



Study of the Criminal Justice Services Board

Secretary of Public Safety and Homeland Security
COMMONWEALTH OF VIRGINIA

December 2017

House Bill 1951 (2017) Chapter 206 Acts of Assembly -

2. That the Secretary of Public Safety and Homeland Security shall, in consultation with the Governor, review the current composition of the Criminal Justice Services Board and develop a plan for the restructuring of the Board in order to improve its efficiency in carrying out its duties. The Secretary of Public Safety and Homeland Security shall submit the plan by December 1, 2017, to the Chairmen of the House and Senate Committees for Courts of Justice.

History of the Department of Criminal Justice Services

The Department of Criminal Justice Services (DCJS) and the Criminal Justice Services Board (CJSB) were created by legislation enacted in 1981 that abolished two existing agencies and established a new department and board to assume the responsibilities and authorities of the two predecessor organizations.

DCJS became an operating agency on July 1, 1982. The two predecessor agencies were the Criminal Justice Services Commission and the Division of Justice and Crime Prevention and its board, the Council on Criminal Justice.

The Services Commission was preceded by the Law Enforcement Officers Training and Standards Commission, established in 1969 to set minimum training standards for law enforcement personnel. It became the Services Commission in 1976 when its responsibilities were expanded to include criminal records privacy and security.

The Division of Justice and Crime Prevention was established in 1968 to carry out the planning and administrative responsibilities necessary to apply for and distribute newly available federal grant funds to be used for criminal justice system improvements.

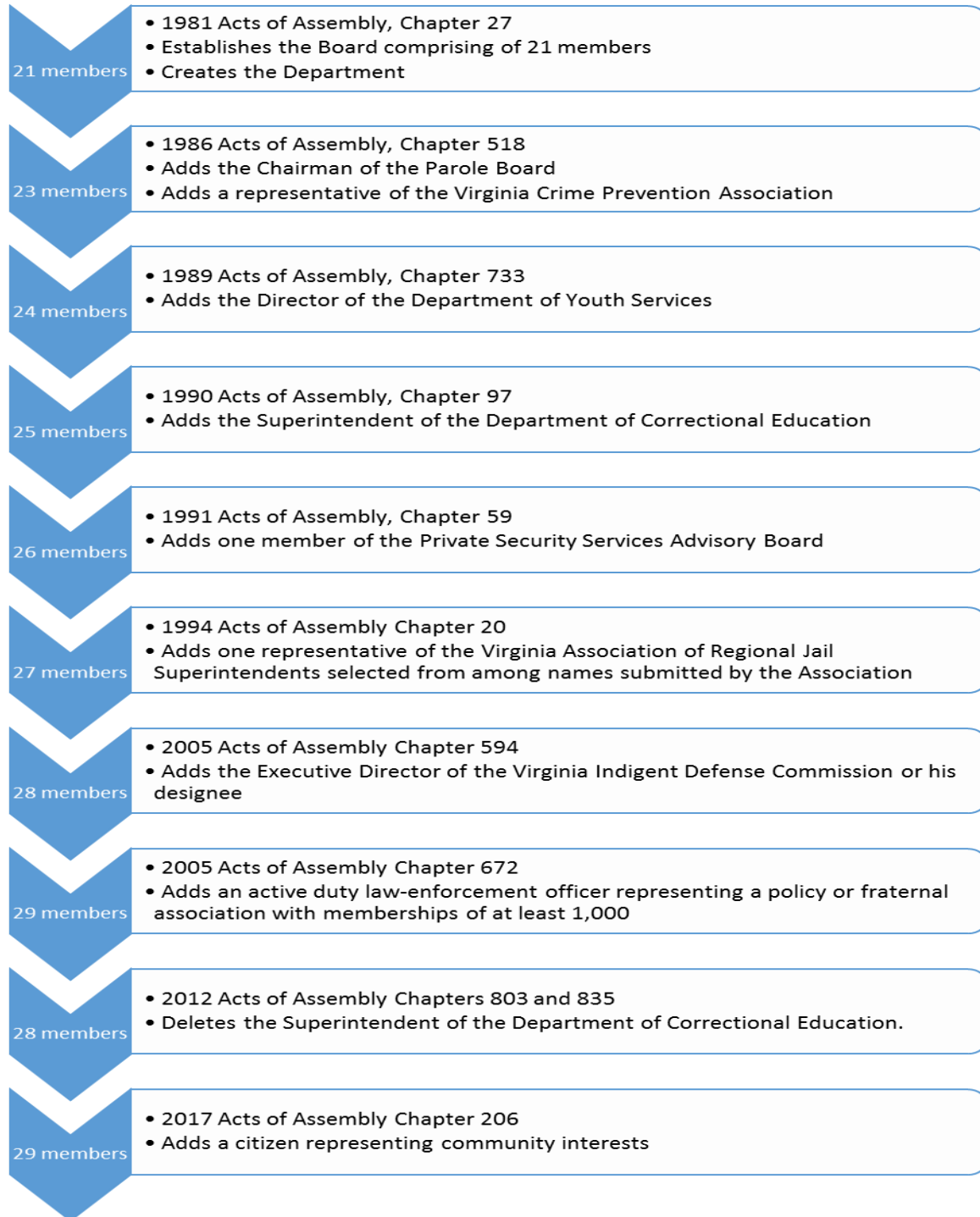
The 1981 legislation prescribed the makeup of the CJSB to reflect the constituencies and responsibilities of the two predecessor agencies. In the years since 1981, the CJSB's membership has grown, in some cases to reflect new responsibilities that accrued to the CJSB and DCJS, and in some cases simply in response to the advocacy of constituent groups.

CJSB Membership Timeline

The enacting legislation set the membership of the CJSB at 21. Five were *ex officio*, including the Chief Justice and the Executive Secretary of the Supreme Court of Virginia, the Attorney General, the Superintendent of State Police and the Director of the Department of Corrections. The remaining twelve members were to be appointed by the Governor, including two sheriffs from among names recommended by the Sheriffs' Association, two chiefs of police from among names recommended by the Chiefs' Association, one Commonwealth's Attorney chosen from names recommended by the Commonwealth's Attorneys' Association, one mayor or city/town manager or council member chosen from names recommended by the Virginia Municipal League, and one county manager or board of supervisors member chosen from names recommended by the Virginia Association of Counties. The remaining four non-voting *ex officio* members of the General Assembly were appointed by the Chairmen of the House Appropriations and Courts of Justice Committees, and the Senate Finance and Courts of Justice Committees.

Throughout the past three decades, CJSB membership has grown from twenty-one members to its current membership of twenty-nine (See Figure 1).

Figure 1:



Current CJSB Composition

The current 29 member CJSB includes twenty-five voting members who represent various criminal justice stakeholder groups, and four non-voting members who are legislators. (Figure 2 shows the current members of the CJSB, including the organization and stakeholder groups they represent.) Membership of the CJSB is established by Virginia Code § 9.1-108, which specifies the following *ex officio* members:

- Attorney General of Virginia
- Chief Justice of the Supreme Court of Virginia
- Executive Director of the Virginia Indigent Defense Commission
- Executive Secretary of the Supreme Court of Virginia
- Superintendent of the Department of State Police
- Director of the Department of Corrections
- Director of the Department of Juvenile Justice
- Chairman of the Virginia Parole Board

Section 9.1-108 also states that “seventeen members shall be appointed by the Governor from among the citizens of the Commonwealth. At least one shall be a representative of crime victims’ organizations or a victim of crime ..., and one shall represent community interests.” The remaining CJSB seats are to be representative of the following broad categories of groups:

- State governments
- Local governments
- Criminal justice systems
- Law enforcement agencies
- Police officials
- Sheriffs
- Attorneys for the Commonwealth
- Defense counsel
- Judiciary activities
- Correctional activities
- Rehabilitative activities
- Other locally elected and appointed administrative and legislative officials

The Code further provides that, from these groups, the Governor shall appoint:

two sheriffs representing the Virginia Sheriffs' Association selected from among names submitted by the Association; one member who is an active duty law-enforcement officer appointed after consideration of the names, if any, submitted by police or fraternal associations that have memberships of at least 1,000; two representatives of the Virginia Association of Chiefs of Police appointed after consideration of the names submitted by the Association, if any; one attorney for the Commonwealth appointed after consideration of the names submitted by the Virginia Association of Commonwealth's Attorneys, if any; one person who is a mayor, city or town manager, or member of a city or town council representing the Virginia Municipal League appointed after consideration of the names submitted by the League, if any; one person who is a county executive, manager, or member of a county board of supervisors representing the Virginia Association of Counties appointed after consideration of the names submitted by the Association, if any; one member representing the Virginia Association of Campus Law

Enforcement Administrators appointed after consideration of the names submitted by the Association, if any; one member of the Private Security Services Advisory Board; and one representative of the Virginia Association of Regional Jails appointed after consideration of the names submitted by the Association, if any. (Va. Code § 9.1-108.A)

Figure 2:

Name	Organization	Stakeholder Group Represented
Adrienne Bennett, Chair	Virginia Parole Board	Ex-officio
Mary Biggs	Montgomery County Board of Supervisors	Virginia Association of Counties
Andy Block, Director	Virginia Department of Juvenile Justice	Ex-officio
John Boneta	John A. Boneta & Associates	Defense Attorney
Chief Craig Branch	Chief of Police, Germanna Community College Police Department	Virginia Association of Campus Law Enforcement Administrators
Angie Carrera		Private Citizen
Chief James Cervera	Chief of Police, Virginia Beach Police Department	Police Fraternal Organizations
Chief Tonya Chapman (Chair)	Chief of Police, Portsmouth Police Department	Local Judicial/Law Enforcement Interests
Sheriff Vanessa Crawford	Sheriff, Petersburg City Sheriff's Office	Virginia Sheriff's Association
Honorable Sarah Deneke, Representative for Chief Justice Donald Lemons	Supreme Court of Virginia	Ex-officio
Honorable Carolyn Dull	Mayor, City of Staunton	Virginia Municipal League
Colonel Steven Flaherty	Virginia Department of State Police	Ex-officio
Francine Horne		Crime Victims' Rights Interests
David Johnson, Executive Director	Virginia Indigent Defense Commission	Ex-officio
Edward Macon, Assistant Executive Secretary and Legal Counsel	Supreme Court of Virginia	Ex-officio
Honorable Mary Malveaux	Virginia Court of Appeals	Judiciary
Honorable Bryan Porter	Commonwealth's Attorney, City of Alexandria	Virginia Association of Commonwealth's Attorneys
Sheriff Anthony Roper	Sheriff, Clarke County Sheriff's Department	Virginia Sheriffs' Association

Colonel Bobby Russell	Western Virginia Regional Jail	Virginia Association of Regional Jail Superintendents
Cookie Scott, Deputy Director for Administration	Virginia Department of Corrections	Ex-officio
Robert Soles	The Osen-Hunter Group	Personal Protection Specialist Business, member, Private Security Services Advisory Board
Richard Vorhis, Senior Assistant Attorney General, Proxy for The Honorable Mark Herring, Attorney General of Virginia	Office of the Attorney General	Ex-officio
Chief James Williams	Chief of Police, City of Staunton Police Department	Virginia Association of Chiefs of Police
Chief Kelvin Wright	Chief of Police, Chesapeake Police Department	Virginia Association of Chiefs of Police
Stephanie Wright, MSW	Together We Bake	Gang Prevention/Youth Violence Issues
Honorable Charles Carrico, Sr.	Senate of Virginia	Senate Committee on Finance
Honorable Mark Peake	Senate of Virginia	Senate Committee for Courts of Justice
Honorable Jackson Miller	Virginia House of Delegates	House Committee for Courts of Justice
Honorable Christopher Peace	Virginia House of Delegates	House Committee on Appropriations

Other CJSB Committees and Membership

Several committees and subcommittees report to and advise the CJSB. These include the Executive Committee, the Forfeited Asset Sharing Subcommittee, Grants Committee, Nominations and Appointments Subcommittee, Committee on Training, Private Security Services Advisory Board, Advisory Committee to the Court Appointed Special Advocate/Children’s Justice Act Programs, Virginia Advisory Committee on Juvenile Justice and Prevention, Virginia Advisory Committee on Sexual and Domestic Violence, and the Virginia Sexual and Domestic Violence Program Professional Standards Committee. Each is responsible for making recommendations to the CJSB or carrying out policy for their subject matter areas.

The Executive Committee (Va. Code § 9.1-108.1) is comprised of the Board Chairman and seven members of the CJSB. They have the power to make recommendations on all matters under the CJSB’s authority and responsibilities, award grants and contracts, and make decisions on appeals for violations of regulations pertaining to the revocations, suspension, or non-renewal of registration, certificate, or license.

The Forfeited Assets Distribution Committee (FADC) consists of five CJSB members including one police chief, one sheriff, one Commonwealth's Attorney. FADC decides all controversies brought to it under Va. Code § 19.2-386.14, which addresses the proceeds from sales of forfeited property.

The Grants Committee is appointed by the Chairman of the CJSB. It is responsible for reviewing, with DCJS staff, grant applications submitted in response to solicitations issued by DCJS and making recommendations to the full CJSB for final action. Currently, this committee is made up of representatives from the Department of Juvenile Justice, Virginia Parole Board, Virginia Indigent Defense Fund, Executive Secretary of the Virginia Supreme Court, Department of Corrections, Attorney General of Virginia, one sheriff, one regional jail administrator, and two chiefs of police.

The Nominations and Appointments Subcommittee, appointed by the Board Chairman, screens nominees to advisory groups and committees that are appointed by the CJSB and makes recommendations on these nominees to the full CJSB. The Virginia Parole Board, Executive Secretary of the Supreme Court of Virginia, and the Attorney General of Virginia are each represented on this subcommittee, as well as one representative from a sheriff and a CJSB member representing the Private Security Services Advisory Board.

The Committee on Training (Va. Code § 9.1-112) is a policy making body, responsible for effecting the applicable provisions related to training standards for the CJSB and DCJS, as outlined in subdivisions 2 through 17 of Va. Code § 9.1-102, to include compulsory minimum training standards for law-enforcement officers, field training officers, curriculum requirements for law-enforcement training academies, courthouse and courtroom security, service of process by deputy sheriffs, jailors, adult correctional officers, juvenile correctional officers, dispatchers, auxiliary police, creation of law-enforcement academies, police training programs, research to improve police administration and making relevant recommendations. The Committee on Training (COT) hears and makes decisions on appeals from decisions made by the Director of DCJS regarding the exemption of certain officers from training requirements and appeals on decisions made by the Director relating to suspensions and revocations of approved training schools. This is a permanent committee with sixteen members of the CJSB. Membership includes representation from the following:

- Two sheriffs
- Two police chiefs
- Virginia Association of Counties
- Citizen member
- Virginia Association of Commonwealth's Attorneys
- Virginia Municipal League
- Executive Secretary of the Supreme Court of Virginia
- One regional jail superintendent
- Department of Juvenile Justice
- Department of State Police
- Department of Corrections
- One member of the Private Security Services Advisory Board

The Private Security Services Advisory Board (Va. Code § 9.1-143) is appointed by the CJSB and advises the CJSB on all issues relating to the regulation of private security services businesses, special conservators of the peace, bail bondsmen, and bail enforcement agents, but it does not serve as a regulatory or rule-making body. Fifteen members make up this board, including:

- Two private investigators
- Two representatives of electronic security businesses
- Two representatives of locksmith businesses
- Three representatives of private security services businesses providing security officers, armed couriers, detector canine handlers or security canine handlers
- One representative of a private security services business providing armored car personnel
- One representative of a private security services business involving personal protection specialists
- One certified private security services instructor
- One special conservator of the peace
- One licensed bail bondsman
- One law enforcement officer

The Advisory Committee to the Court Appointed Special Advocate (CASA)/Children's Justice Act (CJA) Programs (Va. Code § 9.1-151) is responsible for guiding the CJSB on all matters relating to CASA and CJA, including the needs of the clients served by the program and by making recommendations as it may be deemed desirable. To accomplish these responsibilities, this committee has members who have worked or have experience in the law enforcement, health, children's services, victims' rights, and litigation. The current makeup of this group includes representatives from the following areas:

- Law enforcement
- Experience in working with children with disabilities
- Health
- Parent or parent group
- Adult Survivor of child abuse/neglect
- Mental health
- Knowledgeable in court matters
- Substance abuse and residential mental health background
- CASA
- Defense attorney representing parents and children
- Prosecution
- Child Protective Services Agency - local
- Experience in working with homeless children and youth
- Guardian Ad Litem/Attorney for Children
- Special advisor to CJA Task Force
- State Child Protective Services

The Virginia Advisory Committee on Juvenile Justice and Prevention (Va. Code § 9.1-111) advises and assists the CJSB, Executive Branch agencies and localities on matters related to the prevention and treatment of juvenile delinquency and the administration of the juvenile justice system. This includes the review of grant applications for Juvenile Accountability Block Grants, Juvenile Justice and Delinquency Prevention (JJDP) Act grants, and other grant applications related to juvenile justice. After review, the Committee makes recommendations about the applications to the full CJSB. This committee currently includes representatives from the following areas:

- Local detention
- Virginia Department of Education

- Two Volunteers/Special
- Juvenile and Domestic Relations Court judges
- Programs that provide alternatives to incarceration
- Three private nonprofit organizations
- Four youth members
- Virginia House of Delegates
- Law enforcement
- Virginia Indigent Defense Commission
- Virginia Department of Social Services
- Virginia Department of Behavioral Health and Developmental Services
- Juvenile defense
- Virginia Department of Health
- Private citizen
- Prosecution
- Senate of Virginia
- Virginia Department of Juvenile Justice
- Virginia public schools
- One extra seat

Two recently established advisory committees, the Virginia Advisory Committee on Sexual and Domestic Violence and the Virginia Sexual and Domestic Violence Program Professional Standards Committee (Va. Code §§ 9.1-116.2 and 116.3) are responsible for guiding and making recommendations to the full CJSB on matters relating to sexual and domestic violence services and programs, including the professional standards for sexual and domestic violence programs. The Advisory Committee on Sexual and Domestic Violence advises and assists the CJSB, DCJS, all agencies, departments, boards, and institutions of the Commonwealth, and units of local government, or combinations thereof, on matters related to the prevention and reduction of sexual and domestic violence in the Commonwealth, and to promote the efficient administration of grant funds to state and local programs that work in these areas.

Groups currently represented on each of these two committees are listed below.
Virginia Advisory Committee on Sexual and Domestic Violence:

- House of Delegates
- Empowerhouse
- Sexual Assault Response and Awareness, Inc.
- Virginia Department of Health
- Virginia Department of Criminal Justice Services
- Senate of Virginia
- Virginia Department of Social Services
- Virginia State Crime Commission
- Victim/Witness Program
- Office of the Attorney General
- The James House
- Virginia Department of Housing and Community Development
- Citizens Against Family Violence
- Virginia Victim Assistance Network
- Sexual Assault and Domestic Violence Action Alliance

Virginia Sexual and Domestic Violence Program Professional Standards Committee:

- Clinch Valley Community Action Agency
- Avalon
- Quin Rivers – Project Hope
- Family Resource Center
- Doorways for Women and Families
- Chesterfield Domestic and Sexual Violence
- YWCA of Richmond
- Shelter for Help in Emergency
- Safehome Systems
- YWCA-SHR
- Fairfax County Office for Women and Domestic & Sexual Violence Services
- Sexual Assault and Domestic Violence Action Alliance
- Sexual Assault Response and Awareness, Inc. – Charlottesville
- DCJS

CJSB Responsibilities

The CJSB is the policy making body for DCJS. A policy making board is defined as “specifically charged by statute to promulgate public policies or regulations. It may also be charged with adjudicating violations of those policies or regulations. Specific functions of the board, commission, or council may include, but are not limited, to rate setting, distributing federal funds, and adjudicating regulatory or statutory violations, but each power shall be enumerated by law. Policy boards, commissions, or councils are not responsible for supervising agencies or employing personnel. They may review and comment on agency budget requests” (Va. Code § 2.2-2100).

The CJSB, however, is designated as DCJS’ supervisory board, implementing and administering any federal programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control throughout the Commonwealth. DCJS is recognized as the planning and coordinating agency responsible for carrying out these directives.

The CJSB is also authorized to adopt regulations pursuant to the Administrative Process Act for the following:

- Private police departments (Va. Code § 9.1-101)
- Administration of general chapter (Va. Code § 9.1-102 (1))
- Submission of reports and information by law-enforcement officers within the Commonwealth (Va. Code § 9.1-102 (1))
- Privacy, confidentiality, and security of criminal justice information (Va. Code § 9.1-102 (1))
- Collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations and court orders (Va. Code § 9.1-102 (24))
- Planning and implementation of programs and activities and for the allocation, expenditure and sub-granting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein (Va. Code § 9.1-102 (35))

- Interstate dissemination of criminal history record information by which criminal justice agencies shall insure compliance with the law (Va. Code § 9.1-128 (B))
- Validation of an interstate recipient’s right to obtain criminal history record information from criminal justice agencies of the Commonwealth (Va. Code § 9.1-128 (C))
- Participation of state and local agencies in any interstate system for exchange of criminal history record information (Va. Code § 9.1-129 (A))
- Conduct of audits of state and local criminal justice agencies for compliance, retention of records, determination of necessary corrective actions, and the reporting of corrective actions (Va. Code § 9.1-131)
- Individual’s right to access and review criminal history record information (Va. Code § 9.1-132 (B))
- Private security businesses, individuals, training schools (Va. Code § 9.1-139 and § 9.1-141)
- Special conservators of the peace (Va. Code § 9.1-152.2)
- Crime prevention specialists minimum training standards (Va. Code 9.1-161)
- Property bail bondsmen and surety bail bondsmen (qualifications, examinations, fees, complaints, investigations, professional standards of conduct, suspend/revoke license, impermissible solicitations) (Va. Code § 9.1-102.43 and § 9.1-185.2)
- Bail enforcement agents (qualifications, examinations, fees, complaints, investigations, professional standards of conduct, suspend/revoke license, impermissible solicitations) (Va. Code § 9.1-102.44 and § 9.1-186.2)

The CJSB and DCJS are also required to prescribe standards for the development, implementation, operation, and evaluation of local community-based probation services and facilities and pretrial services programs (Va. Code § 9.1-175 and 19.2-152.3).

State Comparison

Almost every state has an agency or office designated as the state administering agency (SAA) for carrying out the planning and administrative functions required to obtain and distribute federal criminal justice grant funds. According to the National Criminal Justice Association (NCJA), at least 23 of these agencies have multi-disciplinary boards or committees.

Most states also have agencies to create and enforce minimum standards for the employment and training of law enforcement and other criminal justice personnel, known as peace officers’ standards and training agencies (POST). However, few, if any, states combine the planning and grant-making functions and POST functions into one agency, and Virginia is the only state in which the SAA is also responsible for regulation of the private security industry.

A review of other SAAs reveals there are several states that consolidate their responsibilities for multiple federal criminal justice grant programs into one entity. The following table highlights other SAAs that have the same planning and administrative functions as DCJS for the same federal criminal justice grants.¹ A description of the SAA and corresponding board, council, or committee membership is included for comparison purposes.

¹ Edward Byrne Memorial Justice Assistance Grant (Byrne JAG), Residential Substance Abuse Treatment for State Prisoners (RSAT), Sexual Assault Services Program (SASP), STOP Violence Against Women (VAWA), Victims of Crime Act Victim (VOCA), Juvenile Justice & Delinquency Prevention Act Title II Formula Grant (Title II), and Juvenile Accountability Block Grant (JABG).

State	SAA Type	Number of members
Colorado	Department of Public Safety	9 boards/committees ranging in membership from 18, 23, 26, and 28 people
Delaware	Criminal Justice Council	7 committees and commissions, ranging in membership from 5, 11, 12, and 21 people
Indiana	Criminal Justice Institute	18
Louisiana	Commission on Law Enforcement and Administration of Criminal Justice	59
Maryland	Governor's Office of Crime Control and Prevention	N/A
Minnesota	Office of justice Program (Dept. of Public Safety)	Crime victim board has 5 members. All other grants by office staff.
Montana	Board of Crime Control	18
Nebraska	Crime Control Commission	18
New Jersey	Div. of Criminal Justice (Attorney General's Office)	N/A
North Carolina	Governor's Crime Commission	43
Virginia	Dept. of Criminal Justice Services	29

According to the NCJA, the most common types of membership representation on SAA criminal justice commissions, boards and councils are:

Figure 3:

State department of corrections	87%
State courts	83%
City/county police/sheriffs	83%
State attorney general	78%
City/county prosecutors	74%
State police	65%
Local elected official	61%
State public defense	57%
State juvenile justice agency	57%
City/county courts	57%
Practitioner associations	57%
Non-profit service providers	57%
State health and human service agency	52%
State department of public safety	48%
State probation/parole	43%
State/local victims office	43%
State department of education	39%
State senator or representative	39%
University partner	35%

Stakeholders Not Represented on the CJSB

DCJS regularly works with other stakeholders not currently represented on the CJSB and not part of the criminal justice system. For example, DCJS has collaborated with the Department of Behavioral Health and Developmental Services (DBHDS) on a number of initiatives, including the Center for Behavioral Health and Justice, Crisis Intervention Training, jail mental health pilot programs, and addiction recovery programs. Inter-agency collaborative relationships are reflections of the growing understanding that issues and problems which often lead to individuals becoming involved in the criminal justice system frequently come to the attention of non-criminal justice agencies first, and require multi-agency cooperation to be effectively addressed.

Duplicate CJSB Membership

Review of the current CJSB membership reveals multiple members representing three distinct areas – law enforcement, judiciary, and defense counsel. This is due in large part to requirements set out in Va. Code § 9.1-108. The Board has seven law enforcement seats: two police chiefs, one chief of a campus police department, one active duty law enforcement officer, two sheriffs and the Superintendent of the Department of State Police.

The judiciary currently holds three seats on the CJSB. The Chief Justice and the Executive Secretary of the Virginia Supreme Court are ex-officio members, and the third is a sitting judge appointed by the Governor.

The criminal defense bar has two representatives on the CJSB, each representing distinctly different aspects of criminal defense: the Executive Director of the Indigent Defense Commission, who serves ex-officio; and a private practice attorney. The former represents the 25 Public Defender offices throughout the state which provide criminal defense for indigent defendants. The latter does criminal defense work as part of his private practice, sometimes serving as a court-appointed attorney.

Recommendations:

In response to the legislative language directing this study, and to better reflect the broader scope of DCJS' and the CJSB's work, the following recommendations are suggested:

1. **Reduce duplicate stakeholder representatives.** *The CJSB's composition currently has multiple representatives of law enforcement, the defense bar, and the judiciary. Eliminating these duplicate memberships would reduce the size of the Board.*
 - a. **Law enforcement:** *There are seven representatives of law-enforcement on the CJSB. Reducing that number would streamline the Board's composition while still reflecting the law enforcement perspective. Specifically, by decreasing the number of police chief and sheriff appointees to one each, redundancy would be minimized while still insuring that the different perspectives and responsibilities of each are represented. With this slight change, there would a total of five law enforcement representatives on the CJSB.*
 - b. **Judiciary:** *There are currently three representatives of the judiciary on the CJSB, two of whom serve ex officio. Given the CJSB's and DCJS' involvement with the judiciary—funding and providing training, technical assistance and equipment—we recommend that the number of ex officio judicial positions be reduced to one, the Executive Secretary of the Supreme Court, and that the gubernatorial appointees include one sitting judge.*

2. **Add the DBHDS.** *A number of individuals involved in the criminal justice system are also involved in behavioral health systems. As such, DCJS and DBHDS routinely collaborate on issues impacting both agencies. Adding the Commissioner of DBHDS, or his designee, to the CJSB's membership would ensure that this important perspective is included in policy advice given by the Board and in the in the awarding of grant funds.*

Implementing these recommendations would require an amendment to Va. Code § 9.1-108.

Resources

1. NCJA Study
2. Virginia Code