Tyren Frazier, Chair
Robert Vilchez, Vice Chair
Dana G. Schrad, Secretary
David R. Hines
Scott Kizner
Robyn D. McDougle
Quwanisha H. Roman
Gregory D. Underwood

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Board of Juvenile Justice

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DRAFT MEETING MINUTES

September 16, 2020 ☙ Virtual Meeting

Pursuant to amendments to the Budget Bill approved on April 24, 2020, and set forth in Item 4.0-0.1, and in light of the Governor's declaration of a state emergency to curb the spread of COVID-19, the Board of Juvenile Justice met by videoconference at its September 16, 2020, meeting. The Board considered a virtual meeting necessary due to concerns that the nature and continuing spread of the virus throughout the Commonwealth rendered meeting at a single location unsafe for Board members, Department of Juvenile Justice personnel, and members of the public.

Board Members Present: Tyren Frazier, Scott Kizner, Dana Schrad, Gregory Underwood, and Robert Vilchez

Board Members Absent: David Hines, Robyn McDougle, and Quwanisha Roman

Department of Juvenile Justice (Department) Staff Present: Ken Bailey, Melinda Boone, Valerie Boykin, Ken Davis, Mike Favale, Wendy Hoffman, Linda McWilliams, Margaret O'Shea (Attorney General's Office), Shaun Parker, Jamie Patten, Kristen Peterson, Beth Stinnett, James Towey, and Angela Valentine

CALL TO ORDER
Acting Chairperson Tyren Frazier called the meeting to order at 9:40 a.m.

INTRODUCTIONS
Acting Board Chair Frazier welcomed those present and asked for Board member introductions. Director Valerie Boykin asked for staff introductions. Due to the media platform used for the meeting, guests were not able to make introductions.

BOARD ELECTIONS
James Towey, Legislative and Regulatory Affairs Manager, Department

Pursuant to Section 5.01 of the bylaws, the officers of the Board are elected from its membership and include the Chairperson, the Vice-chairperson, and the Secretary who each shall be elected by the Board at its first regular meeting of the fiscal year. Officers shall serve for a term of one year and shall be eligible for re-election.

The Chairperson shall be the presiding officer of the Board at its meetings. Upon request of the Board, the Chairperson shall act as its spokesperson or representative and shall perform such additional duties as may be imposed on that position by an Act of the General Assembly or by direction of the Board. The Chairperson shall be an ex officio member of all committees of the Board.

Acting Chairperson Frazier noted his willingness to serve as chairperson and asked the Board for discussion or other nominations. There was no discussion or other nominations.

On motion duly made by Scott Kizner and seconded by Robert Vilchez, the Board of Juvenile Justice approved the nomination of Tyren Frazier as Chairperson by roll call vote as follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. The motion was carried.

In the absence of the Chairperson at any meeting or in the event of disability or of a vacancy in the office, all the powers and duties of the Chairperson shall be vested in **the Vice-chairperson**. The Vice-chairperson shall also perform such other duties as may be imposed by the Board or the Chairperson.

Chairperson Frazier nominated Robert Vilchez for Vice-chairperson and asked for discussion. There was no discussion.

On motion duly made by Tyren Frazier and seconded by Dana Schrad, the Board of Juvenile Justice approved the nomination of Robert Vilchez as Vice-chairperson by roll call vote, as follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. The motion was carried.

The Secretary shall (1) review and recommend improvements to Board meeting procedures and other relevant Board business so as to facilitate the administrative efficiency of the Board; (2) ensure the development of appropriate resolutions, etc., which are needed by the Board from time to time; (3) serve as the Board's parliamentarian; (4) work closely with the Department staff assigned to provide administrative assistance to the Board to review and sign minutes and policy documents, etc.; and (5) ensure that unique or non-routine materials and equipment are available for the Board to carry out its functions. In the event that both the Chairperson and Vice-chairperson are absent at any meeting, the Secretary shall preside over the meeting.

Chairperson Frazier asked for discussion and Dana Schrad was nominated by Scott Kizner.

On motion duly made by Tyren Frazier and seconded by Robert Vilchez, the Board of Juvenile Justice approved the nomination of Dana Schrad as Secretary by roll call vote, as follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. The motion was carried.

APPROVAL OF June 24, 2020, MINUTES

The minutes of the June 24, 2020, Board meeting were provided for approval. On motion duly made by Dana Schrad and seconded by Robert Vilchez, the Board approved the minutes as presented by roll call vote, as follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. The motion was carried.

PUBLIC COMMENT PERIOD

The Board heard public comment from four members of the public regarding the Prince William County construction proposal.

Emily Crego: I am a resident of Prince William County and have lived in Woodbridge for four years. I work with a group of residents to better provide support to our most vulnerable population. We learned recently of Prince William County's plan to construct a new juvenile detention facility in our district, potentially diverting much needed resources from social services. We understand there are various funding streams; however, we believe the funds potentially allocated through the General Assembly or other sources could be better allocated to educational or social services to allow improvement of the quality of life for our most vulnerable residents.

We are concerned specifically about statistics around incarceration rates by race. We learned that 80% of the youth incarcerated in the current juvenile detention center (JDC) are of color, black or Latinx, and we have to pause. We have to think before we run down the road of massive new investments with these racial disparities. This new carceral facility is a massive investment for our county. There is no getting around it, it is a jail for our youth. Most of the youth that will live there will be of color. We need to stop and take in these realities, and understand if we do this, we will actually be contributing to harm. That is our concern as Prince William County citizens and residents.

We do not believe that the county has done enough work to address inequities before requesting funds and approval for a new facility that represents a massive investment that could be used elsewhere on social programs. We recognize the existing facility is worse and unsustainable; however, again, we do not believe the current plan demonstrates enough focus on systemic issues in our county that lead to the disproportional number of blacks and Latinx youth being incarcerated. Realizing this is "better" than other options, it is not. Our youth should not be incarcerated at all and not for petty crimes, which is what we have heard from youth and from the data. Twenty-five percent of charges in 2015 were for violations of supervision and parole violations. We know this is how incarceration in this country works. Once someone is in the system, it is easy to pull them back in repeatedly and entrap them in a carceral system and cycle.

Our crime rate in Prince William County has gone down, even as our county's population has gone up. The needs assessment argues that the varying and increasing population requires a new jail. As the population goes up, you need to build more schools and day care centers, but more jails? A school to prison pipeline is not addressed or understood in the planning study or in our supervisor's comments back on July 21. Again these measures and this new center do not really get at the underlying issues. The school to prison pipeline is present here. This concept is used to describe the disproportional youth of color that are suspended from school, expelled, reported to law enforcement, and end up incarcerated. Again with 80% of the youth in the JDC being of color, this pipeline is well in place in our county. The selected color palettes are calming, but do not really get at the issues. In fact, it is an insult to our communities to think that a fancy new facility will result in systemic and social change. We believe this is the absolute wrong angle.

In closing, ask yourselves if this investment is necessary and ask, as we have and will continue to of our Board of Supervisors, if this is the right investment for Prince William County's youth.

Lubna Azmi: I am a resident of Prince William County and am here to speak out about the plan for a new JDC in Manassas. I have been a member of this community my entire life and a recent graduate of Prince William County schools, a school that has an exuberant school to prison pipeline. The plan to create any detention center is a reactive proposal to systemic issues that are racist and classless policies that are exasperated.

The school to prison pipeline has a lifelong impact on the lives of our youth. The racial makeup of children from Prince William County serving time are 80% black or Latino. Ninety percent have mental health issues. Nationally, 50% of youth are re-incarcerated within three years. Seventy percent are serving for non-violent offenses. Creating a more humane facility does not solve these issues. A cage is a cage. The racial justice uprisings going on now are highlighting a need for a different approach to lessening this harm. We need to create plans that divest in the use of detention centers and invest in rehabilitation for our community. A quote from the organization, Kids Rising, provides "the criminalization of children and youth, excess in an exclusion of school discipline policies and juvenile justice involvement, push too many children and youth into or deeper into the criminal justice system."

Criminalization diminishes opportunities, disrupts communities, and perpetuates a cycle of racial and economic injustice. I personally have seen this my entire life. I have many close friends that have been through the school to prison pipeline whether it be an alternative school, suspensions, expulsion, or detained in a JDC. They are incredible people that did not have support. I have many friends that could have fallen victim, but had teachers and family members to support them or available programs. I am a student at Johns Hopkins University and I look at myself and wow, I made it because I had the support that was necessary to get me where I needed to be. But my friends do not, they do not want to reminisce about their experiences at the JDC or the alternative school. They want to leave that part of their lives behind and go forward. The only people that are supporting them to go forward are themselves. It is heartbreaking to see. I have seen so many amazing people fall victim to this system.

Instead of investing in the prison industrial complex and this new facility, we need to invest the proposed funds in preventive support, mentorship programs, and other social services that would omit interaction children would have with an incarceration system. Doing that is how we create long lasting solutions that will flourish care in our future generations.

Aida Campos: I am a resident of Prince William County. This Board is at a turning point where it can decide to fund and invest in the lives of youth in this county or be complicit and profit off of the mental health deterioration of youth, the school to prison pipeline, and continue to cause harm in our community. Growing up in this county, I attended Beville Middle School, one of the middle schools in this county that at the time, had a reputation of being full of troubled kids. These kids often faced suspension, were not strangers to cops knocking on their doors, visiting their homes, pulling them out of school, and sending them away. I did not understand back then what all of it meant; however, what I know now as someone who has gone through the Prince William County public school system, the students by my side often came from low income families, single parent homes, and potentially did not have strong networks of support. I remember growing up and hearing classmates were sent to alternative schools that used military style teaching or JDCs for things as small and simple as panic attacks, burst of anger and rage, or even more serious issues that could be handled with counseling, support, and family services. I remember thinking as a thirteen year old, "how is this going to help

my friends and classmates?" Seeing my classmates come back home after a couple of months of being locked up in a cage or being forced to go through military style training camps only seemed to make them come home feeling more abandoned, discarded, and hopeless because of the system they went through.

Rather than pour money in a project that will continue the cycle of breaking our youth down, I urge you to look at alternative models like investing in mentorship programs that drastically increased SOL scores in Fredericksburg schools; providing more financial aid to children and families; giving schools more programming and available transportation after hours so they feel connected to their schools, teachers, faculty, and sports; and stopping the practice of students incurring debt for not being able to pay their lunch fees.

We are watching closely to see whether you will support a cause that will only lead to more harm down the line or if you will decide to nurture our youth. Multiple studies show that JDCs actually harm our youth educationally and academically. A nationwide survey of the system indicated a majority of juveniles in these centers were performing well below grade level in basic studies such as reading and math. That same study also determined that most children that go to detention centers grow into adults that face mental health issues. We are all asking, your community is asking this Board to please invest in children's lives, in youth lives. Do not harm them anymore.

Linda Keuntje: I am a resident of Prince William County. Today, you will consider Prince William County's proposed JDC, and I cannot stress enough that the needs assessment provided is not one on which multi-million dollar decisions should be based. First, there was no effort to explain the positive trends in youth arrest or detention population, and by positive I mean trending downwards. We have no way of knowing if these trends are the result of community programming that could be scaled up, a fluke, or the start of positive change in the community that could keep going. Secondly, it only made the barest of efforts to consider alternatives to incarceration and did not bother to engage youth, their parents, or other community stakeholders. Once more there is no evidence provided to show that the existing buildings cannot be adapted. Nor has there been an assessment on what would be involved in updating the current building. The JDC is simply labeled functionally obsolete.

What do we expect from an assessment performed by an architect and engineering firm driven by profit? They do not share our goals. But they should be good at math, and yet there are sloppy mathematical errors in some data tables and the use of linear regression to draw conclusions about JDC population calling into question the quality of the firm's analytical work. On page 62 of the needs assessment, the graph shows clearly that the data points do not huddle around the regression line, which is what we would expect if there is a relationship between JDC population and the past. Despite the chart making these lack of relationships very clear, the assessment still tells us that this is the model that best predicts future populations. This is not a good use of a statistical model.

Maybe you feel in your gut that something must be done and the new facility is going to be trauma informed, which is good. But again, there is no proper evidence in the form of a thorough evaluation showing that the Missouri Model works or how it works or why it works. There are no reports explaining what is necessary to successfully replicate it. Maybe Prince William County Supervisors are okay with all of this because the taxpayers

across the state will help flip the bill, but that does not explain why the DJJ is playing loosely with taxpayer money.

Now 2020 has thrust us into a new America that will no longer ignore systemic racism and mass incarceration. The Northam Administration was ahead of its time when it issued Executive Order 32 related to inequities in Virginia's law and regulations. But while we can remove the words from papers and websites, the laws and regulations that supported for decades what people experienced on a day-to-day basis will continue unless we work on all levels to uproot it, and that includes our school system, our policing, and our public services.

Eighty percent of the youth at the JDC are African American or Latino, as already noted; that is not a fluke, it is a feature of the American justice system. While the youth of Prince William County are calling for systemic change, Prince William County is changing school names and building new prisons. We have got to pause business as usual and look for real alternatives. Prince William County is happy to say it is following Northam's lead and will establish a racial justice taskforce, and that is commendable. DJJ must deny approval for the proposed JDC until the taskforce has completed its work and we have an improved understanding of the school to prison pipeline in the county.

I am asking, are you really going to carry on with prisons for children without putting at least an equal amount of effort into community programs, mentoring, and skills training? The children who are being incarcerated in this prison will have their lives permanently altered. DJJ must require Prince William County to take the time to answer the call for a better America before approving this prison.

DIRECTOR'S CERTIFICATION ACTIONS
Ken Bailey, Certification Manager, Department

Mr. Bailey directed the Board to the packet, which contained the individual audit reports and a summary of the Director's certification actions completed for August 5, 2020.

The audit for the Crater Juvenile Detention Center found one minor deficiency for failure to document a medication issue with a physician. The facility corrected the issue, and Director Boykin certified Crater Juvenile Detention Center until May 8, 2023.

Crossroads Community Youth Home had a difficult audit with 21 deficiencies, six of which were critical. The program endured many changes in administration and staffing since their previous audit where they obtained a 100% compliance. The Certification Team conducted a monitoring visit; however, the review occurred while the facility underwent a temporary suspension of population because of positive COVID-19 staff. The facility remained closed for a period of time. The Certification Team performed a virtual review of the records, and there was one area that remained non-compliant and three training areas that were not determinable. As a result, the current certification of Crossroads Community Youth Home was continued to January 2021 with a status report on the non-compliance findings. On September 1, the facility contacted the Department to indicate their decision to permanently close Crossroads Community Youth Home due to lack of staffing, low utilization rate, and to repurpose that money into other areas. The facility has surrendered their licensure on certification, and Crossroads Community Youth Home is no longer a certified community youth home.

Summit Transitional Living Program is a new facility primarily handling older youth transitioning from the juvenile correctional center to the community. The facility has had growing pains, and the certification team has conducted continuous monitoring visits to the facility. The most recent was May 21 where the certification team was pleased with the findings and the facility's efforts to maintain compliance with the regulations. Director Boykin certified the Summit Transitional Living Program until April 29, 2022. At that time, the Certification Unit will perform a full compliance audit.

Westhaven Boys' Home in Portsmouth also had a temporary closure due to positive test results for COVID-19. The facility has since reopened. A full audit was conducted in February and found four deficiencies. Those deficiencies were corrected by their virtual monitoring visit in May. Westhaven Boys' Home was certified until July 9, 2023.

The audit for the 12th District Court Service Unit found two minor documentation issues. Both issues were corrected during a monitoring visit, and the program was certified until May 18, 2023.

The 30th District Court Service Unit had a 100% compliance on its audit and was certified until June 17, 2023.

Virtual Audit Program: In March, when faced with the COVID-19 pandemic, Mr. Bailey was challenged with developing a virtual audit program that would eliminate the need for onsite certification visits. The development of the program for court service units has been completed and implemented. The new program has been well received.

The audit process has been divided into two parts. Part one is the Director's assessment, which relies on the program administrator to self-report certain components that are generally done through the onsite interview process. This part is efficient and saves time and resources. Part two is the certification analyst's assessment of records in the Department's electronic data system called BADGE. The facility uploads information to a secure folder on the Department's shared drive where the audit team is able to review cases and make determinations. Then, through the use of Google Meets and GoToMeeting, there is ongoing communication and conversations between the audit team and the personnel at the facility being audited.

The virtual audit program will move the Department through the pandemic, but the Certification Unit is looking at the program for the future to improve the efficiency of the entire certification process. Likewise, the Certification Unit developed a similar monitoring tool for JDCs and group homes. It is still in the implementation phase. Mr. Bailey is pleased with his staff and their investment in the process.

OTHER BUSINESS

Review of Board Bylaws
James Towey, Legislative and Regulatory Affairs Manager, Department

Pursuant to Section 7.01 of the Board bylaws, the Board shall review their bylaws annually to comply with amendments that have been made to the *Code of Virginia* sections from the past session. Two amendments need to be made to the bylaws as the result of bills passed from the 2020 General Assembly session.

House Bill (HB) 1648 imposed requirements for the treatment and control of prisoners known to be pregnant. While the vast majority of the bill pertains to adult prisoners in adult facilities, a small portion of the bill amends Section 66-10 pertaining to the Board's Powers and Duties, specifically paragraph 9. This paragraph requires the Board to establish training standards for juvenile correctional officers. The bill adds that for juvenile correctional officers who have contact with pregnant inmates, such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates. The proposed bylaw amendment adds this language to Section 3.01 and mirrors the statutory change that was made in HB 1648 with the exception of supplanting the word inmates with residents. The Department refers to its youth as residents, not inmates.

Senate Bill 20, passed by the 2020 General Assembly, created a new statute, 66-10.2, which requires the Board to establish regulations regarding youth detained in correctional facilities pursuant to contracts with the federal government. The proposed bylaw amendment adds to Section 3.02 and mirrors the language in the new statute which is Section 66-10.2 of the *Code of Virginia*. This provision requires the Board to promulgate regulations governing the housing of youth who are detained in a juvenile correctional facility pursuant to a contract with the federal government and not committed to such juvenile correctional facility by a court of the Commonwealth.

Mr. Towey asked the Board to approve these amendments.

On motion duly made by Dana Schrad and seconded by Greg Underwood, the Board of Juvenile Justice approved the amendments to Article 3 of the Board of Juvenile Justice Bylaws by roll call, as follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. Motion carried.

Consideration of the Program Design and Planning Study for Prince William County Juvenile Detention Center and Molinari Juvenile Shelter

Chief Deputy Director Angela Valentine presented the discussion on the program design and planning study for Prince William County. The approval of the program design and planning study is the next step in the regulatory requirement and mandates the Board's approval for Prince William County to move forward. Chief Deputy Director Valentine introduced the representatives from Prince William County. Courtney Tierney is the Director of the Prince William County Department of Social Services, Ian Sansoni is the Deputy Director of the Prince William County Department of Social Services, and Carrie Henaghan is from Mosely Architects, which conducted the needs assessment and planning study. The Board was advised to contact the Department if they wanted a copy of the complete planning study.

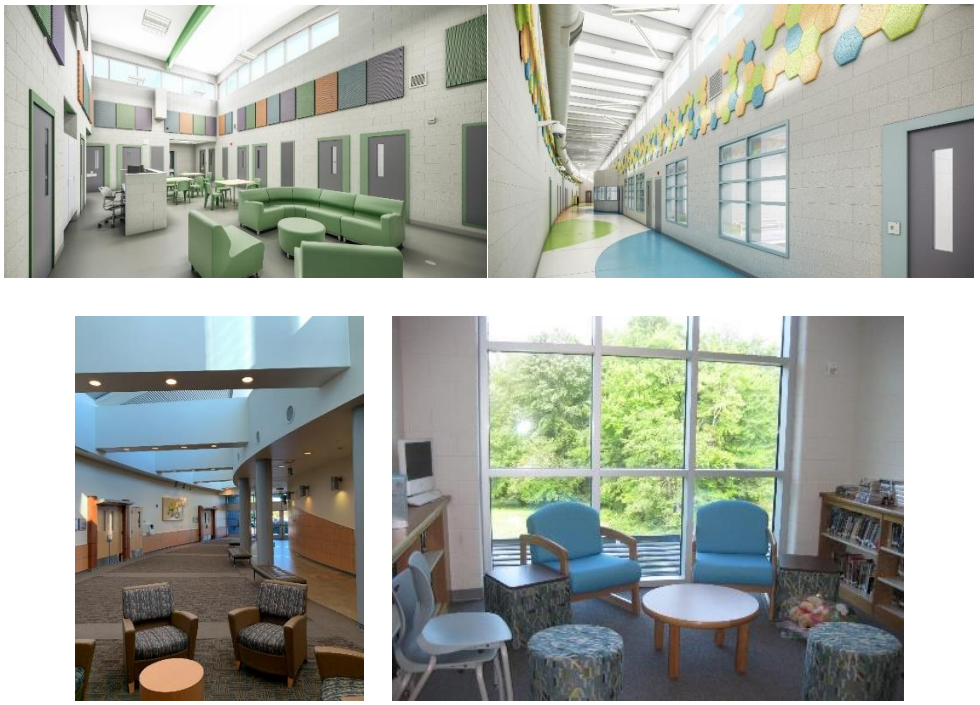
Ms. Tierney explained that the Prince William County Department of Social Services (Prince William) is a unique organization that includes the Division of Juvenile Services, which directly operates the Prince William County

Juvenile Detention Center (JDC) serving the 31st district that includes the Cities of Manassas and Manassas Park. Prince William also operates the Molinari Youth Shelter.

Mr. Sansoni began his presentation found on page 96 of the Board packet. The project emerged out of how best to align Prince William's facilities in order to serve youth with the best evidence-based, evidence-informed, and trauma-informed juvenile practices. Lessons learned from the Missouri Model and consistent with the DJJ transformation and evidence-based and evidence-informed practices are driving Prince William's planning process.

In 2018, Prince William submitted a needs assessment for the Board's consideration, per the *Code of Virginia*,. The needs assessment, first approved locally by Prince William County, was approved by the Board. Following those approvals, Prince William completed an extensive two-year planning study and program design. Part of that phase included not just looking at current operations, trends, and statistics in the community but performing site visits to various locations across the country to look at other facilities and their lessons learned. The discussion was robust within the organization, and the decisions were based on research around evidence-based, trauma-informed models.

Prince William believed it would be more efficient to co-locate the JDC and the Molinari Youth Shelter, a non-secure facility, next to each other on the same property. These two facilities are currently 16 miles apart.



The design concept (pictured above) will try to replicate patterns of daily life, pay attention to acoustics, and select colors and patterns that are visually stimulating. These are research-based designs in the trauma-informed arena. Prince William realized through its research the effectiveness of trauma-informed design, which is not in the security model of older facilities. The design concept uses earth tones and natural light.

The existing JDC building has 72 beds. The proposal for the new JDC facility is reduced to 48 beds. The proposal for the non-secure Molinari Youth Shelter would increase by five beds, from 15 to 20 beds. Discussions with local stakeholders focused on having more options for detention alternatives, such as more beds in the non-secure facility.

The planning study focused on the facility design and improvements. The current facility lacks space for private visits with counselors, has narrow corridors, block design, and few secure reception areas. These security concerns challenge situational awareness. The design of the facility impacts the operation, and having a better designed facility will help Prince William administer the program.

The exterior rendering shows the JDC on the left and the youth shelter on the right. Per regulation, the two facilities must be separate and operate separately because Molinari Youth Shelter is a non-secure facility. The facilities would be connected via a secure pathway in order to have shared medical, shared administration, and shared staff. The facilities would function independently but share efficiencies through a walkway. The youth would not co-mingle.

The layout design shows the administrative offices on the right and the gymnasium in the back. The concept design focuses on maximizing the facility use by eliminating long sight lines and having natural light.

The proposed JDC includes a school operated through the Virginia Department of Education (VDOE). Prince William conducted a stakeholder meeting with VDOE and others to discuss engaging youth more through education. Comments from the education stakeholders included creating distinct and separate spaces within the facility so youth can leave the residential area, where they rest and sleep, and move to the actual school building. It is important to separate those functions and replicate normal life by creating separate and distinct areas so youth can have the opportunity to transition physically, mentally, and emotionally. Prince William is intent on including stakeholders to inform the design.

One important aspect of youth supervision is allowing for exercise. Prince William learned from site visits that gymnasiums are a great space for multi-functional use. One facility the group visited had indoor and outdoor spaces and included concepts such as family visitation rooms. Local school principals hold graduation ceremonies in the gymnasium. It is important to Prince William to use the space in multiple ways to engage youth and the community and encourage this engagement through facility design.

Prince William talked with operational staff and looked at the trends on the best way to lay out the pod design. Prince William is endeavoring to make the facility as residential or community-based as possible. The design tries to balance natural light corridors and to minimize long runs and improve acoustics while maintaining security, even down to the details of where to place security staff and therapists and how they are positioned to maintain proper sight and sound supervision. Prince William believes the design is the best way to maximize the opportunity for youth to live and benefit from their time in a facility.

Prince William provides a full nursing staff and contracts with a physician. The facility design includes an evaporation system for negative air pressure, a lesson learned from COVID-19. It is vitally important to design a facility with proper systems. The current JDC was built in the 1970s, and those standards and designs have evolved. One of the challenges Prince William encountered involved the difficulty in retrofitting the current facility. Building a new facility will allow Prince William to meet standards and to do so efficiently. Due to COVID-19, Prince William also learned that it needed to adjust simple things, such as how to provide medical care, medical visits, and where in the facility these medical services should occur. Prince William considered whether a youth presenting with symptoms or illness can be isolated and how it can be done functionally in the building. It is important to Prince William to take that into consideration, especially in the design phase. This presents a challenge in the current facility due to its design. Prince William is intently focused on medical and behavioral health and what that looks like in the new facility.

Another challenge in the shared facilities is creating secure space in the back of the facility that can serve as a central point for a loading dock and supply distribution. This design would enable the two facilities to receive goods and services in a shared area and distribute to the campus from this area. The design would include an onsite maintenance hub in order to quickly respond to maintenance issues. In the past, Prince William has had challenges with facility standards and the need to quickly bring in maintenance in a secure fashion. Prince William is intentional about its design incorporating support services in the right place in the facility so it is centrally located and compliant with safety and security standards.

Molinari Youth Shelter is currently a 15-bed facility; the proposed design plan is for 20 beds. This will allow Prince William to accommodate detention alternatives and reduce the number of youth unnecessarily exposed to a JDC setting. It will also help provide options for the local Juvenile and Domestic Relations court.

One of the challenges in creating the Molinari Youth Shelter plan and JDC is determining the right bed capacity and how to maximize facility use. For example, there are strict standards for ratios of supervision to youth. Prince William spent a lot of time on pod design. They looked at various design standards in order to meet the ratio. To comply with ratio standards, if the facility has one female over the supervision ratio, the facility will need to open a separate wing to meet those standards. Prince William looked at cutting-edge ways to maximize facility use to meet the supervision ratio and PREA standards.

Prince William is responsible for providing a juvenile services continuum that includes pre-trial supervision in the community and in the non-secure (youth shelter) and secure facility (JDC). Prince William is proposing to co-locate all functions at the same site to have continuity among staff, leadership, and potential for future

programming such as adding detention alternatives. The campus model, pictured on page 108 of the Board packet, will bring together all of the continuum services.

Mosely Architects contracted with Downey and Scott, a local firm in Northern Virginia, to complete a regional cost estimate. There are varied degrees of cost and expenses. Prince William followed DJJ standards and included the R.S. Means, but also localized the numbers for constructing the facilities in Northern Virginia.

Total Project Cost	**D.J.J. Formula R.S. Means**	**Downey & Scott (includes 10% design contingency)**
JDC total project cost	$29,142,615	$35,002,596
Molinari total project cost	$9,766,012	$11,190,804
Total Estimated Project Cost	$38,908,627	$46,193,400

The project estimate is $35 million for the JDC project and $11 million for the Molinari Youth Shelter with a total estimated cost of $46 million. The proposal includes a 48-bed facility for the JDC and a 20-bed facility for the Molinari Youth Shelter. Prince William is aware of the average daily population trends in the Commonwealth and the nation and that the population continues to grow in Prince William County. Detention population may decline while the population increases. The challenge is figuring out the right size facilities. Prince William considers 48 beds in the JDC and 20 beds in the Molinari Youth Shelter as the ceiling and does not plan to exceed those numbers. However, the number of beds in the JDC could be considerably lower. As Prince William moves forward with the plan, if the facility instead lowers the beds to 30, then the costs would decrease. Determining the right size facilities has been the hardest aspect in the planning process. Prince William has taken a holistic approach throughout the process and will continue to engage local stakeholders. Prince William expects fewer than 48 beds in the JDC and either the existing 15-bed capacity or nearly 20-bed capacity for the non-secure Molinari Youth Shelter.

Prince William is requesting the Board approve its planning study. If approved, Prince William can move to the design phase by the end of the year and simultaneously submit the request for 50% reimbursement for construction costs to the General Assembly. From design to occupying the facility is only a two-year process, assuming no issues and full approvals.

Board Member Schrad said the Board should be acutely aware of criminal justice reform at this moment in time. This facility may go online by 2024, and it is overwhelming to think of the possible changes to laws, new standards for facilities, and improvements to diversion programs. Board Member Schrad asked if Mr. Sansoni predicts that the facilities will be able to adapt to changes, as public policy and the process of detaining youth may change by 2024.

Mr. Sansoni responded that the planning process has taken two years, and in those two years, everything Board Member Schrad mentioned has evolved. Prince William is responsible for providing the best environment for its youth but is not involved with their placement. Prince William recently received a $40,000 grant and intends to bring together stakeholders including judges, schools, local law enforcement, and community members to look at how to improve the facilities, how to improve services, and racial and ethnic disparities in the system. These conversations will inform the design of the facility going forward. Prince William does not want to build a youth facility just for the sake of filling beds. Prince William wants to build a facility that aligns with evidence-based, evidence-informed services. If that means reducing the size of the facility and increasing detention alternatives, that will be the recommendation to the local elected officials. Prince William wants to be a part of the solution and will not ignore the changes of the law and juvenile justice transformation. This will guide Prince William's facility design.

Board Member Schrad expressed her appreciation of the vision of co-locating two facilities, which will lead to efficiencies, particularly in shared services for the footprint of the whole campus, and asked whether the Prince William representatives anticipated any difficulties in carrying out this project?

Mr. Sansoni responded that Prince William will endeavor to involve as much stakeholder feedback as possible. Mr. Sansoni acknowledged the public comment presented today, and explained that the Board of Supervisors is in tune with the community and supports transformation efforts. Prince William will engage and meet with them and do nothing without their approval. Ultimately, the decision to build a facility rests with the Prince William County Board of Supervisors. There will be challenges, and the group will listen, learn, and provide a professional recommendation on how best to provide a facility for the youth. Prince William does not make the placement decisions, it simply provides the service in the best way possible. Ms. Tierney added that the Board of Supervisors does not have concerns about co-location, nor does the court. Prince William feels confident moving forward.

Board Member Underwood is concerned with the members of the local community who are opposed to this project. Board Member Underwood asked if Prince William has addressed these concerns, especially the main concern of 80% of the JDC population being people of color. Board Member Underwood asked whether the money that Prince William wants to spend on this facility would be better spent addressing reform issues like systemic racism. Per Board Member Underwood, Prince William wants to make a nicer facility aesthetically pleasing to the eye and make it more comfortable but the facility will still have the same population. He questioned why the locality would invest in a facility where the population will remain the same, but make the facility more pleasant for the people of color to come and have a pleasant experience. A jail is a jail. In Board Member Underwood's opinion, that money can be better spent addressing societal issues rather than building another jail.

Ms. Tierney responded that the group has heard the concerns mentioned in public comment and at the Board of Supervisors meetings. Prince William does not make the decisions of putting youth in detention. Prince William will reach out to the local juvenile court and involve them in the racial disparity discussions. Prince William has highlighted the racial disparity issue with the Board of Supervisors and the public, and is concerned. Prince William hopes to work systemically with the community, especially with those who make decisions about detainment. As Mr. Sansoni mentioned, Prince William has received some grant funds, which will allow the team

to bring the community together to look at those issues. Prince William would welcome detention alternatives, but those opportunities are not solely Prince William's decision. As a community, those issues will be addressed moving forward.

Board Member Kizner asked what would happen to the youth if the JDC did not exist. Ms. Tierney responded, if the court placed a child in detention and there was no detention center, those youth would go to another jurisdiction's detention center.

Board Member Kizner asked if Prince William was anticipating an increased demand.

Ms. Tierney responded that the "demand" is decreasing, which is positive. Prince William's current facility is almost 50 years old. Ms. Tierney does not expect the court will completely stop detaining youth, and if youth are detained, it would be in a trauma-informed facility. Prince William is a pre-dispositional facility, so while the youth wait for their court hearings, they should be able to receive the best care. In addition, Prince William prefers that detained youth not have to leave their jurisdictions, which would entail leaving their families and school.

Board Member Kizner asked whether the current facility is full, and Ms. Tierney responded that Prince William has a license for 72 youth, but the facility has not had more than 40 youth in a while.

Mr. Sansoni continued that part of the DJJ review process included looking at the average daily population. Prince William's licensing capacity currently is 72 beds. The average daily population over the past five years has declined and been as low as 20 youth. Prince William has an agreement with DJJ for a community placement program for committed youth. Prince William fully recognizes the average daily population decline and does not intend to build a facility that sits empty. Mr. Sansoni wanted to be clear that the proposed facility is 48 beds, but does not expect Prince William to build a facility near that size. Prince William continues to see a decline from the average daily population and an increase in pre-trial (community-based) supervision.

Ms. Tierney said Prince William looked at renovating the current facility, but this would be problematic due to the secure population. Prince William made the preliminary decision to propose a smaller, more trauma-informed facility, rather than trying to renovate the current facility, and it likely would not cost more.

Board Member Kizner appreciated the concern about addressing children's trauma and having a better environment but noted that being in a locked facility can be traumatizing. Board Member Kizner expressed his concern with calling a facility trauma-informed simply because the youth have been exposed to trauma. Board Member Kizner has worked with youth his entire career as a former school psychologist, and observed that many schools use the same trauma-informed care terminology but are not secure facilities. Board Member Kizner has reservations as to whether this will benefit the children of Prince William County, when the money can be spent, instead, on preventive care.

Board Member Schrad indicated that the Board needs to remember the mission of the Board and the Department. The Board is the caboose in the criminal justice system. Youth end up in juvenile detention centers because of law enforcement officers, the actions of the prosecutors, and the determinations of the judges about

the best placements. The Commonwealth has underfunded diversion programs for a long period. Board Member Schrad recalled her time as a staff attorney for the state Crime Commission when she tried to get diversion programs funded and get a minimal population of young people in detention. She explained that the Department is just one slice of the pie in this large criminal justice system. The courts make the decision and need a place to put the youth if detention is ordered. Prince William has made an effort to recognize that populations are declining and a smaller, better equipped, better designed facility is needed. Hopefully, the youth that end up in detention will be a smaller percentage of the young people in the criminal justice system and more youth will be diverted. But if they end up in a detention center, it would be a facility that is experienced in education and treatment, and when the youth are released, there is less likelihood they will come back. Reforms have to occur in other areas as well. It is the mission of the Department to deal with the population committed to a secure facility.

Board Member Kizner respects the comments made by Board Member Schrad, but sees it differently. Juvenile justice also has an obligation before a youth gets into that system to work with the community to provide resources and support for young people to make better decisions. Many children are in terrible situations, which contribute to them ending up in the juvenile justice system. Prince William should be applauded in many ways because their numbers are going down and the locality is doing some good things. Board Member Kizner is uncomfortable with Prince William opening up a new facility, and likens calling it a trauma-informed care facility to a marketing strategy. Board Member Kizner sees millions of dollars that could be redirected.

Director Boykin reminded the Board of their role in this decision. The Department has been building a continuum of services for the past five years, and the number of youth actually penetrating the juvenile justice system has continually gone down. From 2014 to now (pre-COVID-19), the number of youth that have penetrated the system has been cut in half. Pre-dispositional detention youth have gone down 26% statewide since early March. Efforts are in place to build alternatives to detention, which should be applauded across the state. The Department staff work closely with the courts, with prosecutors, Mr. Underwood's colleagues, about the options that could be employed as opposed to placing youth into detention while awaiting trial. Director Boykin does not believe Prince William is advocating sending youth to this "trauma center" to be "trauma treated." The young people courts send into the system should have the right resources and the right atmosphere for their treatment.

Chief Deputy Director Valentine told the Board that this is a lengthy process. It is important to remind the Board that Prince William has already brought the needs assessment before the Board, and the Board approved the needs assessment. The Board heard their presentation as to the need to replace their current facility with a new facility. More than likely, there will always be youth that need to be detained, so the purpose of the needs assessment was to determine whether the current facility can meet the needs of the youth who are detained and the size of the facility needed. Prince William presented the needs assessment and significantly reduced the number of beds in the facility, reducing the footprint, and has assessed the footprint continuously, even after the needs assessment. The approval process allows the Board to ensure that Prince William has met the regulation requirements for the planning process and approve the design for the new facility. That is what Prince William is asking the Board to do at today's meeting. There is a moratorium on funding construction for new facilities. The Board will not be approving any amount, any funding, or making a recommendation on the amount of funding. It is the Board's responsibility to approve or disapprove the design and the plan, and it is the locality's

decision as to whether they want to move forward with the construction project. If so, Prince William will be asking the General Assembly for funding. The Department and the Board are not responsible for the funding.

Chairperson Frazier reiterated that the Board needs to focus on approving or not approving the design and planning study only.

Board Member Vilchez commented that he listened to the community's input, and believes it is important for Prince William to also hear the community's concerns. Board Member Vilchez asked if Prince William held any town meetings or small focus groups.

Mr. Sansoni answered that Director Tierney will be working with local elected officials and will have conversations with some that spoke during Public Comment. This is an approval process that is promulgated by the Department. Prince William intends to listen to community input and engagement, and continue the dialogue. Prince William has a cross section of representatives from juvenile justice, local law enforcement, schools, and individuals who have gone through the system, and will bring them together to look at the system as a whole, focusing not only on design, but also services. Prince William intends to reach out and continue to engage with the community and welcome their input.

Board Member Vilchez asked the average length of stay for an average resident, and the recidivism rate for juveniles detained. Ms. Tierney answered that according to the Department's annual data guide for FY2019, 12-month rearrest, reconviction, and re-incarceration rates by court service unit was 57.1% re-reoffenses.

Mr. Sansoni answered that the average length of stay for pre-disposition youth, which means before they go to court, had been around 30 days. Prince William also has a post-disposition program and the length of stay for that program can vary from six months to one year. Mr. Sansoni does not have the number of youth that re-offend and come back into the program.

Chairperson Frazier said the average daily population for Prince William has been around the low 20s in the last five years. The design of the facility is 48 beds max, and based on conversations and discussions it may be at 30 beds. He asked for confirmation that Department funding or state funding would not be used for the construction of the shelter.

Mr. Sansoni said the 50% reimbursement request will be for the project. Prince William amended their needs assessment to include the Molinari Youth Shelter, so the request represents the total project cost. If Prince William received state funding, it would technically go to both the secure detention facility and the non-secure facility because the planning study includes both. The capacity at Molinari Youth Shelter is currently 15 beds. Pre-COVID-19, the average capacity was around 10 to 12 with a split between male and female. Prince William is engaged with its local juvenile court about capacity, and since COVID-19, those numbers have decreased even more with more youth being laced on community supervision.

Chairperson Frazier asked if the diversion program youth will be held in the shelter and not in secure detention. Mr. Sansoni responded that Prince William does not determine where youth are held; rather, the juvenile court service unit makes a recommendation and the judge makes the final decision.

Chairperson Frazier wanted to clarify that his questions were related to the design and to make sure the Board is making an informed decision. Chairperson Frazier believes the Board has all the information needed to make an informed decision in approving the design. Related to Ms. Schrad's comments, as things begin to evolve with young people and public safety, the Board needs to ensure the facility can be retrofitted if needed. It does not make sense to build a 48-bed facility if it will serve fewer than half of that population. That is a waste of funding.

Board Member Kizner asked the overall cost of the project. Mr. Sansoni responded that the total project cost, when adjusted for construction costs in Northern Virginia and potential inflation increases over the next couple years, is estimated at $46 million.

On motion duly made by Tyren Frazier and seconded by Dana Schrad, the *Code of Virginia* (§16.1-309.5) empowers the Board of Juvenile Justice to approve construction reimbursement for detention homes or other facilities, but the *2005 Acts of Assembly*, Chapter 951, Item 443A.1., which supersedes the *Code,* prohibits the Board from approving or committing funds for construction. However, Prince William County intends to seek an exception to this moratorium through a legislatively sponsored amendment. Therefore, The Board of Juvenile Justice approves the Program Design and Planning Study for the Prince William Juvenile Detention Facility and Molinari Juvenile Shelter. The availability of funds for reimbursement is contingent on the appropriation of funds by the General Assembly and shall not exceed one-half of the construction costs. The Board voted by roll call as follows: Tyren Frazier – Aye; Scott Kizner – No; Dana Schrad – Aye; Robert Vilchez – Aye; and Greg Underwood – No. The motion was carried.

Consideration of the Virginia Juvenile Community Crime Control Act Plans for the City of Richmond, the City of Lynchburg, and the York County Combined Plan
Beth Stinnett, Statewide Program Manager, Department

Ms. Stinnett informed the Board that she typically appears before the Board every two years or every year seeking approval on the Virginia Juvenile Community Crime Control Act (VJCCCA) plans. Most plans are on a two-year biennium. The Board approved most of the VJCCCA plans presented at the June meeting for two years. Ms. Stinnett explained that there are times when she needs to come back before the Board due to an action related to VJCCCA, either because the locality needs approval to make a change or has made a change.

The Board approved the City of Richmond's full two-year biennium plan ending June 2022. Since that approval, the City has been actively meeting with stakeholders and determined it needs to make substantial changes to the plan. Ms. Stinnett is recommending that the Board revoke the previously issued two-year approval for the City of Richmond and instead consider the plan submitted today.

The City of Richmond has submitted a new plan for FY21-22 for the biennium and also submitted required letters of support from the court service unit director and the judiciary. That support comes with contingencies including requiring the City of Richmond to schedule monthly planning meetings and engage stakeholders in new program implementation, as well as requiring the City of Richmond to enter into memoranda of agreement with the Department establishing target populations, protocol to outreach electronic monitoring program, and the other categories of the program.

The new plan proposed by the City of Richmond continues to have some of the same programming the Board approved in June, such as community service programs and two detention alternatives. The new plan also adds a community-based aftercare component to Richmond's post-dispositional detention program. It adds day and evening reporting centers and a shelter care facility for respite services.

Ms. Stinnett recommends the Board adopt the City of Richmond's plan; however, given the newness of the programming as well as the contingencies asked for by the court service unit director and judiciary, Ms. Stinnett is asking that the Board limit approval to the first year of the two-year biennium. This will give the Department an opportunity to continue to work with the locality and provide guided implementation and technical assistance over the next year to ensure those contingencies are met.

On motion duly made by Scott Kizner and seconded by Dana Schrad, the Board of Juvenile Justice revoked the two-year approval of the Richmond VJCCCA Plan by roll call vote, as follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. The motion was carried.

Ms. Stinnett next addressed the Board's approval of a plan for Lynchburg at the June meeting. This was an interim plan set to expire on September 30, 2020. Partly due to the pandemic, the City did not hold required planning meetings or convene other stakeholders to engage in the development of the new plan. The City of Lynchburg asked for more time to come together as a community and indicated if they could continue with their FY20 plan through the end of September, it would give them enough time to convene stakeholders and propose a new plan for the biennium. The Board approved that action, and Lynchburg's plan expires on September 30. At this time, Lynchburg has a new plan for the new biennium and also has submitted required letters of support from stakeholders to include the court service unit director and judge. Similarly, those letters came with contingencies from the judge who indicated he can lend support to the plan as long as the City of Lynchburg reassigns the management of VJCCCA to a new entity. That has been satisfied; the City has transferred responsibility and oversight for this plan going forward. The judge also asked that regular meetings be held and for Lynchburg to enter into a memorandum of agreement with the Department establishing protocols for outreach electronic monitoring and other programming. The new addition the judge and other stakeholders asked for was a reduction in group home funding due to the downward trend and to reallocate funding to community-based initiatives for detention alternatives, as well as treatment for young people in the community. The two requests have been completed. Lynchburg only needs to establish memoranda of agreement and regularly set meetings with stakeholders.

Lynchburg's VJCCCA plan allocated 100% of their funding to a group home and shelter care facility. The new proposed plan re-allocates some funding and saves some funding for the group home and shelter care facility, which is still needed for use at reduced capacity. Lynchburg added the following to their plan: outreach detention and electronic monitoring for detention alternatives, aggression replacement training, and a new category called preventive services specifically for work with truancy and the Children in Need of Services (CHINS) population.

Ms. Stinnett noted that she is pleased with the changes; they are consistent with the needs of young people in Lynchburg and responsive to the downward trend in admission to their group home and shelter care facility.

Lynchburg's plan is new; Ms. Stinnett's team will need to provide guided implementation and technical assistance. Ms. Stinnett recommends that the Board approve the City of Lynchburg VJCCCA plan for year one of the biennium through June 30, 2021.

On motion duly made by Dana Schrad and seconded by Robert Vilchez, the Board of Juvenile Justice approved the VJCCCA plans for Richmond and Lynchburg for one year (FY 2021) through June 30, 2021 by roll call vote as follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. The motion is carried.

As a component of the legislation enacted in 1996, all localities are required to continue to spend an amount equal to the sum of their FY 1995 expenditure for pre-dispositional and post-dispositional block grant alternatives to secure detention. Essentially, the legislation sought to ensure communities did not use VJCCCA funding to supplant existing funding, but instead the funding was an addition to the funding. This was called the maintenance of effort. The law changed on July 1, 2011, to allow localities to reduce their maintenance of effort if it was greater than the amount of money received from the state. Localities can ask to reduce their local maintenance of effort so that it is equal to the state amount.

York County has a combined plan with Gloucester County, James City County, and Poquoson. These localities request to exercise the maintenance of effort option, and the Department does not oppose. The York County Combined Plan is asking to reduce the local share due to the community group home closure. Ms. Stinnett will come before the Board at the next meeting on their proposed plan to reinvest and reallocate the funding that was attached to the group home and the group shelter care facility. York County is approaching this new plan in an incremental way and is asking the Board to approve a reduction in its maintenance of effort to equal the state allocation. Gloucester County will reduce their maintenance of effort from $57,000 to $44,000, which is equal to their state allocation. This is a modest adjustment. James City County will reduce their maintenance of effort from $144,000 to $91,000, also consistent with the state allocation. Poquoson will reduce their maintenance of effort from $22,000 to $10,000, which is also equal to the state allocation.

On motion duly made by Robert Vilchez and seconded by Dana Schrad, the Board of Juvenile Justice approved the reduction of the required maintenance of effort for the York County Combined Plan that includes Gloucester County, James City County, and Poquoson (York County) to match the state allocation beginning in FY2021. The roll call vote follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. The motion was carried.

Request Authorization to Submit a Variance and a Proposed Amendment to 6VAC35-150-335 (Diversion) of the Regulation for Nonresidential Services
Kristen Peterson, Regulatory and Policy Coordinator, Department

Ms. Peterson explained the Department's request that the Board initiate a fast-track regulatory action to amend 6VAC35-150-335 and approve a variance to that same regulatory requirement. 6VAC35-150-335 is a diversion provision contained in the court service unit regulation and these requests would relieve court service unit intake officers from the regulatory requirement in Subsection A of Section 335.

6VAC35-150-335 currently provides: *When an intake officer proceeds with diversion in accordance with subsection B of 16.1-260 of the Code of Virginia, such supervision shall not exceed 120 days*. *For a juvenile alleged to be a truant pursuant to a complaint filed in accordance with Section 22.1-258 of the Code of Virginia, such supervision shall be limited to 90 days*.

Diversion is intended to allow intake officers discretion to divert certain offenses. Rather than the intake officer filing a formal court petition, the intake officer has the authority to divert certain eligible offenses and to informally address the offense through other options. The youth can be subject to counseling, complete informal supervision programs, or participate in other services.

Section 16.1-260 of the *Code of Virginia* sets out the various type of offenses eligible for diversion, specifically for Child in Need of Supervision (CHINSUP) offenses. One of the components of that particular offense is that the youth might be habitually and without justification absent from school. That particular category of offense includes truancy, which is eligible for diversion.

There are restrictions on the use of diversion for truancy offenses. Over the course of the youth's entire K-12 educational career, only three truancy diversions are permitted. The other restriction on the use of truancy diversion is that there can only be one truancy every three calendar years. If the previous truancy took place three calendar years before the current complaint, that truancy offense can be diverted.

According to Ms. Peterson, the impetus behind the regulatory amendment is a statutory change that was enacted this past legislative session. Prior to that legislative change there was a provision in Section 16.1-260 that placed a 90-day cap on truancy diversion. If a youth and his parent or legal guardian agreed to the terms of the diversion with the intake officer, the youth would have 90 days from executing that agreement to carry out all the responsibilities and requirements set out in the diversion plan. If the youth failed to do that within the 90-day period, pursuant to the statute, the intake officer was mandated to file the petition. The Department had challenges with that particular statutory provision because there is no similar statutory provision that places a cap on other types of diversions for other eligible offenses. There was a disparity between diversion for truancy offenses and diversion for arguably more serious offenses such as misdemeanors. During the 2020 legislative session, the Department lobbied for a change to that statute to remove that 90-day cap. However, although that legislation passed language remains in the regulation that places the 90-day cap on the truancy diversion.

The Department is requesting the Board approve the initiation of a fast-track regulatory action to amend the provision in the regulation that sets the 90-day cap for truancy diversion. The Department has stricken the 90-day limitation. As a result of striking that language, all diversions will be subject to a 120-day, rather than a 90-day, diversion period.

The fast-track process is an expedited process that is typically available for regulatory provisions not expected to generate controversy. The Department does not expect this regulatory change to create controversy. It has already passed the General Assembly unanimously.

As the regulation currently stands, there is a disparity in terms of treatment of youth who have been alleged truant versus youth alleged to have committed other offenses eligible for diversion. This regulatory change will remove some of that disparity.

Even if the Department tried to accomplish this regulatory change through the fast-track process, the process can take a year or longer depending upon the proposed regulatory change. The hands of the Department's intake officers will continue to be tied in terms of being able to extend the diversion period to 120-days due to the current regulatory language. Therefore, in addition to asking the Board to approve a fast-track regulatory change, the Department is also seeking approval for a variance to this requirement. The Board has the authority to issue variances and relieve the court service unit or regulated entity from having to meet all or a certain portion of a regulatory requirement. The Department is seeking a variance that would excuse all 34 court service units from the 90-day truancy diversion requirement. The Department is asking the Board to approve the variance for a period of three years or until such time as the regulation is updated.

Variances must meet certain requirements pursuant to 6VAC35-20-92. The Board is only authorized to issue a variance for non-critical regulatory requirements. No provisions in the court service unit regulations contain critical regulatory requirements. In addition, the regulated entity seeking the variance must demonstrate that it is unable to comply with that portion of the regulation from which it seeks relief. The Department's court service units have struggled to successfully comply with the provision that imposes the 90-day requirement. This is why the Department initially sought the legislative change. Significant discrepancies were found in terms of the time period for truancy diversion verses other eligible offenses. The Department's truancy diversions are at a 66.7% success rate, compared with the 84.7% success rate for other types of diversion. The lower success rate might be attributable to the shorter diversion period.

Director Boykin reiterated the Department's goal of keeping young people out of court and detention. The Department wants to improve upon those success rates with diversion for truancy use. Many truancy programs have family components and weeks of engagements are needed to stem some of the issues that are contributing to the truancy. Director Boykin asked the Board to consider this motion as part of the Department's overall transformation effort to divert more young people from the juvenile justice system.

Board Member Schrad asked if there was a delayed enactment clause on the enabling legislation. Ms. Peterson answered that the legislation took effect on July 1, but the legislation only removed the 90-day requirement. The Department still has the discretion to increase or decrease the diversion period. The way the regulation currently reads, the Department is impeded from doing so because of the language in the regulation.

On motion duly made by Tyren Frazier and seconded by Dana Schrad, the Board of Juvenile Justice authorized, through the fast-track regulatory process, an amendment to the diversion provision in the Regulation for Nonresidential Services, set out in 6VAC35-150-335, to remove the 90-day deadline for completing a truancy diversion plan by roll call vote as follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. The motion was carried.

On motion duly made by Scott Kizner and seconded by Dana Schrad, pursuant to 6VAC35-20-92, the Board of Juvenile Justice approved a variance to the regulatory requirement in the diversion provision of the Regulations

for Nonresidential Services, set out in 6VAC35-150-335, to remove the 90-day deadline for completing a truancy diversion plan. This variance shall remain in effect until 6VAC35-150 is amended or for three years, whichever occurs first. The Board voted by roll call as follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. The motion was carried.

Request Authorization to initiate NOIRA for Regulations to Address Detained Youth Under Federal Custody
Kristen Peterson, Regulatory and Policy Coordinator, Department

Senator Adam Ebbin's Senate Bill 20 was enacted this year and directs the Board of Juvenile Justice to establish regulations that apply to youth in juvenile correctional facilities under contract with the federal government. Senator Adam Ebbin first introduced this legislation during the 2019 General Assembly session, but the legislation failed. Senator Ebbin then came before the Board in June 2019 to request the Board develop separate regulations that would apply specifically to youth in juvenile detention centers detained in programs under federal custody. The Board had recently heard amendments to the juvenile correctional center (JCC) and juvenile detention center (JDC) regulations and had made significant changes regarding mechanical restraints, physical restraints, spit guards, etc. The consensus of the Board, at that time, was that the regulatory provisions put in place were sufficient to address Senator Ebbin's concerns and there was no need to carry out Senator Ebbin's recommendation. Based on the Board's decision, Senator Ebbin brought similar legislation during the 2020 General Assembly Session, which passed.

The legislation directs the Board to develop regulations that apply to youth in juvenile correctional facilities pursuant to a contract with the federal government. Senator Ebbin thought this class of youth were vulnerable and needed additional protections given their statuses, being from other countries, and having English as their second language. A lawsuit that was ultimately dismissed alleged abuse in one of the facilities that operate a federal program. Senator Ebbin also brought this legislation to address those allegations.

Based on the language of the statute, there are two types of contractual arrangements that might be impacted by this legislation. The first type of contract that Senator Ebbin was trying to address are those arrangements with the federal Office of Refugee Resettlement (ORR). This is an agency under the umbrella of the Department of Homeland Security and often enters into contractual relationships with state and locally operated non-secure and secure facilities to house youth on behalf of the federal government. Secure placements are only necessary for unaccompanied children deemed a danger to themselves or others or who are convicted of a criminal offense. Currently, the only ORR contract in the Commonwealth is at the Shenandoah Valley Juvenile Center, a secure facility in Staunton.

Additionally, contractual arrangements with Immigration and Customs Enforcement (ICE) could be impacted by this legislation. These are contractual arrangements with state-licensed juvenile facilities that have agreed to house youth for a temporary period. Typically, these are accompanied minors who might fall under ICE jurisdiction temporarily with a 72-hour hold or possibly up to 30 days. Currently, there are no facilities in Virginia with ICE contracts, but at least one JDC is considering adopting such a program.

Senator Ebbin intended his legislation to apply specifically to JDCs that operate these federal programs; however, the language in the legislation uses "juvenile correctional facilities," and that term has been

understood to include JCCs. The regulation needs to be broadly drafted to reflect Senator Ebbin's intent, as well as the actual legislation language. The recommendation of the workgroup is to expand the regulatory provision to include JCCs. To clarify, Bon Air JCC does not currently have or intend to secure such a contractual relationship with any federal government entity.

Senator Ebbin's legislation outlines the mandated content of the regulation to include: standards that govern physical force, mechanical restraint, spit guards, and avoiding isolation. The workgroup will determine if these provisions need to be enhanced to further ensure the protection of the population. The other requirements of the regulation include requirements for an appropriate number of bilingual staff and culturally relevant programs, provisions to ensure youth understand their rights and responsibilities within the facility, and enhanced recordkeeping standards.

The Department is seeking to use the standard regulatory process for this regulation. The Department believes this would give the detention centers a sufficient amount of time to implement the provisions. The standard regulatory process involves three stages: the Notice of Intended Regulatory Action (NOIRA) Stage, the Proposed Stage, and the Final stage. The standard regulatory process is more appropriate because some provisions might generate controversy, in which case, the fast-track process would not be available.

A workgroup has convened to develop the regulations. The workgroup consists of representatives from the detention centers, the JCC, the ORR, and the Department of Behavioral Health and Developmental Services. The Department is requesting the Board's approval to initiate the first stage of the regulatory process, and issue the NOIRA.

On motion duly made by Tyren Frazier and seconded by Scott Kizner, the Board of Juvenile Justice approved the initiation of a Notice of Intended Regulatory Action to commence the first stage of the standard regulatory process for the regulatory action mandated by 2020 legislation (2020 Acts of Assembly, Chapter 599, SB20) related to youth housed in juvenile correctional facilities and under federal custody. The Board voted by roll call, as follows: Tyren Frazier – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Greg Underwood – Aye. The motion was carried.

Yvonne B. Miller High School Plan for Reopening
Dr. Melinda Boone, Deputy Director of Education, Department

Dr. Melinda Boone discussed the Yvonne B. Miller High School Reopening Plan for the 2020-2021 school year, which is in the Board packet and posted on the Department's website. This plan was required by the Virginia Department of Education (VDOE) and had to be submitted at least two weeks prior to the first day of school, which for the Department was September 8. The plan was submitted to VDOE on August 21 and met the compliance requirements with no additional information required.

The plan is designed to ensure the Department provides new instruction for all students. When school closed in March, initially for two weeks and then longer, all school divisions struggled. Every school district in the Commonwealth and across the country closed as a result of COVID-19 and had to figure out how to provide

continuity of education. New instruction was sometimes lost in the process. The plan ensured new instruction for all students and addressed instructional learning gaps that may have occurred because of school closure.

The plan also required the Division of Education to demonstrate ability to switch quickly between in-person and virtual teaching and learning. This school year began in the virtual setting and will phase into in-person teaching and learning as the school year moves forward. The Division of Education leadership monitors the COVID-19 active case rates in the school district (Chesterfield), in addition to paying attention to where the school teachers reside.

The plan provides supportive needs for students with disabilities and English learners.

The plan has components on how the school will provide social and emotional support services to students and school staff. This change to virtual online learning, as well as the disruption/interruption of school, has been stressful.

This summer, the professional development of Division of Education staff aligned with enhancing and improving their virtual learning skills.

The Department is committed to investing in the infrastructure for remote and virtual learning at Bon Air. At the beginning of the pandemic, the school had laptops in the classrooms but did not have laptops in the units and was not able to have active teaching and learning through videoconferencing. There was no way to connect with the students. The school attempted some summer programming and had a good start with a hybrid mix. Primarily, students with disabilities and English learners were in the classrooms with teachers. There was an interruption, and the school went back to the virtual and learning packets.

Dr. Hudson and his team initiated a book camp to make sure senior youth were on target for graduation with appropriate course work and supports in place to meet that goal. The school graduated six in June, and another 12 to 14 youth met the criteria and graduated in August.

There were a number of technology investments, and the Division of Education could not have done this without the support of the agency's IT personnel and the Residential Services Division. Bon Air campus became the home setting, and all were asked to help the students get online and ensure that the technology protocols were followed. The Division of Education leaned on the residents and on IT to bridge a gap between in-person and virtual learning.

The Division of Education used CARES Act funding, as well as other funds through the Department, to purchase technology items following state procurement guidelines. The school purchased webcams for all teachers and additional laptops for students with integrated cameras. The school has become a part of the Canvas learning videoconferencing system, which allows teachers and students to have real-time connections. During the spring closure and through the summer, the Department learned that students need personal contact with teachers and immediate support for their needs.

The school also served its post-secondary students and moved them into the virtual realm. The school acquired Tooling U, an online manufacturing training program that allows the career and technical training students to continue their work. This post-secondary program addressed areas of industrial safety, welding, industrial supervision, rigging, electronic systems, workforce essentials, and continuation of community college coursework.

The school opened on September 8, and personnel will continue to monitor and make progress in order to roll into increased in-person learning in the near future.

Board Member Schrad complimented Dr. Boone and her education team on a comprehensive and well thought out plan and commented that local school systems could learn from them.

Chairperson Frazier expressed his appreciation for all the work the education team and the Department have done to get youth to learn in this environment, as well as all the educators across the world that are learning how to navigate these unprecedented times.

DIRECTOR'S COMMENTS
Valerie P. Boykin, Director, Department

Director Boykin thanked Dr. Boone and her team for the exceptional work to bring education back to the Bon Air campus. Director Boykin explained that Dr. Boone served last school year on an interim basis due to the sudden departure of the agency's last Deputy Director for Education and announced that Dr. Boone has been hired as the permanent Deputy Director for Education as of June 25.

The Secretary of the Commonwealth is reviewing an applicant for the Board vacancy left by the departure of Dr. Woolard in June. The Department is optimistic a new Board member will be announced by the next meeting.

The Board approved the sale of Natural Bridge Juvenile Correctional Center earlier this year. The sale fell through and the facility is still state and Department property.

It has been an eventful and challenging six months for the Department. Bon Air JCC had a COVID-19 outbreak in April and was able to quickly get it under control. Bon Air has had only a few incidents since, and the agency continues to closely monitor and be aggressive in its efforts. Director Boykin provided updates to the Board and the public through the agency's website on the health pandemic.

Director Boykin shared that in July, Bon Air JCC had its first escape in over 20 years -- two young adults with blended sentences. The escaped youth had help from two Bon Air staff and one of their family members. The escaped youth were ordered to remain at Bon Air until the age of 21 and would then be moved to the Department of Corrections for several years. The Department is not aware of any new crimes committed after the escape. The two youth were apprehended in Michigan by a partnership of Virginia State Police, U.S. Marshal Service, and many other law enforcement entities. The youth are incarcerated and awaiting trial on numerous felonies, as are the two former staff who aided in the escape. While disappointing, it is forcing the Department

to review security measures, such as training, support for staff, and shoring up the physical plant at Bon Air. Bon Air is an old facility, and security protocols need to be tightened.

The current population at Bon Air is 140 youth, which is the lowest count in decades. At the outbreak of the pandemic, Bon Air had 205 youth. The Residential Services Division aggressively reviewed young people appropriate for release by looking at their treatment and reentry plans. The total committed population is 244 youth, with 140 youth in alternative placements. Pre-dispositional detention is down about 26% around the state. Post-dispositional detention, young people serving treatment in other facilities, is down about 52% statewide. Between March and the middle of August, the Department released a total of 141 youth from its facilities, 62 of them from Bon Air.

The Department's heroic staff show up every day in these turbulent and trying times. Working in a congregate care center is not easy and has many challenges.

Director Boykin introduced Linda McWilliams, Deputy Director of Community Programs, to provide an update. Deputy Director McWilliams explained that the Community Programs Division had judicial orders to shut down or modify court operations as the pandemic began. In response, the unit developed a pandemic plan to reduce the number of staff needed in the offices, which would reduce the potential spread of COVID-19 while still maintaining services to the court, as well as to families and youth. The division had frequent meetings several times a week to make adjustments as the courts made adjustments. One important factor was to move contact with youth and family to a virtual platform. In response to that, the Department purchased and assigned cell phones to probation officers so they could have face-to-face communication with youth. Deputy Director McWilliams recognized the work of the Practice Improvement Unit under the supervision and direction of Beth Stinnett. That unit met an identified need to give probation officers additional training to support reaching out to families and youth and making those contacts meaningful. They began virtual webinars, and to date have conducted 29 webinars. The first webinar had 450 participants, and the unit was excited about the amount of engagement. Over four months, these webinars have made a big difference in increasing the skill set of the probation officers and enhancing the work with families in spite of the limited in-person contact.

Director Boykin introduced Jamie Patten, Deputy Director of Administration and Finance to provide an update on agency training. According to Deputy Director Patten, the Training Unit has responded during the pandemic by expanding distance learning, conflict resolution, and mediation services. Pre-pandemic, over 100 staff were trained in Basic Skills for Caseworkers, 262 staff retrained on annual requirements, and 77 new Resident Specialists graduated. Post-pandemic, all in-person training was canceled except for Basic Skills for Direct Care, which trained 27 new Resident Specialists with two classes. The Training Unit converted all existing training to web-based, distance learning and resumed these sessions by the end of April. This was a wonderful feat, and was a rapid response to an ever-changing environment. The Organizational Development Unit developed and provided 59 webinars since the onset of the pandemic with a total of 2,433 participants statewide. This training is reaching employees. The Emerging and Frontline Leaders program was fully converted and has reached more people than ever before thanks to the virtual platform. The Training Unit also added additional curriculum. By the end of this month, the Training Unit will complete the annual certification retraining online as well.

NEXT MEETING DATE
November 4, 2020, at 9:30 a.m.

ADJOURNMENT
The meeting was adjourned at 1:05 p.m.