

# **Governor's Task Force on Prescription Drug and Heroin Abuse Enforcement Workgroup**

**Patrick Henry Building, Conference Room 1  
1111 East Broad Street, Richmond, Virginia  
April 14, 2015**

## **DRAFT MEETING MINUTES**

### **Members Present:**

Co- Chair: Michael Herring, Commonwealth's Attorney, City of Richmond  
Co-Chair: Captain Frank Genova, Virginia Beach Police Department (on behalf of Chief Cervera)  
Ken Alger II, Commonwealth's Attorney, Page County  
Shawn Buckner, Senior Recovery Coach, SAARA of NOVA  
Senator Charles 'Bill' Carrico, Sr., Senate of Virginia  
Deputy Chief Steven Drew, Richmond Police Department (on behalf of Chief Durham)  
Francine Ecker, Director, Department of Criminal Justice Services  
Colonel David Hines, Hanover County Sheriff's Office  
Honesty Liller, CEO, The McShinn Foundation  
Nancy Parr, Commonwealth's Attorney, City of Chesapeake  
Carole Pratt, DDS, Virginia Department of Health  
Sheriff Anthony Roper, Clarke County  
Ray Tarasovic, retired Chief of Police for the City of Richmond  
Tonya Vincent, Deputy Secretary of Public Safety

### **Members Not Present:**

Trevor Chapmon, MD, Section Chief, Carilion Clinic Physical Medicine  
Kim Craig, Executive Director, Staunton-Augusta Rescue Squad  
Judge Jerrald Jones, Norfolk Circuit Court  
John Jones, Executive Director, Virginia Sheriff's Association  
Anna Powers, Drug Treatment Court Coordinator, Supreme Court of Virginia

### **Other Attendees:**

Shannon Dion, Department of Criminal Justice Services  
Frank Genova, Virginia Beach Police Department  
Robert Hess, Hanover Sheriff's Office  
Terry Sullivan, Hanover Sheriff's Office

### **Welcome**

The meeting convened at 1:00 p.m. and Chief Alfred Durham was announced as a new task force member.

## **Past Meeting Minutes**

Shawn Buckner made a motion to accept the draft minutes from the November 12, and December 2, 2014 meetings. Colonel David Hines seconded the motion. The motion passed unanimously.

## **Task Force Update**

A brief summary of the task force was provided, which included a legislative update and future dates and deadlines for the task force.

## **Workgroup Discussion**

Discussion began about two bills endorsed by the Task Force that failed to pass in the General Assembly, SB1035 (felony homicide) and HJ622 (legislative study into alternatives to incarceration). It was noted these bills still represent good ideas that should be considered by the Task Force, despite the apparent lack of appetite by many General Assembly members for “diversion” programs.

Members considered narrowing the scope of the HJ622 to a more finite program, such as drug courts, in order to make the bill more manageable. It was noted that drug courts are a proven, effective method of helping serious addicts. Expanding the drug court system and eligibility requirements were discussed as possible mechanisms to reach more addicts. Members pointed out that not all drug addicts are caught by the criminal system on drug charges, but instead are caught doing other crimes committed to support their addiction. The historical reluctance of the General Assembly to expand drug courts was observed.

The cost to society for not treating addicts who break the laws was briefly discussed. Local jails only receive \$13/day per inmate from the state to help pay the cost of housing inmates. Some local programs provided by private entities cost as little as \$35 to participate. Concern was raised that felonizing drug addicts is a costly endeavor for the state in the long run.

Part of the workgroup’s discussion focused on the illusion of “tough on crime” state policies. Although some policies may be touted as “tough on crime,” in reality the sentencing guidelines demonstrate that it normally takes an addict’s 3<sup>rd</sup> or 4<sup>th</sup> felony drug conviction to receive an active incarceration sentence. If the fiscal impact of imposing multiple felony drug convictions is analyzed, it may show that very little cost is incurred by the state because incarceration doesn’t occur until the 3<sup>rd</sup> or 4<sup>th</sup> conviction. It was also noted that the current status quo of how addicts engage in the criminal justice system is not working. A request was made to look at how other states handle multiple felony encounters with addicts – Arizona, Oklahoma, and Washington were mentioned. DCJS offered to provide additional information at a future meeting.

An interesting medical fact was shared with the workgroup that may have bearing on the timing of when alternatives to incarceration are offered in the criminal process – the earlier the intercepting treatment occurs, the better chances the addict has at successfully recovering.

Regarding SB1035, observers noted that its failure to pass was likely due the \$50,000 fiscal impact statement provided by the Virginia Criminal Sentencing Commission. The Virginia Association of Commonwealth's Attorneys tried to convince the General Assembly that there should be no fiscal impact, as this bill attempted to revert the law back to what it was prior to the Virginia Court of Appeals decision in Woodard v. Commonwealth, 61 Va. app. 567 (2013). The fiscal impact to the state for convicting dealers who actions caused fatal overdoses was already contemplated and accounted for when the law was originally passed by the General Assembly.

A member shared that other bills of interest successfully passed the General Assembly. Senate Bill 892 and House Bill 1500 provide a "safe harbor" affirmative defense for an individual who calls 911 or notifies emergency personnel that someone in his presence is suffering from an overdose. This news was well received by the workgroup which stressed that the new law needs to be widely advertised in order to effectively save lives.

**Recommendation #1**

A unanimous decision was made to recommend to the Task Force that information about Senate Bill 892 and House Bill 1500 be publicized. Specifically, that:

1. The Governor announce the law once effective on July 1<sup>st</sup>
2. The Governor direct all pertinent state agencies to notify constituents and state and local organizations about the law, such as the Dept. of Health & Human Services, Dept. of Social Services, Dept. of Criminal Justice Services, Dept. of Education, Dept. of Behavioral Health and Developmental Services, etc.
3. All efforts be utilized to ensure that news of the law is shared with schools, local community correction programs, social services departments, health departments, treatment providers, addicts, etc.

**Recommendation #2**

The workgroup stressed the importance of implementing the goals of HJ622, even if conducted by another entity. Therefore, the group recommends the Task Force ask the Governor to identify another state entity, such as VCU, to study the efficacy of diversion for 2<sup>nd</sup> and 3<sup>rd</sup> time felony Schedule I and II drug offenders, as well as the potential financial savings to the Commonwealth if these addicts avoid multiple felony convictions.

Discussion then focused on the lack of follow-up treatment for addicts following their release from incarceration, which can unwittingly lead to fatal overdoses based on physiological reactions to the re-introduction of opioids after a prolonged absence. The importance of every jail facility having a treatment facility or tier was identified as a significant way to prevent future fatal overdoses from occurring. Not surprisingly, the direct and indirect costs to implement

treatment programs and/or tiers were noted. The group agreed to determine whether sheriffs throughout the state are interested in the notion of treatment opportunities in jails before making a specific recommendation. However, the group did support the basic notion that if the state is going to incarcerate addicts (typically after their 3<sup>rd</sup> or 4<sup>th</sup> contact with the judicial system), treatment should be available. The group also requested more information about how many Virginia Department of Corrections facilities have therapeutic communities (TC) available to inmates.

**Recommendation #3**      The group agreed to recommend to the Task Force that, as a matter of policy, if the state determines incarceration is an appropriate punishment for addicts who have continued contact with the criminal justice system, that treatment options be made available during their periods of confinement.

Finally, the group requested more information about the Prescription Monitoring Program (PMP) be presented at the next meeting. It was noted that the PMP does not capture prescriptions ordered for military veterans who are receiving treatment from federal Veterans Affairs facilities.

**Meeting Adjourned**

The meeting adjourned at approximately 2:40 p.m.