

Robert Vilchez, Chair
Scott Kizner, Vice Chair
Synethia White, Secretary
Lisa Cason
Eric English
Tyren Frazier
William Johnson
David Mick
Laura O'Quinn



Post Office Box 1110
Richmond, VA 23218-1110
804.588.3903

COMMONWEALTH of VIRGINIA
Board of Juvenile Justice

Meeting Minutes

May 22, 2024

Virginia Public Safety Training Center, Smyth Hall, Room 401

Board Members Present: Lisa Cason, Eric English, Tyren Frazier, Scott Kizner, David Mick, Laura O'Quinn, and Robert (Tito) Vilchez

Board Members Remote: Synethia White

Board Members Absent: William (Will) Johnson

Department of Juvenile Justice (Department) Staff: Ken Bailey, Katherine Farmer, Mike Favale, Amy Floriano, Angela Haule, Wendy Hoffman, Dale Holden, Michael Ito, Nikia Jones, Melodie Martin, Andrea McMahan, Ashaki McNeil, Linda McWilliams, Ronnie Moore, Stephanie Morton, Guillermo Novo, Margaret O'Shea (Office of the Attorney General), Lara Todd, Rebecca Westfall, and Deana Williams

Guests: Amber Banks, Mark Fagerburg, Abbey Philips, Valerie Slater, and Amy Walters

CALL TO ORDER AND INTRODUCTIONS

Chairperson Tito Vilchez called the meeting to order at 9:40 a.m. and asked for Board introductions.

APPROVAL OF BOARD MEMBER'S REMOTE PARTICIPATION PER POLICY 23-002

Michael Favale, Deputy Director of Policy, Department

At the Board meeting in November, members adopted Policy 23-002. This policy is pursuant to the authorization granted by the Code of Virginia § 2.2-3708.3 establishing requirements that need to be met for remote meeting participation of a member. Board Member Synethia White asked if she could participate in today's meeting remotely on the grounds that her principal residence is located more than 60 miles from the location of the meeting. This is permissible and in accordance with Section 4 (a) of the

policy. The Board Chairperson notified Board Member White that her request was in conformance of the policy and approved the request. There are two mandatory requirements that must be met to allow for remote participation of a member on the grounds of the 60 miles requirement. First, a quorum of the Board must be physically assembled at the primary meeting location. Second, arrangements must be made for the voice of the remote participating member to be heard by all persons at the primary meeting location. If at any point during the meeting the voice of the remotely participating member is no longer able to be heard by all persons at the meeting location, the remotely participating member shall no longer be permitted to participate remotely. Pursuant to Section 7 of the policy, if the Board goes into Closed Session, the member participating remotely shall ensure that no third party is able to hear or otherwise observe the closed meeting.

Mr. Favale asked Board Member White to speak to demonstrate that she could be heard by all persons in the meeting. Board Member White spoke and was heard by all persons at the primary meeting location. Mr. Favale asked if anyone present could not hear Board Member White and no hands were raised indicating she could not be heard.

On motion duly made by Scott Kizner and seconded by Eric English, the Board of Juvenile Justice (1) approved the Chair's decision to approve the request of Board Member Synethia White to participate from a remote location on the grounds that her principal residence location is more than 60 miles from the meeting location, and (2) affirmed that her voice can be heard by all persons at the primary meeting location. All Board members present declared "aye," and the motion carried. Ms. White participated from a remote location outside of Virginia. Ms. White participated from a remote location out of state.

CONSIDERATION OF BOARD MINUTES

The minutes of the December 13, 2023, Board meeting were offered for approval. On a motion duly made by Tyren Frazier and seconded by Lisa Cason, the Board approved the minutes as presented. All Board members present declared "aye," and the motion carried.

PUBLIC COMMENT

Three individuals made public comment:

1. Amy Walters, Youth Justice Program, Legal Aid Justice Center
2. Valerie Slater, RISE for Youth
3. Mark Fagerburg

All three also submitted their comments to the Board in writing, and copies are attached to the end of the meeting notes.

NEW BUSINESS

Consideration of Virginia Juvenile Community Crime Control Act (VJCCCA) Plans

Katherine Farmer, VJCCCA Supervisor, Department

Ms. Farmer provided a presentation on the Virginia Community Crime Control Act, also known as VJCCCA. The presentation starts on page 13 of the Board packet.

After Ms. Farmer’s presentation, there was no discussion and the following motions were taken by the Board.

On motion duly made by Tyren Frazier and seconded by David Mick, the Board of Juvenile Justice approved the below-listed VJCCCA plans for the 2025 and 2026 fiscal years. All Board members present declared “aye”, and the motion carried.

- | | | |
|---|---|---|
| 1. Amherst County | 23. Frederick County (includes Clarke County and Winchester City) | 46. Charlottesville City (includes Albemarle County) |
| 2. Bedford County | 24. Rockingham County (includes Harrisonburg City) | 47. Culpeper County |
| 3. Campbell County | 25. Page County | 48. Fluvanna County |
| 4. Nelson County | 26. Shenandoah County | 49. Goochland County |
| 5. Lynchburg City | 27. Warren County | 50. Greene County |
| 6. Highland County | 28. Arlington County (includes Falls Church City) | 51. Louisa County |
| 7. Waynesboro City (includes Augusta County and Staunton City) | 29. Alexandria City | 52. Madison County |
| 8. Lexington City (includes Botetourt County, Rockbridge County, Buena Vista City, Alleghany County, Covington City, Bath County, Craig County) | 30. Fairfax County (includes Fairfax City) | 53. Orange County |
| 9. Franklin County | 31. Loudoun County | 54. Charlotte County (includes Appomattox County, Buckingham County, Cumberland County, Lunenburg County, and Prince Edward County) |
| 10. Danville City | 32. Rappahannock County | 55. Halifax County |
| 11. Pittsylvania County | 33. Fauquier County | 56. Mecklenburg County |
| 12. Roanoke County (includes Salem City) | 34. Prince William County | 57. Accomack County (includes Northampton County) |
| 13. Roanoke City | 35. Manassas City | 58. Colonial Heights City |
| 14. Martinsville City (includes Henry County and Patrick County) | 36. Manassas Park | 59. Chesterfield County |
| 15. Giles County | 37. King William County (includes Charles City County, King and Queen County, Middlesex County, New Kent County) | 60. Emporia City (includes Brunswick County, Greensville County, and Sussex County) |
| 16. Grayson County (includes Carroll County and Galax City) | 38. York County (includes Gloucester County, James City County, Mathews County, Poquoson City, and Williamsburg City) | 61. Hampton City |
| 17. Floyd County | 39. Hanover County | 62. Henrico County |
| 18. Montgomery County | 40. Spotsylvania County | 63. Hopewell City |
| 19. Pulaski County | 41. Stafford County | 64. Newport News City |
| 20. Wythe County (includes Bland County) | 42. Westmoreland County (includes Essex County, Lancaster County, Northumberland County, and Richmond County) | 65. Petersburg City |
| 21. Radford City | 43. Caroline County | 66. Prince George County |
| 22. Washington County (includes Buchanan County, Dickenson County, Lee County, Russell County, Scott County, Smyth County, Tazewell County, Wise County, Bristol City, and Norton City) | 44. King George County | 67. Surry County |
| | 45. Fredericksburg City | 68. Tidewater Youth Services Commission (includes Isle of Wight County, Southampton County, Chesapeake City, Franklin City, Portsmouth City, Suffolk City, and Virginia Beach City) |

On motion duly made by Tyren Frazier and seconded by Eric English, the Board of Juvenile Justice approved the Norfolk City, Powhatan County, and Richmond City VJCCCA plans for the 2025 fiscal year. All Board members present declared “aye”, and the motion carried.

On motion duly made by Tyren Frazier and seconded by Eric English, the Board of Juvenile Justice approved the FY 2024 plan for Amelia County, Dinwiddie County, and Nottoway County for one additional quarter through September 30, 2024.

DIRECTOR'S CERTIFICATION ACTIONS

Ken Bailey, Certification Manager, Department

Mr. Bailey directed the Board to the packet, which contained the individual audit reports and a summary of the Director's certification actions completed up to January 30, 2024.

The following programs received a 100% compliance rating for their audit: 9th District Court Service Unit, The Andrew B. Ferrari Argus House in Arlington, RISE/Loudoun County Shelter Care (a new program), Loudoun Juvenile Detention Center and Post-dispositional Detention Program, and Piedmont Regional Juvenile Detention.

The new Summit West Transitional Living Program received a conditional certification for six months. A detailed description of the program, setting out its array of services offered to youth, is in the Board packet. The program is operated by Intercept Health under contract with the Department.

2A District Court Service Unit in the Eastern Shore received their fifth consecutive 100% compliance rating, which deserved an honorable mention.

The audit for the 18th District Court Service Unit found one deficiency. The program has demonstrated corrective action on this deficiency and the regional program manager was asked to follow up and report to the agency director.

Board Member Kizner asked about the Bon Air Juvenile Correctional Center audit. Mr. Bailey said the report for Bon Air has not been finalized. The facility needs to submit a corrective action plan, and that plan will be presented to the Director, who will take action, and then the audit will come before the Board. Director Floriano said the process is being followed and the Bon Air audit will be presented to the Board either at the July meeting or at a later meeting.

Board Member Kizner asked if the audits are public information. Director Floriano confirmed that they are.

CLOSED SESSION

Chairperson Vilchez announced that a matter has come before the Board that constitutes a reason for the Board to enter into a Closed Session. Chairperson Vilchez has asked Mike Favale to explain the reasons for a Closed Session.

Mr. Favale cited the Code of Virginia, § 2.2-3711, public bodies may hold closed meetings for purposes of discussion, consideration, disciplining, or resignation of specific employees of any public bodies; consultation or legal counsel briefings by staff or consultants pertaining to actual or probable litigation; and consultation of legal counsel employed or retained by the public body regarding specific legal matters requiring the provision of legal advice by such counsel.

No closed meeting shall be held unless the public body proposing to convene such meeting has taken an affirmative recorded vote in an open meeting approving a motion that identifies the subject matter, states

the purpose of the meeting, and cites the applicable exemptions. The matters contained in such motion shall be set forth in detail in the minutes.

At the conclusion of any closed meeting, the public body holding such a meeting shall immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member of the public body who believes that there was a departure from the requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes.

In conclusion, Mr. Favale noted that a public body may permit nonmembers to attend a closed meeting if such persons are deemed necessary or if their presence will reasonably aid the public body in its consideration of a topic that is a subject of the meeting.

On motion duly made by David Mick and seconded by Robert Vilchez, the Board of Juvenile Justice moved to reconvene in Closed Session, pursuant to § 2.2-3711 (A)(7) and (8), for discussion of personnel matters, consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, or other specific legal matters requiring the provision of legal advice by counsel, regarding correspondence received containing allegations involving the Bon Air Juvenile Correctional Center. All Board members present declared “aye,” and the motion carried.

Director Floriano recommended that the following non-Board members stay for the Closed Session, herself, Chief Deputy Director Holden, the executive team members, Superintendent Stephanie Morton, Superintendent Deana Williams, Assistant Superintendent Angela Haule, Program Assistant Ronnie Moore, and Dr. Michael Ito. Chairperson Vilchez asked that non-Board members and other individuals not designated to stay for Closed Session leave the meeting site. Chairperson Vilchez noted that the group can be permitted to return after the Board completes their Closed Session.

After all non-designated individuals had left the Closed Session location, Board Member Kizner felt it was important to only have Director Floriano present for this Closed Session. On motion duly made by Scott Kizner and seconded by Robert Vilchez, the Board convened into Closed Session with only Director Floriano in attendance. All Board members present declared “aye” and the motion carried.

The Board went into Closed Session.

After the Board had completed their Closed Session, all meeting attendees and participants were invited to return to the meeting site. All Board Members present then individually certified to the best of their knowledge: (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Session, and (2) only such public business matters as were identified in the motion convening the Closed Session were heard, discussed, or considered.

DIRECTOR'S COMMENTS

Amy M. Floriano, Director, Department

Director Floriano had no comments.

BOARD COMMENTS

Board Member Laura O'Quinn asked if the Board meetings could be moved to a Monday or Friday to accommodate travel. The Board agreed.

Board Member Kizner asked if the in-person meetings could improve upon and amplify the sound.

NEXT MEETING

July 31, 2024, at 9:30 a.m. (Virtual)

ADJOURNMENT

Chairperson Vilchez adjourned the meeting at 11:35 a.m.

LEGAL AID JUSTICE CENTER

Department of Juvenile Justice Board Meeting Public Comments May 22, 2024
Amy Walters, Esq., Youth Justice Program, Legal Aid Justice Center, Charlottesville, VA

Good morning, Members of the Board. I am Amy Walters, a Senior Attorney in the Youth Justice Program at Legal Aid Justice Center, who has dedicated a large portion of my legal career to representing court-involved youth. Over the past ten years, my office has represented over forty youth incarcerated at Bon Air Juvenile Correctional Center in post-conviction and other collateral civil matters.

While our office has always held concerns about the treatment of youth at Bon Air, these concerns have heightened significantly since the pandemic, based on our observations and those reported by youth; these include increased isolation of youth, greatly reduced programming, the closure of school, the shift away from the therapeutic community treatment model, and the increase in staff vacancies. As the pandemic began to subside, these concerns did not. In fact, these concerns increased last summer with the month-long lockdown beginning in July—and subsequently with conditions reported from bad to worse, along with staffing levels.

Much of these concerns were outlined in our letter to the Agency and shared with the Board, dated March 15, 2024. But to name a few examples: youth described being locked in their rooms for 18-20 hours per day with only one book to last the week; They described routinely having meals and school packets brought to the unit and their rooms, not just during lockdown; Students who completed high school described having almost no enrichment; During lockdowns, which have occurred multiple times and for multiple weeks over the past year, “showers” were deemed gross-motor activity; And there has been a significant shift away from the therapeutic and toward the punitive.

Given the staffing vacancies, the Board and the Department should be making efforts to “right-size” the population of incarcerated youth and expand access to community-based treatment. The current length-of-stay and placement efforts are not working. Youth are housed in detention without access to the treatments they need, and when the local JDC is full as a result, it means youth are being housed far from their families and are missing court dates due to lack of available transport.

If Virginia is going to incarcerate youth in the juvenile system, our correctional center should be a place where youth are *actually* rehabilitated, through therapeutic services, positive adult relationships, and educational and vocational programming. It should not be that youth with blended sentences “look forward” to DOC, as multiple of my clients have stated, because they hear DOC will have more exercise, more interaction, more food, and more enrichment opportunities.

The system is not working, and the current system that has been adapted since the start of the pandemic is causing harm to youth. We ask that the Board actively monitor the conditions at Bon Air by reviewing all serious incident reports, staffing levels, school hours and the certification report. We ask that the Board take appropriate action in response, making policy changes that will reduce the population at Bon Air and allowing the facility to bring back therapeutic programming and reopen the school. Ms. Slater will further address these issues and the steps the Board can take to address them.

Thank you for your time. I or a member of my team would be happy to collaborate in an effort to implement these changes as soon as possible.

RISE for Youth Public Comment - DJJ Board Meeting

Good morning Board members, staff, and attendees. My name is Valerie Slater, I am a criminal defense attorney and the executive director of RISE for Youth. RISE for Youth is a nonpartisan organization committed to ensuring every space that impacts a young person's life encourages growth and success.

I am giving public comment today in response to the many disturbing reports received by RISE for Youth, LAJC, other advocates, and organizations of the ill-treatment and harsh conditions endured by youth under the Department's care at the Bon Air juvenile correctional center.

To date I have heard many of the same issues from several different sources to include:

- Youth having no access to the outside for fresh air and sunlight,
- Residents finding spit and even teeth in their food,
- Youth being deprived of showers as punishment,
- Staff looking away during instances of groups of residents attacking a single resident,
- Residents reporting suicidal ideations and staff laughing at the reporting residents,
- Female residents having no privacy while showering, dressing, or using the restroom, and being watched by male staff during each of those activities,
- Policy violations being left out of incident reports,
- Opiates found at the scene of a violent attack on a staff member, but incident report not including that information,
- Retaliation against staff and residents that speak out,
- Employee known to have engaged in an inappropriate sexual relationship with a resident was not prosecuted,
- Reports of the entire kitchen staff at Bon Air walking out
- Reports and complaints made to the Superintendent and through Bon Air's internal complaint processes, never being addressed in a ways that resolves the issue,

This is not a complete list of the conditions being described by several collaborating sources, but this list does paint a comprehensive picture of the dangerous and demoralizing environment at Bon Air JCC.

I do not want to simply recite problems, but also offer some potential solutions to change the climate, culture, and treatment of youth within the Bon Air facility:

As we all know, DJJ is tasked with helping to keep communities safe by (1) providing effective programming that helps rehabilitate youth and change aberrant behavior and (2) keeping youth from reentering the legal system.

Powers and duties of the DJJ Board as promulgated in VA Code § 66-10 Include:

1. Establishing and monitoring policies for the DJJ's programs and facilities
3. Monitoring the activities of the Department and its effectiveness in implementing the policies developed by the Board.

5. Promulgating regulations necessary to accomplish the provisions of this title and other laws of the Commonwealth.

6. Ensure the development of programs to educate citizens and elicit public support for the activities of the Department.

Among others.

We advocates are asking you board members to:

- Support outside investigation into all allegations,
- Establish Monthly monitoring of the Bon Air facility with teams that include Board members advocates, previously incarcerated youth, family members, and legislators who are appointed to Boards and committees with oversight authority over youth justice issues,
- That monitoring must include reviewing all serious incident reports, staffing levels, school hours and implementation of all programming,
- Providing public access to the Bon Air audit and recertification findings from the January 2024 Audit and all audits completed on facilities housing the Commonwealth's youth,
- Safely reduce the facility population by:
 - o Increasing the use of community-based treatment options
 - o Increase the use of electronic monitoring,
 - o Reduce the LOS for indeterminately sentenced youth to reduce the likelihood of overcrowding.

DJJ cares for Virginia's youth with some of the greatest treatment needs attempting to keep them from spiraling into deeper and long term justice system involvement. These are youth who many individuals and systems have already failed. Youth who in some instances, have already given up on themselves. We must not allow the agency whose mission is to provide effective rehabilitative programming to also fail these youth who may be on the last stop before being swallowed by the legal system. We implore you to consider implementing the changes we suggest and to engage with us in meaningful dialogue to develop strategies and solutions that will help us find a positive way forward leading to the success of all of Virginia's youth.

Mark Fagerburg
7842 Brentford DR
North Chesterfield, VA 23225
804-677-3646; mfagerburg@gmail.com

Hello,

My name is Mark Fagerburg. I am a resident of North Chesterfield, I am retired from the Library of Virginia, and have been working with the youth at Bon Air Juvenile Correctional Center since 2002. Since 2020, I have also served on the facility's Community Advisory Council. I began going into the facility to work with the youth first with my church, Bon Air Presbyterian, and later, beginning in 2018, with a new ministry, Voices of Jubilee. That ministry resulted in the formation of a gospel choir which met twice a month and provided a community of caring volunteers to support and encourage the incarcerated youth at Bon Air. Through relationships cultivated with the residents, our volunteers often attended serious offender reviews. In a number of instances we still offer support to many previous BAJCC youth who are now serving adult time in the Department of Corrections.

I know things are subject to change over a 22-year period, but in the four years since the COVID-19 pandemic, I have witnessed significant and alarmingly drastic shifts in volunteer opportunities and the ability for incarcerated youths to interact with the outside world. Through personal experience, I know the way isolation can affect and impact the mental health of teens and young adults. Although our daughter was not in a correctional facility, isolation and the inability for her to engage with friends and extended family caused a worsening of her depression and her loss of hope, and ultimately led to her death by suicide. BAJCC residents should be allowed the chance to engage in fun and rewarding volunteer programming provided by loving and caring volunteers. In fact, giving volunteers the ability to spend time in the BAJCC facility on a regular basis where relationships are formed would go a long way to enhance the mental health of each and every child residing there.

To provide a volunteer's perspective: Since the pandemic, it has become near impossible to provide the many volunteer programs that were once part of BAJCC's offerings. At present, volunteers are – at best – allowed to come once a month provided there is available staff onsite. Volunteer programming has consistently been canceled -- not because of any one person's fault but rather because of severe staff shortages. It makes one wonder what other critical services are being cut because of these shortages, and how that impacts these vulnerable young people and the staff who are tasked with caring for them.

We recognize that in one sense, volunteer activities could be seen as ancillary to the treatment model and support that staff are carrying out as mandated by the courts, but in another sense, these groups are a central part of helping reorient a community that has been separated. We as volunteers are there to be another voice that reminds them that they are part of a community that extends beyond the walls of a prison. We seek to connect the youth with more adults who can support them. It matters greatly to us how these children are treated. We believe that they are an integral part of our future -- and like all our children, they deserve to be cared for with the same level of intentionality that all children should be given. The consistent narrative of not enough staff and the significant implications of those shortages are unacceptable.

Thank you for letting me speak to you today.