



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

Garth L. Wheeler
Director

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Criminal Justice Services Board

May 9, 2013

Members Present

Sgt. Carol Adams
Chief Jeffrey Brown
Hon. Robert Bushnell
Mr. Ted Byrd
Mr. Charles Ciccotti
Chief Rick Clark
Sgt. Charles Condon
Judge Sarah Deneke
Colonel W. Steve Flaherty
Hon. Thomas Garrett, Jr.
Mr. Mark Gooch
Sheriff Charles Jett,
Chairman
Mr. Alan Katz
Mr. Edward M. Macon
Hon. Jackson Miller
Ms. Catherine Sue Mullins
for Mr. David Johnson
Mr. William Muse
Mr. Bobby Russell
Ms. Cookie Scott
Ms. Debbie Smith
Hon. Sherman Vaughn, Sr.
Pastor Aaron Wheeler

Members Absent

Hon. Clarence Jenkins
Senator Henry L. Marsh, III
Sheriff Dennis Proffitt
Mr. David Rohrer
Hon. Beverly Sherwood

DCJS Staff Present

Kenny Adcock
Shelia Anderson
Stephanie Arnold
Rick Arrington
John Colligan
Bruce Cruser
Kassandra Edwards
Demian Futterman
Teresa Gooch
Paula Harpster
Sam Hoffman
Laureen Hyman
Tracey Jenkins
Laurel Marks
Joe Marshall
Jim McDonough
Lisa McGee
Drew Molloy
Heather Smolka
Janice Waddy
Garth Wheeler
Mary Wilson
Lloyd Young

Others Present

Chief Craig Branch,
Germana Community
College Police Department
Bob Harris, Commonwealth Attorneys'
Services Council
John Jones, Virginia Sheriff's Association
Antonio Sutton, ACJJ

I. Call to Order

Chairman Charles Jett called the meeting to order at 11:00 a.m., welcomed everyone to the meeting and thanked them for their commitment to the Criminal Justice Services Board. Chairman Jett noted that there are two new members joining the Board: Senator Henry L. Marsh, III who will represent the Senate Committee on Finance, and Judge Sarah Deneke, who will replace Judge Marcus Williams.

Chairman Jett reminded guests to please sign the attendance sheet for the purpose of the minutes and asked the Board members to state their name when making a motion or seconding, to speak clearly for the purpose of the minutes and to check that their microphone was turned on at their seating area. He further reminded staff/persons speaking from the floor to step up to the podium and speak into the microphone for the purpose of the minutes.

Chairman Jett then asked Ms. Laureen Hyman to take the roll call. Ms. Hyman stated that there was a quorum with 22 members present.

II. Approval of Minutes from Last Meeting

Chairman Jett then called for a motion to approve the minutes of the March 14, 2013, meeting. Mr. Sherman Vaughn made the motion, and Mr. Mark Gooch seconded the motion. Chairman Jett stated that it had been motioned and seconded that the Board approve the minutes of the March 14, 2013, meeting with no corrections, additions, or deletions.

III. Director's Report

Director Garth Wheeler gave his report to the Board.

DCJS Division Consolidation

Director Wheeler pointed out that Teresa Gooch, the Director of our Law Enforcement Division, has also been serving as Acting Director of Regulatory Affairs while DCJS reviewed regulatory responsibilities and the laws they are based on. DCJS has formally consolidated the two under Teresa's leadership. The new Division of Law Enforcement and Security Services will enable DCJS to make the best use of limited resources and provide high quality services to public and private constituents.

DCJS plays a major role in helping local school divisions meet safety and security needs. Director Wheeler noted that he recently spoke to the Virginia School Board Association's Valley Regional Forum in Lexington, VA to give them an overview of what DCJS does and how DCJS might be able to assist their school divisions.

In order to reach out to diverse constituencies, representatives from DCJS will be attending the Sheriffs' and Chiefs' Associations annual conferences, as well as the Training Directors Association's conference.

Studies

A few studies and tasks were identified that DCJS is taking on under their own initiative. One is a study of Special Conservators of the Peace, SCOPS: the laws pertaining to them, the ways they are appointed, their authority. A task force has been created that represents the various interests involved to help with this.

The plan is to get a good picture of the ways things work now and possibly develop some recommendations to clarify the roles and responsibilities of SCOPS and their relationship to law enforcement.

A committee is also being established to look at current practices in defensive tactics training; and we're reviewing current firearms qualification standards to see if they could benefit from an update.

Other

DCJS collaborated with the Department of Behavioral Health and Developmental Services to put on an intensive 1½ day training last month on juvenile offenders and trauma. About 180 people attended, including detention staff, probation officers, juvenile correctional center staff, community services board/behavioral health staff, and private providers.

DCJS also held an event on April 25th at the Bell Tower on the Capital Grounds to recognize National Victims Rights Week. Secretary of Public Safety Marla Decker, Sergeant Carol Adams of the Richmond Police Department and Ms. Kathleen Demro, Executive Director of Safe Harbor spoke. This year's theme was "*New Challenges*New Solutions*".

In addition, DCJS, along with the Office of the Chief Medical Examiner and the Department of Social Services, co-sponsored a 3-day conference titled: "Regional Child Fatality Review Teams in Virginia—Lessons Learned, Charting the Future."

IV. Asset Forfeiture Subcommittee

Chief Brown reported from the Asset Forfeiture Subcommittee which met May 9, 2013, to consider requests for funding from the administrative portion of the asset forfeiture program. Funding requests were received from the Virginia Sheriff's Institute, the Virginia Association of Chiefs of Police, CASC, VA Association of Campus Law Enforcement Administrators and the Virginia Police Chiefs Foundation. There were \$459,021 in requests for funds, the subcommittee recommended approving \$253,520 in funding. Distributed as follows:

Virginia Sheriff's Institute.....	\$69,120
Virginia Association of Chiefs of Police	\$35,000
Commonwealth Attorneys' Services Council (CASC).....	\$67,400
Virginia Association of Campus Law Enforcement Administrators.....	\$15,000
Virginia Police Chiefs Foundation.....	\$67,000

A motion was made by Chief Brown to approve these funding requests as recommended by the subcommittee. Chief Clark seconded the motion. **Recusals:** Colonel Flaherty, Mr. Bob Bushnell for the CASC.

Chief Brown noted that the subcommittee also reviewed and endorsed changes to the criteria for awarding forfeited asset sharing administration funds so they can continue to be an effective tool to support law enforcement efforts in Virginia. They will add structure to the process and will guide future funding recommendations brought before the Board.

Mr. Bushnell added that the idea is to inform future applicants of the ground rules, such as what they are seeking to fund and with what priorities they are seeking the funding. It is hoped that these ground rules will make future requests more logical, making it easier for the subcommittee to make funding decisions.

V. Advisory Committee on Juvenile Justice

The Grants Subcommittee of the Advisory Committee on Juvenile Justice met on April 25, 2013. While the Grants Subcommittee meeting of April 25 lacked a quorum, members in attendance (both employees of the Department of Juvenile Justice) agreed to the recommendations listed below.

The subcommittee reviewed 20 grant applications for juvenile justice funding under the Byrne/JAG program. Of the 20 applications reviewed, thirteen were continuation grants.

The ACJJ Grants Subcommittee concurred with the DCJS staff recommendations to fund the 13 continuation applications and three new applications as requested, and to deny 4 new applications as indicated in your summaries.

Recommendation: that the Criminal Justice Services Board approve the continuation grant applications in the amount of \$858,073, and that the Board approve new grant applications in the amount of \$162,834. The subcommittee also recommended that the Board deny funding for four new grant applications.

Mr. Russell made the motion to approve the recommendations of the ACJJ, Mr. Vaughn seconded the motion. **Recusals:** Mr. Gooch for DJJ, and Mr. Condon for Virginia Beach.

VI. Committee on Training (COT)

Chief Clarke gave a report on the Committee on Training. The COT met May 9, 2013, at 9am and heard a presentation from staff on Standardized Field Sobriety Testing and changes in crime prevention and training.

Ms. Lisa McGee presented the department's position and amendments regarding the regulations relating to private security services. The original regulations were presented to the committee and adopted by the Board at the December meeting following a public hearing. These regulations are currently undergoing executive review for final approval by the Governor's Office.

DCJS discovered two regulatory sections that were not included in the December package and now asks that they be considered for adoption. A general notice was issued and public comment period was offered to the public, but no comments were received. The changes are regarding training exemptions as allowed by statute. For mandated compulsory minimum training requirements regulated individuals are allowed to complete in-service training requirements within 24 months period of their credentials when completing training through a certified training school. If alternative training is taken that meets or exceeds these training requirements, the current regulation requires that the training is completed within the last 12 months of the credential. DCJS is asking that this be changed to allow for alternative training to be acceptable within the 24 month period consistent with that taken with a certified school. 6-VAC-20-171-460 as well as an amendment moving the word "and" from item one to item 2.

The other amendment is in reference to partial training exemptions for firearms training. DCJS is requesting to eliminate the restriction that alternative training is allowed for in-service only and open it to entry level and in-service. This amendment is under 6-VAC-20-171-470. Ms. McGee advised that the industry is in support of these amendments. During the public comment period, Mary Kay Wakefield, a member of the Private Security Services Board and the Richmond Alarm Company, was in support of these amendments and was not aware of any opposition.

Chief Clarke made the motion that the Board adopt these amendments to the regulations related to private security services in their entirety as presented. Mr. Bushnell seconded the motion.

Mr. Bushnell explained that a directive was given to Virginia to implement training to enable the Commonwealth to move to a widespread use of the nationally recognized SFST testing. The initial responsibility to train Virginia's police officers was not given to DCJS. On January 1, 2012, which was the original deadline for Virginia's officers to be trained, no one had been trained in SFST. By May 2013, once DCJS became involved in this directive, great progress was made. Please see the table below for more detailed information:

March 2012	May 2013
<ul style="list-style-type: none"> ▪ 8 senior instructors ▪ Unknown number of basic course graduates ▪ Unknown academy status ▪ No instructor standards 	<ul style="list-style-type: none"> ▪ 18 senior instructors ▪ 75 certified instructors ▪ 40 instructors pending certification ▪ 400 basic course graduates ▪ 29 academies have at least one instructor available

Senator Garrett asked if, regarding, SFST there is a portion of the *Virginia Code* that prescribes that Virginia *shall* or *may* use SFST? He expressed concern that if it is *shall*, then the defense bar will recognize SFST, and cross examine at DUI hearings where the counselor will question officers regarding procedures and if there is a hole in the SFST training received or used by that locality - DUI cases could be lost.

Sheriff Jett answered that it is not codified that it be mandatory that SFST be used by law enforcement agencies.

Ms. Teresa Gooch further clarified that it is not in the *Code* that this procedure be followed, however, the *Code* does direct DCJS to create minimum training standards. All training has to be approved and comes through a prescribed process through the Virginia Administrative Code, so there is a curriculum, and a curriculum review committee, then the Committee on Training and then the CSB. So the SFST training itself is not in the *Code*, but the way DCJS mandates it through the regulations is.

Mr. Sam Hoffman added that DCJS recognizes that a part of this process is an educational process with the judicial community. DCJS has been in touch with various persons within the Commonwealth that can help with this. Currently there are limited resources; however, it is anticipated that by 2014 we can concentrate a portion of those resources on the education of the judicial committee.

VII. Corrections Subcommittee

Mr. Bobby Russell reported from the Corrections Subcommittee. The meeting was held on Tuesday April, 30 2013. The subcommittee was convened for the purpose of reviewing five (5) Byrne/JAG continuation grants and nineteen (19) new grants under the Byrne funding stream.

The subcommittee reviewed each set of grants and approved funding as recommended by DCJS staff.

A motion was made by Mr. Russell that the Board approve the recommendations of the Corrections Subcommittee for funding all five (5) continuation Byrne grants in the amount of \$291,685 in federal funds funding all 7 new Byrne grants in the amount of \$455,386 in federal funds. Chief Clark seconded this motion. **Recusals:** Mr. Sherman Vaughn, Mr. Macon, Mr. Ted Byrd, Sergeant Adams for the City of Richmond.

VIII. Law Enforcement Committee

The Law Enforcement Subcommittee of the Criminal Justice Services Board (CJSB) met Tuesday, April 30, 2013, at 10:00 a.m. at the Department of Criminal Justice Services.

Following discussion, the Subcommittee members voted to recommend that the Board approve the Town of Herndon's application for recertification as a Certified Crime Prevention Community (CCPC.)

Chief Clark made the motion to accept the law enforcement subcommittee's recommendation to recertify the Town of Herndon. The motion was seconded by Mr. Katz and was unanimously approved.

Byrne/Justice Assistance Grant (JAG) Review-New Projects

The Subcommittee considered thirty-four (34) Byrne-Justice Assistance Grant applications, requesting \$1,778,782 in federal funds for new law enforcement-related projects. The total amount available in all categories for new JAG projects is \$1.5 million.

Subsequent to the Subcommittee meeting, DCJS staff requested that, for administrative reasons, two applications (*Grayson County 12-A2882AD12; National Center for State Courts 12-A2911AD12*) be withdrawn from consideration today. Staff will review these applications again and present their recommendations at our Subcommittee's June 3rd meeting. The Law Enforcement Subcommittee will present its recommendations on these two applications at the June 13th Board meeting.

At this time, the Subcommittee recommends:

- that seven (7) applications be funded at the requested level, totaling \$367,489 in federal funds and that
- twenty-five (25) applications not be funded due to very limited funding being available.

Byrne/Justice Assistance Grant (JAG) Review-Continuation Projects

The Subcommittee considered twenty-one (21) Byrne-Justice Assistance Grant applications, requesting \$943,440 in federal funds for continuation projects. All continuation applications were limited to level funding.

The Subcommittee recommends:

- that fifteen (15) applications receive continuation funding at the requested level and that three (3) applications receive continuation funding at a reduced level.
- Applications recommended for funding at a reduced level include:
 - 14-D2146AD12 - Office of the Attorney General
 - 14-B2602AD12 – Westmoreland County
 - 14-D2150AD12 – City of Winchester.

Upon review and discussion of staff's recommendation, the Subcommittee originally voted to deny the continuation application from the District 19 Community Services Board for the fourth year of its Crisis Intervention Team project (14-D2151AD12.) Subsequent to the Subcommittee meeting, we were notified that staff had reconsidered its recommendation of

denial. Staff determined that by special conditioning the grantee and providing additional technical assistance, this project could conclude its final year of funding successfully.

At this time, the Subcommittee recommends that:

- District 19 Community Services Board's application (14-D2151AD12) receive continuation funding at a reduced level (\$60,375.)

This brings the total amount of federal funds recommended for continuation projects to \$840,185.

Finally, the Subcommittee recommends that:

- two (2) applications not receive funding at this time including:
 - 14-D2147AD12 - Dept. of Forensic Science
 - 14-B2626AD12 - Dept. of Forensic Science.
- Both programs will be eligible for continuations in the future.

A motion was made by Chief Clarke to approve the recommendations of the subcommittee. **Recusals:** Chief Clarke for the City of Galax, Colonel Flaherty for State Police grant, Mr. Katz, for the Attorney General's Office grant, Mr. Macon for the Supreme Court grant.

IX. **Update from Internet Crimes Against Children (ICAC) Task Forces' Overview**

CPT Kirk Marlowe with the Virginia State Police and the Northern Virginia Task Force spoke about the ICAC Task Force.

To counter society's rapid explosion of online child exploitation, pornography and predators, 46 local, state and federal agencies have partnered to create the NOVA-DC ICAC Task Force. This task force makes up two of the 61 ICAC Task Forces across the state.

The task force was established in November 2004 through a grant from the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. With Virginia State Police serving as the coordinating agency, the grant provides for law enforcement training and equipment, and for conducting online investigations.

In less than a year, the NOVA-DC ICAC Task Force has had an impact on law enforcement's ability to detect, deter and prosecute individuals who use the Internet to prey on juveniles. The task force's full-time investigative presence reinforces their commitment to safeguarding youth through aggressive proactive and reactive enforcement of cyber predators.

The NOVA-DC ICAC Task Force serves as the coordinating agency for Cyber Tipline complaints received from The National Center for Missing and Exploited Children, and referrals from other ICAC Task Forces to ensure these matters are thoroughly investigated.

- Three steps to ICAC – Enforcement, Education and Training.
- Why do we need ICAC task forces? 17 billion devices are connected to the internet opening up an entire world that was not around when we grew up.
- Nearly 2 out of 5 of missing children between 14 and 17 are missing due to internet activity.
- A child pornographic image can be seized from one computer, but within minutes, it can be sent worldwide – that image will always be out there somewhere so that child will be victimized forever.

Mr. Bushnell commented on the number of forensic exams listed in Captain Marlowe's presentation (1,343), and asked if the task force was able to perform forensic exams whenever requested or if they had to tell local agencies that they were unable to do so? Captain Marlowe remarked that in the past, they used to do full forensics, but now we only examine what the crime is focused on – case specific evidence. This can be a challenge for courts, but we are able to work with other localities to make sure it gets done, if one locality is unable to do it, another locality usually can.

Captain Marlowe also pointed out that in some areas (especially in some regions in the Shenandoah Valley), there can be issues where one locality seized a computer with an authorized search warrant and then transported to another locality to get info off the computer and were then told they cannot get evidence from the seized computer outside of the jurisdiction where the computer was seized. A bill was introduced last year to try to address this loop hole. If you are authorized to seize it, you are authorized to move information from seized device. Usually this is just an education issue and wants it is explained it is understood.

X. DCJS Research Center Overview

Dr. Jim McDonough gave an overview of the reports and studies being done by the DCJS Research Center.

Five research requests received from 2013 General Assembly budget amendment language:

- Review Offender Reentry and Transitional Services programs (due 10/1/13).
- Review Jail Prisoner Reentry and Substance Abuse Programs (due 1/1/14).
- Study Potential Applicability of Alcohol Monitoring Devices in VA (due 10/1/13).
- Review Potential of Establishing Lethality Assessment Program in VA (due 10/1/13).
- Review Potential for Using Intelligence-Led Policing Model in VA (due 10/15/13).

Work with VA Center for School Safety

- Completed report on findings of 2012 Statewide School Safety Audit survey. Report being formatted for DCJS website posting.
- Preparing data for 2013 VA School and Campus Safety Training Forum & State D.A.R.E. Conference in August: State of Schools in Virginia/What the Data Says; Hot Button Issues.
- Developing the 2013-2014 Statewide School Safety Audit survey.
- Preparing data for four regional, two-day Principals' Forums scheduled for the Fall.

Work with DCJS Programs & Services

- Developing Children's Justice Act/CASA survey, with Juvenile staff. Findings will help VA CJA Task Force make training/policy recommendations for handling child abuse and neglect cases.
- Finalizing report on findings of Basic Skills Training Needs Assessment survey with Community Corrections staff. Survey of local probation/pretrial agency supervisors will help develop Basic Skills Curriculum Development Project underway with VCU.
- Working with Corrections staff on enhancing analysis of data from Pretrial and Community Corrections (PTCC) and Local Inmate Data System (LIDS). Will help pretrial services providers better understand how clients move through system, how long they remain in jail before and after a pretrial assessment, and how pretrial release rates and length-of-stay varies by geographic and offender characteristics.

- Working with Corrections staff on enhancing analysis of data from Pretrial and Community Corrections (PTCC) to better understand use of evidence-based practices programs through more data on number of assessments completed, time between being placed on probation and receiving an assessment, and risk levels of clients statewide and in individual programs.
- Working with Corrections staff and the Compensation Board to assist Richmond City Jail and Richmond Dept. of Justice Services with various data and research to help plan for operating new Richmond City Jail.
- Working with Corrections staff to assist Chesapeake City Jail with various data and research to help jail administrators better understand the changes in the jail population.

Other Work

- In April, posted Virginia Crime Trends 2002–2011 report on DCJS website. Contains 10-year state and national data.
- Finalizing the VA Crime Trends 2003-2012 report (VA only data) for website publication.
- In January, published a report of the findings from our survey of training needs for those who provide domestic violence or sexual violence services to underserved populations.
- Updating data needed for 2013 jail inmate population forecasting.

Mr. Bushnell commented that the Commonwealth's Attorneys received a presentation on transdermal alcohol monitoring and the presenters of the product said it was very useful in DUI and domestic violence cases as well. Mr. Bushnell suggested that if the DCJS Research Center is going to do a study to measure the lethality of a domestic/violence situation it might be helpful to know whether or not the primary aggressor is using alcohol. It could be helpful to a judge monitoring the situation or police to know whether or not the primary aggressor is breaking his or her promise to stay away from alcohol. He believes these transdermal alcohol systems would enable that sort of monitoring and prevent a lethality from occurring. Dr. McDonough remarked that they would consider that when doing the study.

XI. Old/New Business

Decertification of Law Enforcement Officer

On March 11, 2013, DCJS received notice from Chief Nye of Fredericksburg City Police Department requesting the decertification of former officer Brent Mitchell Taylor due to his guilty plea on felony charges for procuring a minor by electronic means and crimes against nature. A registered letter per *Code* (§15.2-1707) was sent to Mr. Taylor advising him of the request of his decertification and the steps for an appeal that must be acted on within 30 days of receipt of this notification or he will be automatically decertified as a law enforcement officer in the Commonwealth.

DCJS received notice on April 5, 2013, that Mr. Taylor was in receipt of the registered letter, and on May 7, 2013, after no appeal, he was decertified as a law enforcement officer. All required entries were completed within TRex and the National Decertification Index.

Copies of the registered letter were sent to Chief Nye, City of Fredericksburg Police Department, Sheriff Charles Jett, Chair, Criminal Justice Services Board and Teresa Gooch, Director, Division of Law Enforcement (DCJS).

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Chairman Jett thanked Board members and guests for attending the meeting and stated that the next meeting was scheduled for June 13, 2013, at 11:00 a.m. in House Room D of the General Assembly building.

Mr. Russell made the motion to adjourn the meeting, Mr. Ciccotti seconded that motion. The meeting was adjourned at 12:10 p.m.

Approved:



Sheriff Charles Jett, Chairman