

COMMISSION ON VASAP
QUARTERLY BOARD MEETING

Friday, December 11, 2015

Minutes

Attendance:

Commission Members:

Delegate Jackson H. Miller, Chairman
Sheriff Michael L. Wade, Vice Chairman
Delegate David J. Toscano
The Honorable Mary Jane Hall
The Honorable George D. Varoutsos
The Honorable Gino W. Williams
Ms. Pat Eggleston
Mr. John Saunders
Mr. James Hatcher Johnson
Mr. Roy-Keith Lloyd

Absent:

Senator Thomas K. Norment
Senator Richard H. Stuart
Delegate G.M. "Manoli" Loupassi
Delegate Richard L. Morris
Ms. Mellie Randall

Commission Staff:

Ms. Angela Coleman, Executive Director
Mr. Oscar Brinson, Legal Counsel
Ms. Rosario Carrasquillo
Ms. Diane Bussée
Mr. Richard Foy
Mr. Christopher Morris
Ms. Charlene Motley

ASAP Directors:

Ms. Diane Barbour
Mr. Miles Bobbitt
Mr. Anthony Carmichael
Ms. Andrea Cosans
Ms. Angela Fortune
Ms. Mary Read Gillispie
Ms. Victoria Kesler
Mr. Daren Leake
Ms. Beth Lipes
Ms. Deborah Morgan
Ms. Janice Petty
Ms. Cindy Sheffield
Ms. Pam Simmons
Ms. Pam Williams

Guests:

Mr. Pete Andrews
Mr. Jason Ball
Ms. Deborah Coffey
Ms. Michele Denhoff
Mr. Ken Denton
Mr. Chad Goodwin
Mr. Stephen Gyurisin
Mr. John Honea
Ms. Krystal Hullette
Mr. Carlos Law
Mr. Scott Mason
Mr. Josh Perkins
Mr. James Whitley

Time and Place:

The quarterly meeting of the Commission on the Virginia Alcohol Safety Action Program (VASAP) was held on December 11, 2015 at the General Assembly Building 6th Floor Speaker's Conference Room. The meeting was called to order by the Honorable Jackson H. Miller, Chairman.

Welcome:

Delegate Miller welcomed and thanked everyone for attending the meeting. Delegate Miller introduced and welcomed two new ASAP directors; Ms. Diane Barbour, Director of the Rappahannock Area ASAP and Ms. Andrea Cosans, the Director of the Old Dominion ASAP.

Approval of Minutes:

A motion was made by Mr. John Saunders and properly seconded by Sheriff Michael Wade to approve the minutes from the September 11, 2015 Commission meeting. All were in favor.

Executive Finance Report:

The Executive Finance Committee report was presented by Mr. Roy-Keith Lloyd. Mr. Lloyd reported that the Executive Finance Committee met on December 4, 2015.

Budget Amendments

Mr. Lloyd stated that the Executive Finance Committee and Senior Accountant, Ms. Keshana Pierce carefully reviewed the budget amendments that were presented, and verified that each program has the financial resources to warrant approval. Mr. Lloyd advised that the Executive Finance Committee made certain that the approval of the amendments to the budgets will not impact the agency's financial stability or their ability to effectively deliver services.

Capital Area ASAP

Mr. James Hatcher Johnson, Capital Area ASAP Director, presented the budget amendment for Capital Area ASAP. He stated that Capital Area ASAP is requesting to use \$11,799.78 from their reserve funds to hire a temporary part-time case manager, give staff members a one-time cash incentive and purchase electronic equipment.

Mr. Johnson stated that \$9,755.78 will be used to hire a temporary part-time case manager to assist the program in processing the daily workloads. Mr. Johnson stated that the program currently has two full-time case managers who are responsible for over 700 caseloads each, and he also carries a caseload of over 400. The program is requesting an approval of the budget amendment to hire a temporary case manager to work part-time. The part-time employee, if approved, would be hired immediately and would work until June 30, 2016.

Mr. Johnson stated that an adjustment is requested in line item 1140 (Premiums) in the amount of \$1,000. The funds will be evenly divided among the ten employees of the program in appreciation for their work.

Finally, the Capital Area ASAP requested an increase for electronic purchases. The program had originally budgeted \$2,100. The program requested an increase of \$1,044 to purchase two

breathalyzers. The program currently has three breathalyzers; however, usually one of the three devices does not work properly and the program has to refurbish them constantly. The cost of each device is \$522.

Mr. Johnson respectfully requested a total of \$11,799.78 from their reserve funds to accommodate these requests. He stated that the Capital Area ASAP currently has ample funds in reserve, adding that this request will not significantly impact the program.

A motion was made by Sheriff Wade and properly seconded by Mr. Saunders to allow Capital Area ASAP to amend their 2016 fiscal year budget as presented. All were in favor.

Court Community Corrections ASAP

Mr. Lloyd reported that Court Community Corrections ASAP is requesting a budget amendment to allow employees who have been with the ASAP for more than one year to receive a one-time 2% merit increase, effective January 1, 2016. Employees of Court Community Corrections ASAP have not received a salary increase since June of 2011. Court Community Corrections ASAP is combined with the Department of Criminal Justices Services (DCJS) that oversees local probation and parole. On August 7, 2015, Court Community Corrections received notice from the Department of Criminal Justices Services that the Department of Planning and Budget had approved additional funding to allow for a 2% salary increase for all DCJS employees. Court Community Corrections ASAP is requesting \$4,457.73 from their reserve funds to cover the 2% increase. Mr. Lloyd stated that the ASAP has ample reserve funds that well exceed six months of the program's operating expenses.

A motion was made by the Honorable Gino Williams and properly seconded by Delegate David J. Toscano to allow Court Community Corrections ASAP to amend their 2016 fiscal year budget. All were in favor.

James River ASAP

Mr. Lloyd reported that James River ASAP is requesting an increase in their expenditures in the amount of \$10,000 to hire a part-time case manager assistant. The new employee would be tasked primarily with clerical duties. The program has ample reserve funds.

A motion was made by Mr. Saunders and properly seconded by Delegate Toscano to allow James River ASAP to amend their fiscal year 2016 budget. All were in favor.

Piedmont ASAP

Mr. Lloyd reported that Piedmont ASAP is requesting approval to provide employees with a 2% salary increase. A long-term staff member recently retired and another long-term staff member recently resigned. Mr. Lloyd stated that based on the departure of the two staff members, the workload has increased. The 2% increase will help compensate the remaining employees for the increased workload caused by the departure.

A motion was made by the Honorable Mary Jane Hall and properly seconded by Sheriff Wade to allow James River ASAP to amend their fiscal year 2016 budget. All were in favor.

Delegate Toscano asked if the wage scales are dramatically different across the ASAPs, and if there is the issue where an employee would choose to move to another ASAP because a better salary is offered.

Ms. Angela Coleman responded that to her knowledge no employee has moved because another ASAP offers a higher salary.

Delegate Miller stated that he does not see this being an issue because the ASAPs are widely spread out, so it does not have an impact.

Delegate Miller stated that although there is less time devoted to examination of the budget at the Commission meeting, the Executive Finance Committee meets on the Friday before each Commission meeting, at which time there is in-depth discussion regarding any proposed budget amendments.

Southeastern Virginia ASAP

Mr. Lloyd reported that Southeastern Virginia ASAP recently relocated to a much needed, improved facility and location. The ASAP requested to amend its budget to meet office rental fees through the remainder of the budget cycle. The Southeastern Virginia ASAP requested an increase for capital expenses, supplies and materials. The projected expenditures are in the amount of \$942,145.96 with revenue totals matching that amount. Mr. Oscar Brinson stated that the relocation was definitely needed because the previous building was dilapidated and the area was in a “risky” section of Portsmouth. Delegate Miller added that the move was a great

decision also because it offers nearby employee parking whereas before employees had to walk a long distance to get to the office.

A motion was made by Sheriff Wade, and properly seconded by Delegate Toscano, to allow Southeastern Virginia ASAP to amend their fiscal year 2016 budget. All were in favor.

Mount Rogers ASAP

Mr. Lloyd reported that Mount Rogers ASAP has been approached with an opportunity to purchase the building which they presently rent. The amount of the purchase would be \$210,000. The Mount Rogers ASAP, with the policy board's approval, proposed making a down payment of \$110,000 from the program's reserve fund while financing the remaining \$100,000. After doing so, it is estimated that the agency will have a monthly mortgage payment of \$1,048. This amount is approximately \$752 less than the current monthly payment. At its last meeting on December 5, 2015, the Executive Finance Committee reviewed the request in detail, and did not have a recommendation at that time. Mr. Lloyd advised Commission members that Ms. Pam Williams, Mount Rogers ASAP Director, was at the Commission meeting and would be able to respond to any questions. Mr. Lloyd noted that in the past, the Commission has not voted to approve the purchase of buildings. Instead, they have only approved the increased expenditure amount from the budget amendment through the use of reserve funds. He concluded by stating that the approval of the use of reserve funds has always been provided with the understanding that any deficit caused by the purchase of the building will not be covered by the Commission. Delegate Miller informed the Commission members that Mount Rogers ASAP's budget amendment request was a great example to demonstrate how the Executive Finance Committee spends a lot of time reviewing the budgets. He added that one of the original proposals from

Mount Rogers ASAP was to request \$210,000 to pay for the building in full which would have greatly reduced their reserve funds to critical levels. The Executive Finance Committee sent a message to Mount Rogers ASAP stating that the Executive Finance Committee will not approve the use of the reserve funds to pay for the property in full. The week before the Commission meeting, Ms. Coleman communicated with Ms. Williams stating that the Executive Finance Committee did not support the request to pay for the building in full. The program provided the Commission with several options. The Executive Finance Committee believed the request of \$100,000 for a down payment was a more reasonable and sustainable option for their program. Delegate Toscano requested the total cost for the tax and insurance of the property per year. The property taxes for the County of Smyth are \$1,515.52 and the Town of Marion is \$307.20. The total yearly tax expense will be \$1,822.72. The insurance cost will be \$1,273, which is a \$609 increase a year if the ASAP purchases the property. The total amount for the taxes and insurance that the ASAP will pay a year would be \$2,431.72. Delegate Toscano stated that the offer that the ASAP was approached with was a really good offer; however he was concerned with whether using \$110,000 of reserves would put the agency in any kind of peril. Delegate Miller stated that this is where the Commission gives autonomy to the local ASAPs or the program directors, and he believed that under the proposed plan Mount Rogers ASAP would still be viable, considering the amount of reserves that would be left. Delegate Toscano and Judge Williams had concerns about the interest rate increase after five years with the bank program that they would be financing through. They recommended that the Mount Rogers ASAP be required to come back before the Commission before the five year interest increase and look at possibly paying off the loan.

Approximately five of the 24 local programs own their buildings, and no ASAP has sold their property.

Mr. Oscar Brinson stated that generally, the program is more financially stable when they purchase.

Delegate Toscano asked if there is a set amount of reserves that the ASAPs should have.

Ms. Coleman responded that the Commission recommends that the programs have at least three months of expenditures in their reserve account. If granted approval, Mount Rogers would have almost six months in their reserve account.

Delegate Toscano recommended that Mount Rogers ASAP set aside a “sinking reserve fund” to deal with any potential property damage and that the sinking reserve fund be reflected in their budget for the Commission to approve.

It was moved by Judge Williams and properly second by Mr. Saunders to approve Mount Rogers ASAP’s request to use reserve funds in the amount of \$110,000 for the down payment and that the ASAP approach the Commission at the time of an interest increase to discuss the possibility of paying off the loan.

After the vote, Delegate Toscano asked what happens with the ASAP reserves. Delegate Miller responded that “Quite often, the state takes it in the legislature.” Ms. Coleman stated that the Commission has provided funds to the appropriations committee for the past six years and it goes to the general fund.

Delegate Miller, stated that “there is always the risk for the state to ask for the reserves and that it is the job of the delegates to ensure that the Appropriations Committee does not take too much because it would significantly impact local programs.”

Delegate Toscano stated that drunk driving is not going away, and we know that some people who are convicted spend a lot of money enrolling into the program, a lot of money that they may not have. He added that if there are reserves, the ASAPs should not be charging them as much, rather than the Appropriations Committee taking the money for something that is not related to driving under the influence.

Mr. Brinson stated that the ASAP fee is a miniscule cost per DUI when compared to other fees that they have to pay, adding that “a defense attorney is usually the highest fee the offender has to pay.”

Judge Hall asked what was the ASAP fee, and if it was set by the General Assembly or set by the court. Ms. Coleman responded that the General Assembly sets the ASAP fees. The ASAP service fee is \$300 and there is also a \$100 intervention fee. Ms. Coleman reported that the fees have not changed since 1985.

Legislative Committee

Delegate Miller appointed a legislative committee to assist the Commission staff in monitoring any legislation which potentially could impact VASAP. The appointed members are Delegate Miller, Delegate Toscano, Senator Stuart, and Sheriff Wade.

Executive Director’s Report:

Ms. Coleman presented the Executive Director's report.

Ms. Coleman welcomed the newest member of the VASAP team, Ms. Diane Bussè. Ms. Bussè brings a wealth of experience and knowledge to the Commission on VASAP Office. She previously worked with the Virginia Bar. Ms. Coleman added that the Commission is very happy to have her as a member of the staff.

Ms. Coleman stated that several months ago, the Commission submitted a grant proposal to the Department of Motor Vehicles Highway Safety Office to use federal grant funds to purchase computer equipment for the local ASAPs. The additional computers would allow the programs to increase the efficiency in their offices because they could have an extra computer to access TRENDS and the DMV system. The project was delayed because the purchase did not comply with the Buy America Act, in that the computers were manufactured overseas. Thanks to Mr. Saunders, DMV submitted a waiver request to the Buy America Act, not just on behalf of the ASAPs, but other agencies that were impacted, and the grant was approved. Each ASAP will receive two computers configured for use with DMV and TRENDS. Depending upon shipping, it is anticipated that they will arrive in local offices by the end of the month.

Mr. Saunders stated that the issue with the purchase of the computers was a national issue. He added that Mr. Mark R. Rosekind, the new Administrator of the National Highway Traffic Safety Administration (NHTSA) initiated the request through the appropriate channels to get a waiver of up to \$5,000. The waiver was granted; therefore, equipment can be purchased with the requested grant if the item is under \$5,000.

Ignition Interlock

Ms. Coleman provided a brief summary with a time line of the process of updating and revising the ignition interlock regulations. The public comments were received for a 60-day period which ended on November 20th. On November 5th, a hearing to receive public comment on the regulations was held at the General Assembly Building. Representatives from all four ignition interlock vendors were present.

Ms. Coleman announced that after further review, and at the request of the vendors, a major change to the final draft of the regulations will be proposed. The Commission is proposing a fee schedule change. The fee change will permit vendors to charge up to \$95 for monthly calibrations. This is an increase of \$15 per month over the current rates. One of the major factors behind the recommendation for the increase is the mandatory use of cameras and other updates to technology. Ms. Coleman reported that Virginia's ignition interlock fees for calibration are low compared to surrounding states.

Ms. Coleman added the summary provided to the Commission shows that in the majority of the states polled, fees are driven by the market with open competition among vendors. In those states, the average cost is approximately \$150- \$200 for installations and \$100 for monthly calibrations. Virginia ranks among the states with the lowest amount charged.

Delegate Toscano asked, "What is the current complex installation fee?"

Ms. Coleman responded, “We currently do not allow the vendor to charge a complex installation fee.” The Commission will add the complex installation fee to the proposed regulations for the vendor to charge up to \$135 for push start vehicles and some foreign vehicles. The current fee for an installation is up to \$65.

The \$95 monthly calibration fee that will be proposed will include the complex installation with the installation of the cameras. The cameras installed will help to make sure that the person starting the vehicle is the same person that is driving.

Since the final stage will commence shortly after the current Commission meeting, with Delegate Miller’s permission, Ms. Coleman offered the vendors an opportunity to address the Commission regarding fees.

The representative from Smart Start, Mr. Jason Ball, appreciated the opportunity to speak in front of the Commission. He stated that Smart Start has over 50,000 cameras installed throughout the United States; therefore, they understand the oversight that is needed, adding that increasing the fees would definitely give them the chance to provide better services in Virginia. Mr. Ball stated that currently Virginia is one of the few states with the lowest fees. Smart Start recommended and respectfully asked that the increase be allowed.

Sheriff Wade asked to explain what the cameras do and how they work.

Mr. Ball stated that the cameras are mounted on the side of the windshield and the process is that the client gets in the vehicle, sits in the driver's seat, and turns the ignition key to the "on" position. When the ignition interlock device requests the client to blow, then the camera will take a picture. The camera will snap the picture on certain events. Mr. Ball stated that not all the times are random. The camera will snap the photo when the client blows in the device to start the engine, when a rolling retest is engaged, if a requested test is failed, and when the engine is turned off. The Commission and the local ASAPs have access to the photographs.

The representative from LifeSafer, Mr. Ken Denton, a retired Washington State Patrol officer, added that in the State of Washington, the use of cameras was implemented many years ago. He added that the patrol officers would see fails on the device in which there was an attempt to start up the vehicle, and then there would be a follow-up passing test. The Washington State Patrol office would often see pictures of children in the back seat blowing into the device. Mr. Denton stated that is the reason that this would be a great tool for Virginia to utilize. It would help to prevent those individuals from getting on the road while drunk after having children in the car blow into the device to start the vehicle. He stated that LifeSafer is also in support of the fee increase.

LifeSafer appreciated the Commission considering the increase and appreciated the Commission for the work that they have done.

Delegate Toscano asked where the authority was for granting the ability to use cameras units.

Ms. Coleman responded that the statute gives the Commission the authority to certify certain

devices. Delegate Toscano asked whether facial recognition was being used to prevent a vehicle from starting. Delegate Miller responded that there is no facial recognition software.

Judge Hall asked if any of the ASAPs are currently using cameras. Judge Williams stated that in his jurisdiction, he has ordered cameras to be installed with ignition interlock. Judge Williams stated that having the cameras installed with the ignition interlock has cut down on the workload of the case managers because they do not have to spend so much time in court.

The representative from Draeger, Ms. Michele Denhoff, stated that Draeger is in full support of the increase in fees. She stated the Draeger spends a lot of time in court with people claiming that it is not them giving the positive test. She added that Draeger is in full support of the camera and the fee increase.

A representative from Alcolock, Mr. Chad Goodwin, stated that they are also in full support of the fee increase. He added that the fee increase would actually help if there are any potential damages to the device.

A motion was made by Delegate Toscano and properly seconded by Sheriff Wade to change the fee schedule in the Proposed Ignition Interlock Regulations to permit vendors to charge up to \$95 for monthly calibrations to be able to increase the use of cameras and update technology.

All were in favor.

The Multi-State Interlock Forum was hosted by the Commission on VASAP on October 26-29, 2015. In total, 16 states attended. Others in attendance were Delegate Miller, representatives from the Attorney General's Office, DMV Driver Services and the DMV Highway Safety Office. Ms. Coleman stated that the forum was very well received. She added that the main

issue discussed was reciprocity between the states and how to make it easier for persons transferring their interlock obligations to comply with requirements in the sentencing state. At the end of the multi-state forum, the Commission unveiled the development of a smart phone app that will have contact information and requirements for participating states. This app will be updated and maintained by Commission staff and will be used by states as well as offenders with interlock requirements. Ms. Coleman stated that Mr. Christopher Morris has named it Approcity for reciprocity app. The app has been completed and will be available for download for Apple and Android products by December 20th. Ms. Coleman expressed her thanks to the Commission staff, Mr. Morris, and Ms. Sarah Deputy, for completing this project ahead of schedule. Delegate Miller stated that, “For the Commission members that were not able to attend, the forum really shown a bright light on the Commonwealth of Virginia trying to enforce and stop drunk driving. The Commission staff did a great job in hosting this event and I believe that states in attendance were highly impressed how the Commission on VASAP operates.” He added that Virginia is the forefront, and that people say that VASAP is the program other states want to be like. Additionally, Ms. Coleman thanked Mr. Saunders, stating that the multi-state forum was funded by the DMV Federal Highway Safety grant.

The Commission has issued VASAP’s Annual Holiday Statement. It can be posted on social media, radio and TV ads. You may contact the Commission for an electronic version.

VASAPDA

Ms. Cindy Sheffield, Director of the James River ASAP, presented the VASAPDA report.

Ms. Sheffield thanked the Commission staff for the wonderful training at the VASAPDA conference.

Ms. Sheffield wished everyone happy holiday from the directors.

Ms. Sheffield stated that the Directors attended the VASAPDA fall training in October 2015.

The VASAPDA conference focused on the case management manual, ignition interlock manual and human resources. The training was provided by the Commission staff.

The ASAPs also participated in police recognition training to give thanks to local law enforcement.

Executive Session:

A motion was made by Sheriff Wade, and properly seconded by Judge Williams, that members of the Commission on VASAP convene into Executive Session under the Code of Virginia, pursuant to Section 2.2.3711, to discuss specifically Tri-River ASAP personnel and potential legal issues and Old Dominion ASAP personnel issues and potential legal issues. All were in favor.

Return to Open Session:

A motion was made by Judge Williams, and properly seconded by Mr. Saunders, to certify by roll call vote that only matters related to Tri-River ASAP personnel and potential legal issues, and Old Dominion ASAP personnel issues and potential legal issues, were discussed during the closed meeting and that no action was taken. All were in favor.

Sheriff Michael L. Wade, Vice Chairman YES

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| The Honorable Mary Jane Hall | YES |
| The Honorable George D. Varoutsos | YES |
| The Honorable Gino W. Williams | YES |
| Ms. Pat Eggleston | YES |
| Mr. James Hatcher Johnson | YES |
| Ms. Mellie Randall | YES |
| Mr. John Saunders | YES |

A motion was made by Judge Williams, and properly seconded by Mr. Saunders, that Tri-River ASAP and Old Dominion ASAP be given 90-day conditional certifications. All were in favor.

Meeting Dates:

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| March 18, 2016 | 10:00 a.m. |
| June 10, 2016 | 10:00 a.m. |
| September 16, 2016 | 10:00 a.m. |
| December 9, 2016 | 10:00 a.m. |

Adjournment:

It was moved by Mr. Saunders to adjourn the Commission on VASAP quarterly meeting. The motion was properly seconded. All were in favor.