



State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

September 28, 2015

(304) 558-2021
Fax (304) 558-0140

Mr. Richard A. Staton
Director
Division of Justice and Community Services
1204 Kanawha Blvd., E.
Charleston, WV 25301

Dear Director Staton:

You have asked for an Opinion of the Attorney General regarding whether the West Virginia Division of Justice and Community Services (“DJCS”) may perform certain functions on behalf of the Community Corrections Subcommittee—a subcommittee of the Governor’s Committee on Crime, Delinquency and Correction. This Opinion is being issued pursuant to West Virginia Code § 5-3-1, which provides that the Attorney General “shall give written opinions and advice upon questions of law . . . whenever required to do so, in writing, by . . . any other state officer, board or commission.” To the extent this Opinion relies on facts, it is based solely upon the factual assertions set forth in your correspondence with the Attorney General’s Office.

In your letter, you explain that DJCS wishes to carry out staffing functions to assist the Community Corrections Subcommittee in fulfilling its statutory duties. As you note, the Legislature established DJCS to provide executive and administrative support to the Governor’s Committee on Crime, Delinquency and Correction. You ask whether DJCS may provide similar support—specifically, “information gathering, data compilation, report preparation, and general monitoring”—to the Community Corrections Subcommittee.

Your letter raises the following legal question:

Does the West Virginia Division of Justice and Community Services have the authority to perform general staffing functions for the Community Corrections Subcommittee in fulfilling its statutory duties?

The duties and authority of the Community Corrections Subcommittee are set forth at West Virginia Code § 62-11C-1 *et seq.* West Virginia Code § 62-11C-2 reauthorized the Community Corrections Subcommittee, setting forth its membership and noting its function as a

subcommittee of the Governor's Committee on Crime, Delinquency and Correction. The Subcommittee's duties include:

- (1) Maintaining records of community correction programs;
- (2) Seeking funding for approved community corrections programs;
- (3) Providing funding for approved community corrections programs;
- (4) Submitting an annual report to the Governor, the Speaker of the House of Delegates, the President of the Senate, and upon request, to any member of the Legislature on its activities;
- (5) Reviewing the implementation of evidence-based practices and conducting regular assessments for quality assurance of all community-based criminal justice services and reviewing agency performance measures; and
- (6) Proposing legislative rules in accordance with West Virginia Code § 62-11C-3(a).

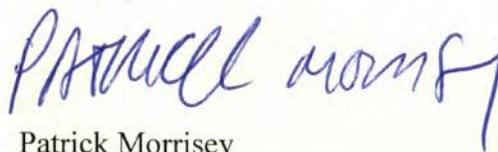
W. Va. Code § 62-11C-3.

By statute, DJCS is not only authorized, but obligated, to provide staffing functions to the Community Corrections Subcommittee and all other subcommittees of the Governor's Committee on Crime, Delinquency and Correction. West Virginia Code § 15-9A-2(a) created DJCS for three purposes: (1) "provid[ing] executive and administrative support to the Governor's Committee on Crime Delinquency and Correction in the coordination of planning for the criminal justice system"; (2) "administer[ing] federal and state grant programs assigned to it by the actions of the Governor or Legislature"; and (3) "perform[ing] such other duties as the Legislature may from time to time assign." W. Va. Code § 15-9A-2(a). As such, DJCS is "the designated staffing agency for the Governor's Committee on Crime, Delinquency and Correction, *and all of its subcommittees.*" *Id.* (emphasis added). Thus, the Director of DJCS is statutorily designated as "the Executive Director of the Governor's Committee on Crime, Delinquency and Correction *and of its subcommittees,*" and DJCS is tasked with "provid[ing] staff support." *Id.* § 15-9-1(g) (emphasis added). DJCS is also expressly authorized to apply for grants and other funding "consistent with . . . the purposes assigned to it *or the subcommittees it staffs.*" *Id.* § 15-9A-2(a) (emphasis added).

In fact, one statutory provision specifically charges the Director of DJCS with carrying out the statutory duties of the Community Corrections Subcommittee. Under West Virginia Code § 15-9A-3, the Director has "executive and administrative responsibility" to "[c]arry out the specific duties imposed on the Governor's Committee on Crime, Delinquency and Corrections under the provisions of . . . article eleven-c, chapter sixty-two of this code." W. Va. Code § 15-9A-3(b). That part of the Code is the West Virginia Community Corrections Act, which sets forth the duties of the Community Corrections Subcommittee. Notably, to fulfill his or her responsibilities, the Director has the authority to "[c]ollect, compile and analyze crime and justice data in the state, generating statistical and analytical products for criminal justice professionals and policy makers." *Id.* § 15-9A-3(c).

Richard A. Staton, Director
September 28, 2015
Page 3

Sincerely,



Patrick Morrissey
Attorney General

Elbert Lin
Solicitor General

Erica N. Peterson
Assistant Attorney General