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Barbara J. Myers, Vice Chairperson
Tamara Neo, Secretary
Anthony W. Bailey
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COMMONWEALTH
of
VIRGINIA

Board of Juvenile Justice

MINUTES
Board of Juvenile Justice Meeting
Cedar Lodge Training Room
1701 Old Bon Air Road
Richmond, Virginia

January 10, 2012

Board Members Present: Heidi Abbott, Kecia Brothers, Barbara Myers, Tamara Neo, Kenneth Stolle, Justin Wilson

DJJ Staff Present: Ralph Thomas, Joy Lugar, Terri Stott, Andrea McMahon, Ken Bailey, Kristen McCormick, Peggy Parrish, Regina Hurt, Lillian Brooks, Ron Lemley, Barbara Peterson, Robin Farmer, Helivi Holland, Mark Gooch, Koshie France, and Deborah Hayes.

Others Present: Lara Jacobs-Assistant Attorney General, Lynda Kennedy, Jackie Conley-Smith-Norfolk JDC; Stephen Hawks-City of Norfolk Human Services; Bernard Mitchell-Lynchburg Regional Juvenile Detention Center; Dianne Gadow, Wayne Williams-Richmond JDC; Charles Kehoe-Richmond Dept of Justice Services; Shunda Giles-Richmond City Attorney's Office; Carolyn Graham-Richmond City Human Services; Curtis Stevens-DCJS; Claire Gastanaga-Equality VA; Dorothea Peters-NVJDC Commission; Kate Duvall-JustChildren; Barry Green; Will Jones-RichmondTD; Vernal Coleman-Style Weekly; Lianne Rozzell-FAVY

I. CALL TO ORDER

Chairperson Abbott called the meeting to order at 9:50 am.

II. INTRODUCTIONS

Chairperson Abbott welcomed everyone and asked the individuals present to introduce themselves.

IV. APPROVAL of November 9, 2011 MINUTES

The minutes of the November 9, 2011, Board meeting were presented for approval. Ms. Van Cuyk submitted corrections to the minutes. On MOTION duly made by Mr. Wilson to approve the minutes with corrections as noted, and seconded by Ms. Brothers, the minutes were approved as corrected. Motion carried.

V. PUBLIC COMMENT

Dorothea Peters: currently a member/chair of the Northern VA Juvenile Detention Commission. However, Ms. Peters was present today speaking only on her opinions. She said top priority is the safety and security of our staff, the juvenile detainees in our secured

facilities and the general public. She said that at present it seems politically correct to erase or ignore some issues of sexual orientation of gays and lesbians. Ms. Peters said we need to be aware and pay attention to the issues the adolescents have and those issues include sexual orientation which have been in the Board's regulations in the past. She is of the opinion that it is important that we provide a safe environment and the adolescents feel they are safe and secure in the facilities. This is necessary so that when adolescents leave the facilities they can look forward to being good to other people and being decent human beings. She asked the Board not to erase sexual orientation. Ms. Peters said this is something that is needed in the secured facilities. Sheriff Stolle asked Ms. Peters if she had any examples of discrimination or bullying in the facilities and if there were any instances of staff allowing sexual discrimination prior to 2005 or after 2005. Ms. Peters said sometimes individuals who are detention specialists are not given a checklist of what they should pay attention to and they are not going to check off what they are not required to pay attention to. They may observe examples but they will not write examples up. She knows this from clients she has represented over the past 35 years. She has represented both victims and predators who were juveniles and she knows that some of those actions existed before 2005. Ms. Peters said she thinks they continue to exist, not necessarily among her current clients. Sheriff Stolle asked if there was any evidence to support that having the language in the regulation helps or does not help the situation. If the language is in the regulation then the assumption is that people are paying attention to the language and they are looking for sexual discrimination based on sexual orientation. Sheriff Stolle asked if there is anything to suggest that the Board or the Department has changed its practices or policies since 2005 and that they are effective. Ms. Peters said she does not have the data; however, it is her understanding that the Board has not changed the regulation yet. If the Board changes the regulations, it will have an impact on the staff. Ms. Peters said she believes if the Board includes sexual orientation in the regulations, the staff will pay attention to it and this is necessary. Sheriff Stolle asked Ms. Peters if she were suggesting that the staff allows discrimination to go on because of sexual orientation. Ms. Peters is not aware of any staff allowing sexual discrimination to take place because of sexual orientation. However, she has contact with the Northern Virginia Juvenile Detention Center (NVJDC) and with her few visits to NVJDC, she is not aware that this is happening there. She, of course, has limited contact with other facilities. Sheriff Stolle said he asked this question because Ms. Peters said she hoped that Department staff would pay attention to these issues and felt that they would if the language is adopted. He said he could not believe that Department staff is allowing any discrimination to take place now. Ms. Peters said she thinks it is important to have sexual orientation included in the regulations and that staff will pay attention to what is in the regulations. She said it is her understanding that sexual orientation is in one of the regulations now and she hopes that it stays in.

Liane Rozzell-FAVY stated that she was present to reiterate FAVY's strong support for formally protecting youth in residential facilities from discrimination on the basis of sexual orientation. Ms. Rozzell's comments will be added as a part of the January 10, 2012, minutes and will be available upon request.

Claire Guthrie Gustanaga –Equality VA distributed two sets of regulations. She was present today to ask the Board to “do nothing” at this time. The Board approved the final regulations in June 2010 and the administrative process should have gone to the Registrar for publication and never has. The Board reaffirmed its approval of the proposed language in June 2011. If the Board takes no further action, the final regulations, which the Board has already approved, remains ready for publication in the Registrar. After the Board approves a regulation, it is to be published as soon as possible. Sheriff Stolle asked Ms. Gustanaga in reference to the 6 VAC35-140-50 non-discrimination section, which of the statues in paragraph one are constitutionally protected? Ms. Gustanaga said all of them to the extent

that they are in the equal protection clause. He asked which of them are specified in the constitution. Ms. Gustanaga said none of them. The constitution states that no person shall be denied equal protection under the law. Sheriff Stolle asked if it matters. Ms. Gustanaga said it matters because you would want to be able to discipline people who act in a manner that is unconstitutional or in violation of the law. Without clearly written policies, the Board is not sending an effective message to the staff. People need to know what their constitutional duties are. Sheriff Stolle asked if Ms. Gustanaga was suggesting that whether the Board removes sexual orientation or leave it in, or just change it to "you can't discriminate against any person" that it will increase the chances of litigation. Ms. Gustanaga said if the Board takes sexual orientation out and nothing else, then she believes that that will enhance the Department's potential for liability. If it appears that anyone is intentionally discriminating against gay people, it heightens the potential for a constitutional claim against the Department. If the Board changes it to "no person can be discriminated against or denied equal protection under the law in our facilities", then this would be different. However, this is not what is being proposed by counsel and by individuals who have been talking to the Board. They are saying that sexual orientation has to come out and thus making the statement that that class of people is not entitled to protection. Sheriff Stolle stated that he does not think that is what the Board would be saying. He said he thinks that the Board would be saying that it should not be a part of the other constitutionally protected provisions and Governor McDonnell's opinion as Attorney General clearly states that all people are entitled to protection and that the Constitution does as well. Sheriff Stolle stated whether the wording is changed to eliminate sexual orientation or not, he does not think that it will increase the liability for the Board or the Department. Ms. Gustanaga said Governor McDonnell came into office and struck sexual orientation from the Executive Order and people read that as the Governor saying he did not believe people were entitled to protection. Governor McDonnell then wrote an Executive Directive that was very specific and that was not what he intended that it was really important for people to understand that the Fourteenth Amendment includes discrimination based on sexual orientation. She said the Board has the opportunity not to take sexual orientation out. She said Equality VA is encouraging the Board not to take any action today. The Board has adopted the final rules twice and they recommend no further action be taken.

Kate Duvall-JustChildren: said they stand in support of Equality VA and FAVY's positions on this issue. She advised that the former director of the Department of Juvenile Justice, Barry Green, was present and had a good reflection on the task.

Barry Green: said for documented cases, they would have to ask the staff who keeps the statistical information. On the incident report, there is no specific field for someone claiming they have been discriminated against because of sexual orientation. Mr. Green said he spent a lot of time in the facilities in the evenings. He talked to the residents and staff. The residents would talk to him, not about formally being discriminated against, but about matters that might have made them uncomfortable; he would talk to staff and would talk to the resident again when he was in the facility and to his knowledge, those issues were resolved. He said the ombudsman assigned to the facilities probably get the bulk of those cases. There is a formal and informal process. If a resident feels that there is a problem, they will go to staff first, if they are not comfortable with staff, they will go to the ombudsman whose responsibility is to resolve this informally. As for the language being left in or taken out, he feels that it does send a message when it is stated that it is important enough to leave the language. Individuals need to be aware that it is a legitimate issue.

Tim Smith-represents the juvenile detention centers across the Commonwealth. Mr. Smith stated whether the Board makes the decision to leave the language in or take it out,

detention is in the business of protecting youth and it will continue to be in their policies and procedures to protect this class and all other classes.

VII. OTHER BUSINESS

C. Proposed Residential Regulations: The Board discussed and agreed to amend the agenda to move this discussion forward.

Ms. Van Cuyk gave an overview of the current regulations, the proposed regulations, and the path the regulations have gone through to be presented to the Board today as well what the available options are in the future as it relates to residential regulations. Ms. Van Cuyk said there are currently two sets of regulations governing residential facilities. One is a holdover from the interdepartmental regulations. It contains provisions relating to an assortment of facilities including governing “mom & pop” group homes regulated by the Department of Social Services (DSS). The regulations were created by DSS and the Departments of Mental Health, Education and the Board of Juvenile Justice. The second set the Board of Juvenile Justice created to supplement the interdepartmental regulations due to the unique nature of the facilities regulated by the Board. Included in the Board regulation was the provision distributed by Ms. Gustanaga relating to the non-discrimination of juveniles in facilities. Separate and apart from the residential facilities, we have non-residential regulations. Non-residential regulations also have a non-discrimination clause relating to sexual orientation. Those regulations became effective on July 1, 2011. The first June 2011 Board meeting was unique in that the Board still retained authority over the residential regulations but not for the non-residential regulations and those regulations proceeded to go into effect July 1. It is the Department’s intent that should the Board move forward on issues such as this; the Department will remove any illegal provisions in the regulations that exist which would include the non-residential regulations. The issues before the Board today are the three sets of residential regulations which have been in the works since 2008.

In 2008, Senator Hangar introduced legislation which basically abolished the interdepartmental regulations and required each board to promulgate their own regulations. In April of that year, the Board of Juvenile Justice agreed to a long-term work plan which was they would take the interdepartmental regulations, call them the interim, adopt them in their entirety and then establish a workgroup to take the two regulations, merge them together and then separate them out for the three unique types of facilities regulated by this Board—juvenile correctional centers; secure juvenile detention centers, group homes/halfway houses. The workgroup was established. There were three members present who participated on the workgroup. The workgroup met approximately thirty times over a two-year period in order to draft a proposed regulation that was approved by the Board in June 2010.

In June 2010, the Board did approve the regulations. The regulations did include the provision that you shall not discriminate on the basis of sexual orientation as well as the other constitutional and federally protected classes. Thereafter, in addition to the Administrative Process Act, the Administrative Process Act works in conjunction with an Executive Order, that sets forth what reviews happened after Boards, which are called the regulatory authority in the APA, reviews and approves the regulations. After regulations leave the Board, it goes through the Department of Planning and Budget, the Office of the Attorney General, Secretary of Public Safety and the Governor’s Office. These entities review the regulations to ensure they are in compliance with the laws of the Commonwealth and federal statutory regulations. Through this review, it was determined that the proposed regulations were not in accordance with the laws of the Commonwealth and one provision should be removed from each proposed regulation. The Department

was advised as such. The Board of Juvenile Justice met in June 2011, and was advised that there was a conflict and, in order for the regulations to move forward, those provisions would have to be removed. Otherwise, all the other proposed changes (Ms. Van Cuyk called the Board's attention to a memo detailing all of the other changes in the comprehensive regulatory regulations) could not move forward because of the disagreement regarding this provision. The Board agreed to meet again at the end of June to determine the next step. The Board decided that it did not want to make the amendments that were required by the executive branch review. As such the regulations have been on "hold" since June 2011. No action has been taken. Leaving this provision in the regulation will not allow all the other changes to become effective. Regulations will not move forward while we are in this "regulatory limbo". Some facilities have started drafting their policies and procedures hoping that the regulations will become effective and have requested some form of finality on this matter.

In order for the dispute between the language to be resolved, either the Human Rights' Act has to be amended, the Governor's executive branch review have to change their opinion, or the Board of Juvenile Justice has to take a different action. The Department has worked with the Attorney General's Office to create language that everyone can agree upon relating to ensuring that the residents in this class are protected.

Additional discussion ensued regarding sexual orientation language in the regulations. Ms. Myers said she was happy to have served on the committee drafting the juvenile correctional center proposed regulations. The committee did a lot of work and she was concerned that the Board was being held up in implementing these regulations.

There was a lengthy discussion regarding adding or not adding the wording sexual orientation in the regulations. Ms. Van Cuyk advised that one of the primary reasons for conducting the regulatory overhaul was the confusion and issues relating to interpretation and applicability because the previous interdepartmental, now called interim, regulations had many provisions that did not apply to the Department of Juvenile Justice facilities. The regulations were applicable to smaller group homes. All of the facilities regulated by the Board of Juvenile Justice, with the exception of one which is a contract, are governed by a governmental entity. Each committee went line-by-line, section by section, determining what was applicable, necessary and if it worked for the appropriate functioning of the facilities to ensure that we were not being overly oppressive with the regulations.

The committees consisted of DJJ staff members, including Certification Unit staff members as well as JCC administrators; detention home administrators; and group and halfway houses administrators. The members were there looking from their unique perspective to ensure that the regulations were appropriate and applicable. One of the biggest changes was to the training section. Training requirements were not consistent, so the committee brought this piece together and separated the training piece into initial orientation, training within first 30 days or training prior to having contact with the youth depending on staff's level; annual training; and required retraining. One section added to the JCC regulations was to ensure that parents were given contact information for someone at the JCC for whom they could have contact with as well as invitations to case planning meetings. It was deemed that this was very important to have in the regulations so that parents would feel that they had additional input and protections through the regulations. Ms. Myers said the purpose today was to try to get the regulations approved as well as be able to state a protection for kids having to do with sexual orientation. She said 50 years ago we did not pay attention to sexual orientation. But now it is a very important part of who we are. It is part of the human family and to not have that in the regulations that it is important to the

Board is not good. She said she not doing anything, as has been suggested, is not the solution because the Department will not be able to use these new regulations.

Mr. Wilson said the Board has done a substantial amount of work on these regulations. The issue today is whether we change our view on the regulations to allow them to move forward. He said he doesn't want it to appear that the Board is standing in the way of moving the regulations forward. The Board has done everything that was asked of them. These regulations have been through two successive Attorney Generals neither of which raised objection to the language. We now have another Attorney General, and opinions change; however this is not new language nor are they talking about adding new language, we are talking about language that has been in place for a considerable length of time and in the last couple of months, someone has decided to raise objections to it. While this is their right, it is also the responsibility of this Board to not only uphold the Constitution, and the Code of Virginia, but to also uphold the Board's responsibility to the youth in these facilities. If the Board believes that the language in the regulations is right, then they should stand by it.

Sheriff Stolle said he thinks the Board should make the decision about the language they want included in the regulations as long as it doesn't violate the Constitution or tries to expand the enumerated acts. He doesn't feel that the Board should accept language offered by the Attorney General. Sheriff Stolle made a MOTION and suggested addingor disability; or discrimination that violates the Equal Protection Clause of the United States Constitution, such as sexual orientation. Ms. Myers asked Ms. Van Cuyk to read the language: *Residents shall not be subjected to the following actions: ...Discrimination on the basis of race, religion, national origin, sex or disability or discrimination that violates the Equal Protection Clause of the United States Constitution, such as sexual orientation.*

Ms. Brothers made the MOTION; Sheriff Stolle withdrew his Motion and seconded the motion. Ms. Neo asked if language is referring to the U.S. Constitution, the VA Constitution or are we specifying? Ms. Van Cuyk said she did not specify because the language presented did not specify. New language was proposed. The proposed change would read: *Residents shall not be subjected to the following actions: ...Discrimination on the basis of race, religion, national origin, sex or disability or discrimination that violates the Equal Protection Clause of the United States Constitution, such as sexual orientation; any other Constitutional prohibited actions.....* If the Board approves moving forward, it will again be subjected to the Executive branch review, and Ms. Van Cuyk would report back to the Board once that process is completed. Ms. Abbott asked if we are not making them a protected class, they are just highlighting an example of types of protections. Ms. Jacobs said she cannot comment on that language because it is not language that the Attorney General's Office would approve. This language actually looks like it does enumerates sexual orientation as a class protected by the Equal Protection Clause of the Constitution on a more strict, scrutiny basis.

Ms. Neo asked Ms. Jacobs what would be the timeframe for approving the regulations by the Attorney General's Office if the Board moved the regulations forward. Ms. Van Cuyk said there are specific timeframes in the APA for certain components of the review and she believes the timeframe for the AG's Office is about 14 days; however, the Governor's Office does not have a timeframe for his review. She advised that the review process from the NOIRA stage to the proposed stage took approximately 11 months. The regulations goes from the Department of Planning and Budget, to the AG's Office, to the Secretary of Public Safety's Office and then to the Governor's Office. An objection to the proposed regulations can be made at any time as to the legality of the provisions. Ms. Abbott asked Ms. Van Cuyk to read the language again. The language on the subdivision would read:

Residents shall not be subjected to the following actions: ...Discrimination on the basis of race, religion, national origin, sex or disability or discrimination that violates the Equal Protection Clause of the United States Constitution, such as sexual orientation..... Sheriff Stolle suggested including language the Governor has already approved. He made reference to Executive Directive 1 (2010). The language could read *Discrimination on the basis of race, religion, national origin, sex or disability or discrimination that violates the Equal Protection Clause of the United States Constitution, such as sexual orientation.....* and then pick up the language *which states the Equal Protection Clause of the United States Constitution prohibits discrimination without a rational basis against any class of persons. Discrimination based on factors such as one's sexual orientation or parental status violates the Equal Protection Clause of the United States Constitution. Therefore, discrimination against enumerated classes of persons set forth in the Virginia Human Rights Act or discrimination against any class of persons without a rational basis is prohibited.* Ms. Abbott asked if the Board wanted to keep the original language or incorporate. Ms. Myers said the Board needs to amend the Motion already presented. She suggested that the Board amend the motion in the way Sheriff Stolle suggested. Sheriff Stolle if the Attorney General's position is still the same, the Board should vote on the first motion. Ms. Myers asked Ms. Van Cuyk to read the motion again. The language on the subdivision would read: *Residents shall not be subjected to the following actions: ...Discrimination on the basis of race, religion, national origin, sex or disability or discrimination that violates the Equal Protection Clause of the United States Constitution, such as sexual orientation.....* Motion carried. Ms. Neo opposed.

VI. COMMITTEE REPORTS

A. Secure Services Committee

1. Certifications

Fairfax Juvenile Detention Center: The audit finding of September 13-14, 2011, noted one non-mandatory deficiency. On a subsequent monitoring visit found Fairfax Juvenile Detention Center to be compliant.

On MOTION duly made by Mr. Wilson and seconded by Ms. Myers to certify the Fairfax Juvenile Detention Center and Post-Dispositional Detention Program for three years. Motion carried.

Lynchburg Regional Juvenile Detention Home: Audit findings noted two non-mandatory and 4 mandatory deficiencies with one repeat deficiency from a previous audit. Mr. Wilson asked Mr. Mitchell to elaborate on this deficiency.

On MOTION duly made by Mr. Wilson and seconded by Ms. Brothers to continue the current certification of Lynchburg Regional Juvenile Detention Home to June 13, 2012, with a status report on compliance with corrective action plan. Motion carried.

Norfolk Juvenile Detention Home: Audit findings noted three non-mandatory and 3 mandatory deficiencies with two repeat mandatory deficiencies from a previous. Ms. Kennedy elaborated on the status of the mandatory violations. She advised that every issue has been addressed or are being addressed.

On MOTION duly made by Mr. Wilson and seconded by Ms. Myers to continue the current certification of Norfolk Juvenile Detention Home to June 13, 2012, with a status report on compliance with corrective action plan.

2. Issues

Richmond Juvenile Detention Home (RJDC): At the November 9, 2011, Board of Juvenile Justice meeting, complaints were presented by the Virginia chapter of the NAACP regarding safety issues at the Richmond Juvenile Detention Center (RJDC). The Board was also advised by employees of the City of Richmond that the Richmond City Auditor/Inspector General was in the process of conducting an investigation into the allegations regarding conditions at the RJDC. The Board requested the Certification Unit of the VA Department of Juvenile Justice to present the results of a monitoring visit of RJDC, scheduled in December 2011, at the January 10, 2012, Board meeting regarding conditions at the facility. Mr. Bailey made reference to the following documents: RJDC corrective action plan, the Certification Unit's monitoring report of the RJDC conducted on December 9, 14, 15, 19, 2011, and the Richmond City Inspector General's results of their investigations. The monitoring visit revealed seven deficiencies.

Making reference to the monitoring visit report, Mr. Bailey updated the Board on the status of RJDC's deficiencies. He advised that Mr. Kehoe will provide additional information on the corrective action plan. Mr. Wilson asked about the certification status. Mr. Bailey replied that RJDC is currently certified for three years. Mr. Wilson asked what would be the recommendation. Mr. Bailey said his recommendation would be to put RJDC on probationary status until June 2012, to give the Department's staff the opportunity to monitor the corrective action plans. Ms. Abbott asked Mr. Bailey to refresh her memory on the previous issues with RJDC. Mr. Bailey said several years ago, RJDC had 47 deficiencies. Many things were put in place to fix the deficiencies. The Department has been giving the Board updates on the intercom system at the Board meetings. Ms. Brothers said she recalled putting RJDC on probationary status. Mr. Bailey said this was when they had the 47 deficiencies. The Certification Unit conducted monitoring visits and the deficiencies were eliminated except for the intercom system. Ms. Myers asked about the meaning of probationary status for a facility. Ms. Van Cuyk said probationary is the temporary status granted to a program by the Board to provide a period of time in which to come into compliance with standards. Ms. Neo asked about the other statuses. Ms. Van Cuyk said there is the decertified status, in which case the facility is not authorized to house residents; certification status; and probationary status. She said there is an appeals process in the circuit court.

Mr. Kehoe introduced himself, Dr. Carolyn Graham, Mr. Wayne Williams, Ms. Dianne Gadow, and Ms. Shunda Giles. Mr. Kehoe gave a historical review of RJDC since his employment in 2009. Ms. Gadow provided an update on staff training. Ms. Neo said she was concerned that staff is not receiving the proper training to supervise the residents. Mr. Kehoe advised that all staff receives rigorous training. Ms. Gadow outlined the training process and said she has conducted a review of all training records to ensure that they are accurate. Ms. Neo asked if the RJDC conducting an investigation into the allegation that training records were falsified. Ms. Gadow said they were not conducting an interview since the Richmond Commonwealth's Attorney is conducting an investigation. Mr. Wilson inquired about the Department's position on this matter. Mr. Gooch stated the monitoring visit and review of the facility found no indication that there was any immediate danger to the residents. Mr. Wilson asked if Mr. Gooch concurred with the recommendation made by Mr. Bailey. Mr. Gooch stated that he did not agree nor disagree as he felt that it is an issue for the Board to make a decision. He does, however, feel that this is a serious event which does require continuous monitoring. Dr. Graham asked the Board to continue RJDC's certification as opposed to placing them on probationary

status. She said RJDC is serious about their services to children and she has been working closely with Ms. Gadow and Mr. Kehoe to bring RJDC up to standard. Dr. Graham said they do not minimize any of the findings by Mr. Bailey. RJDC is working on this 24/7. She asked that RJDC be allowed to come before the Board in April instead of June. She is confident that RJDC will have addressed all of the issues raised today. Ms. Neo asked Mr. Kehoe about the funding source for RJDC since she noticed that they have to go the City of Richmond for repairs. Mr. Kehoe advised that RJDC receives funding through VJCCCA, a federal grant via DCJS, and state funds. Ms. Neo asked if the “upgrades” to the intercom system and security cameras are actual upgrades or are they a replacement. Mr. Kehoe said it is both. In some instances the cameras need to be replaced and the software has to be upgraded.

Ms. Myers said a lot of the issues with RJDC have to do with stuff being broken and not having the money to fix it. She said she is very concerned with the problems related to training, re-training, and inadequate documentation to show compliance. She said this is not a new facility that does not know how to maintain compliance or keep records straight. She agrees with the probation; however she feels that the probationary period should be extended to June instead of April to give RJDC more time to fix the issues. Mr. Wilson said he offered the April date because that was the time RJDC requested. Ms. Myers asked if this puts pressure on Mr. Bailey’s team to report back in April. Mr. Bailey said this does create some pressure, but they can have the report by the April meeting. Ms. Abbott asked if RJDC can meet the requirements by April. Mr. Bailey advised that Richmond’s corrective action plan states that the corrective action will be completed by March 31. Ms. Brothers said it should be noted that placing RJDC on probation is not just for training issues; it is all the other deficiencies as well. Ms. Van Cuyk said, as long as there are no health or life safety issues, and the Board is satisfied with the corrective action plan, it is the Board’s discretion as to whether or not they change RJDC’s status at the April meeting.

On MOTION duly made by Mr. Wilson and seconded by Ms. Neo to place the Richmond Juvenile Detention Center on probationary status until the April 11, 2012, Board meeting. At the April meeting, the Board will have an opportunity to hear from Mr. Bailey and the efforts of the Department; have resolution on the Commonwealth’s Attorney’s investigation; and further information from the City of Richmond’s IG’s office. This additional information will further educate the Board to make a decision as to whether or not to continue the probationary status or certification. Motion carried.

B. Non-Secure Services Committee:

1. Certifications

Third District CSU (Portsmouth): On MOTION duly made by Ms. Myers and seconded by Mr. Wilson to certify the 3rd District Court Service Unit with a letter of congratulations for 100% compliance. Motion carried.

18th District CSU (Alexandria): Audit findings of September 28, 2011 noted two deficiencies which were repeats of deficiencies in the September 9, 2008 audit. Ms. Brooks advised the Board of actions taken by Alexandria CSU to address deficiencies.

On MOTION duly made by Ms. Myers and seconded by Ms. Brothers to continue the current certification of the 18th District Court Service Unit to June 13, 2012, with a status report on compliance with corrective action plan. Motion carried.

VII. OTHER BUSINESS

A. VJCCCA Plan

On MOTION duly made by Ms. Myers and seconded by Mr. Wilson to amend the FY2011-2012 VJCCCA plan for Campbell County in accordance with the Request to Amend. Motion carried.

B. VJCCCA Recidivism Study Plan

Ms. Van Cuyk stated that concerns were raised at the September 2011 Board meeting regarding the performance and outcome measures for the VJCCCA plans in that the current performance measures are yearly re-arrest rates as well as program completion. The Board requested that the Department do a more comprehensive review, namely a 36-month recidivism analysis. The Department conducts its analysis in the summer and it requires staff to request information from five other agencies. All of the VJCCCA plans had not been included for the 36-month period. At the June Board meeting, the Department will provide a 24-month recidivism analysis for each plan individually as appropriate to the type of program. Recognizing that this might have some interpretation issues, given the size of some plans and kids being placed in multiple jurisdictions, the information will be given by program as well as FIPS so that the Board can evaluate the overall usefulness of the plan or the locality. Next year the Department will report on the 36-month analysis.

Ms. Valentine distributed a document outlining the VJCCCA plan submission and review process. She said there is a very specific planning process that takes place. A team is established by the plan contact. The plan requires input from either the chief judge or judges within the jurisdiction. The court service unit directors are required to give input and if there is a delinquency program in that locality, the director of that agency is also required to give input. All localities are encouraged to bring everyone to the table to develop their individualized plans. This is a very time consuming process for the localities. They look at current programs, evidenced-based programs, and other programs to formulate a plan to submit to DJJ. Ms. Myers thanked Ms. Valentine for putting the document together. She asked what year was the VJCCCA program started. Ms. Van Cuyk advised that it was started in 1995. It was also noted that the dollars have been significantly reduced. Director Holland advised that the Secretary of Public Safety's office is going to require performance measures in order to ensure that funding is distributed in an equitable manner.

D. Regulatory Update:

Ms. Van Cuyk directed the Board's attention to pages 47-48 in their packet. **Regulations Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs: 6VAC35-20; Regulation Governing Juvenile Group Homes and Halfway Houses: 6VAC35-41; Regulation Governing Juvenile Correctional Centers: 6VAC35-71; Regulation Governing Juvenile Secure Detention Centers: 6VAC35-101; Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs: 6VAC35-60; and Minimum Standards for Research Involving Human Subjects or Records of the Department of Juvenile Justice: 6VAC35-180.** She said there are no changes in the regulations since the last Board meeting.

Ms. Van Cuyk introduced two new employees with the Regulatory, Legislative and Research Division, Barbara Peterson Wilson and Kristin McCormick.

E. Media Events

Director Holland advised that the Department has not done anything significant with the media since they met with the VA Editorial Board. The Department's media event is called "First Fridays Films"; we will be showing films on juvenile justice. On Friday, January 6, Department staff viewed a film titled "Young Kids, Hard Time". This was an analysis of the Indiana juvenile system in which they allow children as young as 12 years old to be housed on a small part of their facility until age 18, and then the youth is walked through another gate to the adult system. Staff discussed what we do in Virginia versus what is happening in Indiana. The next film will be DJJ's orientation video for incoming residents. The Department received a grant to make this video. Many of DJJ's own employees are in this video. The Board members are invited to attend.

VIII. DIRECTOR'S COMMENTS: Director Holland shared the following:

- The Secretary of Public Safety's Office has gone to a COMStat form of reporting on agencies. The meetings will be held the first Tuesday of each month and is data driven. Agencies were advised that they will have to do more in regards to measurements as it relate to programs. Ms. Myers asked what degree of involvement or direction the Department wants from the Board in talking about measures and outcomes. Director Holland said the Board has to feel comfortable that they are giving the money to localities and approving plans that are working. The Department will provide the Board with statistical information to help with this process. 2012 will be the year of evaluation, measurement and performance.
- Also, though the Department is never proud of its recidivism rate, however individuals are cautioned to recognize that the Department's definition of recidivism is much more comprehensive than other states. Director Holland said she serves on the CJCA's recidivism committee. She will be attending the CJCA conference which is also a part of the American CA conference next week. The committee is trying to come up with a national definition for recidivism.
- Director Holland said Happy New Year to everyone and the Department look s forward to another successful year. The re-entry coordinator has been hired and she is developing a litany of things the Department must do. The Department will have a presentation at either the April or June meeting to update the Board on what staff has accomplished in the last six months.
- The gang coordinator is also very active. Twenty-five court service units have gang prevention programs. The gang coordinator will update the Board on its activities at the June 2012 meeting.
- Virginia will probably be one of more than 20 states that will be working with the University of Maryland with their Center for Educational Excellence in Alternative Settings. Will advise the Board in April as to whether or not Virginia was chosen to participate and provide additional information on the program. This is a free program.

IX. BOARD COMMENTS

- Chairperson Abbott noted that the date for the next Board meeting is April 11, 2012, instead of April 12.
- Ms. Myers asked if there are any special events around welcoming families. Will it be just public comments? Ms. Van Cuyk said the Board will hear from Richmond that day, so there will be an agenda item.

X. NEXT MEETING

The next meeting will be held on Wednesday, April 11, 2012, at the Cedar Lodge Training Center starting at 7 pm.

XI. ADJOURN

Having no other business, the meeting adjourned at 2:15 pm without objection.

Respectfully submitted,

Deborah Canada Hayes
DJJ Board Secretary