

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	March 14, 2012
Location	6900 Atmore Drive Richmond, Virginia
Presiding.....	Peter G. Decker, III, Chairman
Present.....	Cynthia M. Alksne Jonathan T. Blank Felipe Q. Cabacoy Linda D. Curtis William E. Osborne Reverend Anthony C. Paige B. A. Washington, Sr.
Absent.....	Kurt A. Boshart

1:00 p.m., Wednesday, March 14, 2012
6900 Atmore Drive, Richmond, Virginia 23225

The meeting was called to order. Chairman Decker welcomed attendees and thanked everyone for coming.

I. Board Chairman (Mr. Decker)

1) Board Motion to Approve December Board Minutes

The Chairman called for a Motion to approve the December Board Minutes

After **MOTION** duly made by Mr. Osborne and seconded by Mrs. Curtis, the call for the question was made. During the call for comment, Reverend Paige indicated he would abstain from the vote, voicing concerns he had about items left out of the December Minutes and stating he did not know prior to today that it was a member's responsibility to call in changes or comments to the draft Minutes. The Chairman indicated that in the future if you have issues you should do so. Reverend Paige noted he would like to discuss the procedure with the Chairman as well as the role of the secretary regarding completion of the Minutes; specifically, what is included and what is deleted. He implied this was to ensure full compliance with FOIA.

The December Board Minutes were **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Cabacoy, Curtis, Osborne, Washington). Mr. Boshart was absent. Reverend Paige **ABSTAINED**. There were no opposing votes. Before the Chairman voted his approval, Mrs. Alksne asked to make an additional comment.

Discussion ensued regarding the Minutes. As Mrs. Alksne stated that since the Board powers changed dramatically last year, the Board has been fairly critical of and articulate about that process, and the Minutes do not reflect the outrage felt by her and others about the changing of Board powers. She stated she made that clear in

December and at other times and believes the Minutes should reflect that she thinks it is not in the interest of the taxpayers that the Board powers were stripped. She does not think it is in the interest of the taxpayers that the Department no longer has oversight on its budget by this Board, and she believes that the staff person, who no longer works here, was deceitful with the Board about his role in the stripping of the Board powers, and she does not think it is in the interest of the taxpayers. And while she appreciates Mrs. Woodhouse's polite Minutes, she thinks they should reflect the outrage. While the Chairman stated he thought the Board's outrage had been pretty well reflected in past Minutes, members countered the December Minutes did not. It is noted for the record.

The Chairman then asked for any no votes. There being none, the Chairman voted his approval of the Motion. The Motion carried.

At this time, the Chairman welcomed attendees and asked that all meeting attendees introduce themselves for the record. He congratulated Ms. Gardner on her appointment and stated he looks forward to working with her. Then, the Board Roll Call was taken. Eight members were present. Mr. Boshart was absent.

II. Presentation to the Board (Ms. Richeson)

The Director was unable to attend and some questions had been asked regarding changes to Red Onion State Prison, so Ms. Scott Richeson was present to give a brief overview of the changes.

Red Onion was opened in 1998 as an administrative segregation facility. Inmates are assigned there from lower level-security-level facilities primarily due to incidents, charges, etc., which affect security-level assignment. Since the opening of Red Onion, the system operates safer for all inmates, staff and the general public. The Department is able to offer more programming at other facilities because there are fewer interruptions due to violence and incidents as the hard-to-handle inmates are assigned to Red Onion. Red Onion is operated constitutionally, protecting 8th Amendment rights of inmates, is nationally recognized because of its operation and is nationally accredited by the American Correctional Association.

In general, segregated facilities can be very stressful for inmates and staff and it was recognized that improvements needed to be made to the operation of Red Onion. In addition to improvements to operations, the Department is now utilizing Evidence-Based Practices (EBP) at Red Onion, which is a body of science on what helps to reduce the criminal risks of inmates and what helps them in the long term to improve and to stay out of prison when they get out.

There are three goals of this project. One of the goals is to provide a path for inmates. We do not want inmates to be in segregation. We want them to move to lower levels where they can learn behaviors that will help them when they are released. There are some inmates who must remain in segregation for their protection, but we still want to have that

path in place for them to work their way out of Red Onion while providing goals for them to achieve. The second goal is to reduce the stress for staff and inmates and part of that would be to have not only programming but to have some ad seg at Wallens Ridge; so there would be a pod or two at Red Onion that would be general population in addition to ad seg and then Wallens Ridge, which is currently almost all general population, would have some segregation and that would allow staff to have a variety of roles. And then the third goal is to improve the long-term risk reduction of inmates at Red Onion.

In keeping with EBP, the Department is adding a level of review at the region and a multi-disciplinary team at the prison to ensure the inmates assigned to Red Onion truly need that level of management. If they are found to be suitable for Red Onion, staff assesses the factors that led them to prison because there are different factors that motivate behavior. At Red Onion, some inmates are dangerous; some are there because they acted out and have to be managed in a particular way. They each have different needs to address. Some inmates act out because are afraid; they do just enough acting out because they fear going into general population. Oftentimes they have more issues than the more dangerous inmates. And then there are those who have more notorious crimes, and we need to be more cautious with them. They cannot be managed in a general-population setting, but we want to provide them with ways to work toward the future. So we look at the factors behind behaviors and then target programming towards those behaviors.

Inmates will be housed according to life-common issues so we can apply programming. We will start with very cautious in-cell programming, where inmates will stay in individual cells where they will receive programming through television or self-study guides or with staff individually working with them. When they respond to that, they progress to a less-restrictive environment where they get different levels of programming. The primary programming used will be evidence-based. Those are the programs that motivate inmates to change and to open up their thinking to new ways of looking at things. And then we will utilize "Thinking For Change," which deals with criminal thinking and cognitive behavior. We will offer ways for inmates to progress through the prison based on the programming and what they achieve; as they earn responsibility, we will give them more responsibility through programming with the hope they will progress through the system to a point where eventually they can return to a Level V general population setting. While maintaining the highest safety for inmates, staff and the public, we will provide more graduated ways for inmates to progress.

That is the primary change with segregation at Red Onion. We would have a mirror program with segregation at Wallens Ridge. So when someone works their way through the Wallens Ridge segregation, they would return to Red Onion where they would participate in lower-level programming.

This change requires extensive staff training. Part of the EBP module is week-long *Effective Communications* training that has already been conducted with executive staff members at Red Onion and Wallens Ridge, who are practicing new ways of communicating, which will help reduce risks to the inmates and will help them stop and think before they do something dangerous. This plan is a work in progress.

The Department is excited about this project and hopes it will be a national model because all states are struggling with what to do with administrative segregation inmates. In response to a question posed by Reverend Paige as to whether the Department is following a book for Thinking For Change, Ms. Richeson stated "Thinking for Change" is a curriculum that is available at no cost from the National Institute of Corrections and is a week-long training program. The curriculum is available on the NIC website.

There being no further questions, Ms. Richeson concluded her comments. The Chairman thanked her for her presentation. Ms. Richeson departed the meeting. No action by the Board was required.

III. Public/Other Comment (Mr. Decker)

Three members of the general public, representing separate groups, were present to voice their support of the inmate restraint language as proposed for the Board *Minimum Standards for Jails and Lockups*.

Mr. Simmons with VirginiaCURE noted his comment was not agenda related but wanted to make note of a book he thought the Board might be interested in: "The New Jim Crow: Mass Incarceration in the Age of Colorblindness" by Michelle Alexander. He indicated it represented a subtle history of the last 30 years of the correctional system.

The Chairman thanked the visitors for their comments. They remained in the meeting room. No action by the Board was required.

IV. Liaison Committee (Mr. Osborne)

Mr. Osborne reported there was much discussion in the meeting, mostly dealing with the proposed Standards language regarding restraint of pregnant inmates. He turned the floor over to Sheriff Beth Arthur with Arlington County, who is 1st Vice Chair of the Virginia Sheriffs' Association (VSA) and who was speaking as the representative of the Virginia Sheriffs' Association regarding the proposed Standards language.

Sheriff Arthur indicated that VSA members are concerned with the regulations as presented. She stated emphatically that VSA members do not restrain inmates during labor or delivery. She indicated that during movement outside the secure perimeter, inmates are handcuffed in the front of the body to minimize the possibility of any issues occurring. As her job is to ensure the safety and security of the community as well as those in her custody and her staff, she argued that inmate transport is one of the most volatile situations and that any individual not restrained puts everyone at risk. She noted that inmates are restrained during medical appointments, because there are other women present in the doctors' offices, but they are not restrained during labor and delivery and that after delivery when the inmate is up and moving, they are not in leg irons and not restrained but there is security staff with them at all times. She stated that restraints prevent situations from

escalating when an inmate is combative or argumentative and that safety and security is number one.

Mrs. Alksne stated the Board would be setting up a subcommittee to address the proposed Standards language and asked if Sheriff Arthur would be willing to participate, and she agreed. Mr. Blank will be the representative for the Board, and the group will meet to ensure that needs of both the Sheriffs and pregnant inmates are addressed in the proposed Standards language. Advocacy groups will also be included in the discussion.

In addition, Sheriff Arthur commented that this proposed Standards language was much more detailed than any other Standard. She noted that Standards generally give direction but do not give step-by-step instructions on how to accomplish the Standard as is proposed here. She closed her comments and turned the floor over to Mr. John Jones, Executive Director of the Virginia Sheriffs' Association.

Mr. Jones addressed the members of the Board and stated the Sheriffs had covered this topic well at General Assembly meetings this year and last. He stated the Sheriffs oppose this proposed Standards language on public safety grounds. He noted it is an emotionally charged issue but was not sure why, and he did not know if or when the policy had been changed, so he queried his members and asked of the number of restrained inmates, how many had delivered and the response was a resounding *None* in Virginia. He indicated the Sheriffs are getting a bad rap and have been presented as Barbarians and noted there was no evidence or testimony presented to the General Assembly to support the assertions that this restraining of pregnant inmates was even going on. He indicated comments had been sent to the Regulatory Town Hall representing all 123 Sheriffs and 9,000 deputies statewide.

Mr. Blank commented that the Sheriffs' Association PR machine was not in tune with the facts; that the Association was coming across looking like Barbarians. He indicated the Board is trying to create policy and the Sheriffs' Association is coming across as fighting the change versus working toward the policy. Mr. Jones responded the Sheriffs' Association had not been invited to meet with either Delegate Hope or the advocacy groups beforehand, and then they got word of the proposed Standards language and were understandably concerned, particularly as the regulation has a reporting requirement.

Ms. Rice, a representative from a women's advocacy group who was present at the meeting, stated she feels this is a legitimate safety risk that was documented and that is how the problem surfaced initially. Mr. Blackstock stated he had rebuttal to that but did not pursue it at the time. Mr. Blank intimated it was a PR issue as far as the Sheriffs are concerned. Mr. Jones countered that the PR is the same as it has been for 35 years; the Association is not a big machine and he is the PR person. Mr. Blank countered that what came across was the Sheriffs do not need new regs, they already have them. He suggested they can be improved upon.

Mr. Blank closed with the statement that it is his belief this is an education issue with the

regional jails and the Sheriffs, and there will be a conversation over the next 90 days concerning the proposed language.

The comments regarding this issue ended at this point. Mr. Osborne went on to report the total number of inmates in the system. He also mentioned the temporary housing legislation, which will be discussed later in the meeting. And Mr. Osborne welcomed the new Committee Chairman, Mr. Elton Blackstock.

The Chairman thanked Mr. Osborne for his report. No Board action was required.

V. Administration Committee (Mr. Blank)

Though there was no Administration Committee meeting this month, Mrs. Alksne asked why the Board was still receiving the Correctional Officer Vacancy Report as she felt it was a waste of paper but is happy to look at it. Rev. Paige countered that all information is good, whether the information falls within the Board's powers or not. When asked, it was the consensus to continue receiving the report.

VI. Correctional Services Committee Report/Policy & Regulations (Mrs. Alksne for Mr. Washington)

**1) Compliance and Accreditation Certifications Section:
State/Local/Regional/Community Facilities**

a) Board Motion to Grant Appeal by Botetourt Craig Regional Jail to Standard 6VAC15-40-1100 (Fire Safety Inspection)

The facility was audited from December 7-9, 2011. During the audit, it was found that the fire safety inspection in 2011 exceeded the 12-month time period from the 2010 inspection. The last inspection was March 4, 2011, and the one prior to that was in January, 2010, a total of 14 months after.

Sheriff Sprinkle appealed the finding based on the numerous communications he had with the State Fire Marshal requesting the required inspection. He noted he could do no more than make repeated requests, and he provided a copy of an email from a staff member at the State First Marshal's Office-Western Region as well as other documentation. The staff member apologized for the delayed inspection and conducted an inspection of the facility on January 10, 2012, putting the facility back into its routine fire safety inspection cycle. During that inspection, no violations were noted.

In consideration of the information and documentation provided by the Sheriff, the Committee recommends the Board grant the appeal for Botetourt/Craig Regional Jail to Standard 6VAC15-40-1100 (Fire Safety Inspection). Therefore,

By **MOTION** duly made by Mrs. Alksne and seconded by Mr. Washington, the

Board ***GRANTS THE APPEAL*** by Sheriff Sprinkle for the Botetourt/Craig Regional Jail by verbally responding in the affirmative (Alksne, Blank, Cabacoy, Curtis, Osborne, Paige, Washington).

There were no questions and there was no discussion. There were no opposing votes. There was one absence. The Chairman then voted his approval of the Motion. The Motion carried.

As a result of this action, the facility is now in 100% compliance and a certification recommendation is presented below.

Then Mrs. Alksne presented the following certification recommendations for consideration by the Board on behalf of the Committee:

- b) **Unconditional Certification as a result of 100% compliance for Botetourt/Craig Regional Jail; Virginia Beach Lockup #4 to include male and female juveniles in accordance with §16.1-249 of the Code of Virginia; Richmond City Jail to include male juveniles in accordance with §16.1-249 of the Code of Virginia;**

Unconditional Certification for the Riverside Regional Jail to include male and female juveniles in accordance with §16.1-249 of the Code of Virginia;

and Unconditional Certification for the Southside Regional Jail and Franklin Grove, LLC.

By ***MOTION*** duly made by Mrs. Alksne and seconded by Mr. Osborne, the Board ***APPROVED*** the above recommendations by verbally responding in the affirmative (Alksne, Blank, Cabacoy, Curtis, Osborne, Paige, Washington).

There were no questions and there was no discussion. There were no opposing votes. There was one absence. The Chairman then voted his approval of the Motion. The Motion carried.

2) **Compliance and Accreditation Unit (Unannounced Inspections Section):
Local and Regional Jails and Lockups**

A listing of Life, Health and Safety inspection results since the last Board meeting was provided. No Board Action was required.

b) **Rubicon, Inc. - Follow-Up Item from July, 2011, Board Meeting**

During the Committee meeting, Mr. Clarence Jackson, Executive Director of Rubicon, Inc., advised that the required financial audit is incomplete. The facility was placed on probationary certification for a period of six months in July, 2011, in order for it to complete an independent financial audit for 2009 and 2010. It had

been anticipated to have the full report for the March Board meeting, which did not occur. Mr. Jackson did provide documentation from his CPA which indicated the audit is moving along but is not complete, and the facility and CPA have agreed to have the audit completed no later than March 26, 2012, with a report to the Board for the May Board meeting. It asked for additional time to effect completion of this audit.

The Board agreed to the request for additional time and by *MOTION* duly made by Mrs. Alksne and seconded by Mr. Osborne, the Board *APPROVED* the request to *CONTINUE RUBICON, INC., ON PROBATIONARY CERTIFICATION* until the May Board meeting in order to complete its financial audit (Alksne, Blank, Cabacoy, Curtis, Osborne, Paige, Washington).

There were no questions and there was no discussion. There were no opposing votes. There was one absence. The Chairman then voted his approval of the Motion. The Motion carried.

3) Policy & Regulations

a) Report on Public Comment Period Ended February 29, 2012, for 6VAC15-40 Minimum Standards for Jails and Lockups

Mr. Bruce presented stacks of copies of all public comments received during the public comment period. The comments have not been reviewed. All comments have been referred to the subcommittee Mr. Blank is heading up, which membership will include jail administrators, Sheriffs and other stakeholders. A full report by the subcommittee is anticipated by the July Board meeting.

b) Proposed Budget Bill Language Regarding Waiver to Standards for Construction of Temporary Jail Facilities (Item 286 #2s), and Amending Existing Budget Bill Language to Clarify Legislative Intent; Measuring Design Capacity of Local and Regional Jails (Item 386 #3s)

These items have been tabled by the Board until such time as the General Assembly completes its Special Session and the Budget Bill is approved. No Board action is required at this time.

VII. Closed Session

There was no Closed Session this month.

VIII. Other Business

There was no other business to discuss.

IX. Board Member/Other Comment

Mrs. Alksne brought up the Board Retreat for discussion. She feels the Board should be out learning something about problems in the regional jails. She noted that even though the original purpose of the Retreat was to discuss the Powers and Duties of the Board and since the Board no longer has oversight of DOC facilities, it makes more sense to not tie up the Academy for a Retreat but to go elsewhere; that it is more relevant to the current Powers and Duties to go to a regional jail and meet and focus on their issues, particularly mental health.

Reverend Paige indicated he agreed with the idea of visiting facilities but feels the Board needs clarity on its Powers and Duties and believes that because of the changes, consideration should be given to reorganizing the Board Committee structure and purpose, which would help everyone to understand the different functional areas and to understand why we do what we do. He stated the critical thing with the changes to the Powers and Duties is the Board needs to sit down and figure out what it should be doing and there should be no delay, for the good of the Board and for the good of the Department.

It was suggested to reach out to the Secretary and ask for a meeting during which the Board can be educated on its role and its Powers and Duties and this should happen before any visit to a regional jail. This would be a separate meeting for the specific purpose of educating the Board about its Powers and Duties. A visit to a regional jail can be arranged sometime in the future.

X. Future Meeting Plans (provided for informational purposes)

The May 16, 2012, meetings are scheduled as follows:

Liaison Committee – 9:30 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;
Correctional Services/Policy & Regulations Committee – 10:30 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;

And Board Meeting – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia.

XI. Adjournment

Before closing, the Chairman thanked everyone for the expressions of sympathy and condolence to his family on the passing of his father. He and his family appreciate the support of the Department and the Board.

There being nothing further, by **MOTION** duly made by Mr. Osborne, seconded by Reverend Paige and **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Cabacoy, Curtis, Osborne, Paige, Washington), the meeting was adjourned.

There were no questions and there was no further discussion. There were no opposing votes. There was one absence. The Chairman then voted his approval of the Motion. The Motion carried.

PETER G. DECKER, III, CHAIRMAN

B. A. WASHINGTON, SR., SECRETARY