
VIRGINIA ABC ENFORCEMENT EXPERT REVIEW PANEL



FINAL REPORT AND RECOMMENDATIONS

SEPTEMBER 18, 2015

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EXECUTIVE SUMMARY

On March 18, 2015, an incident in Charlottesville, Virginia involving special agents from the Virginia Department of Alcoholic Beverage Control's Bureau of Law Enforcement raised serious concerns regarding Virginia ABC's law enforcement mission and practices. Governor McAuliffe took immediate action in response to the incident and issued Executive Order 40, Improving ABC Law Enforcement. The Executive Order directed Brian Moran, Virginia's Secretary of Public Safety and Homeland Security, to convene an expert review panel charged with providing recommendations to Governor McAuliffe by November 1, 2015. A diverse panel was created, including state and local elected officials, as well as representatives from the student leadership at institutions of higher learning, members of law enforcement, and from the substance abuse education and prevention, alcohol distribution and hospitality fields.

The expert review panel met four times between May and August of 2015 to examine issues involving the mission, structure, policies and training of Virginia ABC's Bureau of Law Enforcement. The review panel heard presentations from experts and stakeholders in law enforcement, the retail alcohol sales system, substance and alcohol treatment, and others with a vested interest in the industry. They then thoughtfully and candidly discussed the implications of the information they had received.

Recommendations of the panel include a renewed focus on ABC licensee regulatory matters as opposed to street level enforcement as well as additional training and an increase in special agent numbers to monitor licensee environments. Complete meeting agendas, summaries and minutes are attached as Appendices A through D. Appendix E includes a list of all recommendations adopted by the Panel. Additional documents presented to the panel can be downloaded from the Virginia ABC website: <https://www.abc.virginia.gov/about/expert-review-panel-materials>.

RECOMMENDATIONS

1. Enforcement Responsibility

For enforcing Virginia’s alcohol related laws should remain with Virginia ABC as it continues to improve internal and external activities consistent with the recommendations of this review panel and the other requirements of Executive Order 40.

The panel considered three recommendations for the structure of Virginia’s alcohol related law enforcement. The panel does not recommend relocating alcohol enforcement to the Virginia State Police (VSP) or abdicating this authority to local law enforcement jurisdictions. Based on information presented by VSP, local law enforcement officials and individuals representing Virginia alcohol distribution and the hospitality industry, the panel concluded that the public safety of Virginia is best served by Virginia ABC law enforcement. However, the agency would benefit from a renewed focus on transparency, accountability and continuous improvement. It is not enough for Virginia ABC law enforcement to maintain the status quo when it comes to training, policies and agency culture.

2. Regulatory and Enforcement Priorities

Virginia ABC should prioritize regulatory activities over law enforcement activities with a focus on the premises of licensed establishments and events, without sacrificing the responsibilities for addressing underage drinking and assuring public safety. When law enforcement activities are undertaken, ABC should work collaboratively with local law enforcement agencies and engage in non-exigent, “street level” activities in consultation with local law enforcement or by Memorandum of Understanding as required by Executive Order 40 in communities with institutions of higher education.

The panel concluded that separating law enforcement and regulatory functions of an ABC special agent would not benefit public safety. The primary focus of ABC should be ensuring regulatory and legal compliance within a licensed premises or event.

3. Training

Newly recruited special agents should receive training equivalent to that required by Executive Order 40, Article 1 for current agents. ABC should review and revise the current Field Training Officer (FTO) curriculum to assure proper field training is taking place and that agents have the opportunity to provide feedback on FTO performance. Additionally, ABC should encourage joint training with local law enforcement. Beyond these incremental improvements, the following training requirements should be mandated:

- i. **Require eight hours of compulsory, annual, evidence based, in-service training in the areas of response to active resistance and de-escalation, cultural diversity, effective interaction with youth and community policing.**
- ii. **Law enforcement supervisors should complete the ABC agency wide supervisory training currently under development.**
- iii. **Law enforcement supervisors should complete 20 hours of law enforcement supervisory training biennially to focus on proper monitoring of field agent activity and counseling agent behavior to focus on the agency priority of regulatory enforcement.**

Several members of the panel expressed that in addition to simply imparting procedural knowledge, training must maintain fidelity with evidence based practice and ensure that training results in a material impact on the practices and behavior of agents when interacting with the public. Furthermore, the panel was very engaged on the issue of effective supervision as a critical component of maintaining a renewed focus on regulatory roles. In order to change the culture within the ABC law enforcement division, training must be carefully developed, implemented and monitored.

4. Transparency, Accountability and Reporting

ABC should present a quarterly report demonstrating progress toward the adopted recommendations of this panel to the Virginia Secretary of Public Safety and Homeland Security and ensure citizen access to this information. Virginia ABC should develop a supervisory plan to ensure ongoing oversight and compliance with ABC law enforcement policies and the mission of the agency. In addition, Virginia ABC should develop and implement annual, regional strategic plans integrating input from local law enforcement, licensee and citizen stakeholders.

While agreeing that regular communication between supervisors and field agents is essential for improved performance, the panel abstained from specifying the frequency of supervisory meetings, as that this is a decision best made at the field supervisor level based on experience and individual work performance. Through regular reporting and transparency of activities, ABC will be able to quickly address areas of concern. In order to properly track ABC law enforcement activities and identify areas needing further attention, ABC will report out on a quarterly basis the performance measures listed below.

- I. All criminal violations written – should contain the number of each violation written
 - a. Further breakdown of violations by region in which it was written
 - b. Breakdown of race, gender and age (demographics)
2. All regulatory violations written – should contain the number of each violation written
 - a. Further breakdown of violations by region in which it was written
 - b. Breakdown of license type

3. Number of field contacts/interviews made
 - a. Demographics
4. Number of custodial arrests made
 - a. Charges filed as a result of arrest
 - b. Region where arrest is made
 - c. Demographic information of individual arrested
5. Instances where a use of force report is filed
 - a. Collect demographics of complainant
6. Instances where an injury occurs during arrest
 - a. Collect demographics of injured individual
7. Number of use of force complaints filed and region in which they are filed
 - a. Collect demographics of complainants
8. Number of ongoing use of force investigations and duration of each
9. Use of force complaints substantiated and any disciplinary action taken
10. Number of inspections made
 - a. Information organized by region
11. Planned operations conducted
 - a. Information organized by region

5. **Accreditation**

Virginia ABC should achieve and maintain accreditation through a state or national law enforcement accrediting body.

During the first meeting, the review panel learned that Virginia ABC is working through the accreditation process of the Virginia Law Enforcement Professional Standards Commission with a final assessment scheduled for the end of September.

6. **Higher Education Outreach**

ABC should establish liaison relationships among the local law enforcement agencies with which it works in any given area and Virginia institutions of higher education.

ABC enforcement should work with personnel and programs already in communities and on campuses to educate students and community members on its role and priorities. Panel members would like to see ABC special agent interaction with student communities outside of the law enforcement paradigm, while warning against increasing the footprint of the agents beyond current resources. A primary goal of forming stronger ties between the three groups in the recommendation is to produce a consistent messaging with outreach to student populations. Another key goal is to reach different types of student populations such as student athletes and students in public school systems.

7. Personnel

Authorize increased staffing for ABC law enforcement personnel to keep pace with industry growth and improve regulatory, education and enforcement capacity.

Any increase in staffing should be done with a focus on regulatory compliance activities that relate back to ABC's focus on licensees and matters of importance to public safety. Information presented during the second panel meeting demonstrated a trend of increasing numbers of Virginia ABC licensees with a corresponding decline in the numbers of ABC special agents. Part of the challenge in maintaining ABC as a capable enforcement agency is providing adequate staffing resources. Agents who are over committed due to reduced personnel and increasing numbers of licensees are unable to perform to the level expected by the public and industry. The panel acknowledged that some recommendations would require additional funding. Panel members agreed that ABC should develop a proposal to address personnel needs.

8. Body Cameras

Virginia ABC should implement body worn cameras when conducting law enforcement activities and utilize the model policy DCJS is currently developing.

As a cost containment measure, the panel recommended providing flexibility in agency policy to forego the use of recording when conducting regulatory activities.

9. Expedited License Suspension Process

The panel recommended legislative/regulatory action to allow ABC to immediately address licensees that pose an imminent threat to public safety.

Panel members would like to see legislation during the 2016 Virginia General Assembly session what would create a mechanism to address licensees who pose an immediate and direct threat to the public safety. Any proposal should provide the licensee an opportunity to be heard in an expeditious manner on whether a license suspension should be extended or lifted based on the specific circumstances of the case.

APPENDIX A

May 4, 2015 Virginia ABC Expert Review Panel Meeting Agenda, Meeting Summary and Minutes

Meeting One Agenda

Virginia ABC Enforcement Expert Review Panel

Monday, May 4, 2015
2:00 p.m. – 5:00 p.m.

Virginia State Capitol - Senate Room 3
Richmond, Virginia

I. Welcome and Opening Remarks

The Honorable Brian Moran
Secretary of Public Safety and Homeland Security

II. Presentations

ABC Agency and Bureau of Law Enforcement Overview
Travis Hill, COO, Virginia Department of ABC

Law Enforcement Training Standards
Francine Ecker, Director, Virginia Department of Criminal Justice Services

Law Enforcement Data
Debbie Roberts, Research Programmer/Analyst, Virginia Department of Criminal Justice Services

III. Discussion & Next Steps

IV. Public Comment

V. Adjourn

Meeting One Summary

May 4, 2015, 1:00 p.m.

The meeting convened with introductions and comments from Brian Moran, Virginia's Secretary of Public Safety and Homeland Security.

Travis Hill, Virginia ABC Chief Operating Officer, provided an overview of the operating structure of Virginia ABC and the law enforcement division. He highlighted the mission and discussed various aspects of the work that ABC enforcement agents perform. Information regarding staffing levels, basic statistics relating to enforcement activities and the structure of alcohol law enforcement in jurisdictions outside of Virginia was provided. COO Hill also shared the initial plans for meeting the Executive Order 40 requirements of additional agent training in conjunction with the Virginia Department of Criminal Justice Services (DCJS) and the development of Memoranda of Understanding with local law enforcement agencies serving communities with state institutions of higher education.

Fran Ecker, Director, DCJS, provided an overview of training curricula and highlighted various topics covered during basic law enforcement training through Virginia's law enforcement academy structure. Debbie Roberts, Research Programmer/Analyst, DCJS, presented a summary of ABC arrest data obtained from the Virginia Uniform Crime Reporting system. Victoria Cochran, Deputy Secretary of Public Safety and Homeland Security, facilitated an in-depth discussion with panel members, highlighting the breadth and diversity of individual perspectives regarding ABC's Bureau of Law Enforcement.

Questions from the panel primarily involved requests for further research into specific details of ABC's arrest records, including types of charges filed, custodial arrests versus those released on summons and a review of individuals arrested by ethnicity. Panel members also requested more information regarding specific aspects of the training agents would receive in compliance with Executive Order 40.

Virginia ABC Enforcement Expert Review Panel

**Senate Room 3, The Capitol, Richmond, Virginia
May 4, 2015**

Meeting One Minutes

Members Present:

Travis Hill, Chief Operating Officer for the Virginia Department of Alcoholic Beverage Control
Ryant Washington, Special Policy Advisor on Law Enforcement for the Department of Alcoholic Beverage Control
Fran Ecker, Director of the Department of Criminal Justice Services
Wesley Reed, Sheriff of Prince Edward County
Donald Goodman, Chief of Police for the City of Radford
Kevin Foust, Chief of Police at Virginia Tech
Michael Herring, Commonwealth's Attorney for the City of Richmond
Steven Flaherty, Superintendent of the Virginia State Police
Robert Archer, President and Chief Executive Officer for Blue Ridge Beverage
Hayes Humphreys, Chief Operating Officer for Devil's Backbone
Laura Wood Habr, Co-Owner of Croc's Restaurant
Paige Allen Hawkins, Substance Abuse Prevention Specialist at James Madison University
Kurt Erickson, President at Washington Regional Alcohol Program
Abraham Axler, President at University of Virginia Student Council
Christopher Jones, Mayor of the City of Harrisonburg
Mamie Locke, Virginia State Senator, 2nd District, Hampton
Ryan McDougle, Virginia State Senator, 4th District, Hanover

Members Absent:

Delegate Dave Albo, Virginia House of Delegates, 42nd District
Christopher Konschak, Manager at Virginia Mothers Against Drunk Driving

2:15 Opening Remarks:

Brian Moran, Secretary of Public Safety and Homeland Security welcomed members of the public and members of the expert review panel and reminded members of the public that each individual would be allowed three minutes for public comment. Secretary Moran restated the purpose of the panel and panel members introduced themselves.

Deputy Secretary Victoria Cochran introduced the three presenters.

Presentations:

The following individuals gave presentations to the panel. A summary of their presentations, questions and comments are described below.

Travis Hill, COO, Virginia Department of ABC

ABC Agency and Bureau of Law Enforcement Overview. COO Hill provided an overview of the structure for the ABC and the enforcement division. He highlighted the mission and discussed various aspects of the work enforcement agents perform.

Panel Questions:

What constitutes an injury during arrest? COO Hill will research and be prepared to discuss at the next meeting.

Francine Ecker, Director, Department of Criminal Justice Services

Law Enforcement Training Standards. Director Ecker provided an overview of training curricula and highlighted various topics that are covered during training.

Panel Questions:

How do you assess retention of training knowledge after agents graduate from the academy? Agents are tested and assessed during in-service training, which is tailored to job-specific tasks for each agent.

Are agents tested again? Agents go through 100 hours of field training after graduation and are assessed regularly by each agency. They must complete 40 hours of mandatory, ~~annual~~ training every two years. Agents are required to qualify with their service weapon at least once a year.

Is field training standardized, or combined with other local agencies? DCJS establishes minimum training standards for 100 hours of field training for all law enforcement certification and after agents complete the standardized training they receive an additional 100 hours of job-specific training.

How does the Virginia State Police academy differ, Colonel Flaherty? Colonel Flaherty: Trooper academies are set up differently. Trooper recruits complete 30 days of training prior to the academy and then eight weeks of evaluation and job-specific training after the academy.

Who sets the tone and application of law enforcement training? Agency training officers play a large role in the tone and application of training. Each training officer for the job-specific training goes through extensive training that is guided by the Chief Law Enforcement Officer.

Is there a disconnect between the training and application that leads to use of force and other issues? DCJS establishes the compulsory minimum training standards through their committee on training. The Criminal Justice Services Board also must approve all minimum training standards.

What goes into discussions on cultural diversity? There is a standard for number of hours with regard to curriculum, but not necessarily content. Cultural diversity should be woven in with each aspect of the curricula. All trainers, credentials and lesson plans are reviewed regularly.

Can DCJS provide sample curricula at the next meeting? Yes.

How does DCJS develop a training plan that addresses how to interact with youth? DCJS utilizes nationally developed curriculum that demonstrate evidence-based outcomes.

Will any young people be involved in the development of this aspect of training per EO 40? No. The training will be provided by Strategies for Youth: Effectively Communicating with Youth and Young Adults. Strategies for Youth law enforcement officer training provides scientific and evidence-based information and practical strategies for officers working with youth.

In order to be accredited, ABC agents would have to meet all accreditation standards in line with other agencies, correct? Yes. So, training may not necessarily address discrete aspects such as interacting with minors or ethnic groups? Correct. COO Hill elaborated that ABC engages in these practices in other areas, including programming. For instance, YADAPP programs around messaging and smart choices.

Travis Hill, COO, Virginia Department of ABC

ABC Agency and Bureau of Law Enforcement Overview. COO Hill continued his presentation and outlined specific actions of the enforcement branch and the specialized training to meet the requirements outlined in EO 40.

What is the proper role for ABC? Can ABC provide the panel with a list of all charges written? Yes. COO Hill notes that reports on regulatory actions vs. enforcement may not be apparent in the slides, as many regulatory actions involve ongoing interactions rather than written notices.

What metrics could help to determine performance evaluation and how time should be spent? This varies by region. There is no blanket way to determine how agents should be spending time. It is more important that we determine what the expectations are and priorities.

Why are certain topics of the specialized training lumped together? What is the logic? How does that relate to culture? Director Ecker- Culture should be an integral component of each training topic. This plan addresses the needs and requirements.

What are other control states doing? COO Hill will look into this.

Based on the ratio of work in the slides, is that how ABC prefers agents to divide time? ABC needs resources on the regulatory side. Resources are constrained. Agents should spend the amount of time it takes to get it right and the agency's priority is to regulate. ABC is working to set standards on expectations.

Debbie Roberts, Research Programmer/ Analyst, DCJS

Law Enforcement Data. Ms. Roberts provided an overview of ABC arrests.

Panel Questions:

Studies demonstrate that at least half of first year students at UVA drink alcohol. Who should choose who to arrest? Varies.

Chief Foust notes that ABC makes fewer arrests than local law enforcement. If alcohol is a secondary offense to the arrest, is that included in the alcohol data? Unclear. The system logs basic, limited information.

Does ABC have this level of detailed data? Can it be provided? COO Hill and Chief Washington will attempt to get this information. Chiefs will also try to get.

What is "all other"? Unsure. COO Hill and Chief Washington will look into this.

What type of liquor laws does ABC enforce? COO Hill will look into this.

How does the complaint-to-arrest ratio compare to other law enforcement agencies? ABC complaints seem low. Chiefs will look into this.

How do Group A arrests vs. Group B arrests influence this ratio? What types of arrests are resulting in complaints or injuries? VSP and others will look into this. VSP keeps a record of all injuries; there were 114 injuries last year.

Panel Discussion: (facilitated by Victoria Cochran, Deputy Secretary of Public Safety and Homeland Security)**Individual relationship considerations and perspectives on interactions with ABC**

Senator Mamie Locke sits on the Senate Rehabilitation and Social Services committee and felt that the panel did not address training. Senate Committee looks at ABC legislation.

Chief Goodman has been in a college environment with ABC enforcement and views ABC as a partner to help maintain a safe community. There are tragedies that result from unchecked alcohol use.

CA Herring prosecutes cases from ABC agents. Most recently, he worked with a female ABC agent who almost single-handedly took down a business in downtown Richmond that had multiple offenses (it raised questions regarding targeting and what problems should be the focus). He prefers the regulation aspect of ABC.

CA Herring wants to stress the importance that part of the discussion focused on the importance of ABC law enforcement to use de-escalation, discretion and diversion when addressing underage drinkers. Alcohol abuse is often a factor dealing with these cases, and their mental health should be taken into consideration.

Senator McDougle feels that the group should determine the proper role of ABC agents. He is concerned that officers are not properly prepared.

COO Humphreys feels ABC's response rates are great but is concerned about allocation of resources.

Mr. Archer stated that alcohol can be abused and lead to other offenses. Dealing with these types of cases requires a team effort along with other local entities. The allocation of ABC time and resources is obscure and can be confusing.

Mr. Axler stated that UVA has police on campus that work with local police officers and state police. They stress the importance of student safety, yet interactions with ABC seem to be extreme. ABC agents don't always seem to be visible on campus and do not seem to be focused on safety. UVA students do not know exactly what their role is.

Chief Foust shared that at Virginia Tech, his experience with ABC has been positive. They take care of the licensing and they relieve burdens at special events such as football games. Is it a helpful partnership.

Chief Goodman stated that he understands Mr. Axler's comment about the mysteriousness of ABC. Plain clothed officers have led to the use of force in some communities.

Sheriff Reed expressed mixed feelings with ABC, especially with regard to night clubs. He stated that his jurisdiction needs them but feels strongly that agents should treat everyone fairly; this includes letting the Sheriff know about operations so that everyone is on the same page and can assist one another. Sometimes the Sheriff only has two or three officers on duty.

Ms. Hawkins expressed that for the last 15yrs she has been involved with the Education and Prevention Section of ABC, VCALC, that provides education to college students. ABC has provided the organization with funding and grants. Going forward, there needs to be an increase in barriers to alcohol, and decrease in barriers to get students early intervention and treatment to prevent alcohol related negative consequences.

Mayor Jones shared that he thinks of moonshine and bootleggers when he thinks of ABC. There is a huge disconnect of information and as the president of the local NAACP Chapter, he feels a responsibility to ensure that we establish the right culture. He want to see how they work with campus and local police, and when and how for enforcement. Training may have been adequate in the past, but he feels that improvements are needed. Furthermore, substance abuse leads to other larger offenses. Training is not in vain but it is a standard, there needs to be a cultural influence in the trainings. (there was an exchange about change in culture at ABC)

Ms. Wood shared that she has grown up in direct contact with ABC. They teach hospitality and proper pouring and serving in the restaurant industry. She has had a good relationship with their training staff and their enforcement.

CA Herring shared that he thinks of ABC with regard to the infamous Trader Joe's parking lot and St. Patrick's say in Charlottesville. The degree of danger is different for all crimes. The public has a hard time understanding how a seizure for a fake ID could escalate so much.

Senator McDougle expressed that he has had interactions with ABC in multiple realms such as the legislative process, financial and policy and in action through court. The role of ABC needs to be determined, as well as what types of activities they should be involved with. The Senator would like to explore shifting the state-wide role to a locality-by-locality role.

Colonel Flaherty's relationship with ABC has changed and stayed the same. He experienced an increase in interactions with ABC after an increase in DUI accidents. The focus needs to be on how to prevent and mitigate issues in the future.

Chief Washington expressed that there needs to be a greater influence on education and application of training.

Mr. Erickson stated that we need to focus on other underage drinking populations such as high school populations.

Public Comment:

No public comments.

Next Meeting:

June 1st 2-5pm

There will be three to four additional meetings over the course of the summer before recommendations will be made to the Governor.

Closing Remarks/ Adjourn:

Brian Moran, Secretary of Public Safety and Homeland Security thanked participants and shared that at the next meeting the group will be looking at more information and arrest data.

APPENDIX B

June 1, 2015 Virginia ABC Expert Review Panel Meeting Agenda, Summary and Minutes

Meeting Two Agenda

Virginia ABC Enforcement Expert Review Panel

Monday, June 1, 2015

2:00 p.m. – 5:00 p.m.

**Virginia State Capitol - Senate Room 3
Richmond, Virginia**

I. Welcome and Opening Remarks (10 minutes)

The Honorable Brian Moran

Secretary of Public Safety and Homeland Security

II. Meeting Re-Cap and Review of Minutes (10 minutes)

Victoria Cochran, Deputy Secretary of Public Safety and Homeland Security

III. Presentations

ABC Enforcement Data (45 minutes)

Travis Hill, COO, Virginia Department of ABC

Training & Community Policing Panel (45 minutes)

Travis Hill, COO, Virginia Department of ABC

Ryant Washington, Special Policy Advisor on Law Enforcement, Virginia Department of ABC

Harry Dolan, Retired Chief of Police, Raleigh Police Department

Impact of Alcohol on College Campuses (30 minutes)

Linda Hancock, Director for the Wellness Resource Center at Virginia Commonwealth University

IV. Discussion & Next Steps (30 minutes)

V. Public Comment (10 minutes)

VI. Adjourn

Meeting Two Summary

June 1, 2015, 1:00 p.m.

COO Hill provided arrest data and demographics regarding Virginia ABC enforcement statistics compared to statewide averages. Charges filed by Virginia ABC special agents included, but were not limited to Title 4 and Title 18. COO Hill also elaborated on charges that did not appear to be directly related to alcohol, and also highlighted information on licensing. Most panel questions and commentary focused on the balance between law enforcement and regulatory responsibilities.

Chief Ryant Washington, Special Policy Advisor for Law Enforcement at Virginia ABC, and Chief (ret.) Harry Dolan, Raleigh Police Department, presented information regarding the depth and breadth of the proposed additional training for Virginia ABC agents. Questions and comments from the panel focused primarily on how increased training would bring about a culture change and maintain a lasting influence on the practices and behaviors of ABC agents.

Linda Hancock, Ph.D., Director of the Wellness Resource Center at Virginia Commonwealth University, presented information on the impact of alcohol on college campuses. She emphasized that beginning youth education at an early age is important because alcohol and substance abuse are influenced by genetics and environment. Dr. Hancock also stressed the need for proper labeling of alcoholic beverages and holding restaurants accountable for over-serving alcoholic beverages.

A number of panel members closely associated with an academic environment opined that social providing is the most prevalent method by which underage people obtain access to alcohol. The panel was especially interested in how best to combat underage drinking and how combining education, prevention and enforcement can more effectively reduce social providing.

Virginia ABC Enforcement Expert Review Panel

**June 1, 2015
2:00 PM – 5:00 PM
State Capitol
Senate Room 3**

Meeting Two Minutes

Members Present:

Travis Hill, Chief Operating Officer for the Virginia Department of Alcoholic Beverage Control
Ryant Washington, Special Policy Advisor for Law Enforcement for the Virginia Department of Alcoholic Beverage Control
Francine Ecker, Director Virginia Department of Criminal Justice Services
Wesley Reed, Sheriff Prince Edward County
Donald Goodman, Chief of Police for the City of Radford
Kevin Foust, Chief of Police at Virginia Tech
Michael Herring, Commonwealth's Attorney for the City of Richmond
Lt Colonel Robert Northern, Lieutenant Colonel of the Virginia State Police
Robert Archer, President and Chief Executive Officer for Blue Ridge Beverage
Hayes Humphreys- Chief Operating Officer for Devil's Backbone
Laura Habr, Co-Owner Croc's 19th Street Bistro
Paige Hawkins, Substance Abuse Prevention Specialist at James Madison University
Christopher Konschak, Manager for MADD Virginia
Kurt Erickson, President at Washington Regional Alcohol Program
Abraham Axler President at University of Virginia Student Council
Christopher Jones, Mayor City of Harrisonburg
Ryan McDougle, Virginia State Senator, Senate District 4
Mamie Locke, Virginia State Senator, Senate District 2

Members Absent:

Barry Knight, Virginia House of Delegates, 81st District

2:05 Opening Remarks:

Brian Moran, Secretary of Public Safety and Homeland Security welcomed members of the public and members of the expert review panel. Secretary Brian Moran discussed the agenda which included interests in ABC enforcement data, the comparison of law enforcement training, the impact of alcohol specifically on underage drinkers, and the general consideration of the proper role of ABC law enforcement.

2:10 May 4, 2015 Meeting Re-Cap and Review of Minutes

Victoria Cochran, Deputy Secretary of Public Safety and Homeland Security proposed two future meeting dates July, 8 2015 2PM-5PM and August 13, 2015 2PM-5PM.
Deputy Secretary Victoria Cochran motioned to accept May 4, 2014 meeting minutes.

The Honorable Michael Herring moved to add language to the minutes that a significant part of the discussion focused on the importance of ABC law enforcement's ability to use de-escalation, discretion and diversion in situations involving individuals under the influence. The same techniques response used to cope with behaviors of individuals with mental illness might be applicable for use with those under the influence.

A motion to accept the meeting minutes as amended was made, seconded and unanimously approved.

Presentations:

The panel heard a number of presentations. A summary of each presentation, as well as the panel members' questions, information requests and comments follow:

Presentation 1 - ABC Enforcement Data**Travis Hill, COO, Virginia Department of ABC**

COO Hill provided data, demographics and statistics on the VA ABC enforcement compared to statewide averages. Charges filed by VA ABC special agents included, but were not limited to Title 4 and Title 18. COO Hill also elaborated on charges that did not appear to be directly related to alcohol as well as highlighting information on licensing.

Panel Member Questions, Information Requests and Comments:

Robert Archer shared that the mission of VA ABC has been the topic of conversation for over 40 years and the 2015 Virginia General Assembly voted to transform the ABC to an authority structure, which he opined would be the catalyst for changes throughout the organization. He also stated that alcohol can be easily abused and noted the importance of enforcing regulations currently in place. He would like the group to consider how two incidents occurring in the Charlottesville area resulted in the perceived need to change the entire ABC culture. Mayor Christopher Jones requested information on incidents involving use of force and firearms discharges by ABC enforcement agents.

Laura Habr stated that employees at her establishment have voluntarily attended the RSVP program and she feels it is thorough. She expressed that she would like to see more of emphasis on those programs.

Laura Habr asked if criminal charges are being issued in restaurants and stores? The infractions are not always at a store, they are mainly the result of checkpoints and efforts in conjunction with other law enforcement agents.

Senator Ryan McDougle asked who receives criminal and regulatory violations and when a person would get a regulatory violation that would not generate a criminal charge? The person selling the alcohol to a minor receives the criminal charge, and the licensee receives the regulatory violation. There may be discretion that would not result in a criminal or regulatory charge.

Abraham Axler asked if ABC focused on safety or upholding the laws of the commonwealth? Maintaining safety and upholding the laws of the Commonwealth go hand in hand. ABC is a public safety agency.

Can you (COO Hill) go into more detail about the RSVP and MART programs? Are these programs required and are licensees taking advantage of them? The programs are not required. ABC can provide those numbers at the next meeting. If licensees receive violations, they usually choose to send their employees to those trainings.

Presentation #2 - Chief Ryant Washington, Special Policy Advisor for Law Enforcement, Virginia Department of ABC Training and Community Policing Panel. Chief Washington announced that the first training session for VA ABC enforcement was being held on the same day as the meeting at the Richmond Police Station as part of the 80 required hours. He stated that the focus of the training programs would be to promote the best practices for law enforcement. The areas of culture change addressed in the trainings include communication and recruitment.

Panel Member Questions, Information Requests and Comments:

CA Herring stated that he has not seen any evidence that ABC is broken, but noted a big difference between the mission of ABC as defined in 1935 and now. CA Herring expressed that expectations may have shifted and the agency is still expected to enforce areas that are no longer appropriate, as they are not structured to be a public policing agency. This is evident when comparing data of ABC arrests to the man hours needed to do more regulatory work.

In response to CA Herring, Robert Archer stated that he wants a decision to be made in the right way. ABC is currently structured to market alcohol sales and enforce restrictions on use. He wants to better understand how they are broken culturally and what the group means by “culture change”.

In response to Robert Archer, Mayor Christopher Jones shared that by culture he is speaking about training. He believes there is a lack of application; not a lack training or experience. He also questions whether or not ABC agents need firearms.

Paige Hawkins stated that she appreciated the focus on communication. She proposed that VCALC could provide advice. She also shared that population densities should be studied when determining where an alcohol establishment is opened. She added that an ABC store was recently opened near James Madison University's campus in an area that is home to 82% of JMU's underage population.

Abraham Axler asked as changes are being made, what are the recommendations for upholding accountability? Policy is the main factor in upholding accountability; this may include discipline, education and continuing to enforce policies.

Chief (Ret.) Harry Dolan, Raleigh Police Department Training and Community Policing Panel (part 2).

Chief Dolan specified that the fundamental mission of enforcement is to guard the peace. He emphasized the use of discretion by officers with regard to when arrests should be made. In his experience, solid scenario-based training opportunities proved to better prepare officers.

Panel Questions/Comments:

Secretary Brian Moran asked if Chief Dolan had been able to look at the Elizabeth Daly case and incorporate that into the trainings. I have not, but I will.

Kurt Erickson asked if discretion is important with regard to mental health. Yes, when young people are involved, there are other options and officers should exercise discretion. It is challenging for young people who have records to get jobs.

Christopher Konschak asked, of the 350 cases reported involving use of force, how many arrestees were under the influence? Previous data indicate that 40% of arrestees were likely under the influence. From my personal experience, almost all cases where I had to use force, the arrestee was under the influence. This is where training and application come into play; officers must be trained on how to deflect and how to bring them down. We must ensure training is available and officers take advantage of them.

Chief Goodman stated that the trainings represent a step in the right direction. He added that communication with the community should extend beyond alcohol-related incidents and building relationships with the community is the key to compliance.

In response to Chief Goodman, Chief Harry Dolan added that there are circumstances where officer safety should be the first priority and immediate action may be necessary to respond to the situation.

Abraham Axler expressed concern about whether or not the officers who do not live in the communities where they are policing would be able to appropriately determine how to use discretion in those communities.

Paige Hawkins stated that during one of the presentations, there was discussion about an assessment of the training. How will ABC ensure that officers who have received the training will apply the principles? It is the leaders who have to continue the dialogue and lead by example. There must also be documentation of the scenario clearly outlining the reason for any use of force. In my experience, officers want the tools (training) and support.

Secretary Brian Moran asked Lieutenant Colonel Robert Northern to update the public and the panel about the Martese Johnson Case.

Lt. Colonel Robert Northern stated that the criminal investigation wrapped up a few weeks ago. He shared that Mr. Johnson was in court last week and wishes for all of the charges to be dropped. He added that the Commonwealth's Attorney requested a meeting with the Virginia

State Police to discuss the findings. Once the Commonwealth's Attorney has come to a conclusion he will announce it to the public.

Secretary Brian Moran asked Lieutenant Colonel Robert Northern to update the public and panel about the administrative investigation.

Lt. Colonel Robert Northern stated that the criminal investigation was prioritized over the administrative investigation. The administrative investigation will continue now that the criminal investigation is complete.

Presentation 3 - Linda Hancock, Ph.D., Director, The Wellness Resource Center, Virginia Commonwealth University - Impact of Alcohol on College Campuses

Dr. Hancock specified that in order to reduce underage drinking on college campuses, you must clearly understand the issue. The majority of the underage populations on campuses do not consume alcohol. She emphasized that educating youth from a young age is important because alcohol and substance abuse are influenced by genetics and the environment. She also stressed the need for proper labeling of alcoholic beverages and holding restaurant accountable for over-serving alcoholic beverages.

CA Herring stated that labeling alcoholic beverages with serving sizes is a no-brainer. He is worried that Virginia is more concerned with selling alcohol than focusing on where or how it is sold.

Kevin Foust asked how the legal drinking age influences alcohol consumption. The younger people are when they consume alcohol, the greater the likelihood for damage to their brains. I believe that the drinking age should be raised to 25 and that a graduated license should be implemented.

Abraham Axler asked how to fix the problems associated with underage drinking when teens and young adults usually learn how to drink in college with little or no supervision? Enforcement of underage drinking usually leads to growth moments for some teens when they get caught.

Christopher Jones asked if as the percentage of teens drinking underage goes down, does the use of marijuana, heroin, and cocaine go down as well. Are non-drinkers using other substances as well? Yes, the amount of teens consuming alcohol underage has gone down, but heavy drinkers are the ones that usually pair their drinking with other substances.

Christopher Konschak asked if Dr. Hancock sees ABC agents having more of a public safety or regulatory role. I would like to see more of a focus on how underage consumers are accessing alcohol. I would also like officers to ask people who are under the influence where they got their last drink. Licensees serving alcohol to underage customers should be held accountable, and establishments serving properly should be praised.

Secretary Brian Moran stated that Virginia ABC stores demonstrate a 96% customer ID compliance rate. Where are underage consumers easily accessing alcohol? One of the main issues stems from people over the age of 21 providing alcohol to minors.

Paige Hawkins stated that 70% of the underage drinkers at James Madison University are drinking off campus. How do charges for providing alcohol to minors differ from other alcohol charges?

Chief Kevin Foust shared that Virginia Tech is a dry campus and that they do not see a lot of selling to underage people; it is mostly 21-year-olds providing alcohol to other students at house parties.

4:39 Discussion and Next Steps

Deputy Secretary Victoria Cochran asked the panel members what other information would be helpful for upcoming discussions.

Hayes Humphreys requested more information about the budget for ABC's law enforcement division.

Robert Archer would like to hear from ABC law enforcement agents.

Senator Mamie Locke would like to further discuss whether ABC agents are "staying in their lane" or venturing into other areas of enforcement where they do not belong.

COO Travis Hill requested information about how local law enforcement agencies would look if ABC relinquished their duty of enforcement.

Mayor Christopher Jones wishes to see data regarding how many times ABC law enforcement is backed up by other law enforcement agencies in order to determine if that responsibility should be given to the local and/or state police.

Laura Habr added that ABC law enforcement are overworked and underpaid and she wishes for a leveling of the playing field with regard to harshly punishing restaurants for first time offenses.

Public Comment:

No public comments.

4:55 Next Meeting:

July 8, 2015 2PM-5PM

August 13, 2015 2PM-5PM

Telecommunication will not be available for members who are absent.

4:56 Closing Remarks/Adjourn:

Brian Moran, Secretary of Public Safety and Homeland Security thanked the members of the panel and the public.

APPENDIX C

July 8, 2015 Virginia ABC Expert Review Panel Meeting Agenda, Summary and Minutes

Meeting Three Agenda

Virginia ABC Enforcement Expert Review Panel

Wednesday, July 8, 2015

2:00 p.m. – 5:00 p.m.

**Virginia State Capitol - Senate Room 3
Richmond, Virginia**

- I. Welcome and Opening Remarks (10 minutes)**
The Honorable Brian Moran
Secretary of Public Safety and Homeland Security
- II. Meeting Re-Cap and Review of Minutes (10 minutes)**
Victoria Cochran, Deputy Secretary of Public Safety and Homeland Security
- III. Presentations (time allotted includes discussion)**
ABC and Local Law Enforcement Model MOU (10 minutes)
Ryant Washington, Special Policy Advisor on Law Enforcement, Virginia Department of ABC
Teresa Gooch, Division Director for Law Enforcement and Security Services, DCJS

Law Enforcement Perspectives on ABC (40 minutes)
Col. Steve Flaherty, Superintendent, Virginia State Police
Dana Schrad, Executive Director, Virginia Association of Chiefs of Police
John Jones, Executive Directors, Virginia Sheriff's Association

A Review and Discussion of the Martese Johnson Case (40 minutes)
The Honorable Dave Chapman, Commonwealth Attorney for the City of Charlottesville

Three Tier System Representatives Perspectives on ABC Law Enforcement (45 minutes)
Tom Lisk, Esq., Ekert Seamans Attorneys at Law
Ann Heidig, Lake Anna Winery
Mary Beth Williams, President, Williams Compliance and Consulting Group, LLC
Walter Marston, Esq., Marston and McNally P.C.
- IV. Discussion and Next Steps (15 minutes)**
- V. Public Comment (10 minutes)**
- VI. Adjourn**

Meeting Three Summary

July 8, 2015, 1:00 p.m.

Ms. Teresa Gooch, Director of Law Enforcement and Security Services at DCJS, and Chief Ryant Washington, Special Policy Advisor for Law Enforcement at Virginia ABC, provided information to the panel on the development of the model Memorandum of Understanding (MOU), required under EO40. The four goals of the MOU are to address effective communication, increase collaboration, establish clear expectations and responsibilities, and provide flexibility for localities working with ABC enforcement. Both speakers emphasized that ABC will work closely with localities to provide individual, locality-specific MOUs based on local needs and concerns.

Colonel Steven Flaherty, Superintendent of the Virginia State Police (VSP), indicated that VSP would encounter significant challenges if ABC's Bureau of Law Enforcement transitioned to the VSP. He stated that if the decision to transfer authority was undertaken, a separate division would need to be created to ensure proper focus on ABC law enforcement and regulatory functions. He also indicated that such transfer would not address existing staffing limitations that affect both ABC and VSP's ability to perform their required duties. Both ABC's special agents and the VSP would need to undergo significant additional training if there was such a merger. He shared data demonstrating significant differences in pay grades between ABC Agents and the VSP, as well as additional HR and IT needs that would need to be identified and addressed, nor did it appear that there would be any monetary savings generated by placing ABC enforcement into VSP.

Dana Schrad, Executive Director of the Virginia Association of Chiefs of Police (VACP), said that the VACP sees ABC as a partner and that in 2013 VACP shared concerns with ABC regarding its practices at that time. They recommended that agents wear law enforcement uniforms and body cameras and those agents provide meaningful notice prior to engaging in enforcement activities on campuses or in communities. They also recommended that ABC enforcement focus their primary efforts on unlicensed and problem establishments from a regulatory perspective. She stated that they do not support ABC being stripped of their law enforcement authority.

John Jones, the Executive Director of Virginia Sheriff's Association, expressed that he is unaware of any Virginia sheriffs who wish for ABC to be stripped of their enforcement powers. He stated that ABC officers are specialized and additional resources would have to be provided due to the lack of specialization in other law enforcement organizations in the alcohol enforcement area. Sheriffs expressed they do not have the resources to take on alcohol enforcement without additional funding. Currently, there are 202 deputy sheriff position shortages in 86 counties where sheriffs are the primary law enforcement. He proposed that if an ABC officer is involved in inappropriate activity or acting outside the scope of their duties, then ABC should be able to decertify the officer.

Dave Chapman, Commonwealth's Attorney for the City of Charlottesville, stated that before jumping to conclusions about any event, the facts have to be presented. He expressed that the events that occurred in Charlottesville are not unique to ABC. He summarized the facts of the Martese Johnson case based on dozens of eyewitness interviews conducted by the Virginia State Police. Mr. Chapman concluded that none of the officers committed any criminal offenses and there was no evidence that the officers' actions were racially motivated. He further indicated that although Martese Johnson clearly committed the offense of resisting arrest, it did not serve good purpose or benefit the community to prosecute that crime.

Tom Lisk, Esq., Eckert Seamans Attorneys at Law, stated that as a representative from the retail tier, he views ABC agents as well trained and professional. He feels their job is to regulate alcohol and the incident that took place in Charlottesville is not commonplace to ABC. Mr. Lisk expressed that the Virginia General Assembly set alcohol violations as Class 1 misdemeanors and it is ABC's and any law enforcement agency's duty to enforce the laws. He also stated that the agents are equipped to meet the mission statewide. He also shared that ABC has extremely limited resources.

Walter Marston, Esq., of Marston and McNally P.C., stated that within the wholesale industry, ABC is viewed positively. ABC regulates who ships alcohol in and out of Virginia and they know exactly where the alcohol is going. ABC also addresses issues where undue influence may be exerted over a retailer, wholesaler or manufacturer.

Ms. Ann Heidig, of the Lake Anna Winery, stated that as a part of the wine industry, tourism is a big attraction around the state and that wineries would not be able to do their jobs without ABC enforcement. ABC has participated in meetings statewide where they discussed ways of doing business and answered questions to ensure licensees would not be in violation. She expressed her concern that if the MOUs differ by locality, it may be confusing since winery representatives travel around the Commonwealth. As an elected official in Spotsylvania, she also stated that Spotsylvania is not currently in a position to adopt ABC responsibilities because they do not have the resources.

Ms. Mary Beth Williams, President of Williams Compliance and Consulting Group, LLC, stated that as a part of the supplier tier, they work throughout the country and not just in Virginia. She stated that Virginia ABC is among the best she has worked with and she has worked with well over 1,000 law enforcement officials. She expressed that they are short-staffed and often work long hours. After receiving ABC input, manufacturers such as wineries are better informed as to the laws and regulations in Virginia. She shared that states with bifurcated enforcement systems are the most difficult to work with due to the lack of uniformity.

Virginia ABC Enforcement Expert Review Panel

July 8, 2015

2:00 PM – 5:00 PM

State Capitol

Senate Room 3

Meeting Three Minutes

Members Present:

Travis Hill, Chief Operating Officer for the Virginia Department of Alcoholic Beverage Control
Ryant Washington, Special Policy Advisor for Law Enforcement for the Virginia Department of Alcoholic Beverage Control
Francine Ecker, Director Virginia Department of Criminal Justice Services
Wesley Reed, Sheriff Prince Edward County
Kevin Foust, Chief of Police at Virginia Tech
Robert Archer, President and Chief Executive Officer for Blue Ridge Beverage
Hayes Humphreys, Chief Operating Officer for Devil's Backbone
Laura Habr, Co-Owner of Croc's 19th Street Bistro
Christopher Konschak, Manager for MADD Virginia
Kurt Erickson, President at Washington Regional Alcohol Program
Abraham Axler President at University of Virginia Student Council
Christopher Jones, Mayor City of Harrisonburg
Barry Knight, Virginia House of Delegates, 81st District
W. Steve Flaherty, Superintendent Virginia State Police
Michael Herring, Commonwealth's Attorney for the City of Richmond
Donald Goodman, Chief of Police for the City of Radford

Members Absent:

Mamie Locke, Virginia State Senator, 2nd District, Hampton
Paige Hawkins, Substance Abuse Prevention Specialist at James Madison University
Ryan McDougale, Virginia State Senator, 4th District, Hanover

2:07 Opening Remarks:

Brian Moran, Secretary of Public Safety and Homeland Security called the meeting to order, welcomed members of the public and thanked the expert review panel for their work and participation. Delegate Barry Knight introduced himself to the group, attending his first meeting and replacing member Dave Albo, whose schedule did not allow him to continue participating.

Secretary Moran reviewed the agenda which included a discussion of the MOU for VA ABC, law enforcement perspectives on ABC, a review of the Martese Johnson case, and representatives from the Three-Tier System on ABC Law Enforcement.

2:14 June 8, 2015 Meeting Re-Cap and Review of Minutes

Secretary Moran made a motion to accept the June 8, 2015 meeting minutes and the motion was seconded and unanimously approved.

Presentations:

The panel heard a number of presentations. A summary of each presentation, as well as the panel members' questions, information requests and comments follow:

Presentation #1 - ABC and Local Law Enforcement Model MOU

Chief Ryant Washington, Special Policy Advisor on Law Enforcement, Virginia Department of ABC

Teresa Gooch, Division Director for Law Enforcement and Security Services, DCJS
Ms. Gooch and Chief Washington provided information to the group on the development of the Model MOU. The four goals of the MOU are effective communication, increased collaboration, establishment of clear expectations and responsibilities, and flexibility for localities working with ABC enforcement. They expressed that ABC will develop individual, locality-specific MOUs based on local needs and concerns.

Panel Member Questions:

Secretary Moran asked that the MOUs be enacted by the beginning of the semester in August. Chief Washington stated that ABC will work diligently to meet that deadline.

Presentation #2 - Colonel Steven Flaherty, Superintendent, Virginia State Police
Law Enforcement Perspectives on ABC.

Colonel Flaherty stated that the Virginia State Police (VSP) would encounter significant challenges if ABC's Bureau of Law Enforcement transitioned to the agency. He stated that if the decision to transfer authority to VSP was undertaken a separate division would be created to ensure proper focus on ABC law enforcement and related functions. He also indicated that such transfer would not address the fact that there are currently insufficient personnel in both ABC and VSP to perform their required duties and the transfer would not change that. Both ABC's Special Agents and the VSP would need to undergo significant additional training if there was such a merger. He shared data demonstrating significant differences in pay grades between ABC Agents and the VSP, as well as additional HR and IT needs that would need to be identified and addressed.

Panel Member Questions:

Mr. Erickson asked where ABC enforcement should belong and whether Colonel Flaherty has *any concerns about ABC's ability to properly manage enforcement*. Colonel Flaherty stated that the VSP works very close with ABC and is confident they are able to manage their responsibilities. He shared concerns about absorbing regulatory and enforcement responsibilities of alcohol because the VSP functions differently than ABC.

Dana Schrad, Executive Director, Virginia Association of Chiefs of Police Law Enforcement Perspectives on ABC (part 2).

Ms. Schrad stated that the VACP sees ABC as a partner and that in 2013 they shared concerns with the agency regarding their practices. They recommended that agents wear law enforcement uniforms and body cameras and agents provide meaningful notice prior to engaging in enforcement on campuses or in communities. They also recommended that ABC enforcement focus their primary efforts on unlicensed and problem establishments from a regulatory perspective. She stated that they do not support ABC being stripped of their law enforcement authority.

John Jones, Executive Directors, Virginia Sheriff's Association Law Enforcement Perspectives on ABC (part 3).

Mr. Jones expressed that in requesting statements from numerous Virginia Sheriffs, he learned that there are no sheriffs who wish for ABC to be stripped of their enforcement powers. He stated that ABC officers are specialized and resources would have to be considered due to the lack of specialization in other organizations in the alcohol enforcement area. Sheriffs expressed they do not have the resources to take on that job without additional funding. Currently, there are 202 deputy sheriff position shortages in 86 counties where sheriffs are the primary law enforcement. He proposed that if an ABC officer is involved in inappropriate activity or acting outside the scope of their duties, then ABC should be able to decertify the officer.

Panel Members Questions/Comments:

Delegate Barry Knight stated that it is hard to close problem establishments and he wants to see ABC officers go after the establishment instead of going after the individual. How many campuses do not have campus police? Is there anything ABC can do that other policing agencies cannot do? It is required for 4-year public colleges and universities to have their own police department, not all community colleges have them, and private colleges and universities are not obligated to have their own police department. Randolph Macon and Roanoke College rely heavily on ABC, state and local agencies. ABC is the best resource because they specialize in alcohol enforcement.

Mr. Archer stated that if emphasis is going to be put on alcohol, then you must have an agency that specializes in alcohol.

Ms. Habr asked if ABC merges with the VSP, what would the downtime? Colonel Flaherty stated that the agency would have to train part of the force at a time to reduce the downtime so that business could continue as usual.

**Presentation #3 - A Review and Discussion of the Martese Johnson Case
The Honorable Dave Chapman, Commonwealth Attorney for the City of
Charlottesville**

CA Dave Chapman stated that before jumping to conclusions about an event, the facts have to be presented. He expressed that the events that occurred in Charlottesville are not unique to ABC. He summarized the facts of the case, based on dozens of eyewitness interviews conducted by the Virginia State Police. He concluded that none of the officers committed any criminal offenses and there was no evidence that presented that the officers were motivated racially. He further indicated that, although Martese Johnson did, clearly, commit an offense of resisting arrest, that in his opinion, it did not serve good purpose or benefit the community to prosecute that crime.

Panel Members Questions/Comments:

Mr. Axler asked if there was an investigation of the demographics of other people arrested by the same officers that night. CA Chapman stated that he was not in the position to give hard numbers.

In response to Mr. Axler's question, COO Travis Hill stated that of the people arrested by ABC officers, 76% are white and 21% are African American.

Mr. Erickson asked if Martese Johnson stated why he did not remember his zip code. Is a sober person less likely to resist arrest? CA Chapman stated that he had forgotten his zip code due to a recent move. CA Chapman said that based on his experience, a sober person is less likely than a person under the influence to use force.

**Presentation 4 - Tom Lisk, Esq., Ekert Seamans Attorneys at Law Three-Tier System
Representatives Perspectives on ABC Law Enforcement.**

Mr. Lisk stated that as a representative from the retail tier, he views ABC as well trained and professional. He feels their job is to regulate alcohol and the Martese Johnson case is not common, or unique to ABC. He expressed that the General Assembly set alcohol violations as Class 1 misdemeanors and it is ABC's and any law enforcement agency's duty to enforce the laws. He also stated that the agents are equipped to meet the mission statewide. He also shared that ABC has extremely limited resources.

**Walter Marston, Esq., Marston and McNally P.C Three-Tier System Representatives
Perspectives on ABC Law Enforcement (part 2).**

Mr. Marston stated that within the wholesale industry, ABC is viewed positively. ABC regulates who ships alcohol in and out of Virginia and they know exactly where the alcohol is going. ABC also addresses issues like bribery.

**Ann Heidig Lake Anna Winery Three-Tier System Representatives Perspectives on
ABC Law Enforcement (part 3).**

Ms. Heidig stated that as a part of the wine industry, tourism is a big attraction around the state and that wineries would not be able to do their jobs without enforcement. ABC has participated in meetings statewide where they discussed ways of doing business and ABC answered questions to ensure licensees would not be in violation. She expressed her concern that if the MOUs differ by locality, it may be confusing since they travel around the state of Virginia. She also stated that Spotsylvania is not in the current position to adopt ABC responsibilities because they do not have the resources.

Mary Beth Williams, President, Williams Compliance and Consulting Group, LLC
Three-Tier System Representatives Perspectives on ABC Law Enforcement (part 4).

Ms. Williams stated that as a part of the supplier tier, they work throughout the country and not just the state of Virginia. She stated that Virginia ABC is among the best that she has worked with and she's worked with well over 1000 law enforcement officials. She expressed that they are short-staffed and often work long hours. After receiving ABC input, they (wineries) are now on the same page. She shared that states with bifurcated systems are the most difficult to work with due to the lack of uniformity.

4:50 Discussion and Next Steps

Secretary Moran asked panel members for any recommendations regarding what should be discussed at the next meeting.

Mr. Archer requested that a bullet point list of things to be discussed at the August meeting to be composed to discuss the recommendations to the governor.

Mr. Korschak wants to if funding would also be transferred if ABC enforcement was transferred. He also asked if alcohol would remain the primary focus if enforcement was shifted.

Delegate Knight asked what tools localities have at their disposal to close problem establishments.

In response to Delegate Knight, COO Travis Hill stated that they welcome calls from areas that have problems and will assist localities in working through them. He sees ABC as partners with local jurisdictions.

Mayor Christopher Jones expressed that he wants to see ABC exchange their guns for pencils. He stressed that positive comments towards ABC are great, but the public needs to walk away with the perception that those types of incidences will not happen and that if something were to happen again there is a process in place to deal with the issue. He doesn't feel any comfort that this will not happen again and as an African American male he has fears and questions that if he moved and couldn't remember his zip code, something similar could happen to him.

In response to Mayor Jones, COO Travis Hill expressed that he attended two weeks of the training that the ABC officers are receiving in Richmond and the agents are receptive. The agents are asking for guidance, the training is giving them more tools to interact in their communities in positive ways.

Mr. Axler stated that he is skeptical of the enforcement of the MOU and want to know how ABC will ensure that the MOU will be adequately followed. How are instances of bias being looked at?

Public Comment:

No public comment.

Next Meeting:

August 26, 1PM-4PM.

5:05 Closing Remarks/Adjourn:

Brian Moran, Secretary of Public Safety and Homeland Security thanked the members of the panel and the public.

APPENDIX D

August 26, 2015 Virginia ABC Expert Review Panel Meeting Agenda, Summary and Minutes

Meeting Four Agenda

Virginia ABC Enforcement Expert Review Panel

**Wednesday, August 26, 2015
1:00 p.m. – 4:00 p.m.**

**Virginia State Capitol - Senate Room 3
Richmond, Virginia**

- I. Welcome and Opening Remarks** (10 minutes)
The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security
- II. Review July Minutes** (5 minutes)
Victoria Cochran, Deputy Secretary of Public Safety and Homeland Security
- III. Facilitated Discussion and Determination of Panel Recommendations** (Part 1 - 55 minutes)
- IV. Break** (10 minutes)
- V. Facilitated Discussion and Determination of Panel Recommendations** (Part 2 - 55 minutes)
- VI. Public Comment** (10 minutes)
- VII. Closing Remarks** (15 minutes)
The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security
- VIII. Adjourn**

Meeting Four Summary

August 26, 2015, 2:00 p.m.

The final meeting of the review panel consisted of a facilitated discussion to consider potential recommendations to the governor. Recommendations were adopted by the panel on based on consensus rather than unanimity. Individual dissenting opinions were captured in the meeting minutes attached as Appendix D. It is the recommendation of the panel and the expectation Office of the Secretary of Public Safety and Homeland Security that Virginia ABC will create written policy documents for implementing each panel recommendation approved by the Governor. A concise list of panel recommendations is attached as Appendix E.

Virginia ABC Enforcement Expert Review Panel

**August 26, 2015
1:00 PM – 4:00 PM**

**State Capitol
Senate Room 3**

Meeting Four Minutes

Members Present:

Travis Hill, Chief Operating Officer for the Virginia Department of Alcoholic Beverage Control
Ryant Washington, Special Policy Advisor for Law Enforcement for the Virginia Department of Alcoholic Beverage Control
Francine Ecker, Director Virginia Department of Criminal Justice Services
Wesley Reed, Sheriff Prince Edward County
Kevin Foust, Chief of Police at Virginia Tech
Robert Archer, President and Chief Executive Officer for Blue Ridge Beverage
Hayes Humphreys, Chief Operating Officer for Devil's Backbone
Laura Habr, Co-Owner of Croc's 19th Street Bistro
Christopher Konschak, Manager for MADD Virginia
Kurt Erickson, President at Washington Regional Alcohol Program
Abraham Axler President at University of Virginia Student Council
Christopher Jones, Mayor City of Harrisonburg
Barry Knight, Virginia House of Delegates, 81st District
Michael Herring, Commonwealth's Attorney for the City of Richmond
Donald Goodman, Chief of Police for the City of Radford
Paige Hawkins, Substance Abuse Prevention Specialist at James Madison University

Members Absent:

Mamie Locke, Virginia State Senator, 2nd District, Hampton
Ryan McDougle, Virginia State Senator, 4th District, Hanover
W. Steve Flaherty, Superintendent Virginia State Police

1:05 Opening Remarks:

Brian Moran, Secretary of Public Safety and Homeland Security called the meeting to order, welcomed members of the public and thanked the expert review panel for their work and participation.

July 8, 2015 Meeting Re-Cap and Review of Minutes

Secretary Moran accepted a motion from Mr. Archer to accept the June 8, 2015 meeting minutes. The motion was seconded by Chief Goodman and unanimously approved.

Discussion and Recommendations: Facilitated by Deputy Secretary of Public Safety and Homeland Security, Victoria Cochran

Deputy Secretary Cochran shared draft recommendations with Panel members facilitated discussion to build consensus and finalize recommendations to be presented to Governor McAuliffe. Deputy Secretary Cochran noted that consensus does not mean unanimity and any concerns would be noted in the minutes and report.

Category 1: ABC Enforcement Structure

The following recommendations were presented to the Panel for discussion:

1. VSP Takes Over ABC Regulatory and Enforcement Functions
2. Local Law Enforcement Takes Over ABC Enforcement Functions
3. ABC Continues Improving Internal and External Practices Based on Panel Recommendations and EO No. 40 Actions Already Underway

Deputy Secretary Cochran asked the Panel where enforcement should be located.

Mr. Archer stated that he has not seen any evidence suggesting that ABC enforcement should be removed from ABC. He further stated that moving ABC enforcement would likely result in a lesser focus on alcohol enforcement overall. Mr. Archer would like to see ABC better equipped to carry out all of their duties.

Delegate Knight stated he would like the administrative investigation report of the incident on March 18, 2015 to be released to the public. He shared he would like ABC enforcement to remain with ABC, but he anticipates that legislation will be entered in the 2016 Virginia General Assembly session to relocate enforcement and would like to have information from the report to justify maintaining the current structure of the agency.

Secretary Moran addressed Delegate Knight's concerns and noted the administrative report will not be released by the Governor per advisement by Counsel, as it includes sensitive personnel information and civil litigation is anticipated. He also shared the report supports ABC's reinstatement of the officers involved in the incident.

Delegate Knight expressed satisfaction with Secretary Moran's statement and will continue to support ABC enforcement remaining with the agency.

Deputy Secretary Cochran asked Panel Members if the Virginia State Police should absorb ABC enforcement.

CA Herring stated that Colonel Flaherty's presentation was compelling and that enforcement should remain with ABC. He feels that ABC should continue to develop MOUs with localities to guide their work and involvement in local enforcement and continue efforts to improve the agency.

Mayor Jones would like to see either a portion of enforcement moved under the VSP, or to see proper staffing, equipping and training of the ABC enforcement division and staff. He further stated that ABC agents should only be involved in local events or occurrences in a support capacity or for ABC licensed events. He stated that this is an application of training issue, not a training issue and the Commonwealth needs to be sure that this will never happen again.

Mr. Archer stated we should be focusing on preventing these incidences from happening again. Mayor Jones reiterated that he would like to ensure these events never occur again and expressed concern about the community's lack of trust with ABC.

Mr. Erickson noted he feels confident about COO Hill's capability to transform the culture of ABC. He expressed the importance of COO Hill instilling a no-tolerance policy for the tactics used on March 18th and in previous instances and the importance of sharing this intolerance with the public.

Consensus was reached by the Panel in adopting recommendation #3 (See Attachment A).

- ABC Continues Improving Internal and External Practices Based on Panel Recommendations and EO No. 40 Actions Already Underway

Category 2: Regulatory and Enforcement Priorities

The following recommendations were presented to the Panel for discussion:

1. Prioritize regulatory responsibilities over enforcement
2. *Prioritize and focus 'on premises' activities*
3. Work collaboratively with local LE agencies
4. *Engage in 'street level' activities in consultation with local LE or by MOU (req'd in higher ed communities)*

Deputy Secretary Cochran noted that ABC will establish written policies for all recommendations.

Mr. Erickson noted concern about "on premises" being defined as at a licensed establishment or during regulatory activities, as there could be unintended consequences including "slacking" on underage alcohol enforcement.

COO Hill clarified that ABC will focus on where underage persons are purchasing alcohol and work with licensees to prevent underage consumption. He reiterated ABC would not be stepping away from underage enforcement.

Mr. Korschak asked if "on premises" includes events such as Foxfield. COO Hill- Yes.

CA Herring addressed recommendation #4 and noted that "non exigent" should be added in order to prevent the language from being used as a weapon against ABC.

Mr. Axler asked whether ABC works with other officials related to substance use on college campuses or only with law enforcement agencies.

Chief Washington states that ABC primarily works with law enforcement.

Mr. Humphreys asked how much of a change in current protocol these recommendations represent. He would like to know how much of an impact these will have on the culture change. COO Hill responded that this may not represent a huge change, but that both incidences occurred on licensed premises.

Lieutenant Colonel Northern stated that former governors have placed emphasis on enforcement rather than regulation and that if the Panel recommends ABC return to a focus on regulatory activities, the recommendation should be formalized so the next Administration does not revert back to a focus on enforcement without serious study and consideration.

COO Hill emphasized the importance of agents having clear expectations. He stated agents are willing to comply with all expectations, but they are also looking for clarity and an understanding of what is expected of them.

Consensus was reached *on all recommendations, including CA Herring's recommended change.*

Category 3: Training

The following recommendations were presented to the Panel for discussion:

1. Train all new recruits per EO 40 standards
2. Mandate 8 hours of evidence-based annual compulsory in-service training to all LE personnel in targeted areas
3. Mandate LE supervisors complete ABC agency wide supervisory training (under development)
4. Mandate completion of 20 hours LE supervisory curriculum biennially
5. Review and revise FTO curriculum
6. Encourage joint training with local LE agencies

The Panel reached consensus on recommendation #1.

Mr. Erickson asked if the eight hours of training for recommendation #2 properly address de-escalation techniques.

Chief Washington responded that the eight hours can be modified based on need.

Chief Goodman asked if this training would be similar to normal law enforcement training.
Chief Washington- Yes.

Ms. Hawkins would like to see something in writing to address fidelity to ensure supervisors are evaluating whether training standards are being practice.

COO Hill responded and said performance records should be regularly reviewed by supervisors.

Ms. Hawkins asked how often this is currently happening and COO Hill shared that it should be happening more frequently and ABC should be doing better.

CA Herring wants to avoid variation by region with training. He would feel more confident in the fidelity of training if DCJS certified the training. Director Ecker assured him that DCJS would work closely with ABC.

Mr. Humphreys asked how much a separate supervisory training program would cost. COO Hill responded that some recommendations would have a fiscal impact.

Consensus was reached on all five recommendations.

Category 4: Transparency, Accountability and Reporting

The following recommendations were presented to the Panel for discussion:

1. *Require supervisors to meet monthly with and review each agent's activities and report*
2. *Require development and implementation of annual regional strategic plans including input from stakeholders*
3. *Require quarterly reporting of specified information to Sec'y PSHS; assure citizen access*

Several Panel members expressed concern about recommendation #1, as meeting with agents monthly could create an un-due burden for supervisors and create a less meaningful review process. Several law enforcement officials recommended a tiered system for reviews.

Mayor Jones emphasized the importance of regular reviews, especially moving forward initially to ensure there is no gap in training.

CA Herring stated that research demonstrates that we can “overdose” on supervision and the quality of review often suffers with increased frequency. He recommended the COMSTAT model.

Further concerns were expressed by Panel members about overburdening supervisors and that ABC may not have enough personnel to handle this burden. Panel members also agreed they do not want this review to be an exercise to simply “check the box” every 30 days.

Ms. Hawkins asked what the current ratio of supervisor to agent is. COO Hill responded that on average, 3:1, but some localities have more agents than others.

Based on the discussion, the Panel reached consensus on replacing recommendation #1 with the following language: ABC shall develop a supervisory plan to ensure oversight and compliance with ABC policies and the mission of the agency.

The Panel reached consensus on recommendation #2.

Mr. Axler asked if a recommendation could be added requiring ABC to seek an outside review for any instances involving use of force. Mr. Axler expressed he has faith, after serving on this *panel, in the integrity of ABC's review process, but many students do not trust ABC and an outside review would largely dissuade their concerns.*

Many panel members expressed great concern with Mr. Axler's recommendation and did not want to create a precedent for local law enforcement agencies that would require them to conduct an outside review. CA Herring noted that unfounded complaints are filed frequently.

Mayor Jones highlighted the importance of and supported Mr. Axler's recommendation. Mr. Archer expressed concern and felt that requiring an outside review would not be a good use of resources.

The Panel reached consensus and agreed this recommendation should not be presented to Governor McAuliffe, but should be noted in the minutes.

COO Hill stated that ABC will look at internal review and make sure results of any use of force complaints are shared with the complainant.

Category 6: Outreach to Institutions of Higher Education (This recommendation was taken out of order.)

The following recommendations were presented to the Panel for discussion:

1. Establish liaison relationships between ABC, local law enforcement and institutions of higher education
 - Targeted outreach to college communities (summits, classes and interaction outside enforcement paradigm); seek opportunities for agents to address community outside of usual role

Ms. Hawkins would like to see agents more engaged in ABC education, as there are strong ties to higher education.

Mayor Jones would like to see athletes and public school systems included in this outreach.

Chief Goodman shared he now realizes most communities do not know ABC agents and recommendations from the Panel should address that.

COO Hill would like to see stronger relationships with students outside of enforcement.

Ms. Hawkins would like to ensure any ABC outreach to universities and colleges is embedded in current alcohol prevention and message is consistent.

Mayor Jones stated the Panel must recognize the resources and he is concerned this is asking too much of agents.

The Panel reached consensus on all recommendations and support Mayor Jones' recommendation to include additional student groups.

Category 5: Accreditation

The following recommendations were presented to the Panel for discussion:

1. ABC should achieve and maintain accreditation through a state or national law enforcement accrediting body

The Panel reached consensus on this recommendation.

Category 7: Increase ABC Personnel

The following recommendations were presented to the Panel for discussion:

The Panel reached consensus on this recommendation and noted that ABC should determine what this should look like.

Category 8: Body Cameras

The following recommendations were presented to the Panel for discussion:

1. Implement use of body worn cameras

Director Ecker shared that DCJS is currently in the process of developing a model policy for body-worn cameras and Secretary Moran noted the policies will be ready prior to implementation.

CA Herring stated that it does not make sense for agents to activate cameras during regulatory activities, especially given the expense of retention and storage. The model policy should allow ABC to tailor to enforcement activities. Mayor Jones concurred.

The Panel reached consensus on this recommendation and would like to include flexibility to allow for recording only during enforcement activities.

Category 9: ABC Licensee Expedited Suspension Process

The following recommendations were presented to the Panel for discussion:

1. Legislative/regulatory solution to more immediately address licensees posing an imminent threat to public safety

The Panel reached consensus on this recommendation.

Public Comment:

A student stated messaging with ABC is not the only problem and he feels the public and institutions of higher education distrust ABC for good reason. He is unhappy the public does not have the facts about the incident, as the report was not released. He stated ABC agents should not be under cover and should be required to be in uniform. He feels UVA and other campuses do not feel ABC agents have public safety in mind and agents are not fair in their decision-making.

Mr. Lisk shared that retail licensees support regulatory activities and that ABC enforcement needs additional resources. He hopes ABC will remain committed to underage enforcement, as focusing only on retailers will not sufficiently address the problem. ABC should also focus on prevention and education, as most providers of alcohol to underage persons are of-age friends or family.

4:00 Closing Remarks/Adjourn:

Brian Moran, Secretary of Public Safety and Homeland Security thanked the members of the panel and the public. Secretary Moran stated the minutes and recommendations would be sent out to Panel members for review and approval prior to submission to Governor McAuliffe.

APPENDIX E

Executive Order #40 Expert Review Panel Recommendations as Recorded 8/26/2015

1. Enforcement Structure

- a. ABC Continues Improving Internal and External Practices Based on Panel Recommendations and EO No. 40 Actions Already Underway
 - i. Mayor Jones- Consider moving ABC enforcement to VSP, or ensure properly staffing, equipping and training ABC agents.

2. Regulatory and Enforcement Priorities

- a. Prioritize regulatory responsibilities over enforcement
- b. Prioritize and focus ‘on premises’ activities
- c. Work collaboratively with local LE agencies
- d. Engage in ‘street level’ activities in consultation with local LE or by MOU (required in higher education communities)
 - i. CA Herring recommends adding “non-exigent” to this language to prevent the policy from being used as a weapon against ABC.
 - ii. Mr. Erikson is concerned that prioritizing regulatory, on-premises will lead to slack on underage enforcement.

3. Training

- a. Train all new recruits per EO 40 standards
- b. Mandate 8 hours of evidence-based annual compulsory in-service training to all LE personnel in targeted areas
 - i. Ms. Hawkins would like to ensure fidelity in training.
- c. Mandate LE supervisors complete ABC agency wide supervisory training (under development)
- d. Mandate completion of 20 hours LE supervisory curriculum biennially
- e. Review and revise FTO curriculum
- f. Encourage joint training with local LE agencies

4. Transparency, Accountability and Reporting

- a. ABC shall develop a supervisory plan to ensure oversight and compliance with ABC policies and the mission of the agency.
- b. Require development and implementation of annual regional strategic plans including input from stakeholders
- c. Require quarterly reporting of specified information to Sec’y PSHS; assure citizen access.

5. Accreditation

- a. ABC should achieve and maintain accreditation through a state or national law enforcement accrediting body

6. Higher Ed Outreach

- a. Establish liaison relationships between ABC, local law enforcement and institutions of higher education
 - i. Chief Foust wants to clarify a unified message between ABC, local law enforcement and campus police departments.
 - ii. Ms. Hawkins would like to ensure collaboration with college campuses so that all messaging is consistent with current programming.
 - iii. Mayor Jones would like to include athletics and public schools.

7. Personnel

- a. Authorize increase for ABC law enforcement personnel to keep up with industry growth and improve regulatory, education and enforcement capacity and capabilities.

8. Body Cameras

- a. Implement use of body worn cameras.
 - i. Allow for flexibility to only record during enforcement activities.

9. Licensee Expedited Suspension Process

- a. Legislative/regulatory solution to more immediately address licensees posing an imminent threat to public safety.

Commonwealth of Virginia Office of the Governor

Executive Order

NUMBER FORTY (2015)

IMPROVING ABC LAW ENFORCEMENT

Importance of the Initiative

Keeping Virginia families and communities safe is the highest responsibility of the Governor and state government. In performing that duty, we also have a responsibility to ensure that agencies charged with public safety have the training, resources and oversight they need to do their jobs professionally and in a way that promotes and protects the public trust.

Recent events involving special agents of the Virginia Department of Alcoholic Beverage Control (ABC) in Charlottesville have underscored longstanding concerns about the agency's Bureau of Law Enforcement and exposed the need for more extensive training and oversight. While we must await results from the investigations by Virginia State Police and the Office of the Commonwealth's Attorney in Charlottesville before drawing conclusions about that particular incident, it is not too soon to take proactive steps to improve ABC's Bureau of Law Enforcement.

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, I hereby direct the Secretary of Public Safety and Homeland Security, the Chief Operating Officer and the Commissioners of the Department of Alcoholic Beverage Control Board, in conjunction with the Department of Criminal Justice Services, to take the following immediate actions:

1. The ABC Board shall require the immediate retraining of all ABC special agents in the areas of use of force, cultural diversity, effective interaction with youth, and community policing, to be completed no later than September 1, 2015. This training shall be implemented and certified by the Department of Criminal Justice Services utilizing evidence-based training curricula and education practices that meet nationally-accepted standards.

2. Effective immediately, the ABC Bureau of Law Enforcement shall report directly to the Chief Operating Officer of the ABC, who is responsible for the day-to-day management of all ABC functions.
3. The Secretary of Public Safety and Homeland Security shall convene an expert review panel of representatives of local and campus law enforcement agencies and sheriffs offices, Commonwealth's Attorneys, the Governor's Policy Advisor on Law Enforcement for ABC, the Chief Operating Office of the ABC, the Director of the Department of Criminal Justice Services and such other individuals representing relevant stakeholder groups, as he may deem appropriate in order to review the agency's mission, structure, policies and training and make recommendations regarding any identified changes needed. A report of the leadership team shall be completed and presented to me no later than November 1, 2015.
4. The ABC Bureau of Law Enforcement shall immediately review, update or enter into appropriate Mutual Aid Agreements, or other Memoranda of Understanding, with local law enforcement agencies serving communities with state institutions of higher education, with the goal of improving collaboration, communication and delineation of expectations regarding enforcement activities performed by ABC special agents in these communities.

Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 25th Day of March, 2015. Attest;

Terence R. McAuliffe, Governor

Attest:

Levar M. Stoney, Secretary of the Commonwealth