

FINAL/APPROVED for September 16, 2015
THE VIRGINIA BOARD OF CORRECTIONS

The Virginia Board of Corrections (Board) met on Wednesday, September 16, 2015 at the Department of Corrections (VADOC) Headquarters, 6900 Atmore Drive, Richmond, Virginia 23225.

MEMBERS PRESENT: Carl R. Peed, Chairman
John F. Anderson, Jr.
Reverend Dr. Yvonne Jones Bibbs
Ann Gardner
Reverend Anthony C. Paige
Reverend Kevin L. Sykes
Bobby N. Vassar

MEMBERS ABSENT: Colin P. O'Dawe

VADOC STAFF PRESENT: Harold W. Clarke, Director
A. David Robinson, Chief of Corrections Operations
Dean Ricks, Chief of Professional Services
Donna Lawrence, Manager, Compliance and Accreditation Unit
Bob Casey, Local Facilities Unit
Emmanuel Fontenot, Compliance and Accreditation Unit
James Bruce, Manager, Policy and Initiatives Unit
Donna P. Foster, Administrative Support, Board of Corrections

GUESTS PRESENT: Charles Qualiato, Board Counsel, Office of the Attorney General
Brooks Ballard, Volunteer, Retired VADOC
Jamie Pham, Vectre Corporation
George Pender, guest of Reverend Anthony Paige

CALL TO ORDER

Chairman Peed called the meeting to order at 12:32 p.m.

DETERMINATION OF QUORUM

Chairman Peed determined there was a quorum present.

WELCOME AND INTRODUCTIONS

Chairman Peed welcomed everyone and asked the attendees to introduce themselves.

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Chairman Peed notified the attendees that Colin P. O'Dawe, member of the Board, was unable to attend the September meeting.

APPROVAL OF MAY BOARD MINUTES

Chairman Peed presented the July minutes for review and approval.

Donna Foster noted that the facility name Hampton Roads on page 4, paragraph 3, in the July minutes should be replaced with the word "Piedmont" and all members agreed to the revision.

Upon a *MOTION* by Chairman Peed and duly seconded, the members voted unanimously to *APPROVE* the July Board meeting minutes as corrected.

APPOINTMENT OF NOMINATING COMMITTEE FOR ELECTION OF BOARD OFFICERS

Mr. Peed appointed Mr. Vassar and Messrs. Anderson and Paige to comprise the nominating committee. The committee members met and arrived at their slate of Board officers, which they presented to the membership: Phyllis Randall as Chairman, Bobby Vassar as Vice Chairman and John F. Anderson, Jr. as Secretary.

Upon a *MOTION* duly made and seconded, the members voted unanimously to *APPROVE* the slate of officers.

There were no opposing votes. The Chairman voted his approval of the Motion. The Motion carried.

The gavel was turned over to the newly elected Chairman, Phyllis Randall.

PUBLIC COMMENT PERIOD

No public comment made.

PRESENTATIONS

There were no presentations.

LIAISON COMMITTEE UPDATE

Ms. Gardner provided a summary of the September 16, 2015 Liaison Committee meeting. Her report provided an overview of the Funding and Budget Issues Report, Prison Population Report, the Jail Construction Update, Offender Management Services Update, the FCC Commission Review as well as other business.

Ms. Gardner reported that attendance was low due to a conflicting Sheriffs' Association meeting being held on the same date.

Ms. Gardner reported that the July Liaison Committee minutes were unanimously approved.

Ms. Gardner reported that Robyn deSocio reported on funding and budget issues advising that the two percent across the board pay increase for constitutional officers, state employees and entry level officers became effective

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September 1, 2015 as expected. The new minimum grade 7 salary starts at \$31,009 per year. Ms. deSocio reported that the Compensation Board is now working on inmate forecasting and new figures are expected in October.

Ms. Gardner reported that Chairman Simons raised the issue of per diem payments noting that costs are high for many inmates and per diems do not cover the costs especially for inmates with mental health concerns. Ms. Randall noted that the Community Services Board (CSB) for individual localities can intervene and name inmates as their clients, enabling services to be paid by the CSB. Mr. Simons noted the discrepancies among localities for sources of funding these issues.

Ms. Gardner reported that Bob Casey reported current jail construction updates.

Ms. Gardner reported that Jim Parks reported Offender Management Services issues, noting that the out-of-compliance rates have remained consistent.

Ms. Gardner reported that the remainder of the meeting consisted of a lengthy discussion concerning an incident that occurred at Fairfax County Jail involving the death of an inmate who was tased. Ms. Randall advised that a video of the incident had been released. Captain Billy James, Chesapeake Sheriff's Office, spoke as a lead Taser instructor, noting that Taser is a brand name. He advised that individual departments have their own use of force training and standards. Some have a continuum of force standard as well. In addition, Sgt. Daniel Rosario, Hampton Roads Regional Jail, further discussed the issue stating that he recommended scenario testing, further noting that not all departments have a use of force continuum. Sgt. Rosario distributed a use of force standards comparison handout. He also noted that the Virginia Board of Corrections' (VABOC) standard does not require an annual review of use of force.

Ms. Gardner reported that Mr. Vassar suggested that staff research use of force issues and report their findings to the VABOC. Bill Wilson suggested that use of force policies be reviewed annually.

ADMINISTRATION COMMITTEE UPDATE

No Administration Committee meeting was held.

CORRECTIONAL SERVICES COMMITTEE UPDATE/Policy & Regulations

LOCAL FACILITIES SECTION – STAFFING/FUNDING AND UNANNOUNCED INSPECTIONS:

Ms. Randall offered the following Committee recommendations for Board approval:

Further consideration of a variance request by Gemeinschaft Home to accept a financial review for the years ending on June 30, 2013 and June 30, 2014 in place of a financial audit as required by standard 6VAC15-50E was approved contingent to the requirements of the Board by agreement to conduct a full financial audit on an annual basis effective immediately.

Upon a *Motion* by Ms. Randall and duly seconded, the members voted unanimously to *Approve* the above variance.

Unconditional Certification as a result of **100%** compliance for **Franklin County Jail and Western Virginia Regional Jail**.

Upon a *Motion* by Ms. Randall and duly seconded, the members voted unanimously to *Approve* the above recommendations.

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The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2015 Annual Inspection for the Franklin County Jail and Western Virginia Regional Jail.

Upon a *Motion* by Ms. Randall and duly seconded, the members voted unanimously to *Approve* the above recommendations.

SOUTHAMPTON JAIL FARM

The Board of Corrections grants a modification of Standard 6VAC15-80-160, Minor Renovation Project, of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities, 1994, to allow the County of Southampton to proceed with submitting this project as a Minor Renovation Project. This approval of modification shall not be construed as a future variance to Board Standard 6VAC15-80-160 for this facility or as a current or future variance for any other facility.

Upon a *Motion* by Ms. Randall and duly seconded, the members voted unanimously to *Approve* the above recommendations.

The Board of Corrections grants a waiver of Standard 6VAC15-80-211, Value Management Analysis, of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities, 1994, to allow the County of Southampton to proceed with this project without performing a Value Management Analysis. This approval of waiver shall not be construed as a future variance to Board Standard 6VAC15-80-211 for this facility or as a current or future variance for any other facility.

Upon a *Motion* by Ms. Randall and duly seconded, the members voted unanimously to *Approve* the above recommendations.

The Board of Corrections approves the County of Southampton's request for state funding for the construction of a new Kitchen/Dining Hall Building. This approval recognizes a total eligible cost of \$339,312, of which up to 25% or \$84,828 would be eligible for state reimbursement. Such reimbursement is subject to the availability of funds and compliance with Board Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities, 1994 and Sections 53.1-80 through 82 of the Code of Virginia.

Upon a *Motion* by Ms. Randall and duly seconded, the members voted unanimously to *Approve* the above recommendations.

MARTINSVILLE CITY JAIL

The Board of Corrections grants a modification of Standard 6VAC15-80-160, Minor Renovation Project, of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities, 1994, to allow the City of Martinsville to proceed with its renovation by submitting this project as a Minor Renovation Project. This approval of modification shall not be construed as a future variance to Board Standard 6VAC15-80-160 for this facility or as a current or future variance for any other facility.

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Upon a *Motion* by Ms. Randall and duly seconded, the members voted unanimously to *Approve* the above recommendations.

The Board of Corrections grants a waiver of Standard 6VAC15-80-211, Value Management Analysis, of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities, 1994, to allow the City of Martinsville to proceed with its renovation without performing a Value Management Analysis. This approval of waiver shall not be construed as a future variance to Board Standard 6VAC15-80-211 for this facility or as a current or future variance for any other facility.

Upon a *Motion* by Ms. Randall and duly seconded, the members voted unanimously to *Approve* the above recommendations.

The Board of Corrections approves the City of Martinsville's request for state funding for the addition of emergency power and the upgrade of the security system to their facility. This approval recognizes a total eligible cost of \$289,598, of which up to 25% or \$72,400 would be eligible for state reimbursement. Such reimbursement is subject to the availability of funds and compliance with Board Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities, 1994 and Sections 53.1-80 through 82 of the Code of Virginia.

Upon a *Motion* by Ms. Randall and duly seconded, the members voted unanimously to *Approve* the above recommendation.

DIRECTOR'S UPDATE

Director Clarke reported that all is progressing well within the Virginia Department of Corrections (VADOC). He recently returned from a meeting in the mid-west that included corrections directors and others to discuss current issues in corrections. He reported that Virginia is a leader in implementation of PREA (Prison Rape Elimination Act) which was enacted by Congress in 2003. Virginia is the only jurisdiction passing every audit without relying on allowed time periods to reach compliance.

Mr. Clarke noted that assaults between staff and inmates are considered low and trending downward. Challenges remain in the area of funding, with staffing being a major concern. The VADOC is required to maintain a 3.3% vacancy rate due to a \$32 million deficit in funding. There is currently a deficit of 467 correctional officers throughout the VADOC. Correctional officers are trained at the Sussex facilities and are being hired by a federal prison in the Sussex County area offering better pay and a reduction in overtime hour requirements.

The VADOC has one of the lowest recidivism rates in the country, but the rate is climbing from 22.8% to 23% due to offenders released with mental health issues being refused treatment by the Community Service Boards (CSBs). The issue has been raised with legislators as the CSBs currently have autonomy and most refuse to treat offenders upon release in the community.

Leading up to last year's legislative session, the VADOC had retrofitted the Culpeper facility acquired from the Department of Juvenile Justice to house a 300 bed women's facility. Mr. Clarke reported that this facility was mothballed due to the budget short fall, but funding is again being sought in the upcoming legislative session to proceed with opening the facility to include an additional 200 beds. The female offender population is trending upward with a current out-of-compliance rate of 200 females throughout local facilities.

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Mr. Clarke advised of an upcoming execution scheduled for October 1st for an offender with seven murders attributed to his actions. The offender is also on death row in California. There are four additional potential executions scheduled before the upcoming winter.

The Director reported that overall, staff is engaged, given the staffing short fall. People are responding to the challenges. Conversations with legislators have evolved to refer to offenders as returning citizens, as most offenders will be returned to communities. Mr. Clarke reminded the Board that the most effective method by which to increase public safety is by having effective re-entry.

ADDITIONAL ITEMS FOR DISCUSSION

Chairman Randall discussed the circumstances surrounding the inmate death at Fairfax County Adult Detention Center advising that the results of the investigation by the Fairfax County Police Department concluded no fault by facility staff. She credited Sheriff Stacey Kincaid for releasing the video tape of the incident. She advised that there is discontent in the local community, stating that the Board cannot address the specific issue but that the standard can be revised to reduce the risk of repeating the incident. She also asked that the Board consider funding requirements of any potential mandate considered by the Board.

Mr. Vassar noted that he senses a fair amount of consensus in the discussion that the current policy is inadequate to address the challenges faced by local facilities concerning use of force standards. He added that a better focused standard may be helpful and that adequate funding would need to be made available. Mr. Vassar stated that prescribed training may be useful affecting issues such as liability insurance and associated costs. A good starting point would involve staff working with individuals who possess expertise in use of force training such as Capt. James and Sgt. Rosario. He suggested asking the director to assign staff to assist the Board with this effort to develop discussion points. Rev. Paige asked that community input be included. Mr. Vassar moved that the Board ask the Director to assign staff to assist the Board in working with experts on the issue of use of force in order to solicit information, (and offer) recommendations to the Board on policy considerations the Board might make to update its policy in this area (use of force).

Upon a *Motion* by Mr. Vassar and duly seconded, the members voted unanimously to *Approve* the above recommendation.

Director Clarke advised that the VADOC would gladly offer assistance reminding the members that the VADOC and local facilities function on different levels and the VADOC has no jurisdiction over jails. He added that the VADOC does not use Tasers, thereby making policy and training unnecessary. He offered the expertise of the department.

Several Board members discussed methods by which to obtain community input for consideration in revision of the standard including their authority to hold hearings or appoint a committee to solicit community involvement. Ms. Ballard noted that the current standard was developed with the input from inmate advocate groups who assisted the standards committee in development and that the standards were posted for the required period for public comment.

Mr. Bruce advised that he and his unit are available to the Board offering assistance in any manner they may need.

FUTURE MEETING DATES

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October 21, 2015
November 18, 2015

ADJOURNMENT

There being no further business to discuss before the Board of Corrections, upon a *Motion* by Chairman Peed and duly seconded, the meeting was *Adjourned* by unanimous vote at 2:18 p.m.

APPROVED:

Signature on File

Carl R. Peed, Chairman

John F. Anderson, Jr., Secretary