



Policy Options and Recommendations

December 2, 2014



Domestic Violence and Sexual Assault Funding (HB 885)



Recommendation 1:

- An Advisory Committee on Sexual Assault and Domestic Violence Programs should be created within DCJS, similar to the Advisory Committee on Juvenile Justice.
 - *Coordination and communication between state agencies and local SDVAs should be fostered.*
 - *Operational efficiencies in awarding and monitoring grant funds can be further identified and shared between agencies.*
 - *Increases expertise in recognizing and finding solutions to common complaints and problems faced by local SDVAs.*



Recommendation 1: (continued)

- The Advisory Committee would have the responsibility for advising and assisting DCJS, VDSS, VDH, and DHCD in their work with local SDVAs, and help them coordinate with each other.
 - *Could help avoid duplicative or unnecessary awards.*
 - *Could recommend ways to ensure equitable distribution of funds to SDVAs.*
 - *Could provide a unique, big picture approach to working on the myriad of problems created by sexual and domestic violence.*



Recommendation 1: (continued)

- The membership of the Advisory Committee would consist of 13 members, including the following, or their designees:
 - Commissioner of VDSS;
 - Director of DCJS;
 - Commissioner of Health;
 - Director of DHCD;
 - Executive Director of Action Alliance;
 - The Attorney General;
 - A member of the House of Delegates;

Domestic Violence and Sexual Assault Funding



Recommendation 1: (continued)

- A member of the Senate; and,
- Five persons appointed by the Governor:
 - Representative of a crime victim organization or a victim of crime;
 - Member of a victim/witness organization in Virginia;
 - Director of a local sexual assault program;
 - Director of a local domestic violence program; and,
 - Director of a local program that deals with both sexual assault and domestic violence.

Domestic Violence and Sexual Assault Funding



Recommendation 1: (continued)

- The Advisory Committee would review statewide plans, conduct studies, and make recommendations on needs and priorities for the development and improvement of local services to victims of sexual assault and domestic violence.



Recommendation 1: (continued)

- The Advisory Committee would also provide guidance for the accreditation process for local programs:
 - Help devise appropriate standards and minimum requirements; and,
 - Recommend guidelines to ensure evaluations and inspections are consistent and impartial, and conflicts of interest are avoided.



Recommendation 1: (continued)

- The Advisory Committee should determine what data collection is needed by state agencies, and which data system or systems best meet those needs, while at the same time being useful and not too cumbersome for local programs.
 - *It is unusual for important data systems to not be maintained by state agencies.*
 - *The VAdata system is old and may not be capable of being upgraded.*
 - *A new system may be required.*

Domestic Violence and Sexual Assault Funding



Recommendation 1: (continued)

- The Advisory Committee could play a role in helping and encouraging state agencies in certain areas that have been identified as needing improvements or changes in the grant funding or monitoring process.



Recommendation 2:

- DCJS should manage an accreditation program for local SDVA programs, similar to VLEPSC for law enforcement agencies.
 - *Accreditation is a function that should be more directly overseen and managed by the state.*
 - *If accreditation is tied to funding, or receipt of bonus funds, the standards and evaluations should be carried out by an impartial body.*



Recommendation 3:

- VDSS should review the hotline needs of SDVAs to see if more of them can locally manage a hotline.
 - *Goal is to support the creation of local hotlines where feasible.*
 - *New technology exists that may be more cost effective.*



Recommendation 3: (continued)

- VDSS should evaluate the feasibility of assuming responsibility for a state-wide hotline for SDVAs that are not able to maintain their own 24 hour hotline system.
 - *State hotline fees could be eliminated for SDVAs.*
 - *A portion of grant funding used to support the state hotline could then be disseminated to SDVAs to manage their own local hotline.*
 - *This can be handled via letter request to VDSS OR if the Advisory Committee is approved in Recommendation 1, it could be added to their responsibilities.*



Recommendation 4:

- DCJS should reassume control over the portion of VOCA funds that currently go towards the DV Prevention and Services Grant administered by VDSS.
 - *It is inefficient for federal VOCA funds to go from one state agency to another state agency; DCJS is capable of administering those funds to local DV agencies.*



Recommendation 5:

- The portion of VOCA funds that go towards the Child Abuse Treatment grant at VDSS should remain with VDSS.
 - *VDSS has extensive experience funding a wide variety of child abuse programs.*

Domestic Violence and Sexual Assault Funding



Recommendation 6:

- VDSS should retain control over the FVPSA federal funding stream.
 - They have traditionally been the recipient state agency for these federal funds, which come from U.S. Dept. of Health and Human Services.



Illegal Cigarette Trafficking

Illegal Cigarette Trafficking



Recommendation 1:

- Require anyone who wants to sell tobacco products to the general public or at the wholesale level in Virginia to obtain a tobacco retail license. Designate Virginia Department of Alcoholic Beverage Control to manage the tobacco retailing permit system and enforcement of cigarette trafficking.

Illegal Cigarette Trafficking



Recommendation 1: (continued)

- 36 other states require a license or permit to sell cigarettes.
- Without some sort of retail permit system, state officials and law enforcement do not have the ability to identify all of the tobacco retailers in the state.
- If retail sales of tobacco are dependent upon a state issued license that can be revoked for criminal violations, retailers will have more of an incentive to properly obey all statutes and regulations.
 - Similar to those who hold permits to sell alcohol or lottery tickets.

Illegal Cigarette Trafficking



Recommendation 1: (continued)

- Designate Virginia Department of Alcoholic Beverage Control (Va. ABC) to manage the tobacco retailing permit system.
 - They have extensive experience handling the administration of wholesale and retail sales permits for a similar product—alcohol.
 - They are familiar with thoroughly vetting applicants, and address locations, before granting an alcohol license.
 - There is an overlap of approximately 40% of businesses that sell both alcohol and tobacco.
- Va. ABC also has extensive experience in law enforcement operations, including investigating white collar crimes and fraudulent retail practices.

Illegal Cigarette Trafficking



Recommendation 1: (continued)

- Having a well known, centralized state unit dedicated to tobacco enforcement could provide many benefits to Virginia's local and state law enforcement:
 - Deconfliction assistance when multiple jurisdictions are investigating the same trafficking ring;
 - Forensic accounting investigations that are often difficult for local law enforcement;
 - Coordinating investigations that involve other localities, states and/or the federal government;
 - Providing a well-known point of contact for federal, state and local law enforcement, prosecutors, industry, and the general public; and,
 - Administrative civil hearings as another avenue to stop the operations of crooked wholesalers and retailers.

Illegal Cigarette Trafficking



Recommendation #1: (continued)

- Wholesaler permits could easily be adopted by the Va. ABC, which would also offset the costs.
- Application fees and tobacco permit fees could also help offset the costs of the tobacco unit.
 - Currently, there is a \$65 fee to apply for an alcohol license; a license itself costs anywhere from \$120 to \$665, depending on the nature of the license (e.g., beer, liquor, on/off, etc.)
- There would also be some savings if the Tax Dept. transferred some of their tobacco duties over to the Va. ABC.

Illegal Cigarette Trafficking



Recommendation 2:

- Lower the felony threshold level in Va. Code § 58.1-1017.1 from 500 cartons to 200 cartons.
 - This will crack down on fraudulent retail purchases from wholesalers. Phony retailers will purchase just under \$10,000 dollars of cigarettes, around 230 cartons, in an attempt to avoid federal reporting requirements.
 - 200 was selected to make this type of evasive purchase a felony.

Illegal Cigarette Trafficking



Recommendation 3:

- Create a new Code section to make it a criminal offense to purchase cigarettes from a wholesaler using a forged business license, or a forged or invalid sales and use tax exemption certificate.
 - 25 cartons or less would be a misdemeanor for a 1st offense, and a Class 6 felony for a 2nd or subsequent offense.
 - More than 25 cartons would be a Class 6 felony for a 1st offense, and a Class 5 felony for a 2nd or subsequent offense.

Illegal Cigarette Trafficking



Recommendation 4:

- The definition of “authorized holder” in Va. Code § 58.1-1000 should be expanded to exclude anyone who has been convicted of a similar offense in any locality, state, or the United States.
 - Should also exclude anyone convicted of an offense involving tax fraud in connection with cigarette sales.
 - This past year, the definition of an “authorized holder” was amended, to preclude anyone who has ever been convicted of cigarette trafficking in Virginia from acting in such a capacity.

Illegal Cigarette Trafficking



Recommendation 5:

- A list should be developed and maintained of “non-authorized holders” by the Office of the Attorney General.
 - This would inform wholesalers of “retail” customers who are ineligible to purchase large quantities of cigarettes.
 - The list should be easily accessible to wholesalers.
 - This information could be maintained by the Va. Office of the Attorney General.

Illegal Cigarette Trafficking



Recommendation 6:

- Amend Va. Code § 58.1-1007 to allow, in addition to the Department of Taxation, the Office of the Attorney General, local tax administrators, and the Board of Alcoholic Beverage Control access to the records involving purchases and sales of cigarettes.



Sexting

Sexting



Policy Option 1:

- Should the VCJC Recommendations be adopted:
 - Class 1 misdemeanor for a minor taking a lewd photo of oneself, without anyone else in the picture;
 - Class 1 misdemeanor for a minor in simple possession of a consensual sexting image;
 - Class 1 misdemeanor if a minor sends a sexting image of himself, provided that he is the only person depicted in the image, and all of the requirements for the Class 1 misdemeanor offense of producing a sexting image are met; and,
 - Create a first offender provision for sexting, mirroring the language used for Virginia's first offender statute for drug possession, for the three new Class 1 misdemeanors?

Sexting



- Staff offered the following considerations to the VCJC proposal:
 - Should the VCJC Recommendations be further limited?
 - The Class 1 misdemeanor for possession of child pornography could be limited to cases where only a certain number of images were possessed; e.g., the defendant did not possess more than 10 images.
 - The Class 1 misdemeanor for transmission of child pornography could be limited to cases where the images were sent to a particular individual; e.g., sending images to a public website, to more than a certain number of recipients, or to Twitter or Instagram accounts would not qualify for the reduced penalty.
 - The Class 1 misdemeanor for possession of child pornography could be limited to cases where the defendant did not pay for the images.



Digital Impersonation (HB 344/HB 707)

Digital Impersonation



Policy Option 1:

- Should our computer harassment statute be amended by adding a subsection B, making the current Class 1 misdemeanor crime of harassment a Class 6 felony if it was done by someone who has assumed another's identity? (HB 344 modified)
 - Members indicated an interest in adding an intent to defraud to this statute, however, the crime of defraud is an awkward fit. When you harass someone it is usually very different than defrauding someone.

Digital Impersonation



Policy Option 2:

- Should an entirely new statute be created making it a crime to impersonate another online, even if there is no obscene speech involved, but the impersonation was done with the intent to defraud, or to communicate a direct threat?
 - This new statute was proposed to be a Class 1 misdemeanor in HB 707. Note that Policy Option 1 makes it a Class 6 felony for very similar behavior.

Digital Impersonation



Policy Option 3:

- Should an entirely new digital impersonation statute be created, identical to that proposed in option 2, but also including intent to harm, or injure character or reputation, or credit score?



Human Trafficking (SB 373 / HB 486)

Human Trafficking



Policy Option 1:

- Should Virginia enact a comprehensive Human Trafficking Act, with newly created felonies, similar to that proposed by SB 373?

Human Trafficking



Policy Option 2:

- Should local CPS become involved in investigations where juveniles are believed to be victims of human trafficking? (HB 486)

Human Trafficking



Policy Option 3:

- Should a heightened penalty for pandering or procuring prostitutes, when minors are involved, be created?
 - Va. Code §§ 18.2-356 and 18.2-357.
 - Staff recommends a Class 3 felony.

Human Trafficking



Policy Option 4:

- Should a new “recruitment for purposes of prostitution” statute, modeled after Virginia’s gang recruitment statute (Va. Code § 18.2-46.3), be created?
 - Staff recommends creating this statute as a much needed tool to address the manipulative behavior seen by pimps trying to recruit juvenile prostitutes. Currently, it is very difficult to charge this behavior as a felony.

Human Trafficking



Policy Option 5:

- Should manual stimulation of the genitals be incorporated into the prostitution statute?
 - Law enforcement has observed instances where manual stimulation of the genitals is being used as a “screening” method for clients before engaging in illegal sexual acts.

Human Trafficking



Policy Option 6:

- Should a juvenile, charged with prostitution, be allowed to have their case dismissed, and become subject to a CHINS petition, if the juvenile expresses a willingness to participate in specialized services?



Law Enforcement Lineups

Law Enforcement Lineups



Policy Option 1:

- Should law enforcement agencies be required by statute to adopt:
 - The use of “evidence based practices” in their written lineup policy;
 - A lineup policy that references certain procedures, such as blind administration;
 - A lineup policy that is required to have detailed proscriptions on how procedures are to be carried out, such as Connecticut enacted; or,
 - **The DCJS model policy.**

Law Enforcement Lineups



Policy Option 2:

- Should law enforcement agencies be mandated by Code to follow specific procedures for conducting lineups?



Barrier Crimes (SB 353)

Barrier Crimes



Policy Option 1:

- Should the barrier crimes statute be rewritten, using only Code sections/statute numbers, with minimal extra wording?

Barrier Crimes



Policy Option 2:

- Should the barrier crimes statute be rewritten, listing out all the Code sections, with specific descriptions of the offenses included with the statute numbers?

Barrier Crimes



Policy Option 3:

- Should the barrier crimes statute be rewritten, using broad descriptions of categories of offenses, e.g., any felony sexual assault; any felony burglary or trespassing offense; etc.?



Juvenile Records (SJR 24)

Juvenile Records



Policy Option 1:

- To what extent should DMV be putting any information concerning juvenile adjudications on a public driving record?

Juvenile Records



Policy Option 2:

- Should the courts be required to record and report the number of cases expunged annually?



Search and Rescue/ Missing Persons (SJR 64/HJR 62)

Search and Rescue/Missing Persons



Recommendation 1:

- Create a Search and Rescue Coordinator position at VDEM.
 - This would require legislation.
 - Approximate cost \$135,000 first year/\$115,000 each year thereafter.
- The dual role of VDEM to provide training and SAR operations makes it very difficult to provide needed services in both areas.
- A director with clearly designated powers and duties will add clarity to search and rescue responsibilities and provide law enforcement with a much needed point of contact.

Search and Rescue/Missing Persons



Recommendation 2:

- Create a Search and Rescue Coordinator position at VSP.
 - This would only require a budget amendment.
 - Approximate cost \$200,000 first year/\$140,000 each year thereafter.
 - Currently, the SAR Unit coordinator only serves part-time, which creates difficulties when pulled off the road for missions and trainings.
 - Provides law enforcement with a much needed point of contact.

Search and Rescue/Missing Persons



Recommendation 3:

- Create an additional FTE position at VSP's Clearinghouse to assist with responsibilities of training, record keeping, compliance, and technical assistance to law enforcement agencies in reporting missing persons.
 - This would only require a budget amendment.
 - Approximate cost \$60,000 each year.
 - Clearinghouse is operating under very limited resources and it is imperative that information is as up-to-date as possible in order to meet its mission effectively.

Search and Rescue/Missing Persons



Recommendation 4:

- Increase available resources for SAR equipment at VSP.
 - This would only require a budget amendment.
 - Approximate cost \$110,000.
 - Crime Commission staff can work with VSP to develop a formal request.

Search and Rescue/Missing Persons



Recommendation 5:

- Create 2 regional SAR coordinator positions at VDEM to provide a regional response for missions and training needs.
 - This would only require a budget amendment.
 - Approximate cost \$208,000 first year/\$168,000 each year thereafter.
 - Allows for weekday training to be offered so more first responders can be trained.
 - Allows for rapid response to deploy on search missions.
 - Can be modeled after existing VDEM regional approaches (i.e., HAZMAT).

Search and Rescue/Missing Persons



Recommendation 6:

- Create Va. Code § 15.2-1718.2 to establish a mechanism for receipt of reports for critically missing adults.
 - “Critically missing adult” means any missing adult ages 21 and over whose disappearance indicates a credible threat to the health and safety of the adult as determined by a law-enforcement agency and under such other circumstances as deemed appropriate after consideration of all known circumstances.

Search and Rescue/Missing Persons



Recommendation 7:

- Amend Va. Code § 9.1-102 to require DCJS to establish and publish model policies for missing children, missing adults and search and rescue efforts.
 - Combined in legislation with recommendation 8.

Search and Rescue/Missing Persons



Recommendation 8:

- Amend Va. Code § 9.1-102 to require DCJS to develop training standards for missing persons and search and rescue.
 - Combined in legislation with recommendation 7.
 - VDEM, VSP, and the Va. Association of Volunteer Rescue Squads (VAVRS) have well-established SAR training curricula that could easily be modified and adopted.

Search and Rescue/Missing Persons



Recommendation 9:

- Request VSP to examine programmatic efforts to provide immediate notification to VDEM when a critically missing child or adult is entered into VCIN. Categories would only include the classifications of “endangered,” “involuntary” and “disability.”
 - This could be handled by a letter request to the Va. State Police.

Search and Rescue/Missing Persons



Recommendation 10:

- Request Crime Commission staff to facilitate convening DCJS, VDEM, VSP, Va. Sheriff's Assoc. and Va. Assoc. of Chiefs of Police, and others to create a detailed checklist for Virginia's first responders.

Search and Rescue/Missing Persons



Recommendation 11:

- Request DCJS to create a family resource guide for missing persons and make available online.
 - This could be handled by a letter request to DCJS.

Search and Rescue/Missing Persons



Recommendation 12:

- Coordinate with the Va. Sheriff's Association and the Va. Association of Chiefs of Police to promote law enforcement awareness.



Reproduction of Child Pornography Statute

Reproduction of Child Pornography



Policy Option 1:

- Should Subsection C of Va. Code § 18.2-374.1:1 have a “knowingly” mens rea added?

Reproduction of Child Pornography



Policy Option 2:

- The words “lascivious intent” in Subsection C of Va. Code § 18.2-374.1:1:
 - Should the existing language be left as is?
 - **Should the words “lascivious intent” be deleted from the Subsection?**
 - Should the Subsection be rewritten so as to make clear that the requirement of “lascivious intent” applies to all of the actions contained in this criminal offense?

Reproduction of Child Pornography



Policy Option 3:

- Should Va. Code § 18.2-381 be rewritten to eliminate the conflicts it creates in the Code?
 - It mandates second offenses for all crimes in the article as Class 6 felonies, but some of the statutes to which it refers (child pornography crimes) have higher penalties than a Class 6 felony.



Special Conservators of the Peace (SCOP)

Special Conservators of the Peace



Policy Option 1:

- Should consensus items to reform SCOPs that were agreed upon by the DCJS' SCOP Task Force be implemented?

Special Conservators of the Peace



Policy Option 2:

- Should training standards be amended for SCOPs?



Private Police Departments

Private Police Departments



Policy Option 1:

- Should the nine existing private police departments be recognized in Va. Code?



Discussion
