pass drugs to prisoners, and from July 1 to end of December there were 4 attempts. When Virginia CURE stated that, given the thousands of prisoners affected, this was not a large percentage, we were told that this was only the number caught and that the department believed others were still getting through. Many drugs come in through mail we were told. There were nine deaths due to overdoses since 2015.

CURE asked about the issue of employees bringing in the contraband. CURE has received letters accusing staff of this offense and there have been news articles in Maryland and Virginia about drug rings including officers. DOC responded that officers and other employees are searched thoroughly before entering for work. They are supplied with a list of items they cannot bring into the prison, including food items. Prisoners caught with contraband are punished in various ways such as segregation, and often transferred to a higher level prison. Staff are removed from the facility and charged. Visitors, prisoners, and staff who bring in or accept contraband are referred for prosecution.

CURE expressed concerns about the state clothing required for visits, especially the shared underwear, which prisoners are loath to wear, and some say involve health concerns. CURE asked if DOC would consider allowing them to wear their own state issued boxers, and were told that the underwear policy will not change as the state issued boxers were less likely to be used to hide drugs than personal shorts.

CURE then suggested that prisoners who are known drug users be housed in separate facilities, and resources such as drug counselors, testing, drug dogs, etc., be concentrated in those facilities. If stricter rules could be applied to them, innocent people could enjoy visits without these restrictions. Once rehabilitated, the drug offenders could return to a facility with regular visitation. DOC stated that this practice would be logistically very difficult. CURE stated that the current visiting procedures are undermining family ties by discouraging visits, especially with the removal of the food vending machines. The copying and destruction of cards and photographs is discouraging; not to mention the expense and additional work for the staff. The issue of people missing lunch during a visit was also discussed, with DOC stating they will check into this. DOC has installed a body scanner at one facility and seven more are scheduled to be installed.

Other items on the agenda included:

- **Appeal of grievances:** the person responsible for this issue has recently been reassigned and this issue can be discussed in detail at a later date.
  - **Health Care:** DOC is satisfied with provider, Armor, and have no plans to turn over Lawrenceville, Virginia's one private prison to the state. Treatment of those with Hepatitis C. was begun in July of 2015, and is based upon accepted protocols. Not all Hepatitis C viruses are the same, so the health services have to categorize them and treat accordingly. So far, Chief Physician Amonette has approved 385 inmates for treatment. Some people approved by the Department are not approved by the hospital. Health Services estimates that about 263 have been treated. The total spent on treatment of this disease so far is eight to twelve million dollars! [Hopefully this vast difference will be clarified in the next meeting!]
  - **Telephones and kiosk:** The DOC is considering proposals for the addition of more telephones and kiosks. It should take 12 -18 months once installation is begun. Keen Mountain is undergoing renovation and will have a bank of 8 telephones added when done. One problem affecting installation of phones is the lack of space and in some prisons, the wiring is inadequate.
  - **Air conditioning:** The installation of air conditioning is proceeding as planned. Greenville, Baskerville, Unit 13, Virginia Correctional Center for Women and Lawrenceville are all air conditioned. Keen Mountain is currently being addressed. Budget Requests are in for Buckingham, Augusta and Nottoway.
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### **Richmond Jail program lowers recidivism**

The Recovering from Everyday Addictive Lifestyles ( REAL) program began in 2014 with the opening of the new Richmond jail, but it had not been fully evaluated until recently. Jail staff were delighted to see that the program has resulted in lower recidivism rates. The study found that 30 percent of the individuals who participated in the program for more than 90 days re-offended within a year of release, compared with a 55 percent recidivism rate for those who did not participate. There was no difference in the return rate of those who participated in the voluntary program for a shorter period and those who didn't participate at all. The study concluded that longer participation in the program produced better results.

The REAL program treats jail life as a full-time job, where male and female inmates complete classes ranging from remedial math and creative writing to anger management, parenting, and drug abuse treatment throughout a 40-hour week. The program provides a structure that is beneficial for preparation for release. Participants reside in special tiers. They are treated as employees. Sarah Scarbrough, Director of Internal Programs at the jail and creator of the program, said the study has informed how the program will move forward in order to further decrease recidivism. She plans to add evening and weekend sessions, which will extend the program beyond a 40-hour work week. More information about this program can be found at:

<http://www.richmondgov.com/Sheriff/DivisionInternalProgram.aspx#.WU1A9mjyvIU>

### **Study of Virginia's treatment of mentally ill prisoners continues**

As result of the death of Jammycheal Mitchell in Hampton Roads Regional Jail, the legislature passed a bill (SB1063) was passed and signed by the governor authorizing the Board of Corrections to review deaths in Virginia's jails. The bill also requires the nine-member board to be made up of people with expertise, such as knowledge and experience dealing with mental health issues. The board is currently soliciting applications and hopes to have the updated board in place by July 1.

On May 20, the Joint Subcommittee to Study Mental Health Services in the Twenty-First Century (Criminal Justice Diversion Work Group) got an update on what the state is doing to address these types of incidents. Robyn de Socio, Compensation Board Executive Secretary, who addressed the subcommittee spoke about mental health screening of jail inmates in the Commonwealth, providing an overview of mental health screenings at jails. Members of the subcommittee were told that 51 Virginia jails reported screening all inmates at booking, four screened some and three didn't screen any at booking.

New requirements focus on two things.

First, jails must use validated instruments for their screening process. The Virginia Department of Behavioral Health & Developmental Services designated two validated screening instruments: Brief Jail Mental Health Screen and Correctional Mental Health Screen for Women;

and second, the Compensation Board must review its jail staffing standards. The review must include an evaluation of the costs and benefits of requiring an assessment within 72 hours of the time of the initial screening (by a qualified mental health professional) of the need for mental health services in cases where the initial screening indicates the person might have a mental illness. In 2016, 44 jails reported they assessed all inmates who positively screened for mental illness. "In approximately 40 percent of cases, the screenings are performed by jail officers and not by mental health professionals," de Socio said of the 2016 data. Data for 2017 are being currently gathered

### **In case you didn't know**

A federal court recently struck down regulations intended to cap the price of some calls to prison inmates, which can cost families thousands of dollars a year. In a 2-1 decision, the U.S. Court of Appeals for the District of Columbia found that the Federal Communication Commission lacked authority to set rates for calls between inmates and people in the same state. The FCC does regulate the cost of interstate calls for prisoners. Thankfully, the VADOC has been able to set the intra state telephone bills to 4 cents per minute; not perfect but much better than before. The main opponent of the struck regulations, now the new chairman of the FCC, Tajit Pai, declared that he will work on the problem in a "lawful manner".

### Sniper Lee Boyd Malvo's life sentence ruled unconstitutional

A federal district court judge has overturned the sentence of Lee Boyd Malvo, one of the Beltway snipers who killed over a dozen people during a rampage in Virginia, Maryland, and DC in October 2002. Malvo's partner, John Allen Mohammed, was executed in 2009. Malvo, 15 when the crimes were committed, received a life sentence.

James Johnston, Malvo's attorney, in a hearing on June 15, argued that Malvo's sentence should be overturned because The U.S. Supreme Court has ruled that mandatory life sentences for juveniles are unconstitutional based upon the Supreme Court ruling in *Miller v. Alabama*. The decision in the Supreme Court case ruled juveniles are constitutionally different from adults for the purposes of sentencing "because juveniles have diminished culpability and greater prospects for reform," which makes them "less deserving of the most severe punishments." Judge Raymond Jackson agreed and ordered the overturning of the sentence. Some observers at the original trial, noted that Mohammad seemed to have an almost hypnotic influence over the teenager when they were both present in the courtroom.

Malvo's case has been remanded back to Spotsylvania County Circuit Court to issue a new sentence.

### New laws gone into effect since July 1st.

Among criminal justice laws now in effect:

**SB 941 Forensic discharge planning services; local and regional correctional facilities. John A. Cosgrove, Jr.** Directs the Commissioner of Behavioral Health and Developmental Services, in conjunction with the relevant stakeholders, to develop a comprehensive plan, by November 1, 2017, for the provision of forensic discharge planning services at local and regional correctional facilities for persons who have serious mental illnesses who are to be released from such facilities

**HB 1651 Inmate trust accounts; exemption: Kaye Kory (by request)** Provides that an inmate who has been sentenced to a term of imprisonment that makes the inmate ineligible for release, excluding geriatric release, prior to 75 years of age is exempt from depositing 10 percent of any funds the inmate receives into an inmate personal trust account.

**SB 853 Criminal cases; delayed appeals, assignment of errors dismissed in part: William M. Stanley, Jr.** Provides that an appellant may file a motion for leave to pursue a delayed appeal for those assignments of error that were dismissed because they did not adhere to a proper form, even if other assignments of error were refused on the merits. This bill is a recommendation of the Judicial Council of Virginia

**HB 1734 Virginia Parole Board; exceptions to the Virginia Freedom of Information Act (FOIA): Patrick A. Hope.** Requires guidance documents of the Virginia Parole Board to be available as public records under FOIA

**SB 1293 Dept of Human Resources Management; criminal background checks; state agency position designations: Ryan T. McDougle.** Requires each state agency to create and annually update a list of the positions that it has designated as sensitive and submit the list to the Department of Human Resources Management by July 1 of each year.

**SB 817 Restricted driver's license; purposes. Scott A. Surovell.** Adds travel to and from a job interview to the list of purposes for the issuance of a restricted driver's license

**SB 1008 Criminal history records checks; barrier crimes. Emmett W. Hanger, Jr.** Clarifies the individual crimes that constitute a barrier for individuals seeking employment at nursing homes, home care organizations, hospices, state facilities, and private providers licensed by the Department of Behavioral Health and Developmental Services [etcetera]

**SB 1063 State Board of Corrections; membership; powers and duties; inmate death investigations: R. Creigh Deeds** The bill requires that the State Department of Health and the Office of the Chief Medical Examiner assist the Board in developing and implementing these policies and procedures and with any death investigation undertaken by the Board. The bill also specifies Requisite qualifications for individuals appointed to the Board

### A Note About Letters to Virginia CURE

While Virginia CURE cares about your concerns and appreciates being kept informed, we don't have a volunteer staff large enough to reply promptly to all letters received. Please, keep it short and to the point. We appreciate one page letters! **Do not send legal papers. We do not have the capacity to deal with legal issues.** Send mail to P.O. Box 2310, Vienna, VA 22183

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**Virginia prisons tapped to learn more about opioid addiction treatment**

The National Governors Association (NGA) has selected Virginia and seven other states to study improved access to treatment for opioid-addicted arrestees and prisoners. According to the National Center on Addiction and Substance Abuse, 65 percent of the U.S. prison population in 2010 met the medical criteria for drug or alcohol addiction, but fewer than 11 percent received treatment. The Virginia Department of Corrections reports that nine inmates have died from heroin or fentanyl overdoses since 2015. Drugs can get into the prisons via mail, visitors and staff. Eleven staff members have been charged since 2015, and new controls placed on inmate visits and mail went into effect recently.

According to Harold Clarke, director of the Virginia Department of Corrections, “Opioid addiction among offenders in our facilities and in community corrections is a very real and challenging problem.” He added, “Our participation ... will provide the opportunity to share ideas, learn from other states and develop new strategies.” The NGA said more prisons are using medication-assisted treatments and that many states have pilot programs using extended-release naltrexone, a monthly injection that blocks effects of opioids while reducing cravings, and exploring other treatment and rehabilitation practices.

The Virginia Supreme Court ruled last August that funds were included in the state budget this year to support substance abuse treatment pilot programs using naltrexone at the Norfolk Adult Drug Court and the Henrico County Adult Drug Court. Updates are not available at this time.

The NGA said officials from Virginia and the other states — Alaska, Indiana, Kansas, Minnesota, North Carolina, New Jersey and Washington — will learn from Massachusetts, that has “innovative models” of treatment for “justice-involved populations” via drug courts and the correctional system. Participants will learn about residential treatment programs and naltrexone injection correctional programs and how they work with providers in communities. Participating states are to develop and execute six-month “action plans” for expanding access to opioid treatment.

The NGA said its Center for Best Practices will coordinate meetings, conference calls and webinars and will provide technical assistance to the governors’ staff and state officials that highlights best practices around opioid abuse treatment.

**Virginia Parole grant rates February -June**

	<b>Heard</b>	<b>Grants</b>	<b>%</b>	<b>Geriatric</b>	<b>Grants</b>	<b>%</b>
<b>Feb</b>	43	0	0	9	0	0
<b>Mar</b>	101	7	7	11	0	0
<b>Apr</b>	214	22	10	42	0	0
<b>May</b>	130	12	9	57	1	01
<b>June</b>	259	29	11	51	3	05

Lawyers representing the inmates argued that standards of human decency dictate that inmates — especially those who must take medicines that affect their bodies’ ability to fight heat, and those with diabetes, hypertension and other conditions that make them sensitive to heat — should be allowed to live in temperatures below 88 degrees.

The prison staff testified that they provide ice water, fans and unlimited showers and that they cannot afford to install ac. In the prison. The temporary cooling systems could range from \$100,000 to just over \$1 million. A permanent fix would cost between \$450,000 and \$22 million, plus yearly operating costs. Court testimony revealed that the prison’s budget is \$3.3 billion, including profits from the agency’s commissary of \$30 million.

Doctors for the state testified that enough preventative measures were in place for inmates to avoid substantial harm when it is hot indoors. Attorneys for the inmates cited previous testimony from a national expert on heat illness, who said humans need more than occasional exposure to cooling to endure a multiple-day heat wave. A judgement is expected sometime in July.

79 Texas prisons do not have air conditioning.

**Texas inmates sue for lack of air conditioning**

U.S. District Judge Keith Ellison held a landmark two-week hearing concluding June 28, in a lawsuit brought by inmates at the Wallace Pack Unit northwest of Houston Texas, where prisoners — including the elderly and infirm, want emergency relief from excessive heat. Twenty Two People have died of heat related causes at the unit since 1996. Inmates testified that many people with debilitating conditions have difficulty enduring

**Reports:****STILL LIFE; America's Increasing Use of Life and Long-Term Sentences**

A new report produced by The Sentencing Project deals with the use of life and long term sentences in America. As of 2016, 161,957 people were serving life sentences; one of every nine people in prison. An additional 44,311 individuals were serving "virtual life" sentences, yielding a total population of life and virtual life sentences at 206,268 – or one of every seven people in prison.

Nearly half (48.3%) of life and virtual life-sentenced individuals are African American, equal to one in five black prisoners overall. Nearly 12,000 people have been sentenced to life or virtual life for crimes committed as juveniles; of these over 2,300 were sentenced to life without parole. More than 17,000 individuals with an LWP, LWOP, or virtual life sentence have been convicted of nonviolent crimes .

The report examined the history of the use of life and long term sentences, the ethnicity, race and gender factors involved in such sentences and trends in today's world. The report considered the variety of factors that explain the continued nationwide increase in life sentences. One driver was fear: singular stories provoke a desire for safety because of their cruelty and violence, and too often set the tone for crime policy and practice. A second driver is related to the first and centers on the political gains made by elected officials through appearing sufficiently tough on crime, even when criminologists have discredited the effectiveness of overly harsh justice policies. Detailed examination focused on such practices of making people wait as long as seven years between parole hearings.

This report is full of charts and supporting data for the views summarized in its conclusion. Some recommendations include:

1. Eliminate Life Without Parole and dramatically scale back other life sentences;
2. Adapt the recent positive policy shifts in the juvenile arena for adults;
3. Improve the parole process;
4. Authorize mid course adjustments through the increasing use of clemency and other means such as the "second look" method as has been proposed by the American Law Institute (ALI). The ALI recommends that a "judge or judicial panel revisit the sentence of any prisoner who has served 15 years or more in prison, and decide if, under present circumstances, the sentence originally imposed or a different sentence better serves the purposes of sentencing."

For more information or to read the full report, visit the Sentencing Project at

<http://www.sentencingproject.org/wp-content/uploads/2017/05/Still-Life.pdf>;

**National Legislation****Updating juvenile justice**

Recently, Congress in a bipartisan effort, passed a bill (HR1809) to reauthorize the Juvenile Justice Delinquency Prevention Act passed in 1974 and reauthorized in 2002. This bill was precipitated by a new awareness of the difference between juveniles and adults, especially with reference to new studies concerning brain development. This legislation would align national leadership on juvenile justice with evidence on effective interventions with youth; an effort that has been spearheaded by state leaders across the country. Among other things, the bill would make three important updates to the core requirements and state plans for receiving federal funding, ensuring federal funding ensuring federal support for best practices around the country. Updates would include:

1. Phase out holding youth in secure facilities for status offenses (behaviors like skipping school or running away, which wouldn't be considered crimes if committed by adults);
2. Update disproportionate minority contact protection to promote action (ie: address racial injustice when dealing with minorities.); and
3. Prioritize developmentally appropriate and evidence-informed practices.

Such efforts as this should hopefully continue the trend to positive change in our juvenile justice system

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**CURE Chapters**

Northern Virginia CURE  
Carla Peterson  
Carla4vacure@gmail.com  
3rd Thursday, 7:30 PM  
Arlington Unitarian Church  
4444 Arlington Blvd.  
Arlington VA 22204

Richmond CURE  
Mary Anne Stone  
mary.anne.stone@verizon.net  
4th Sunday, 1:00 PM  
Friends Meeting House  
4500 Kensington Ave  
Richmond VA 23221

Hampton Roads CURE  
James Bailey  
jbailey383@aol.com  
3rd Tuesday, 7:00 PM  
Norview Baptist Church  
1127 Norview Ave.  
Norfolk VA 23513

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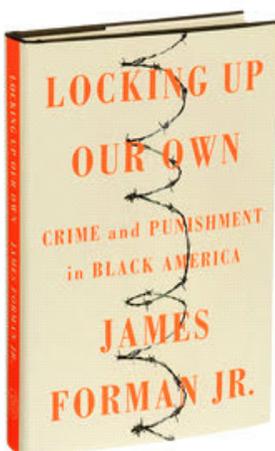
If you have an email address and are not receiving updates from Virginia CURE, please send a message to vacure1@cox.net. (vacure one)

**Have You Renewed Your Membership?**

Please see membership form on back page.

We can't do this without you.

**Book Reviews:**



**LOCKING UP OUR OWN**

**Crime and Punishment in Black America**  
By James Forman Jr.

James Forman Jr. divides his superb and shattering first book, "Locking Up Our Own: Crime and Punishment in Black America," into two parts: "Origins" and "Consequences." But the temptation is to scribble in, before "Consequences," a modifier: "Unforeseen." That is truly what this book is about, and what makes it tragic to the bone: How people, acting with the finest of intentions and the largest of hearts, could create a problem even more grievous than the one they were trying to solve. The legions of African-Americans who lobbied for more punitive measures to fight gun violence and drug dealing in their own neighborhoods didn't know that their real-time responses to crises would result in the inhuman outcome of mass incarceration.

Citizens United for Rehabilitation of Errants– Virginia, Inc.  
**Virginia CURE**  
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are tomorrow's neighbors*



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## Membership in Virginia CURE

Join Virginia CURE today and become a part of the effort to work for criminal justice reform and safety in our communities. Send dues payment to:

Virginia CURE, P.O. Box 2310, Vienna, Virginia 22183

**Dues are payable January 1** on a yearly, non-prorated basis for current year. Prisoner members need to include state number on all communications to CURE.

*Remember to send address changes.*

### Check type of membership

- Prisoner\* \$ 2.00
- Individual \$ 20.00
- Family \$ 30.00
- Sustaining \$ 50.00
- Organization \$100.00
- Life \$100.00
- Renewal

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\*Prisoners may send five stamps.

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phone day ( ) evening ( )

fax ( )

Involvement:  prisoner  family  friend  professional  volunteer

other \_\_\_\_\_ Institution \_\_\_\_\_

*please specify*

Virginia CURE invites prisoners to submit original articles, poetry and artwork for consideration for publication. Virginia CURE reserves the right to edit submissions accepted for publication.

Virginia CURE will not return submissions unless prior arrangements are made. Send submissions to: Newsletter Editor, Virginia CURE, P.O. Box 2310, Vienna, Virginia 22183

*InsideOut* is published by Citizens United for Rehabilitation of Errants–Virginia, Inc., P.O. Box 2310 Vienna, VA 22183 Phone and fax:703-272-3624.