

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	May 17, 2006
Location	6900 Atmore Drive Richmond, Virginia
Presiding.....	Clay B. Hester, Chairman
Present.....	James H. Burrell Jacqueline F. Fraser W. Alvin Hudson, Jr. Gregory M. Kallen Raymond W. Mitchell Sterling C. Proffitt James R. Socas
Absent.....	W. Randy Wright

10:00 a.m., Wednesday, May 17, 2006
6900 Atmore Drive, Richmond, Virginia

The meeting was called to order and attendees were welcomed. No roll was called. One member was absent.

I. Board Chairman (Mr. Hester)

1) Motion to Approve March Board Minutes

Mr. Hester called for a motion to approve the March minutes. By *MOTION* duly made by Mr. Mitchell and seconded by Mr. Hudson, the minutes were unanimously *APPROVED* by verbally responding in the affirmative (Fraser, Hudson, Mitchell, Proffitt, Socas). Mr. Burrell noted his *ABSTENTION* from the vote and Mr. Kallen's vote was not recorded as neither was present at the March meeting. There was no discussion, and there were no opposing votes. The Chairman's vote was not required as there was no tie vote on the Motion. Mr. Wright was absent.

II. Public/Other Comment (Mr. Hester)

The Chairman recognized Mrs. Jean Auldridge, Director of Virginia CURE, who had requested to make brief remarks.

Mrs. Auldridge explained Virginia CURE is an advocacy organization who represents the families of prisoners. She noted the organization's appreciation of Mr. Johnson and the Department's efforts in addressing problems that have arisen. She noted numerous families have problems with MCI's billing and stated she looked forward to meeting with MCI and the Department after the Board meeting. She identified family members present at the meeting today representing Virginia CURE and asked them to stand. She closed by stating families are a big part of corrections and with family support, prisoners have a better chance of success when they are released.

Mrs. Aldridge concluded her remarks at this time, and the Chairman thanked her for her comments.

III. Presentation to the Board (Mr. Hester)

The Chairman asked Mr. Johnson to introduce participants in the next portion of the meeting. Mr. Johnson remarked that at the last meeting, the Board had requested that MCI be present to make a presentation relative to the Department's MCI contract for the inmate phone system. At this time, he introduced the Department's Director of Procurement, Ms. Cindy Sager, to speak briefly about the contractual process used for all state contracts, including the inmate telephone contract.

At this point, the Chairman reminded attendees that the meeting was not a public hearing and had not been advertised as such but a presentation to the Board for edification purposes with an opportunity for the Board to ask questions. He noted the rest of the attendees were welcome to listen and hear what was said and stated he would entertain no questions from the audience.

At this time, Ms. Sager introduced herself and presented a handout for the Board members and guests. She spoke at length about the process used for procuring the contract for the inmate telephone services. Ms. Sager noted this was a cooperative procurement between the Departments of Corrections and Juvenile Justice and that the Department was commended by former Secretary Bowen for moving forward in a cooperative manner for this contract.

Ms. Sager explained there were only two responses to the RFP. The Department was required to solicit six vendors. In the past, for the last solicitation there were four to six responses. After a question from the Board as to what weights were assigned to the process, she illustrated the evaluation criteria (weights) for the Board and noted the weights are posted only after the RFP closes. Negotiations were entered into with each of the top two firms.

As to negotiations, the Board has previously requested to know how the current Virginia rates compared to other states, such as North Carolina, New York, California, etc., and asked Ms. Sager for that pricing. Ms. Sager stated there was a lot of analysis during the negotiation process; surveys were conducted with other states inquiring as to their structure for inmate telephone services and inquiries were made to find out their commission rates and payment rates and how commissions were handled. Mr. Socas again asked how the rates compare specifically, otherwise he felt it would be extremely difficult to understand if the Commonwealth and families were getting a fair contract. Ms. Sager responded that pricing is an important factor, but as was shown by the weights given, there were other factors that the selection committee felt were equal or more important than price.

Mr. Johnson stated the Department will ask all states for the information if necessary and that they might or might not agree to provide it. He re-emphasized the fact that the Department is getting nothing from this process; that the Legislature is expecting to get

what was promised to them for the General Fund. And he reiterated that everyone has to remember that in dealing with the inmate phone system, also included is the security equipment, the recording equipment and the phones themselves, and those costs have to be paid for somewhere. Mr. Socas noted he was not suggesting the Department had dropped the ball on this but stated that if the contract maximizes profit to the State, then somebody is going to bear the brunt of that objective. And that may be the objective the State has given, but the outcome of that is that the rates are higher on families, and if that is the case, was the Board comfortable with that trade off.

Ms. Sager noted that it was very important to the selection committee members to ensure that the rates the inmates would pay did not exceed rates that you or I would pay if we were making similar collect calls; the collect call itself would actually be the same, the same rate and the same surcharge, but there are a lot of operational costs necessary to support this system.

This concluded Ms. Sager's overview of the competitive solicitation process. At this time, several Board members went on to comment on experiences they had over the years with various inmate phone systems at their individual jails. It was noted that while there are a lot of companies that provide inmate telephone services, a lot of companies do not provide it equally well, and a lot of companies are not equipped to handle inmate telephone services and it is expensive. And many companies had the opportunity to bid on this contract and chose not to. And while there is expense to the families, and they have the choice of accepting the calls or not accepting the calls, the cost has to do with the service, and this is still the best way to provide phone service to the inmates.

Mr. Johnson then introduced Mr. Steve Viehaus with MCI. Mr. Viehaus is the Director of their Corrections Division headquartered in St. Louis, Missouri.

Mr. Viehaus stated MCI has carried inmate phone services since 1989. Its first contract was with the Missouri Department of Corrections. MCI currently has contracts with 17 Departments of Corrections: Virginia, New York, Florida, California, Connecticut, Missouri, Arkansas, and Colorado, to name a few. The company has about a 50 percent market share of state inmate services, meaning of the state DOCs who are offering inmate services, they have 50 percent. The state of Texas does not allow their inmates traditional calling to their families.

He noted the contract with Virginia with the new rates went into effect in January. With the competitive bid, he pointed out there has been some industry consolidation going on with Bell South and Qwest and AT&T out of the inmate business and with Sprint and Verizon getting out of the business, which is all tied to the nature of the business and the margins in the business.

He explained that when MCI bids on an opportunity, they look at evaluation criteria. Virginia put a significant weight on the rates. Low rates were more important to them than high commission. Other states will say commission is the most important thing, which drives the rates up. Missouri is the lowest rate state because they asked for a zero percent commission. Each state is different. It costs MCI for all the facilities they put in,

for the cost of terminating a call, for the billing and collection, charges they get back from the local telephone companies. He stated that each state is different in their price structure. MCI factors that into what they can afford to quote on a rate to the end user and what the state's expectation is for a commission percentage. MCI is in business to make money, and MCI does not make near the 35% the Commonwealth is getting.

MCI did not know how many bids were submitted in Virginia until the meeting today. They assumed it was three or four, and they learned today it was one other bidder. When you look at the bid specifications, MCI is not sending an invoice to the Commonwealth for the inside wiring, the recording equipment, and the phones on the walls. They pay for that themselves. They generate their revenue through the inmate family members who pay MCI, and MCI pays the Commonwealth a commission on the revenue generated. Another factor is MCI pays a commission on whether the call was billed, whether it was collected, and he noted there is a bad debt problem in this market. He stated that the industry trend now is to move customers to where they are billed directly instead of depending on a local telephone company to bill and collect on MCI's behalf.

At this point, he entertained questions. He mentioned the earlier question of where do Virginia rates stack up, and he stated Virginia should be on the low side as compared to the median. And if the Board wants MCI to compare rates to the 17 states they have, they would be willing to do that. As far as rates, in Virginia, for the first minute you have a surcharge and then you have a per-minute rate. And it depends on the call type. Local calls are \$.90 a minute in Virginia no matter how many minutes you are talking. That is the least expensive rate. The local rate is a \$1.00 surcharge, and the local rate, if somebody prepays in advance, is \$.90. That is collect. Prepaid is collect and non-prepaid is collect, also. Under the new agreement, the collect call recipient has the ability to receive calls through the local telephone company or through MCI directly. But they now also have an option of prepaying for calls, which would effect about a 17 percent savings over the previous rates.

Mr. Socas illustrated the following: There is a pool of money out there that the state is going to collect the commission on and that varies by state. Virginia has set 35 percent. MCI is in the business to be a business and make money. His question then was how does the interests of the families, or the customers who are bearing the brunt of these costs, play a role in this process. MCI's response was the families should go to the Legislature and say we want lower rates, you give up your commissions. Mr. Socas noted that if MCI has not increased its margin in this contract, why have the rates gone up? MCI responded that the rates have gone down. Mr. Johnson stated that all the rates went down, and one reason the contract was held up was because at the last moment it was discovered that the local rate would actually be going up, and the Department went back to negotiations to ensure the local rate would go down.

There were no other questions of Mr. Viehaus. The Chairman thanked him for coming and for his presentation. He also thanked Ms. Sager for her presentation.

At this point, Mr. Socas enquired that as the inmate families are bearing the cost of the calls, how has the price of the calls changed in relation to the wages the prisoners are

making in the prison work system; has there been an increase, decrease or has it remained the same? Mr. Johnson responded there has not been a pay increase for inmates since 1985, and he has complained about that steadily but the same people that want the commission have not seen fit to give increases in direct inmate costs. He agreed there is a need for an increase in pay for inmates. In fact, the Department is trying to do that in a small way but it cannot do anything significant without additional appropriations.

IV. Liaison Committee (Mr. Proffitt)

Mr. Proffitt noted he and the Committee met on May 17, 2006, Chaired by Roy Cherry. Other Board members present were Ms. Fraser and Messrs. Burrell, Hester, Hudson and Mitchell. The March Committee minutes were approved, and Mr. Clyde Cristman, Deputy Secretary of Public Safety, was also in attendance.

At this time, meeting attendees representing Virginia CURE departed the meeting room.

Mr. Proffitt reported an update to the Department's capital outlay projects stating that St. Brides' Phase I is completed. The Department continues its work on Phase II, which is a Level II facility with a cost of \$32.475 million and which will yield an aggregate of 800 beds between two, 400-bed units scheduled for completion in July of 2007. It was explained that the differences in the cost of the two Phases is attributed to Phase I including all of the support for the entire institution, where Phase II includes housing only. The Tazewell medium-security facility (1,024 beds) will cost \$68.645 million and completion of the project is scheduled for March, 2007. It is a Level III facility. And, the second medium-security, 1,024-bed facility is located in Pittsylvania County with a price tag of \$73.553 million and with completion of that project scheduled for May, 2007. He noted that the locality is responsible for doing the wastewater treatment for that facility. It is also a Level III facility. And, the Deerfield expansion is on schedule for 600 beds (three, 200-bed units) at a cost of \$21.908 million. Estimated completion of this project is November, 2006. It is a Level II facility.

Mr. Bill Wilson of the Local Facilities Unit presented the Committee with the local jail construction projects ongoing across the Commonwealth. The **Loudoun County Jail** was the first project discussed. This is an ongoing project involving an expansion on an expansion. The first phase approved was a 196-bed expansion at a cost of \$19.17 million. The project is scheduled for completion in June or July, 2006. The second phase that is ongoing is a 264-bed expansion at a cost of \$33.558 million. **Eastern Shore Regional Jail** is on schedule with its construction. This is a \$17 million project with 148 beds. It is scheduled for completion at the end of 2006, with a move-in date of January or February, 2007.

Mr. Wilson also provided the Committee with the population figures for the Department and the jails. The Department's population as of May 8, 2006, was 31,983, including 22 contract prisoners. Jails had a population of 26,463 as of March 21, 2006, with 1,803 federal prisoners. The jails' capacity has increased 306 since the last meeting with the opening of the Middle River Regional Jail in Verona (City of Staunton/Augusta County/City of Waynesboro) and the closing of the Augusta County Jail. Felons out-of-

compliance were 1,575, an increase over the last report due to the closing of the reception beds at Sussex I.

The Committee was advised that the Board had requested, through the Secretary, that a meeting with representatives from the Virginia Department of Emergency Management be set for July to discuss emergency and disaster planning.

The report was concluded. No other action on the report was required.

V. Administration Committee (Mr. Hester)

There was no Administration Committee meeting this month.

Mr. Johnson broached the subject of naming of the two new facilities currently under construction. He noted the Department has not had much of a response from the localities wherein they had been solicited to suggest names for the facilities in their localities, and then those names would be presented to the Board for a final decision. He stated he would make an effort, between now and the next meeting, to wrap the process up but that if there was no decision made by that time, that the Department might just go ahead and use generic names temporarily in order to get them on the books.

Ms. Fraser asked the Director about any planning the Department might be doing regarding the Avian Flu pandemic. She wondered where the Department is and what it is doing for employees as well as inmates. The Director stated staff has attended a number of meetings and is collecting information from health officials in order to develop plans. Mr. Cristman noted the Director will be getting some training on this issue very shortly.

At this time, Mr. Socas enquired as to how best to support the Director's efforts on the minimum wage question because it seemed like an issue where the Board could be helpful in providing some visibility. The Chairman stated if Mr. Socas felt it was something the Board wanted to get involved with as far as trying to influence the General Assembly, that would be fine.

By *MOTION* duly made by Mr. Socas, seconded by Ms. Fraser, it was *APPROVED* by verbally responding in the affirmative that the Board write a letter to the Secretary in support of the Department's efforts to raise the pay of inmates working in correctional facilities (Burrell, Fraser, Hudson, Kallen, Mitchell, Proffitt, Socas). There was no further discussion, and there were no opposing votes. The Chairman's vote was not required as there was no tie vote on the Motion. Mr. Wright was absent.

VI. Correctional Services Committee Report/Policy & Regulations (Ms. Fraser)

The Committee met on May 16, 2006, with the following Board members in attendance: Messrs. Hester, Hudson, Proffitt and Ms. Fraser; staff present included Mr. Bill Wilson. There were several guests appearing before the Committee. First was Ms. Jan Dow, who is the manager of the Policies & Initiatives Unit with the Department, who appeared to inform the Committee she had been recently advised by the Department's Research Unit

of a proposed change to the Board's Regulations on Human Subject Research, specifically the protection of human subjects. As Ms. Dow was not on the agenda, the Committee cannot vote on any changes. Ms. Dow is expecting the exact wording changes within the next 60 days and will have them for the July meeting. Ms. Dow did provide a preliminary review to the Committee members.

Also appearing before the Committee was Captain Brian Michaels of the **Richmond City Jail. The jail had an audit in February, and they were appealing a finding of non-compliance on Standard 6VAC 15-40-170, which deals with the accountability of work release inmates.** During the audit, it was found that the jail had failed to adequately meet the Standard and did not have documentation. Captain Michaels agreed that they did not have documentation because they were not actually initiating calls to the inmates to see where they were. They had a system in place but it was not adequate for this particular Standard. He has changed the policy in order to verify an inmate's location within the community while on work release and to have random job site visits while they are in the community, and they will have telephone contacts and these visits. The jail made the change and it was only two weeks prior to the audit and they did not have prior documentation. The Committee, after much discussion, decided to deny the appeal and makes the following recommendation to the full Board:

By *MOTION* duly made by Ms. Fraser, seconded by Mr. Hudson, it was *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Mitchell, Proffitt, Socas) that the *APPEAL BE DENIED*. There was no further discussion, and there were no opposing votes. The Chairman's vote was not required as there was no tie vote on the Motion. Mr. Wright was absent.

Also appearing before the Committee was the **Sheriff of Northampton County, Jack Robbins, his Chief Deputy, David Dowty, and the Clerk of the Works, Mr. Jim Chapman. They were at the meeting to discuss the jail's audit, and the recommendation for decertification of Northampton County Jail. That jail has had a long history of failure to comply with Standards, specifically Life, Health and Safety Standards.**

At its most recent audit in the first part of May, the jail failed to meet 27 of 122 Standards, and of those 27 Standards, seven of them dealt specifically with Life, Health and Safety issues. For example, they had no training for staff in CPR and first aid, their shanks did not match with the registration that they had in the jail, etc. They had some major Life, Health and Safety issue, which is a long standing problem with the jail. The Sheriff came and pleaded for mercy. He stated his background was in law enforcement, and he had depended on staff to run the jail, and the staff was not getting the job done. The Committee let him know he was ultimately responsible. He went on to explain that the jail has had numerous problems; they have an antiquated facility, they have a high turnover rate and poor salaries but that does not absolve him of getting the job done and having those Life, Health, Safety Standards met. He informed the Committee that since the audit, all of the Standards have been corrected, except for the CPR and First Aid training, and they have that scheduled for the end of June. The Sheriff went on to say he was embarrassed, and he assured the Committee it would never happen again. He also

introduced Jim Chapman, who he is recommending to be the new jail administrator when the new jail opens in early 2007.

After much discussion, the Committee decided to recommend that the facility not be decertified but be deferred for 60 days, during which time the Department will continue random visits to ensure compliance with the Standards.

By *MOTION* duly made by Ms. Fraser, seconded by Mr. Burrell, it was *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Mitchell, Proffitt, Socas) that the decertification be deferred for 60 days in order for staff to perform independent, random checks to ensure the Standards are being met and that a strongly worded letter be sent to the Sheriff to that effect. The letter was read into the record as follows:

“Dear Sheriff Robbins, as you are aware, on May 16, 2006, the Corrections Services Committee reviewed the recommendation by the Compliance and Accreditation Unit to decertify the Northampton County jail. The Committee’s recommendation to the Board of Corrections was that the Northampton County Jail be given a 60-day deferment in order to give you one last chance to bring the jail into compliance. The Board has agreed with that recommendation, and you are hereby notified of the 60-day deferment in the decertification process.

Although the Board recognizes that you are operating with an antiquated facility, the majority of your non-compliance issues are the lack of documentation. This has been a problem at the facility for many years. During the Committee review, you related that you would be changing the personnel handling the documentation. This was the main reason the Committee made the recommendation for the deferment.

Staff from the Compliance and Accreditation Unit will be conducting unannounced inspections within the next 60 days to check on your progress. They are available to assist you with any questions you may have regarding the certification process or the documentation you may need.

On July 18, 2006, at 1:00 p.m., the Correctional Services Committee will review the recommendations of the Compliance and Accreditation Unit. You are invited to attend that meeting. I wish you well on your endeavor.”

There was no further discussion, and there were no opposing votes. The Chairman’s vote was not required as there was no tie vote on the Motion. Mr. Wright was absent.

The Committee Chairman continued her report and asked the Board to accept the following Committee recommendations:

Unconditional Certification as a result of 100% compliance for Wise Correctional Unit #18; and

Unconditional Certification for: Powhatan Correctional Center to include waivers for Standards 3-4128, 3-4128.1, 3-4136 and 3-4143; and, Caroline Correctional Unit

#2 to include waivers for Standards 4-4134, 4-4135, 4-4136, 4-4137, 4-4138, 4-4141, 4-4154, 4-4155, 4-4169, 4-4258, 4-4270, 4-4400 (Mandatory) and 4-4507; and **James River Correctional Center** to include waivers for Standards 4-4132, 4-4135, 4-4138, 4-4139, 4-4141, 4-4155 and 4-4270; and **Baskerville Correctional Center** to include waivers for Standards 4-4132, 4-4135, 4-4137, 4-4141, 4-4154 and 4-4270.

And Jails and Lockups receiving Unconditional Certification as a result of 100% compliance were: Southwest Virginia Regional Jail (Abingdon); Middle Peninsula Regional Jail; Southwest Virginia Regional Jail (Duffield); Essex County Lockup to include the holding of male and female juveniles in accordance with Section 16.1-249(g) of the Code of Virginia; Southwest Virginia Regional Jail (Haysi); and the New River Valley Regional Jail.

And Community Corrections facilities receiving Unconditional Certification as a result of 100% compliance were Probation & Parole District #24 (Farmville) and District #27 (Chesterfield);

and Community Corrections facilities receiving Unconditional Certification were Probation & Parole District #14 (Danville) and the Harrisonburg Men's Diversion Center.

By *MOTION* duly made by Ms. Fraser and seconded by Mr. Socas, the above recommendations were unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Mitchell, Proffitt, Socas). Mr. Socas asked the question that if a waiver is granted, is it the expectation that the next time they will come into compliance. It was explained that no, once a waiver is granted for these specific instances, it will stand indefinitely. There was no further discussion on the Motion, and there were no opposing votes. One member was absent, and as a tie-breaker was not required, the Chairman's vote was not noted.

Board Motion to Suspend 2006 Unannounced Inspections

Ms. Fraser went on to recommend approval of suspension of certain unannounced inspections for seven facilities who had achieved 100% compliance during their Certification Audits so far this year. Her Motion read as follows:

“In recognition of outstanding achievement of 100% compliance with Standards, the Board approves suspension of the 2006 Annual Inspection for the Southwest Virginia Regional Jail's Abingdon, Haysi and Duffield units; New River Valley Regional Jail; Middle Peninsula Regional Jail, Essex County Lockup and Virginia Beach Lockup #4.”

By *MOTION* duly made by Ms. Fraser, seconded by Mr. Hudson, it was *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Mitchell, Proffitt, Socas) to suspend the unannounced inspections for the above-named facilities. There was no discussion, and there were no opposing votes. One member was absent, and as a tie-breaker was not required, the Chairman's vote was not noted.

As there were no other questions or further comments, the report was concluded.

VII. Closed Session

No Closed Session was held.

VIII. Other Business (Mr. Johnson)

Mr. Johnson's report was given earlier in the meeting.

IX. Board Member/Other Comment

The Chairman recognized and introduced Mr. Clyde Cristman, recently appointed as Deputy Secretary for Public Safety, and he introduced and welcomed the newly appointed Vice Chairman of the Virginia Parole Board, Ms. Carol Sievers. In addition, he asked each member for any comments.

Mr. Proffitt noted an error to Page 12 of the APA Audit report. He stated that the ADP for Keen Mountain Correctional Center should be \$53.10 not \$58.10.

At this time, the Chairman officially noted his resignation from the Board. He stated it had been a pleasure to serve the Commonwealth and an honor to serve as Chairman. He noted that the Board and Department's support has been tremendous during his tenure and appreciates everything everyone has done. He thanked staff for always providing anything the Board has asked for. And he thanked Mrs. Woodhouse for her service to the Board and for a job performed above and beyond the call of duty.

Several Board members echoed their reluctance to see the Chairman go but wished him well. In addition, Deputy Secretary Cristman thanked the Chairman for his years of service to the Board and the Commonwealth on behalf of the Governor and the Secretary.

X. Future Meeting Plans

The following information has been provided to Board Members previously and is provided now for the purposes of the record.

The July, 2006, meetings are scheduled as follows:

Liaison Committee – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, July 18, 2006.

Correctional Services/Policy & Regulations Committee – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, July 18, 2006.

Administration Committee – 9:30 a.m., Room 3054, 6900 Atmore Drive, Richmond, Virginia, July 19, 2006.

Board Meeting – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, July 19, 2006.

XI. Adjournment

There being nothing further, by *MOTION* duly made by Mr. Proffitt, seconded by Ms. Fraser and unanimously *APPROVED* (Burrell, Fraser, Hudson, Kallen, Mitchell, Proffitt, Socas), the meeting was adjourned. One member was absent.

(Signature copy on file)

CLAY B. HESTER, CHAIRMAN

RAYMOND W. MITCHELL, SECRETARY