

COUNTIES, CITIES AND TOWNS: POLICE AND PUBLIC ORDER – CRIMINAL JUSTICE TRAINING ACADEMIES.

COMMISSIONS, BOARDS AND INSTITUTIONS: DEPARTMENT OF CRIMINAL JUSTICE SERVICES.

1998 Appropriation Act grants Criminal Justice Services Board discretion in determining distribution of funds to state-supported regional criminal justice training academies. Although Board is no longer required to impose specific portion of financial responsibility for operating academies on participating localities, it is not precluded from determining such to be reasonable requirement. Board has discretion to determine whether in-kind services or contributions by entities other than participating localities would satisfy any obligation placed on localities to share in funding of academy's operation.

The Honorable Stephen O. Simpson
Sheriff for Loudoun County
July 6, 1999

You ask whether, for the biennium beginning July 1, 1998, the Department of Criminal Justice Services (the "Department") is authorized to consider the in-kind services provided by the Washington Metropolitan Area Transit Authority and the Metropolitan Washington Airports Authority to the Northern Virginia Criminal Justice Academy when the Department calculates the amount of funding for the Academy.

You refer to a 1984 opinion of the Attorney General which concludes that, in determining the amount of funds to be distributed to regional training academies, the Department is not to consider in-kind services provided to such academies by entities similar to the Authorities.¹ Your question actually involves the 1984 opinion of the Attorney General and an opinion issued in 1982, which interpret the language of the 1984-1986 Appropriation Act² and the 1982-1984 Appropriation Act.³

Section 1-111, Item 530 of the 1982-1984 Appropriation Act allocates funds to the Department to expend for assistance to the regional training academies.⁴ Item 530 contains the following limitation on use of the funds:

[F]unding for Law Enforcement Training and Education provides assistance for 60% of the total costs of the Regional Training Academies; the remaining 40% shall be provided by the participating localities.^[5]

The 1984-1986 Appropriation Act and the 1986-1988 Appropriation Act contain similar language.⁶

In 1982, the Attorney General issued an opinion on whether localities could satisfy a portion of their forty percent contribution through "in-kind" contributions to the cost of operating an academy.⁷ The opinion concludes that the forty percent share required of localities means forty percent of the actual amount of money to be expended in the operation of an academy and would not include "in-kind" contributions.⁸

In 1984, the Attorney General issued an opinion on whether a portion of the localities' forty percent contribution could be made by colleges, universities, private companies, state agencies, and multistate authorities.⁹ The opinion concludes that "the term 'participating localities' include[s]

only cities, counties, and towns, or regional authorities created by them, and not other sources such as State agencies, educational institutions or multi-state entities."¹⁰ This conclusion is based on the view that the General Assembly intended to place the responsibility for funding a portion of the academies on the participating localities as a condition to receiving state funds.¹¹

The 1988-1990 Appropriation Act and the 1990-1992 Appropriation Act contain the same sixty-four percent requirement and also require the Criminal Justice Services Board to "adopt such rules as may reasonably be required for the establishment, operations and service boundaries of state supported regional criminal justice training academies."¹²

No subsequent appropriation for criminal justice training academies contains the requirement that participating localities fund forty percent of the cost of operating the academies.¹³ Rather, each subsequent appropriation act, including the 1998 Appropriation Act, contains the following language:

The Criminal Justice Services Board shall adopt such rules as may reasonably be required for the distribution of funds and for the establishment, operation and service boundaries of state supported regional criminal justice training academies.^[14]

It is clear from this language that the General Assembly has granted the Criminal Justice Services Board the discretion to determine how the funds are to be distributed. The Board is no longer required to impose a specific portion of the financial responsibility for operation of the academies on the participating localities. It is my opinion that the Board is not, however, precluded from doing so should it determine such imposition to be reasonably required in connection with distributing the appropriated funds. It also would be within the Board's discretion to determine whether in-kind services or contributions by entities other than the participating localities would satisfy any obligation placed on localities to share in the funding of an academy's operation.

¹See 1983-1984 Op. Va. Att'y Gen. 129.

²See *id.* (interpreting 1984 Va. Acts ch. 755, at 1772).

³See 1982-1983 Op. Va. Att'y Gen. 14 (interpreting 1982 Va. Acts ch. 684, at 1286).

⁴See 1982 Va. Acts, *supra*, at 1455.

⁵*Id.*

⁶See 1986 Va. Acts ch. 643, § 1-107, Item 496(2), at 1594, 1766; 1984 Va. Acts ch. 755, § 1-121, Item 505, at 1772, 1925-26.

⁷1982-1983 Op. Va. Att'y Gen., *supra* note 3, at 15.

⁸*Id.* at 15-16.

⁹1983-1984 Op. Va. Att'y Gen., *supra* note 1, at 129.

¹⁰*Id.*

¹¹ *Id.*

¹² 1990 Va. Acts ch. 972, § 1-114, Item 613(C)(2), at 1871, 2088; 1988 Va. Acts ch. 800, § 1-121, Item 511(2), at 1280, 1477.

¹³ See 1992 Va. Acts ch. 893, § 1-109, Item 436(B)(2), at 1686, 1877-78; 1994 Va. Acts ch. 965, § 1-109, Item 436(B)(2), at 1634, 1855; 1996 Va. Acts ch. 912, § 1-109, Item 438(B)(1), at 1741, 2005; 1998 Va. Acts ch. 464, § 1-111, Item 455(B)(1), at 666, 980-81.

¹⁴ 1992 Va. Acts, *supra*, at 1877-78; 1994 Va. Acts, *supra*, at 1855; 1996 Va. Acts, *supra*, at 2005; 1998 Va. Acts, *supra*, at 981.