

**COMMONWEALTH OF VIRGINIA**  
**BOARD OF CORRECTIONS**

Regular Meeting.....November 17, 2004  
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  
Reneé T. Maxey  
R. W. Mitchell  
Sterling C. Proffitt  
Absent.....W. Randy Wright

**10:00 a.m., Wednesday, November 17, 2004**  
6900 Atmore Drive, Richmond, Virginia

**The meeting was called to order.**

**I. Board Chairman (Mr. Hester)**

The Chairman welcomed attendees and thanked them for coming. Prior to commencing with the Board agenda, the Chairman noted the presence of the Secretary of Public Safety, John W. Marshall. The Secretary made a few remarks, thanking the Chairman for his leadership and apologizing for not attending more meetings. He also thanked the Board members for their service and stated he appreciated the working relationship the Secretary’s Office has with the Board and the Department.

The Chairman thanked the Secretary for his comments.

**Motion to Approve September Board Minutes**

Mr. Hudson noted (in Section IX during Mr. Mitchell’s comments) that the minutes should read the Board would like to be notified when facilities are opened so they can attend, not “that he would like to be notified when facilities are opened so that he can attend.” Mr. Mitchell responded by stating that a little further down, it indicates the Board. No change was required. The Chairman clarified that if there are any new facility openings, the Director will ensure that the Board is notified so that they can attend.

Deputy Secretary Barry R. Green then noted that a correction needed to be made on Page 3 of the minutes, during his presentation; that being, in the second paragraph, second sentence, to change the number of total probation violators from 2,594 to **4,597**.

That being said, the *MOTION* to approve the minutes was duly made by Mr. Hudson, seconded by Mr. Burrell and unanimously *APPROVED AS AMENDED* by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Mitchell, Proffitt). There

were no opposing votes. As a tie-breaking vote was not necessary, the Chairman's vote was not noted. Ms. Maxey was not present at the time of the vote, and Mr. Wright was absent.

## **II. Public/Other Comment (Mr. Hester)**

The Chairman noted for the record that Mrs. Mary Venema was present as a member of the general public. Upon asking if she wanted to speak, she responded that she had a statement she would like to read but did not indicate what the statement was about. The Chairman agreed to her request, she presented a copy to Mrs. Woodhouse, and then she read her seven-page statement. (Statement read into the record in its entirety) As the statement was recorded and a typewritten copy provided, it is not reprinted in the minutes but is in the Board's official file as a matter of record.

After her reading, the Chairman thanked Mrs. Venema. No Board action was required.

The Chairman then noted the presence of the Chairman of the Parole Board, Mrs. Helen Fahey, and thanked her for her continued interest in and attendance at the Board meetings.

## **III. Presentation to the Board (Mr. Jabe) (Mr. Gary Bass, Manager, DOC Offender Management Services)**

By way of introduction, Mr. Jabe reminded the Board that back in January of this year, an inmate by the name of Ausley died and at that time some questions were raised as to how the Department made cell assignments. Since then, the Department has undergone a very intensive review of that process. Mr. Jabe introduced Mr. Gary Bass, the head of Classification Services, who headed up the review. Mr. Jabe stated the Department had changed the policy and now believes that any concerns that existed have been addressed and corrected. He then turned the meeting over to Mr. Bass.

At this time, Mr. Bass passed around a copy of the Department's evaluation developed as a result of the overall review. He noted the Department has always had a policy of reviewing double-cell assignments and this was not something new that was started as a result of this incident. He stated that the double-cell assignment of inmate Ausley was reviewed at the time but not to the extent that this form and new process now requires. Previously, reviews were done on information available to staff at the moment. They did not do an historical review of an inmate's case, nor did they did not go back and review the pre-sentence investigation and read psychological notations when assigning inmates.

He explained that cell assignments are made two different ways. If an inmate gets assigned to a facility, he has to be put into a cell and most cells now are double cells but sometimes there is only one bed available. If that is the case and if after review there is only one bed available in a double cell and the Department feels the two offenders are not suitable to be housed together, the Department can move people around. In the past, that review was done based on the nature of their crime, their behavior, and things that were readily accessible to the Department.

Since that time and during the current review, it was decided what was needed was to go back and do a more thorough review of mental health issues in particular, which is where the new form comes in. Input was received from staff from the field in order to develop the form. As a review is already undertaken in reception for any new inmate that comes into the system, the Department had to go back and review each of the inmates already in the system, this time doing a records search, reading their mental health notes, reading their pre-sentence investigation, and looking at prior convictions. They did a thorough review, going through every piece of information that the Department had, and with the new form, in conjunction with that review and the input from security, medical and mental health, if any restriction needed to be placed on them, the Department noted it on the file on the alert card.

Mr. Bass explained there are two inmate files, one in the institution and one in Central Criminal records, and the very first thing you see when you open a file is the red sheet or alert card. Anything that the Department needs to be alerted to is written on that alert card. Now the process is that once the Department has completed this review, any restrictions that have been decided need to be placed will be placed on that alert card so that at the time a person is trying to review a double-cell assignment, they no longer have to go back and do an exhaustive study. It has already been done.

Mr. Bass concluded his presentation by stating the Department has done an exhaustive search of its records on every inmate and it can now say a person is suitable for a double-cell assignment but with restrictions, which might mean that the person should be restricted from being in a cell with a sex offender or a pedophile. The Department also looks at smoking issues and gang affiliations, which is nothing new and they, too, are included on the form. But the main change made was looking more into the background of the offenders themselves and trying to determine if people are compatible so that when a request comes up, if an inmate comes to a facility now and you are getting ready to assign him to a cell, the first thing the person making the assignment does is to look at this alert card to see if there are any alerts, and then if not, they still have to look at the two people involved and say neither one of them has a restriction on them, but are they compatible?

Ms. Fraser asked how far along in the total review process the Department was. Mr. Bass responded that Mr. Jabe had given the staff until January to have it completed, but he feels they are just about done. He noted, however, that this is an ongoing process for new inmates coming in and if they are former inmates coming back in. In addition, Mr. Bass noted that cell assignments are not made centrally. Headquarters assigns inmates to an institution but cell assignments are ordinarily not reviewed here and only as a result of the total review requested by Mr. Jabe, that Headquarters is doing some additional review. They are overseeing this current process where normally they would not. Ordinarily, offenders are assigned to an institution and institutional staff is responsible for actually putting them in a bed in a cell and Headquarters does not get into it because cell assignments are better suited for the institutional staff to do because they know the inmates. The building officers get to know those inmates quite well and their concerns and their needs. Many times when a request comes through, on the surface it looks okay,

but if you go to the building officer, he can tell you the history and sometimes it is not quite what it seems.

Mr. Bass closed with the statement that he feels this process is going to help the Department to avoid situations in the future. There were some additional Board member questions. The Chairman thanked Mr. Bass. No action on the report was required.

#### **IV. Clarification to Previous Board Action on September Minutes**

At this time, the Chairman redirected the Board to the previously approved September minutes. Mrs. Woodhouse informed the Board that clarification was needed in response to Mr. Green's amendment to the minutes because it applied to the July not September, 2004, minutes. She suggested the Board might want to modify its original motion to reflect approval with no amendments to the September Board minutes and to reflect an amendment to the previously approved July Board minutes.

That being said, by *MOTION* duly made by Mr. Burrell, seconded by Mr. Hudson, it was moved that the *ORIGINAL MOTION* on the *SEPTEMBER MINUTES* be modified to show *APPROVED AS PRESENTED* and *that the previously approved JULY MINUTES BE AMENDED* to show the change as prompted by Mr. Green. *BOTH ACTIONS* were *APPROVED* as indicated by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Mitchell, Proffitt). There were no opposing votes. As a tie-breaking vote was not necessary, the Chairman's vote was not noted. Ms. Maxey, who was not present at the time of the original vote, did not vote on the clarification. Mr. Wright was absent.

At this time, the Chairman noted the presence of one other member of the general public, an unnamed woman representing Virginia CURE.

#### **V. Liaison Committee (Ms. Fraser)**

Ms. Fraser noted the Committee was called to order by the Chairman, Roy Cherry, and Board of Corrections members present were Mr. Hester, Mr. Mitchell, Mr. Burrell, Mr. Hudson and Ms. Fraser. There were also Superintendents, representatives from the State Compensation Board and DOC staff.

Ms. Fraser noted Mr. Bert Jones' update on capital projects. The St. Brides' project has missed its completion date, and the contract is now in negotiations for liquidated damages with a projected completion date of January 21, 2005. However, DOC staff has asked the contractor to review that date to make sure it is feasible. The Tazewell/Pittsylvania projects are moving along as well and the Deerfield expansion is in the design/development stage and all are scheduled for 2007 completion.

Other projects discussed were the Middle River Regional Jail with a scheduled completion date of February, 2006; Loudoun County Jail, scheduled for completion in February, 2005; Virginia Beach with its addition scheduled for completion in December, 2004, and renovation in October, 2005; Southwest Regional Jail had a request for

additional funding, which was taken up during the Correctional Services Committee meeting; Chesterfield County Jail is scheduled for completion in October, 2005; Eastern Shore Regional Jail is in the design/development stage to be completed in December, 2004, bids are scheduled to be let in January, 2005, with a construction start date of March, 2005, and a project completion date of September, 2006; Botetourt/Craig Regional Jail is in the design/development stage, which should be completed by December, 2004, with construction scheduled to begin in August, 2005, and a project completion date of September, 2007; Prince William/Manassas Adult Detention Center has an estimated project start date of March, 2005, with a completion date of March, 2007; and Clarke/Fauquier/Frederick/Winchester Regional Adult Detention Center had two issues, which were taken up during the Correctional Services Committee.

Ms. Fraser noted Mr. Elliott had presented the population report, which was given to each Board member in their Liaison Committee Report. As of November 8, 2004, the prison population was 31,988, which included 159 contract prisoners. The capacity is 31,074, and there are currently 128 beds temporarily closed. Felons received were 6,978; felons released with a good time reduction, 3,628; and felons paroled was 995. Total released, 4,623.

The local jail population, currently as of September 21, 2004, 25,333, which includes 1,681 federal prisoners. The capacity is 16,940, an excess of 8,393. The Chair also expressed the progress that was made by DOC in reducing the out-of-compliance numbers. Right now it is 1,471. Felons released, 3,279; felons paroled 1,041; and total released, 3,420.

Ms. Fraser noted that Mr. Jim Matthews (State Compensation Board) had attended his last Liaison Committee meeting as he is retiring. He presented several issues for discussion. He reminded everyone that as of December 1, the salary increase is 4.82% for deputies, sheriffs and administrators and 3% for support staff. He stated that if there was a July raise next year, it would cost about \$3.3 million for each 1% increase. He noted that the jail contract beds are currently being increased this month by 20 beds, and there should be an increase of 20 beds a month until they reach 500. Currently they are at 300. He also discussed the new SNIP system that is being introduced. After 20 years, the Comp Board is doing away with the old reimbursement system. The first phase, the budget request phase, is to be operational in January and currently about 1200 people have been trained on that over the last three weeks. The personnel and the reimbursement sides will be introduced a little bit later. They are changing the process and following the state system by doing away with grades and going to the band process. They will then be more in line and they will be able to make adjustments within the bands. He also commented that right now with 1,471 out-of-compliance felons, it is a 21% reduction from last July 1. From last November, when there were 2,391 out of compliance, it is a 37% decrease. He expressed and congratulated DOC for the tremendous job they were doing in moving the out-of-compliance felons. He introduced Robyn de Socio, who is the director of budget for the State Compensation Board, and he and Mr. Hester agreed that she would be joining the Liaison Committee because she would be able to answer all the financial questions.

Accolades were given by the Chair and Mr. Hudson, both whom have known Mr. Matthews over a period of time, for his professionalism and his accessibility and always being on target. He was also presented a Certificate of Appreciation for his service on the Liaison Committee. Ms. Fraser concluded her report.

Mr. Hudson asked if correctional officers had been included in the salary increase. The answer was no, but the Secretary of Public Safety noted they were working on addressing that issue. There were no other comments. No action on the report was required.

**VI. Administration Committee**

As there were no items for the agenda, the Administration Committee meeting had been canceled. However, Chairman Hester noted that pursuant to a request from the Committee Chairman, Mr. Wright, the Department has put the quarterly overtime reports back into the old format, and the two reports provided to each member were indicative of that change. The reports were provided for informational purposes only. No action was required by the Board.

**VII. Correctional Services Committee Report/Policy & Regulations (Ms. Maxey)**

By *MOTION* duly made by Ms. Maxey, the following recommendations were presented to the Board for approval:

**Unconditional Certification for:**

**Haynesville Correctional Unit #17** to include approval of waivers for Standards 3-4136 and 3-4258; **Bland Correctional Center** to include approval of waivers for Standards 3-4130, 3-4142, 3-4128.1 and 3-4163; **Blackstone Town Lockup** with certification to hold male and female juveniles in accordance with Section 16.1-249 of the Code of Virginia; **Loudoun County Adult Detention Center, Dinwiddie County Jail, Washington County Jail, Rockingham/Harrisonburg Regional Jail, Probation & Parole District #17 (Abingdon), Probation & Parole District #40 (Fincastle), and White Post Community Corrections Center**; and **Prince William/Manassas Adult Detention Center** with certification to hold male and female juveniles in accordance with Section 16.1-249 of the Code of Virginia.

After the call for discussion, the *MOTION* was seconded by Ms. Fraser and unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Maxey, Mitchell, Proffitt). There were no opposing votes. As a tie-breaking vote was not necessary, the Chairman's vote was not noted. One member was absent.

For informational purposes, it was noted for the record that **the following jails and lockups received 100% on their unannounced inspections:**

**Carroll County Lockup; Franklin County Jail; Halifax County Jail; Hampton City Jail; Middle Peninsula Regional Jail; Newport News City Jail; Peumansend Creek**

**Regional Jail; Portsmouth City Jail and City Jail Annex; Rappahannock Regional Jail; and the Vinton Town Lockup.**

This information was provided for informational purposes only. No Board action was required.

**Board Motion to Approve Suspension of Certain Unannounced Inspections**

Section 53.1-68 of the Code of Virginia authorizes the Board of Corrections to suspend annual Life, Health and Safety inspections for those facilities having attained 100% compliance during the triennial Certification Audit. To date, 13 jails and lockups have achieved 100% compliance with Board Standards. 12 were granted suspensions by the Board at its July, 2004, meeting. The following motion, proffered by Ms. Maxey, is a request to waive the required unannounced inspection for the one remaining lockup that has achieved 100% compliance with Board Standards since that meeting.

“The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2004 Annual Inspection for the Surry County Lockup.”

After the reading, the motion was seconded by Ms. Fraser. After the call for question and discussion, the *MOTION* was unanimously *APPROVED* as presented by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Maxey, Mitchell, Proffitt). There were no opposing votes. As a tie-breaking vote was not necessary, the Chairman’s vote was not noted. One member was absent.

**Board Motion to Approve Request for Additional State Jail Construction Funding Reimbursement for the Southwest Virginia Regional Jail Authority**

After *MOTION* duly made by Ms. Maxey, seconded by Mr. Burrell and unanimously *APPROVED* as presented by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Maxey, Mitchell, Proffitt), the following was read into the record.

“The Board of Corrections approves the Southwest Virginia Regional Jail Authority’s request for additional state jail construction funding reimbursement in the amount of \$1,477,486 or 50% of additional approved project costs of \$2,954,972. This approval changes approved total project costs to \$77,401,723 and the 50% share of state reimbursement to \$38,700,862. This approval is subject to the availability of funds and in compliance with Sections 53.1-80 through 82 of the Code of Virginia.”

There were no opposing votes. As a tie-breaking vote was not necessary, the Chairman’s vote was not noted. One member was absent.

At this time, Mr. Burrell brought up the fact that currently every jail is designed to the needs of its individual community and it costs the state millions in the design and review of these individual projects. He suggested that perhaps if the state were to adopt a standard design for all local jails and used staff to review the project, it would save both money and time, and that once you had decided on one design and once it had been constructed, all those that followed would cost less.

The Director noted that the Department does that already but the state is much different from local jails. For instance, the dorm facilities are all alike and the MSD facilities are pretty much alike. Ms. Ballard with the Department's Architectural and Engineering section stated that this subject had been researched years ago and it was discovered that this suggestion would be very difficult to implement because of the differing jail operational styles across the state. It ended up that there were as many as 20 different potential designs covering each of those different operational styles, which defeated the purpose. As a result, the Department reviews each of the plans submitted to make sure there are no excesses over and above what an average jail would require, and if a locality presents a plan with excesses built in, the Department either tells them they cannot do what they propose or either they can go ahead, but the Department will back that amount out at a later time. In addition, the Department implemented the value engineering process in order to help address some of the excesses. Value engineering is where a team of designers looks at a plan to see if there can be a better design for the money. It is an ongoing process but you end up with the best facility for the dollar.

Ms. Maxey then went on to report that the **Clarke/Fauquier/Frederick/Winchester Regional Detention Center** had three requests before the Board. One request is for approval of their community-based corrections plan. The second request is for a modification to construction standards, and the third request is for state jail construction funding reimbursement.

**Motion to Approve the Community-Based Corrections Plan for Clarke/Fauquier/Frederick/Winchester Regional Adult Detention Center**

After a *MOTION* duly made by Ms. Maxey, seconded by Ms. Fraser and unanimously *APPROVED* as presented by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Maxey, Mitchell, Proffitt), the following was read into the record:

“The Board of Corrections approves the Counties of Clarke, Fauquier and Frederick and the City of Winchester’s request for approval of their Community-Based Corrections Plan in support of their need to renovate and expand the Clarke/Fauquier/Frederick/Winchester Regional Adult Detention Center.”

There were no opposing votes. As a tie-breaking vote was not necessary, the Chairman’s vote was not noted. One member was absent.



**Motion to Approve Request by Clarke/Fauquier/Frederick/Winchester Regional Adult Detention Center for Modification to Board Construction Standards**

After a *MOTION* duly made by Ms. Maxey, seconded by Mr. Burrell and unanimously *APPROVED* as presented by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Maxey, Mitchell, Proffitt), the following was read into the record:

“To facilitate an operational decision by the Clarke/Fauquier/Frederick/Winchester Regional Adult Detention Center and in consideration of justifying historical usage documentation, the Board of Corrections grants modifications to Standards 5.12 C.1 and 5.17 A. of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities to allow, respectively, the provision of thirty-eight (38) temporary holding areas and forty-eight (48) special purpose cells to satisfy the jail’s anticipated needs. This modification approval shall not be construed as a current or future variance to Standards 5.12 C.1 or 5.17 A.”

There were no opposing votes. As a tie-breaking vote was not necessary, the Chairman’s vote was not noted. One member was absent.

**Motion to Approve Request by Clarke/Fauquier/Frederick Winchester Regional Adult Detention Center for State Jail Construction Funding Reimbursement**

After a *MOTION* duly made by Ms. Maxey, seconded by Ms. Fraser and unanimously *APPROVED* as presented by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Maxey, Mitchell, Proffitt), the following was read into the record:

“The Board of Corrections approves the Counties of Clarke, Fauquier, Frederick and the City of Winchester’s request for state jail construction funding reimbursement for a 204-bed Work Release Center and 86-bed expansion and renovations to the existing jail. This approval recognizes total eligible costs of \$19,214,616 of which 50% or \$9,607,303 would be eligible for state reimbursement. Such reimbursement is subject to the availability of funds and compliance with Board Standards and Sections 53.1-80 through 82 of the Code of Virginia.

There were no opposing votes. As a tie-breaking vote was not necessary, the Chairman’s vote was not noted. One member was absent.

**Policy & Regulations**

Over the past few months, the Committee has had conversation concerning the Compliance Document requirements. Ms. Maxey noted that Ms. Lawrence is prepared to bring her findings to the Committee at the January meeting.

**Review of Board’s By-Laws**

In September, it was announced that the Committee would be looking at the By-Laws and welcomed any revisions, suggestions or concerns that the Board members might

have. Suggested changes were received and discussed, with the Committee agreeing to recommend the following changes to the Board for approval:

**Article II** – replace “August” with September.

**Article IV, Section 4, line 44** - replace “2.1-343.1” with 2.2-3708; **line 4** replace “§2.1-343.C.” with 2.2-3707 .

**Article IV, Section 5, line 11** - replace “§2.1-344” with 2.2-3711.

**Article V, Section 4, lines 18 and 19** - delete “the Chairman and one member of the Board’s Correctional Services/Policy & Regulations Committee”

**Article V, Section 4, lines 23, 24 and 25** - delete the sentence “The Board Chair shall appoint at least two Board members to the Liaison Committee with the option of appointing an additional one or two members, one of whom shall serve as the Committee Vice Chair.” Replace with, “The Chairman may appoint as many members to this committee as deemed as appropriate.”

**Article VII, Section 1, line 19** - replace “Board” with quorum present

That being said, the *MOTION* to approve the recommended changes to the Board’s By-Laws was duly made by Ms. Maxey, seconded by Mr. Hudson and unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Hudson, Kallen, Maxey, Mitchell, Proffitt). There were no opposing votes. As a tie-breaking vote was not necessary, the Chairman’s vote was not noted. One member was absent.

For the record, the approved changes will be incorporated into the existing By-Laws, and a copy will be presented to the Board Chairman for his signature at the January, 2005, Board meeting. The effective date of the approved change will be November 17, 2004, and the Board Chairman’s signature will be in place.

There being nothing further, the Chairman thanked Ms. Maxey for her report.

#### **VIII. Other Business (Mr. Johnson)**

The Director had nothing in particular to report. The Department has received the notice to proceed on both the Tazewell and Chatham projects. Estimated completion is in 2007. As to St. Brides, there were numerous problems which caused the project to not be completed on time; one being the weather and the other being poor workmanship that has to be corrected. The hope is that the problems will be corrected fairly shortly.

The Director went on to mention several personnel moves. Stan Young, who is the Warden and has been the Warden at Wallens Ridge since it opened, will be moving to Warden at the new facility in Tazewell. Dan Braxton, who has been at Red Onion for some time, will be the Warden temporarily at Wallens Ridge. Both positions at both facilities will be advertised. And Kathy Bassett, who is the Warden at Keen Mountain, will be tending to Red Onion and Keen Mountain in the interim.

Also, the Department has signed a contract to redo its time computation system. It is estimated for completion in June, 2005. The Department is hoping this segment will be the beginning for updating all of its computer systems but that hope is dependent on state funding. In the spring, the Department will begin the planning/development stage for the community as well as the institutional systems.

In addition, the Department has signed a contract with a firm to look at its classification system. A previous classification study was completed under the previous Director, which resulted in the current 6-level system, but now it is time to go back and validate and make sure that some tweaking is not required. The Director does not anticipate any major changes but it does need to be looked at, not only for the institutional system but for the community side as well.

The Director concluded his remarks. The Chairman then asked if anyone else in the Department had any comments, and Mr. Leininger spoke to the fact that the Board will need to be trained on Conflict of Interest matters, which will be a different program from those established in the past. The Department will be receiving a CD from the Attorney General's office around the first of December, which will either be mailed out to the Board or the Board will have the option of attending classes in person with a schedule for those classes forthcoming. All of the Conflict of Interest training must be completed by December 31, 2004, and because there is no December Board meeting, Mr. Leininger wanted to let the Board know that it would be coming up very shortly.

Ms. Maxey asked Mr. Leininger if there were any legislative issues for the upcoming Session. Mr. Leininger responded that the Department had asked for six things: to close out use of the electric chair and go with lethal injection only, which the Assembly has elected not to go forward with; to include Wardens, Superintendents, and Investigators and others in VALORS, but he did not think the Department would be moving forward with that. As a follow up to that, Deputy Secretary Green remarked that there are a number of agencies that have requests in and those will be looked at by the Secretary of Finance and by the Governor. Mr. Leininger continued with the Department asking to make a Class I misdemeanor both trespassing and carrying certain items on Department property, and the inclination is the Department needs to make a stronger case for that; to make cell phones illegal, either giving inmates a cell phone while they are incarcerated or even for them to have a cell phone. He noted Texas has it a 10-year felony to give an inmate a cell phone or for an inmate to have a cell phone. The Chairman asked if inmates were allowed cell phones and the response was they are not, but the Department wants to make it a crime. And the last item was stacking. The Director has long been an opponent of allowing judges to sentence someone to prison and then upon completion of that sentence, sending them to a detention and then to a diversion center, and the Department would like to see that practice stopped. Ms. Maxey remarked that she sees a lot of that in her area.

There being nothing further, the Chairman thanked Mr. Leininger for his report.

Mr. Green mentioned about the recent revenue surplus stories in the news. The Governor has said that both Houses' money committees have come out strongly that first, the

dollars are not really surplus to the extent that there are additional dollars but that it is really a one-year or in-this-biennium surplus because of the holes in the next budget and that whatever growth there is, is basically going to be eaten by Medicaid, Corrections, CSA, et cetera. And the next biennium it will be K-12 again. So there are a number of items that are going to use the bulk of the surplus, and the concern is that whatever they use to fund with that surplus should be one-time things, not things that have an ongoing cost or by the middle of the next biennium, the Commonwealth could be in the hole again. And Mr. Green remarked that a lot of the growth in revenue has come primarily from Northern Virginia and Tidewater, with a major portion tied back to military and Homeland Security spending.

**IX. Closed Session**

There were no items to be discussed during closed session.

**X. Board Member/Other Comment**

In general, the Board wished everyone Happy Holidays. The Chairman went on to thank the Department for all the cooperation and for the help it receives.

**XI. Future Meeting Plans**

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

**The January, 2005, meetings are scheduled as follows:**

**Liaison Committee** – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, January 18, 2005.

**Correctional Services/Policy & Regulations Committee** – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, January 18, 2005.

**Administration Committee** – 9:30 a.m., Room 3054, 6900 Atmore Drive, Richmond, Virginia, January 19, 2005.

**Board Meeting** – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, January 19, 2005.

At the time, the Director asked the Board if there was a topic it would like to have presented to it in January. The Chairman responded that the Board really enjoyed the presentations and they were very helpful. Mr. Kallen remarked on the fact that in the current press clippings, there was an article which mentioned the fact that the Therapeutic Program at Indian Creek had been contracted out, and that he would like to hear from that person to see what changes have been made to the program. The Director agreed and that item will be placed on the January agenda for presentation.

**XII. Adjournment**

There being nothing further, by *MOTION* duly made by Mr. Hudson and seconded by Ms. Maxey and unanimously *APPROVED* by those members in attendance (Burrell, Fraser, Hudson, Kallen, Maxey, Mitchell, Proffitt), the meeting was adjourned.

*(Signature copy on file)*

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CLAY B. HESTER, CHAIRMAN

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RAYMOND W. MITCHELL, SECRETARY