

Robert Vilchez, Chair
Scott Kizner, Vice Chair
Synethia White, Secretary
Lisa Cason
Eric English
Tyren Frazier
William Johnson
David Mick
Laura F. O'Quinn



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COMMONWEALTH of VIRGINIA
Board of Juvenile Justice

BOARD MEETING

November 1, 2024

Bon Air Juvenile Correctional Center Campus

9:30 a.m. Board Meeting

1. **Call To Order and Introductions**
2. **Consideration of the July 31, 2024, minutes (PAGES 1-12)**
3. **Public Comment**
4. **New Business**
 - I. **Consideration of Request to Initiate the Proposed Stage to Add Community Placement Program Regulations to 6VAC35-101, Regulation Governing Juvenile Secure Detention Centers (PAGES 13-22)**
Ken Davis, Regulatory Coordinator, Department of Juvenile Justice
 - II. **Consideration of Request to Advance Regulation Governing Juvenile Data Requests and Research Involving Human Subjects (6VAC35-170) to the Proposed Stage of the Standard Regulatory Process; Request to Amend Guidance Document Interpreting 6VAC35-170, Review and Approval of Data Requests and Research Proposals (PAGES 23-68)**
Kristen Peterson, Regulatory Coordinator, Department of Juvenile Justice
 - III. **Consideration of Request for a Fast-Track Action to Amend Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System (6VAC35-160) (PAGES 69-74)**
Kristen Peterson, Regulatory Coordinator, Department of Juvenile Justice
 - IV. **Consideration of a Variance Request for Direct Supervision Staff in JCC to Actively Supervise Residents, 6VAC35-71-810 (PAGES 75-78)**
Kristen Peterson, Regulatory Coordinator, Department of Juvenile Justice
 - V. **Consideration of Request for Authorization for a Variance to 6VAC35-150-390 (Transfer of Case Supervision) (PAGES 79-82)**
Kristen Peterson, Regulatory Coordinator, Department of Juvenile Justice
 - VI. **Consideration of Request for Extension of Variance Applicable to New River Valley Juvenile Detention Home; Control Room (PAGES 83-112)**
Ken Davis, Regulatory Coordinator, Department of Juvenile Justice

BOARD MEETING

November 1, 2024

--PAGE TWO--

- VII. **Consideration of Requests for Amendment of Board Policy 05-005 (Employee Drug Screening); Request Retention of Board Policies 02-016 (Cooperation with Federal, State, and Local Officials) and 20-107 (Tobacco Products) (PAGES 113-117)**
Ken Davis, Regulatory Coordinator, Department of Juvenile Justice
5. **Director's Certification Actions (PAGES 118-156)**
Ken Bailey, Certification Manager, Department of Juvenile Justice
6. **Director Remarks and Board Comments**
7. **Next Meeting:** December 6, All-Virtual Public Meeting
8. **Adjournment**

Included in the Board Packet is a copy of the Department of Juvenile Justice Human Research and De-Identified Case Specific Data Requests for FY 2024 (PAGES 157-170)

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COMMONWEALTH of VIRGINIA
Board of Juvenile Justice

DRAFT Meeting Minutes

July 31, 2024
All-Virtual Meeting

Board Members Present: Lisa Cason, Eric English, Tyren Frazier, William (Will) Johnson, Scott Kizner, David Mick, Robert (Tito) Vilchez, and Synethia White

Board Members Absent: Laura O'Quinn

Department of Juvenile Justice (Department) Staff: Ken Bailey, Brandi Fannon, Katherine Farmer, Mike Favale, Amy Floriano, Cora Heinzen, Wendy Hoffman, Deyonta Johnson, Melodie Martin, Andrea McMahan, Ashaki McNeil, Linda McWilliams, Stephanie Morton, Julie Norris, Guillermo Novo, Cassandra Sheehan (Office of the Attorney General), Lara Todd, and James Towey

CALL TO ORDER AND INTRODUCTIONS

Chairperson Vilchez called the meeting to order at 9:36 a.m. and asked for introductions.

BOARD ELECTIONS

James Towey, Legislative and Regulatory Affairs Manager, Department

The Board of Juvenile Justice elects officers from its membership at its first meeting of the fiscal year to include the Chairperson, Vice-chairperson, and Secretary. The officers can serve for a term of one year and are eligible for re-election each year. There are no term limits.

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.

The Board discussed and nominated Tito Vilchez as Chairperson. On motion duly made by Scott Kizner and seconded by Eric English, the Board approved the nomination of Tito Vilchez as Chairperson. All Board members present declared "aye," and the motion carried.

The Vice-chairperson is the second officer under consideration. 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.

The Board discussed and nominated Scott Kizner as Vice-chairperson. On motion duly made by Will Johnson and seconded by Synethia White, the Board approved the nomination of Scott Kizner as Vice-chairperson. All Board members present declared “aye,” and the motion carried.

The Secretary is the third officer under consideration. 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 who are 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.

The Board discussed and nominated Synethia White as Secretary. On motion duly made by Scott Kizner and seconded by Tito Vilchez, the Board approved the nomination of Synethia White as Secretary. All Board members present declared “aye,” and the motion carried.

Chairperson Vilchez congratulated the newly elected officers, and noted the Board appointments take effect immediately with all elected members eligible for reelection.

CONSIDERATION OF BOARD MINUTES

The minutes of the May 22, 2024, Board meeting were offered for approval. On a motion duly made by Tyren Frazier and seconded by Tito Vilchez, the Board approved the minutes as presented. All Board members present declared “aye,” and the motion carried.

PUBLIC COMMENT

There was no public comment.

NEW BUSINESS

Consideration of Virginia Juvenile Community Crime Control Act (VJCCCA) Plans

Katherine Farmer, VJCCCA Supervisor, Department

Amelia, Nottoway, and Dinwiddie have submitted VJCCCA plans for fiscal year 2025-2026 with balanced budgets for fiscal year 2025-2026. These plans have been reviewed by DJJ staff and are recommended for approval by the Board for both fiscal years of the 2025-2026 biennium. The Board had no questions.

On motion duly made by David Mick and seconded by Tyren Frazier, the Board approved the VJCCCA plans for Amelia, Nottoway, and Dinwiddie for fiscal year 2025-2026. All Board members present declared “aye”, and the motion carried.

ANNUAL REVIEW OF THE BOARD BYLAWS

James Towey, Legislative and Regulatory Affairs Manager, Department

Pursuant to the bylaws, each year the Board is to review the bylaws to determine compliance with any amendments made to the applicable sections of the Code of Virginia during the past legislative session. The bylaws were last reviewed June 2023. Upon reviewing the amendments to the Code of Virginia from the 2024 session of the General Assembly, there were no amendments that necessitated change to the Board bylaws and, therefore, no amendments to the bylaws are recommended.

Article 7, section 7.02 of the bylaws states that the bylaws can be amended at any regular or special meeting of the Board by an affirmative vote of the majority of the Board, provided that the proposed amendment was included in the notice of the meeting. Any member can bring forth a recommendation or suggestion of a change to the bylaws at any meeting as long as it is noted beforehand in the meeting notice.

There is no motion necessary for this annual review of the bylaws today.

RECOMMENDED AMENDMENTS TO BOARD POLICY ON ALL-VIRTUAL PUBLIC MEETINGS AND BOARD POLICY ON REMOTE PARTICIPATION OF MEMBERS

James Towey, Legislative and Regulatory Affairs Manager, Department

The Board enacted its policies on all-virtual meetings and remote participation in November 2023 and since then changes have been made to both governing statutes of the policies. In order to make sure these two policies are up to date and in compliance with the recent amendments to the Code of Virginia, the Board will need to amend both policies.

Mr. Towey directed the Board to page 17 of the packet for the amendments to the Policy Governing All-Virtual Public Meetings

1. Prior to the 2024 session of the General Assembly, the statute governing all-virtual public meetings limited the number of all-virtual public meetings to no more than two times per calendar year, or 25% of the meetings held per calendar year rounded up to the next whole number, whichever is greater. The statutory amendment increased the percentage from 25% to 50% and that change is reflected in paragraph 3(c) of the Board policy. This does not impact the Board because the Board is allowed to have two all-virtual meetings or 50%, and since the Board has four meetings per year, two meetings is 50%.
2. The statute also required when audio-visual technology is available, a member of the Board shall for the purposes of a quorum, be considered absent from any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails, or during which audio communication voluntarily fails. That change is reflected in paragraph 5(h). Mr. Towey surmised that the change probably resulted from some situation that happened in another agency.

3. The last amendment to this all-virtual public meeting policy is found in paragraph 5(i): this policy shall not prohibit or restrict any individual member of the Board who is participating in an all-virtual public meeting from voting on matters before the Board. Mr. Towey surmised this change was probably introduced because another agency was not certain as to whether someone participating remotely could vote or not. Pursuant to the policy, they are not allowed to have an impact on the quorum, but can vote, so this amendment is clarifying language.

Board Member Kizner asked for clarification on the second amendment. If there is a failure to be seen on a virtual meeting, but the member can be heard, the member is not counted as being present?

Mr. Towey responded that is the language in the statute, for any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails, or during which audio communication voluntarily fails. If there is visual or audio communication that fails, either of those, at least for the moment they were not seen or heard, would not qualify as a quorum.

Board Member Kizner asked, if you are on a virtual meeting and a member chooses to not be seen visually, in a sense they are not at the meeting.

Mr. Towey said for purposes of a quorum that is correct. Mr. Towey did not know why they put that language in the policy, but it ensures the member is seen rather than just being heard. The Board should make sure that if a quorum is in jeopardy all have both visual and audio connection.

Board Member White asked if the visual and audio connection is to establish a quorum or required for the duration of the meeting? Deputy Director of Policy Michael Favale explained that when the Board is voting, members should be seen and heard. Deputy Director Favale stated that at all other times during the meeting, the Board does not technically need a quorum.

Mr. Towey suggested that, in a worst-case scenario, the meeting could be paused until the communication situation could be fixed and the meeting could continue with a quorum.

On motion duly made by Scott Kizner and seconded by Tito Vilchez, the Board approved the proposed amendment to paragraph 3(c) and paragraph 5 of Board Policy 23-001, governing all-virtual public meetings, adopted on November 15, 2023. All Board members present declared "aye", and the motion carried.

Mr. Towey directed the Board to page 20 of the packet for the amendments to the Policy Governing Remote Participation of Members.

1. Paragraph 2(b) has a new definition for "caregiver". "Caregiver" means an adult who provides care for a person with a disability. The "caregiver" shall either be related by blood, marriage, or adoption to, or the legally appointed guardian of, the person with a disability for whom he is caring. The caregiver definition adds to the reasons a member may participate remotely.
2. Paragraph 4(a) provides that, if the Board member is a caregiver who must provide care for the person with the disability at the time the public meeting is held, thereby preventing the member's physical attendance, they must notify the Board chair.

3. Paragraph 4(c) states that there is no limit to the number of times that a member may participate remotely for the authorized purposes listed in 4(a) (i)-(iii), which includes the caretaker provision. If a Board member is a caregiver, they have no limit on the number of times they are allowed to participate remotely, as long as they satisfy the definition of caregiver.

The new statute also provides that, for the purposes of determining whether a quorum is physically assembled, an individual member of the Board who is a person with a disability and uses remote participation counts towards the quorum as if the member were physically present. Further, an individual member of the Board, who is a caregiver for a person with a disability and uses remote participation, also counts toward the quorum as if the individual were physically present.

4. Paragraph 3(c) states this policy shall not prohibit or restrict an individual member of the Board who is using remote participation from voting on matters before the Board. Again, as with the all-virtual meeting policy, Mr. Towey surmised that some agencies had confusion over whether someone participating remotely was allowed to vote, this clarifies that they are allowed to vote.

On motion duly made by Will Johnson and seconded by Eric English, the Board approved the proposed amendments to paragraph 2(b), paragraph 3, and paragraph 4(a) of Board Policy 23-002, governing remote participation of members, adopted on November 15, 2023. All Board members present declared “aye”, and the motion carried.

PRESENTATION ON THE GANG AND VIOLENCE INTERVENTION PROGRAM

Dr. Deyonta Johnson, Violence Intervention Manager, Department

Dr. Johnson presented on ASPIRE, the gang and violence intervention program currently implemented at Bon Air Juvenile Correctional Center.

The program started as a pilot sanctioned by Deputy Director of Reentry, Education, and Intervention Ashaki McNeil. In the facility, there is a good deal of gang involvement with no real intervention to address it or provide staff with the skills and tools necessary to combat this type of risky behavior. DJJ wanted to be proactive and put something in place that was effective to work with the young people on this big issue.

Research was done on what other states implemented for gangs and intervention. Staff then designed a program to fit within the framework of Bon Air. Dr. Johnson believes the agency has developed a good program that so far has seen good results with its young people. He hopes the agency will continue to foster and grow the program and be highly effective moving forward.

About two years ago, the facility had several issues with assaults, gang involvement, and an inability to merge residents across the campus to do basic activities and even schooling. As a result, the agency needed something that would foster a collaborative effort to bring the youth together. That is how the ASPIRE program began. The Violence Intervention Unit (VIU), which Dr. Johnson manages, is a new unit developed by the agency director. One of its tasks was making sure programming was implemented in the community and the correctional center to address gangs and violence across the Commonwealth.

There are several reasons why juveniles and residents join gangs. The VIU needed to gain an understanding of why youth join gangs and to address the best and most effective intervention to move forward. Dr. Johnson directed the Board to page 27 of the packet that provides reference to the many risk factors associated with why youth join gangs. Coupled with that, the strategies recommended by the National Gang Center to address gang and violence in the communities, include community engagement and collaboration, education, social intervention, suppression, and organizational change and development. Each of these aspects were used to begin fostering and developing the ASPIRE program.

The VIU kept in mind the spectrum of how to intervene with youth and gangs using a preventative, intervention, or suppression stance. It is a challenge dealing with gang-involved youth especially when youth have not been identified as such; and with the new generation of youth involved in hybrid gangs and neighborhood gangs, it is more difficult for the youth to be identified as gang-involved. Nonetheless, all of this creates complexities when trying to address the need and determine where the youth is on the spectrum of involvement. The VIU had to be strategic in the implementation of the program to make sure all these multiple lines were addressed.

The VIU also considered the basics of Maslow's Hierarchy of Needs (page 30 of the packet). There are several different things that need to be provided in order to obtain a level of self-actualization. As the program was being developed, it needed to ensure other things were met first before getting to the point where interventions were going to be effective. This is how ASPIRE was born. It took all those different facets into consideration to develop a comprehensive program that will address and meet the needs of young people.

The program has three phases. Phase one is the Program, phase two is the Circle Up, and phase three is the newest addition The Unit. The Unit, also known as the housing unit, has been open for five months.

The ASPIRE Program admissions criteria are youth who have suspected association, affiliation, or validation as a gang member by the agency's Bureau of Investigative Operations, VIU, Division of Education or residential staff. The reason for the different agency departments is because sometimes intelligence is given or collected by different units in the agency. A system is in place for reporting, but sometimes validating a youth as a gang member is not enough; it is basically a suspicion. The program admissions also wanted to focus on youth who are ambivalent to change and amenable to intensive gang intervention services that require significant support for change behavior.

The selection process requires the youth to complete an application, and must be endorsed by their treatment team, which is comprised of their housing unit coordinator, behavioral services unit therapist, and their counselor, in addition to a member of the Division of Education. The treatment team should have a good working knowledge of the young person and are asked to endorse their application set forth by that young person.

After the youth has completed the application and it has been endorsed by the treatment team, the youth's interview is scheduled. The youth will be invited to participate in an interview and its sole purpose is to assess their ambivalence to change. The VIU makes sure this young person wants to be a part of the program and is committed to needing that extra support. If the resident is selected for the program, they

will receive a written letter of acceptance. If they are not accepted into the program, a notice is provided letting the youth know they did not get in this time but are encouraged to try again.

ASPIRE is embedded in the Positive Behavioral Interventions and Support (PBIS) framework. If the youth is not accepted into the program, they will be offered 40 PBIS points to soften the blow of not getting in the program. There are not an unlimited number of slots in the program. The program can accommodate 24 youth at a time and is conducted three times a year, at a minimum, in spring, summer, and winter. The program can choose only 24 youth at a time because of staffing and to ensure that the needs of the young people are being met and are given the program's undivided attention.

The program runs approximately 10 days with sessions not on holidays. The first week the residents are separated into three different teams: two eight-member male teams and an eight-member female team. Typically, residents are grouped together with other residents with whom they get along and have a good relationship. The sessions are from 8 a.m. to 4 p.m. with a set curriculum. The staff work with the young people to address their risky thinking, their gang associations, and their deviant behavior. The staff work hard to reshape and refocus.

Week two of the program, the male youth are merged to become 16 and the female population continue to remain separate unless there is an incentive event, and they will all come together. The staff prepare the youth for the merge. The youth need to be separated because many residents do not get along and may know each other from the street. It is a huge task to bring youth together, and the staff have many conversations to prepare them mentally for the merge and to reassure them it is safe. The staff assesses the safety of the situation and make sure youth are comfortable. The group spends the entire second week together as one unit and we have seen good results. Four cohorts have been completed and many residents have expressed their enjoyment being a part of the program.

The group has a mantra (page 36 of the packet) that every youth is required to memorize and encouraged to use when the youth is having difficulty and needs positive affirmations for themselves. Youth with learning disabilities are provided resources to ensure they can commit the mantra to memory, and so far, all have and are excited to recite this together as a group.

Residents are afforded peer support during this process. Residents who have completed the various phases come back and support the youth in phases one and two. This has seen good results and great feedback in the peer support initiative. Phase one is very intense with a lot of work assignments, and peer support helps them during this key moment of the ASPIRE program.

Youth must maintain a high level of behavioral expectations in the program as well as outside the program. The VIU wants to produce model residents across the facility and when they wear the ASPIRE shirt, the youth understand and know they are held to a standard. The youth must adhere to these behavior standards. If they fail, they will be removed from the program. The staff make sure the youth are amenable to the services and if the resident is removed from the program, they can reapply and go through the process again.

Phase one is comprised of various activities, events, and material. The program utilizes an evidence-based curriculum. The Violence Intervention Specialists are certified and have completed intense online training supervised by the Horizon Company. They receive their certification in gang and violence intervention

and life skills curriculum. In addition, they learn about positive youth leadership development. There is a whole session about what it means to be a positive leader, followership, helping youth know who to follow, and following the correct people that will lead them in a positive manner.

The program works with the Division of Education on collaborative education. There are art projects, science experiments, recreation at the end of both weeks, and typically a meal social that wraps up the program. Collaborative education has the youth working together in teams on recreational activities and team engagement exercises. Pages 41 to 44 of the packet (slides 18-20 of the presentation) show pictures of gingerbread house construction and a meal social that takes place at the conclusion of the first week of the program.

The next phase is the Circle Up. After the youth successfully completes phase one of the program, staff realized they needed continuous support. Wednesdays from 1:00 p.m. to 3:30 p.m., the staff continue to bring the residents together and continue psycho-educational groups to reinforce the program concepts, utilizing the ARISE curriculum. The youth continue to come back together to work as one unit and have the support of the VIU and all the other resources currently provided at Bon Air.

The group does require accountability, and positive reinforcements are provided to the young people while in the program, especially when the youth are on the right track. The program staff follow the residents, monitor their behavior, and respond to incidents to provide additional support.

The third and final phase of the ASPIRE program is The Unit, which opened February 26, 2024, for residents who have completed phase one and two and are now eligible for phase three. The residents must have completed 12 Circle Up groups, which take place on Wednesdays, before they are eligible to move forward to The Unit unless there is a special or extenuating circumstance. If the youth advances to phase three, they will remain in phase three as long as they desire or until they transition out of the facility. If the youth does not make it through the first two phases to The Unit, it does not mean the youth are out of the program. They continue to remain in phase two until they transition out of the facility. Some residents do not want to come to The Unit, which is fine. There is limited space in the unit with 16 beds. These youth can stay in phase two or elevate to phase three; it is not a negative if the youth does not make it to phase three of the program. The program fosters an environment where the resident can continue to strengthen their skills, be positive role models to others and successfully transition out of the correctional center without any distractions.

Page 47 of the Board packet lists the VIU staff The Unit is currently recruiting for one additional specialist to support their work with approximately 42 residents across the Bon Air campus.

Dr. Johnson concluded his presentation and asked for questions.

Cassandra Sheehan said she used to do juvenile work as a prosecutor and finds this program very interesting. Ms. Sheehan asked approximately how many residents apply that are not getting into the program? How long has the program been in place? Dr. Johnson responded that, on average, there are 60 residents that apply, and 24 are accepted, but many of the residents who do not get in the first time have the opportunity to apply again. The program has been in place for a year.

Board Member Mick asked if any data has been collected on this program with regard to recidivism rates and showing the success rate of the youth in the program. Dr. Johnson replied that the BADGE system (the information system used by DJJ) is being updated to reflect ASPIRE and documentation should be entered into the system soon. The behavior analytic team are gathering preliminary research on the program and its efforts. Dr. Johnson shared that only four fights have occurred among the ASPIRE residents. Those youth in the program are typically not engaging in assaults against each other. Board Member Mick would like to see the data on how the program has influenced the recidivism rates and lowering fighting. Board Member Mick said if the program shows a high success rate, then maybe more youth can be accepted into the program.

Board Member English asked whether, upon release, do the VIU still keep in touch those youth that were part of the program. Following Board Member Mick's point, being able to track the data is important, not only while in the program, but outside the facility to see if these youth are continuing the effort.

Dr. Johnson responded that the VIU also oversees the community program known as GREAT. Typically, youth referred to the GREAT program are in the court service unit. If warranted, and depending on their age, they do get continuous support if they transition out. The ASPIRE Program is only for the facility. Typically, youth will be turned over to the Reentry Advocate and the reentry process will work with them as they transition out. The ASPIRE program is designed to address the concerns within the facility.

Chairperson Vilchez asked about the population of Bon Air Juvenile Correctional Center. Superintendent Stephanie Morton answered that there are currently 166 youth at Bon Air (15 females and 151 males). Chairperson Vilchez asked how many of those 166 are affiliated with a gang. Dr. Johnson replied the exact number is difficult to place because not all residents have been identified as gang-related. There are certain behaviors that put them at risk and that is why the scope of the program has been expanded to capture them early before validation. The threshold for validation is high; VIU are unable to say if the youth are getting involved unless they are validated. VIU can say if youth are suspected to be gang involved but cannot label them as a validated gang member unless the youth meet the threshold set by statute.

Chairperson Vilchez congratulated Dr. Johnson on completing four cohorts in the last year. Chairperson Vilchez is interested in what gang affiliations are in Bon Air, and whether the youth are being recruited while there. Dr. Johnson responded that within any institution there are probably institutional gangs. He does not think Bon Air is any different. Dr. Johnson sees a lot of Bloods and Crips normally, a few Gangster Disciples and MS13. However, most residents that come through ASPIRE have failed in Bloods and Crips. That is because of the institution. Typically, a side is chosen when the youth come into a correctional facility. VIU is trying to combat that and bring them together. For the most part, the youth do come together, and they get along and have a mutual respect through the program. Now outside the program, that creates some challenges.

Board Member Mick learned a lot about gangs from Director Floriano as she was a gang prosecutor. Board Member Mick thinks it almost seems like a sliding scale between those residents known to be affiliated and those that are not known. Some youths are more involved than others. Board Member Mick thinks it is important to have this program, but it requires buy in by the juveniles. How much encouragement does the resident receive to apply for the program? Board Member Mick imagines that some of the gang members try to dissuade youth from applying to the program. Are there any mechanisms in place to try and combat this type of behavior?

Dr. Johnson responded that the youth's treatment team are encouraged to advocate for their young people and can complete the application on their behalf. The treatment team will notify the ASPIRE program staff of their actions and the youth will be taken into consideration. In addition, VIU has tried to build incentives within the program to make it "catchier" for the youth to be a part, because gangs and violence are heavily entrenched in young people's lives and there is a slippery slope when working with them. The staff ensures their safety, the specialist checks on them and can provide additional support. Milestones are built into the program for motivation.

Board Member White thanked Dr. Johnson for this good information and said he understood the limitations of being in a facility. Board Member White talked about the importance of partnering with community-based organizations and encouraging the connection of other individuals with similar lived experience who have successfully come through programs like this one and have returned to the community to live a more productive and healthier lifestyle. These individuals have credibility and lived experience, which is often helpful for the young people and their families. Board Member White talked about being a sidewalk kid and her experiences. There are a growing number of both men and women who are relevant citizens who have gone through this experience. How powerful would it be if those who are still at home like mom, dad, or other loved ones can encourage them to take advantage of the program as well.

Dr. Johnson said that Board Member White brought up excellent points and he asked if she was talking about a credible messenger type program. Board Member White responded that she was not necessarily thinking of that, because the credible messenger market in the area is somewhat watered down. There are some that do not understand the difference between credible messenger, outreach workers, and interventionist. What Board Member White was advocating was people who are not interested in the title but have started to do this type of work in the community to help other adults returning that might be good partners. It would be an additional commitment to find credible messengers that are appropriately trained and have the safety protocols. Board Member White believes in casting a wider net with folks who have that lived experience, who would advocate and speak with the young people and their families to make sure they are aware of the program. They can be an asset for family members and loved ones of the young people in the program and have that outside encouragement.

Dr. Johnson will be in touch with Board Member White to discuss further.

Board Member Frazier thanked Dr. Johnson for his presentation and congratulated him on getting ASPIRE started at Bon Air. Board Member Frazier believes it will make a difference. Board Member Frazier wanted verification that he heard correctly that Dr. Johnson's unit oversees the community-based program as well. Dr. Johnson responded that was correct. Board Member Frazier asked if Dr. Johnson could provide a presentation to the Board at a future meeting on the community-based program. Dr. Johnson agreed.

Board Member Frazier asked if there is any potential to do a pilot program at the detention centers? Dr. Johnson responded that he did provide a presentation at the Virginia Juvenile Detention Association last month, so conversations have been started but there is a need to figure out the logistics of how the program would function.

DIRECTOR'S CERTIFICATIONS

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 up to July 9, 2024.

The 5th District Court Service Unit was certified to June 13, 2027, with 100% compliance and a letter of congratulations for that accomplishment.

The audit for the 25th District Court Service Unit had two areas of non-compliance. A follow up visit determined that one area still needed further improvement, and the recommendation was to certify the unit to March 18, 2027, with referral to the regional program manager for monitoring of that one area of continued non-compliance. This audit point was about documentation of supervision plans.

The Foundations Group Home was certified to March 15, 2027, with 100% compliance and a letter of congratulations for that accomplishment.

The audit for the Fairfax Juvenile Detention Center and Post-dispositional Detention Program found three areas of non-compliance. A follow up visit was performed to ensure they have met the requirements of their corrective action plan. The status visit revealed the facility was brought back into compliance with regulations and the program was certified to January 13, 2027.

The Virginia Beach Juvenile Detention Center and Post-dispositional Detention Program had their second consecutive 100% compliance rating and was certified to April 20, 2027, with a letter of congratulations for their accomplishment.

DIRECTOR'S COMMENTS

Michael Favale on behalf of Director Amy Floriano, Department

Mr. Favale told the group that he oversees the Training Unit and speaks to the incoming staff for Bon Air. One of the things that Mr. Favale encourages, in addition to all their other jobs and duties, is for these staff to take the opportunity to be role models to these youth. The youth at Bon Air desperately need a positive adult role model, and Mr. Favale is confident there are several staff who encourage the youth to participate in the ASPIRE and GREAT programs. The staff motivates the youth to behave, excel in schooling and training, and to participate meaningfully in the programs. Mr. Favale assured the Board that there are many staff who take any and all opportunities to genuinely invest in the youth.

BOARD COMMENTS

Board Member Kizner requested at a future meeting a presentation on the academic program at Bon Air to include how the students are doing, and provision of teacher training. Board Member Kizner also would like a tour of Bon Air. Mr. Favale agreed that a tour can be arranged.

NEXT MEETING

The date of the next meeting of the Board is still pending.

ADJOURNMENT

Chairperson Vilchez adjourned the meeting at 11:07 a.m.



Amy M. Floriano
Director

COMMONWEALTH OF VIRGINIA
Department of Juvenile Justice

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TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Authorization to Initiate the Proposed Stage to Add Community Placement Program Regulations to 6VAC35-101, Regulation Governing Juvenile Secure Detention Centers

DATE November 1, 2024

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully requests that the State Board of Juvenile Justice (the board) authorize the initiation of the Proposed Stage of the standard regulatory process to amend 6VAC35-101, the Regulation Governing Juvenile Secure Detention Centers, to create provisions pertaining to community placement programs (CPPs). The department workgroup is comprised of representatives from the Certification Unit, Central Admission and Placement (CAP) Unit, Quality Assurance (QA), and juvenile detention centers (JDCs) that currently operate CPPs.

II. PREVIOUS ACTION

On December 13, 2023, the board authorized initiation of the Notice of Intended Regulatory Action (NOIRA) for this action. The department submitted the NOIRA for Executive Branch Review on March 14, 2024, and it was approved by the Governor on May 14. The NOIRA was published in the Virginia Register of Regulations on June 17, 2024, and the 30-day public comment period commenced. The public comment period ended on July 17 with no comments submitted.

III. BACKGROUND

In 2014, the department partnered with Blue Ridge, Chesapeake, Rappahannock, and Virginia Beach JDCs to establish the first CPPs as alternative placements for youth in direct care. Currently, Blue Ridge, Chesterfield, Newport News, Prince William, Shenandoah Valley, and Virginia Beach JDCs operate CPPs.

CPPs are structured residential programs that seek to place youth in smaller settings closer to their home communities to increase family engagement and facilitate a smoother transition after release. CPPs focus on positive youth development and increasing competency in areas of education, vocational preparation, life and social skills, thinking skills, employability skills, and anger management. YASI serves as the basis for case planning to address criminogenic needs. Services focus on dynamic risk factors using cognitive-behavioral

techniques and are tailored to meet the individual needs outlined in the youth's comprehensive reentry case plan. CPPs also deliver aggression management and substance use treatment services. CPP youth are housed in units separate from the rest of the JDC population.

Because CPPs serve committed youth in JDC settings, these programs are not regulated explicitly by either 6VAC35-71 (Regulation Governing Juvenile Correctional Centers) or 6VAC35-101 (Regulation Governing Juvenile Secure Detention Centers) and are not audited by the department's Certification Unit. Instead, CPPs have been governed by agreements between the department and the participating JDCs and have been assessed by the department's QA Unit. Because this treats CPPs differently from other residential programs, including postdispositional programs at the JDCs, the department has determined that it would be in the best interests of CPP youth to establish regulations to govern these programs.

IV. STRUCTURE AND SUBSTANCE OF THE REGULATION

Based on recommendations from the workgroup, the department proposes establishing a new Part X within 6VAC35-101 (Regulation Governing Juvenile Secure Detention Centers) to govern the CPPs instead of creating a new regulatory chapter. This approach supports clarity for the participating JDCs by keeping the new provisions together with the existing regulation. It also assists the department in keeping the regulatory portfolio streamlined and reducing the risk of creating duplicative provisions across chapters. The work group chose to model the new provisions on the postdispositional sections of the JDC regulation to maintain consistency.

The department proposes adding or amending the following sections of 6VAC35-101:

Section 10. Definitions.

Add a definition for community placement program: "Community placement program" or "CPP" means a direct care residential program for committed juveniles in a juvenile detention center or other department-approved setting, established by written agreement with the department."

Section 1280. Community placement programs at juvenile secure detention centers.

Section 1280 sets the basic requirements for JDCs to operate CPPs. The JDC must be approved by the department to operate a CPP, and that approval must be documented on the certificate issued to the JDC by the department. The CPP's capacity will be included in the overall facility capacity. Additionally, the JDC must have a written agreement with the department, the details of which are outlined in Section 1310. This allows the current practice to continue and provides ongoing flexibility for the JDCs and the department. Agreements can be adapted to the capabilities of each JDC. Section 1310 establishes a baseline of topics the agreement must cover.

Section 1290. Community placement programs at department-approved alternate providers.

This section addresses the requirements for any private entities the department may in the future wish to employ to operate CPPs. While there are no plans to make such arrangements, the department believes requirements should be in place in case that situation arises. The requirements are like those of the previous section in that alternate providers would need to be approved by the department to operate a CPP and would have to have a written agreement with the department in accordance with Section 1310. Additionally, any alternate provider would have to comply with the other provisions of 6VAC-35-101, ensuring equal treatment for any residents in private programs.

Section 1300. Eligible juveniles.

Section 1300 simply clarifies that only juveniles with a valid commitment, pursuant to §§ 16.1-278.8 or 16.1-285.1, may be placed in a community placement program.

Section 1310. Agreement with the department.

This section establishes the minimum requirements for the agreement referenced in Section 1280. This agreement must describe the criteria for which juveniles the program will serve, including the age range. It must detail how serious incidents will be reported and how health care services will be provided, including identifying the medical authority. Further, it must describe residential programming, including staffing ratios and housing, and mental health services transition planning. The agreement must address the disposition of records pertaining to juveniles participating in the program and establish that written department approval is required for any portion of work subcontracted by the program. Finally, it must establish the process for removing a juvenile from a CPP and the terms for terminating the agreement. All these subjects currently are addressed in contracts between the department and JDCs with CPPs, so this will not increase any burden on the JDCs, nor will it represent a reduction in requirements that might compromise residents' care.

Section 1320. Program description.

In addition to the written agreement with the department, CPPs must have a written statement of their (i) program philosophy, (ii) residential program, (iii) behavior management program, (iv) provision of services, (v) educational and employment services, (vi) case management, and (vii) family engagement. As with the written agreement, this aligns with current practice.

Section 1330. Case management services in community placement programs.

Section 1330 requires each CPP to assign a case manager to provide services to CPP residents. 6VAC35-71-770 requires case management services for residents, so this provision ensures that CPP residents receive the same services they would at a JCC.

Section 1340. Individual service plans in community placement programs.

6VAC35-71-790 requires an individual service plan to be developed and placed in each resident's record within 30 days following arrival at the facility and implemented immediately thereafter. Section 1340 of this chapter requires that the CPP case manager collaborate with the department to maintain each CPP resident's individual service plan. This is to ensure that CPP residents receive the same services as if they had remained at the JCC.

Section 1350. Progress reports in community service programs.

Section 1350 requires the CPP to prepare a written progress report on each CPP resident at least every 90 days. The report must be distributed to the department and must include (i) progress toward meeting individual service plan objectives and applicable Length of Stay requirements, (ii) educational progress, (iii) family involvement, (iv) and continuing needs. In addition, each progress report must include the date it was written and the name of the person who developed it. These requirements align very closely with the quarterly reports required for JCC residents in 6VAC35-71-800.

Section 1360. Release from community placement programs.

This final section states that residents shall be released from a CPP only upon written approval by the department.

V. PROCESS FOR SUBMISSION OF THE PROPOSED STAGE AND NEXT STEPS

The Proposed stage serves as the second stage of the standard regulatory process and is intended to inform the public of the specifics of the board's proposed regulatory action. If the board approves the department's request to proceed with the Proposed stage, the department will complete and submit the necessary filing to the Virginia Regulatory Town Hall. This will launch Executive Branch review of the action. Once the requisite Executive Branch level reviews are complete, the action will undergo a 60-day public comment period, after which the department will present the board with any public comment and final proposed text for board approval and advancement to the Final stage of the standard regulatory process.

V. CONCLUSION

The department believes the structure and text of the proposed additions to 6VAC35-101 will help ensure that CPP youth receive the same services as JCC youth and provide regulatory accountability for these programs while retaining the flexibility of the current CPP structure. The department respectfully requests that the board approve this text and authorize the department to file the Proposed stage of the standard regulatory process.

6VAC35-101
Regulation Governing Juvenile Secure Detention Centers

6VAC35-101-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Annual" means within 13 months of the previous event or occurrence.

"Aversive stimuli" means physical forces, such as sound, electricity, heat, cold, light, water, or noise, or substances, such as hot pepper, pepper sauce, or pepper spray, measurable in duration and intensity that, when applied to a resident, are noxious or painful to the resident.

"Behavior management" means the principles and methods employed to help a resident achieve positive behavior and to address and correct a resident's inappropriate behavior in a constructive and safe manner in accordance with written procedures governing program expectations and resident and staff safety and security.

"Board" means the Board of Juvenile Justice.

"Case record" means written information regarding a resident and the resident's family, if applicable. This information includes social, medical, psychiatric, and psychological records; reports; demographic information; agreements; all correspondence relating to care of the resident; individual service plans with periodic revisions; aftercare plans and release summary; and any other information related to the resident.

"Community placement program" or "CPP" means a direct care residential program for committed juveniles in a juvenile detention center or other department-approved setting, established by written agreement with the department.

"Contraband" means an item possessed by or accessible to a resident or found within a detention center or on its premises that (i) is prohibited by statute, regulation, or the facility's procedure, (ii) is not acquired through approved channels or in prescribed amounts, or (iii) may jeopardize the safety and security of the detention center or individual residents.

"Contractor" means an individual who has entered into a legal agreement with a secure juvenile detention center to provide services directly to one or more residents on a regular basis.

"Cooling-off period" means a temporary period in which a resident either is placed or voluntarily places himself in a room or area for a maximum period of 60 minutes to calm the resident or deescalate a volatile situation.

"Department" means the Department of Juvenile Justice.

"Detention center" or "secure juvenile detention center" means a local, regional, or state, publicly or privately operated, secure custody facility that houses individuals who are ordered to be detained pursuant to the Code of Virginia. This term does not include juvenile correctional centers.

"Direct care staff" means the staff whose primary job responsibilities are (i) maintaining the safety, care, and well-being of residents, (ii) implementing the structured program of care and the behavior management program, and (iii) maintaining the security of the facility.

"Direct supervision" means the act of working with residents while not in the presence of direct care staff. Staff members who provide direct supervision are responsible for maintaining the safety, care, and well-being of the residents in addition to providing services or performing the primary responsibilities of that position.

"Director" means the director of the department.

"Disciplinary room restriction" means the placement of a resident in room restriction as a consequence for a violation of a rule of the facility after application of the disciplinary process, as provided for in 6VAC35-101-1080.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action, such as a fire, chemical release, loss of utilities, natural disaster, hostage situation, major disturbance, escape, or bomb threat. Emergency does not include regularly scheduled employee time off or other situations that reasonably could be anticipated.

"Facility administrator" means the individual who is responsible for the on-site management and operation of the detention center on a regular basis.

"Full search" means the removal of some or all of a resident's clothing and a visual inspection of all body parts, including vaginal and anal cavity areas, in order to determine whether contraband is present or to inspect for physical injuries.

"Health care record" means the complete record of medical screening and examination information and ongoing records of medical and ancillary service delivery including all findings, diagnoses, treatments, dispositions, and prescriptions and their administration.

"Health care services" means preventive and therapeutic actions taken for the physical and mental well-being of a resident. Health care services include medical, dental, orthodontic, mental health, family planning, obstetrical, gynecological, health education, and other ancillary services.

"Health trained personnel" means an individual who is trained by a licensed health care provider to perform specific duties such as administering health care screenings, reviewing screening forms for necessary follow-up care, responding to resident medical concerns, and assisting in the implementation of certain medical orders.

"Human research" means a systematic investigation, including research development, testing, and evaluation utilizing human subjects that is designed to develop or contribute to generalized knowledge. Human research shall not be deemed to include research exempt from federal research regulation pursuant to 45 CFR 46.101(b).

"Individual service plan" means a written plan of action developed, revised as necessary, and reviewed at specified intervals to meet the needs of a resident.

"Legal mail" means a written communication that is sent to or received from a designated class of correspondents, as defined in written procedures, which shall include any court, legal counsel, or administrator of the grievance system, the governing authority, the department, or the regulatory authority.

"Legal representative" means (i) a court-appointed or retained attorney or a paralegal, investigator, or other representative from that attorney's office; or (ii) an attorney visiting for the purpose of a consultation if requested by the resident or the resident's parent if the resident is a minor.

"Living unit" means the space in a detention center in which a particular group of residents resides that contains sleeping rooms, bath and toilet facilities, and a living room or its equivalent for use by the residents. Depending upon its design, a building may contain one living unit or several separate living units.

"Mechanical restraint" means an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual's body as a means of controlling the individual's physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this chapter, mechanical restraints shall include flex cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, waist chains, and anti-mutilation gloves. For purposes of this chapter, mechanical restraints shall not include mechanical restraint chairs.

"Mechanical restraint chair" means an approved chair used to restrict the freedom of movement or voluntary functioning of a portion of an individual's body as a means of controlling the individual's physical activities while the individual is seated and either stationary or being transported.

"Medication incident" means any one of the following errors made in administering a medication to a resident: (i) a resident is given incorrect medication, (ii) medication is administered to the incorrect resident, (iii) medication is administered in an incorrect dosage, (iv) medication is administered at the wrong time or not at all, or (v) medication is administered through an improper method. For purposes of this regulation, a medication incident does not include (i) a resident's refusal of appropriately offered medication; or (ii) a facility's failure to administer medication due to repeated, unsuccessful attempts to obtain such medication.

"Mental health clinician" means a person with a master's degree or higher in psychology, counseling, or social work with an emphasis on mental health treatment who is employed in the practice of treating mental disorders.

"On duty" means the period of time during which an employee is responsible for the direct care or direct supervision of one or more residents or the performance of the position's duties.

"Parent" or "legal guardian" means (i) a biological or adoptive parent who has legal custody of a resident, including either parent if custody is shared under a joint decree or agreement; (ii) a biological or adoptive parent with whom a resident regularly resides; (iii) a person judicially appointed as a legal guardian of a resident; or (iv) a person who exercises the rights and responsibilities of legal custody by delegation from a biological or adoptive parent, upon provisional adoption, or otherwise by operation of law.

"Physical restraint" means the application of behavior intervention techniques involving a physical intervention to prevent an individual from moving all or part of that individual's body.

"Postdispositional detention program" means a program in a detention center serving residents who are subject to a sentence or dispositional order for placement in the

detention center for a period exceeding 30 days pursuant to subdivision A 16 of § 16.1-278.8 and subsection B of § 16.1.284.1 of the Code of Virginia.

"Premises" means the tracts of land within the secure perimeter where any part of a detention center is located and any buildings on such tracts of land.

"Protective device" means an approved device placed on a portion of a resident's body to protect the resident or staff from injury.

"Regulatory authority" means the board or the department if designated by the board.

"Resident" means an individual who is confined in a detention center.

"Rest day" means a period of not less than 24 consecutive hours during which a staff person has no responsibility to perform duties related to supervision in a detention center.

"Room restriction" means the involuntary restriction of a resident to a sleeping room, except during normal sleeping hours, for the purpose of (i) ensuring the safety of the resident, staff, or others; (ii) ensuring the security of the facility; or (iii) holding the resident accountable for a violation of a rule of the facility. For purposes of this regulation, room restriction shall include disciplinary room restriction but shall not include (i) any cooling-off period; (ii) a resident's placement in confinement for purposes of meeting the structured programming requirements; or (iii) a resident's placement in confinement for purposes of medical isolation.

"Rules of conduct" means a list of a detention center's rules or regulations that is maintained to inform residents and others of the behavioral expectations of the behavior management program, behaviors that are not permitted, and the sanctions that may be applied when impermissible behaviors occur.

"Spit guard" means a device designed to prevent the spread of communicable diseases as a result of spitting or biting.

"Volunteer or intern" means an individual or group who voluntarily provides goods and services without competitive compensation and who is under the direction and authority of the detention center.

"Vulnerable population" means a resident or group of residents who has been determined by designated detention center staff as reasonably likely to be exposed to the possibility of being attacked or harmed, either physically or emotionally.

"Written" means the required information is communicated in writing in either hard copy or electronic form.

Part X. Community Placement Programs

6VAC35-101-1280. Community placement programs at juvenile secure detention centers.

To accept placements in a community placement program, a juvenile detention center shall:

A. Be approved by the department to operate a community placement program. This approval shall be documented on the certificate issued to the juvenile detention center by the department. The capacity of the community placement program shall be included in the overall facility capacity.

B. Have a written agreement with the department in accordance with 6VAC35-101-1310.

6VAC35-101-1290. Community placement programs at department-approved alternate providers.

To accept placements in a community placement program, alternate providers shall:

- A. Be approved by the department to operate a community placement program,
- B. Have a written agreement with the department in accordance with 6VAC35-101-1310, and
- C. Comply with the provisions of 6VAC35-101.

6VAC35-101-1300. Eligible juveniles.

Juveniles placed in a community placement program shall have a valid commitment to the department pursuant to § 16.1-278.8 or § 16.1-285.1 .

6VAC35-101-1310. Agreement with the department.

Juvenile secure detention centers or alternate providers operating community placement programs shall have a written agreement with the department. At a minimum, this agreement shall address:

- A. The criteria for which juveniles the program will serve, including the age range of the juveniles;
 - B. Serious incident reporting;
 - C. The provision of health care services, including medical authority;
 - D. Residential programming, including staffing ratios and housing;
 - E. Mental health services transition planning;
 - F. The disposition of records pertaining to juveniles participating in the program;
 - G. Written department approval for any portion of work subcontracted by the program;
 - H. The process for removing a juvenile from the community placement program;
- and
- I. The terms for terminating the agreement.

6VAC35-101-1320. Program description.

The community placement program shall have a written statement describing its:

1. Program philosophy;
2. Residential program;
3. Behavior management program;
4. Provision of services;
5. Educational and employment services;
6. Case management; and
7. Family engagement.

6VAC35-101-1330. Case management services in community placement programs.

The community placement program shall have a case manager assigned to provide services to CPP residents.

6VAC35-101-1340. Individual service plans in community placement programs.

The CPP case manager shall collaborate with the department to maintain the individual service plan developed for each CPP resident in accordance with 6VAC35-71-790.

6VAC35-101-1350. Progress reports in community placement programs.

A. At least every 90 days, the community placement program shall prepare and distribute to the department written reports on each CPP resident's progress. The reports shall include:

1. Progress toward meeting the objectives of the individual service plan and applicable Length of Stay requirements;
2. Educational progress;
3. Behavioral infractions or incidents;
4. Family involvement; and
5. Continuing needs.

B. Each progress report shall include (i) the date it was developed and (ii) the name of the person who developed it.

6VAC35-101-1360. Release from community placement programs.

Residents shall be released from a community placement program only upon written approval by the department.



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MEMORANDUM

TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

DATE: November 1, 2024

SUBJECT: Request to Advance Regulation Governing Juvenile Data Requests and Research Involving Human Subjects (6VAC35-170) to the Proposed Stage of the Standard Regulatory Process; Request to Amend Guidance Document Interpreting 6VAC35-170, Review and Approval of Data Requests and Research Proposals

I. ACTION REQUESTED

The Department of Juvenile Justice (department) is respectfully asking the State Board of Juvenile Justice (board) to approve the proposed changes to 6VAC35-170, *Regulation Governing Juvenile Data Requests and Research Involving Human Subjects* and to grant the department permission to advance these changes to the Proposed Stage of the standard regulatory process. Additionally, in connection with the proposed regulatory amendments, the department is seeking the board's approval to submit amendments to the Guidance Document Interpreting 6VAC35-170, Review and Approval of Data Requests and Research Proposals.

The proposed regulatory changes are intended to align with federal and state laws and regulations, establish new processes for proposals and requests that are not currently addressed in the regulation, clarify existing processes, and carry out the requirements in Executive Directive 1, Executive Order 19, and the Office of Regulatory Management Procedures for review of State Regulations (ORM procedures), which collectively require state agencies and boards to implement a 25% reduction in their overall regulatory requirements. Changes to the supplemental guidance document conform to the proposed regulatory changes and accomplish additional reductions in document length in accordance with the ORM Procedures. To ensure the proposed changes to each document take effect contemporaneously, the department is requesting permission to submit approved changes to the guidance document at the appropriate time through the process established in § 2.2-4002.1 of the Code of Virginia.

II. BACKGROUND

Section 66-10.1 of the Code imposes upon the board the duty to promulgate regulations for human research that will be conducted or authorized by the department in accordance with Title 32.1 of the Code. Section 66-10 of the Code also grants the board broad discretion to "promulgate such regulations as may

be necessary to carry out the provisions of this title and other laws of the Commonwealth.” Section 16.1-223 provides that data stored in the Virginia Juvenile Justice Information System, the infrastructure used to collect, process, preserve, or disseminate juvenile record information, shall be confidential, and information generated from such data that may identify a juvenile may be released only in accordance with § 16.1-300 of the Code. Conversely, subdivision (A)(10) of § 16.1-300 allows for the inspection of otherwise confidential social, medical, psychiatric, and psychological reports and records of certain court-involved juveniles by external entities conducting research or evaluating DJJ at the department’s request or state criminal justice agency researchers that agree to keep such information confidential or release it only in its aggregated form.

Chapter 170 of the board’s regulations currently establishes the regulatory requirements for research on human subjects who are under the care or supervision of the department. The regulation also addresses requests to obtain data regarding individuals under the custody or supervision of juvenile correctional centers, court service units, and other board-regulated programs and facilities. The current regulation tracks both federal regulations and state statute. The regulation does not address the process for accessing records for parties authorized to inspect juvenile records under § 16.1-300 of the Code.

Pursuant to § 2.2-4007.1 of the Code, regulations require a periodic review every four years “to determine whether they should be continued without change, amended, or repealed.” The periodic review process may be accomplished either through the standard regulatory process or through a separate standalone process involving posting the notice of periodic review, solicitation of public comment, and a separate report approved by the board. Although this chapter was last amended in 2020, the amendments occurred through the fast-track process; thus, the last formalized periodic review occurred in 2016. The board has approved the department’s request to initiate the periodic review and comprehensive overhaul of this chapter through the NOIRA stage of the standard regulatory process at its December 2023 meeting. The department now seeks board approval to advance the action, including the draft text, to the Proposed stage of the standard regulatory process.

III. SUMMARY OF DEFINITIONAL CHANGES

Section 10; Guidance Document, Part II

The department proposes the following amendments to Section 10 of the regulation and to Part II of the corresponding guidance document:

- Strike the definitions for “aggregate data,” “legally authorized representative,” and “nontherapeutic research.” Proposed amendments elsewhere in the document eliminate use of these terms and the need for definitions. The term, “nontherapeutic research” continues to be used and defined in the guidance document.
- Strike the definition for “research project,” as unnecessary. The term “research” captures research projects.
- Add a definition for data trust that captures the Commonwealth Data Trust authorized in § 2.2-203.2:4 of the Code of Virginia and the Virginia Workforce Data Trust authorized in § 2.2-2041 of the Code.
- Replace the term “external research” with “external research or evaluation project” and modify the definition so that it: (i) captures external evaluation projects, along with external research; (ii) no longer includes an exception for legislative-mandated research conducted by other state agency employees, as this exception is now addressed in Section 15; and (iii) expressly excludes data analysis,

quality improvement projects, or research when performed by individuals who are employed by or under contract to perform such projects.

- Amend the definition of human research to clarify that the term does not include quality or process improvement projects and to correct an erroneous citation regarding the federal research regulation.
- Replace the term “principal researcher” with the more generalized “external project lead,” a term describing the individual who may have oversight responsibilities for an external research project or an external data request. Add language clarifying that the project lead is not a DJJ employee nor contracted to perform research for the department. Conforming changes are made to Sections 20, 60, 65, 100, 170, 185, 200, and 220 of the regulation and to numerous provisions in the guidance document.
- Add a definition for the term, “quality or process improvement project” and a new section (125) that creates an expedited process for such projects when they are not human research projects or do not include requests for case-specific data. The new information is contained in Part III(E) of the guidance document.
- Modify and simplify the definition of research so that it more closely resembles the definition contained in 45 CFR 46.102, which includes the important component the current state regulatory definition lacks regarding development or contribution to generalizable knowledge.
- Shorten and simplify the definitions for “case-specific data,” “coordinator of external research,” “de-identified data,” “Human Research Review Committee,” “human subject,” internal committee,” “organizational unit head,” and “Virginia Longitudinal Data System (VLDS).”
- Change the definition of “written” to be more consistent with the definition in *Code of Virginia* § 1-257. Similar changes are being proposed for other regulatory chapters that define this term.

IV. SUMMARY OF PROPOSED SUBSTANTIVE AMENDMENTS

Applicability (New) – Section 15; Guidance Document, Part I

The proposal recommends a new section to clarify the scope of the chapter and to exclude from the chapter’s reach research conducted by other state agencies at the General Assembly’s request. Currently, such research is expressly excluded from the definition of external research. The proposal also exempts requests for juvenile records and reports made by authorized entities pursuant to § 16.1-300 of the Code of Virginia, the statute identifying the individuals and entities authorized to inspect otherwise confidential juvenile records maintained by the department. The department has a separate process in place for addressing these requests. The proposal makes conforming changes to the Guidance Document.

DJJ requests for research; research conducted by state criminal justice agencies (New) – Section 17; Guidance Document, Part I.

Among the entities and individuals authorized to inspect certain juvenile records, Code of Virginia § 16.1-300(A)(10) allows external entities that are conducting research or evaluating DJJ at the department’s request and state criminal justice agency researchers who agree to keep such information confidential or release it only in its aggregated form to inspect certain otherwise confidential juvenile records and reports. To clarify the process and scope of the information the department may release to such entities, the proposal adds a new Section 17 that gives the department broad discretion to impose a portion or all of this chapter’s requirements for department-requested research and evaluation, based on the notion that if DJJ is asking an entity to perform research on the department or evaluate its programs,

it should be able to define the parameters of the research process. New language in Section 17 also directs state criminal justice agencies to submit a Data and Research Proposal form and Confidentiality Agreement to verify that they fall within the parameters of § 16.1-300(A)(10), are authorized to receive the requested information, and will keep the information confidential.

General requirements of external researchers – Section 20; Guidance Document, III(F), and (H)

Among the changes to this section, the proposal seeks to remove language that currently allows individuals who do not possess all mandated academic, professional, or experience credentials but are directly managed by a person with standing or job experience in the study area to serve as the project lead. The current language enables student researchers to serve as principals for projects. The new language permits only individuals who meet the required academic, professional, or job experience eligibility requirements to serve as an external project lead, eliminating the ability of a student researcher or others without the required credentials to serve in this capacity. Consistent with current expectations, the proposal also directs external project leads to ensure compliance with the applicable requirements in this chapter and removes language imposing three specific oversight responsibilities on the project leads. Conforming changes are made to the Guidance Document.

Professional ethics – Section 30; Guidance Document, III(H)

The proposal recommends repealing this section that mandates research conformity with the standards of ethics of professional societies. The department has never approved or denied a research or data request based on compliance or noncompliance with this section. Conforming changes are made to Sections 65 and 67 in former subdivision C(1) and in Part III(H) of the Guidance Document.

Confidentiality requirements of all research - Section 40; Guidance Document, III(D)

Currently, when a DJJ employee or research subject distributes records or information, that information must be kept confidential in accordance with § 16.1-300 of the Code and applicable regulations regarding confidentiality of juvenile records. The proposal recommends minor modifications to this section to reflect the expansive definition of “human subject,” which captures court-involved juveniles and employees and contractors with DJJ and board-regulated facilities and programs. Section 16.1-300 of the Code protects juvenile records only. Therefore, the proposal expands the language to impose confidentiality requirements in accordance with current law and regulations. The proposal also removes the unnecessary language indicating that breaches in confidentiality shall be subject to sanctions in accordance with applicable laws, regulations, policies, and procedures. Conforming changes are made to Part III(D) of the Guidance Document.

Conditions for department approval of external research - Section 50; Guidance Document, III(D), (H)

This section imposes conditions before the department will approve an external research project or data request. Among these, 1) the department must have the necessary resources to fulfill the request; 2) the benefits of the request must justify DJJ’s involvement; and 3) the request must complement the purposes and goals of the juvenile justice system and DJJ’s organization, operations, and resources. The workgroup

recommended removing #3 in the list of required conditions because of its similarity to the first listed condition. Conforming changes are made to the Guidance Document in Parts III(D), and III(H).

Review and approval of aggregate data requests - Section 55; Guidance Document, (former III(A))

This section currently establishes a process for the department's approval of aggregated data requests. The workgroup thought it unnecessary to address this process in regulations. In keeping with Executive Order 19, which mandates that regulations be necessary to interpret the law, the workgroup recommends repealing this section in its entirety. Provisions addressing aggregate data requests also are stricken from former Part III(A) of the Guidance Document.

Submission requirements and form of agreements and proposals - Section 60; Guidance Document, Part III(B)

While the guidance document mandates the submission of a Confidentiality Agreement, Research Agreement, and Research Proposal to initiate the review process for external case-specific data requests and external research proposals, the regulation does not consistently mandate the completion or submission of these forms for various types of requests and proposals. To resolve this concern, the proposal modifies Section 60, which currently addresses the formal Research Agreement. The proposal adds language requiring full completion and submission of the Confidentiality Agreement, Research Agreement, and Research Proposal to initiate DJJ's review of all external research or evaluation projects and quality improvement projects, as well as certain external case-specific data requests. External case-specific data requests submitted through the Virginia Longitudinal Data System (VLDS) where the department will not serve as the sponsoring agency or requests submitted through a data trust portal where the department's contribution to the data trust was required by Code are excluded from this requirement. Because the proposed amendment sets out the submission requirements for the three forms, individual provisions elsewhere in the regulation requiring submission of any such form are stricken (*Former subsections 65(A) and 100(B)*). Similarly, language in former subsection B of Section 65, directing the principal researcher and student researcher (as applicable) to sign the agreement at the time of submission also is stricken. A new section (B) is added in Part III of the Guidance Document consistent with these changes; however, provisions requiring the submission of these three forms elsewhere in the document are retained for emphasis.

Additionally, the proposal adds to the regulation a new subsection C, consistent with the current Guidance Document, requiring the Confidentiality Agreement be signed by every individual who may access the data.

In addition to clarifying in what instances the three forms are required, the proposal also expands Section 60 to specify what information must be captured as part of the Research Agreement. These requirements are currently established in Section 65 (*former subsection J*), which addresses only case-specific data requests. By moving these requirements to Section 60, the proposal clarifies that the required components of the Research Agreement remain the same regardless of whether the agreement is submitted to initiate an applicable external data request, research or evaluation project, or quality or process improvement project.

Consistent with these changes, the Guidance Document moves the language establishing requirements for the Research Agreement into a new Part III(B) to clarify that the agreement must include these fields, regardless of the form of the underlying project. Language requiring a completed, signed Confidentiality Agreement for everyone who will access the data also is moved into this section.

Finally, the proposal expands the scope of the existing provision that currently prohibits data requesters and researchers from proceeding with a case-specific data request or human research request without the completed Research Agreement bearing the director's signature. The proposal expands this provision to include quality or process improvement projects. Conforming changes are made to the Guidance Document.

Identifiers and Sensitive Data

- *Former Section 65 (E); Guidance Document, III(D)* - The current regulation provides a list of nine identifiers the department deems sensitive that must be redacted from the information DJJ provides data requesters and researchers. Currently, DJJ's director has discretion to approve data containing a limited number of these "sensitive" identifiers on a case-by-case basis provided certain requirements are met. The workgroup recommended adding language that allows such disclosure only if it does not violate any of the confidentiality provisions set out in the juvenile code.
- *Proposed Section 65(C), Guidance Document III(D)* - The proposal establishes additional identifiers that the department may deem sensitive based on other information included in the data set. In some cases, the combination of these otherwise nonsensitive data fields may increase the likelihood of the researcher or requester identifying the juvenile. The applicable identifiers include: 1) admission, release, and similar dates; 2) more detailed location information than the locality, state, and zip code; and 3) record numbers. Currently, the possibility that these additional identifiers may be deemed sensitive is addressed in the guidance document but not in the regulation. Furthermore, other yet-identified combinations of fields have the potential of exposing individual identities based on the specific context of a project. The workgroup recommended adding subdivision (C)(4) to account for this possibility and striking the language in current Section 230 that allows the department to identify in its procedures additional data elements it deems sensitive. Without these changes, the workgroup worried that the guidance document's provisions would be unenforceable. Additionally, the proposed amendments in Section 65(C)(4) render any such guidance document provisions unnecessary.

Clarity on process for VLDS requests and new process for data trusts –Sections 65 and 67; Guidance Document, III(A)

The proposal modifies the process for submitting VLDS requests to reflect current practices. Whenever requests are submitted through the VLDS portal and DJJ serves as the sponsoring agency, the requests must undergo the same process as all other external case-specific requests for data. When the department does not serve as the sponsoring agency for a VLDS request, the entities making the request are exempt from these requirements. While the current guidance document explained the sponsoring process for VLDS submissions into the portal, the regulation did not, thus giving the impression that all VLDS requests were exempt from the process for external case-specific data rather than those requests for which DJJ does not serve as the sponsoring agency. The proposal modifies this language to eliminate confusion and reconcile the two documents. The proposal also removes the current regulatory language directing

VLDS requests to be submitted through the VLDS portal. This provision is in place due to practical necessity and will be imposed regardless of whether the regulation addresses this process. Similarly, the proposal strikes the provision directing the researcher to comply with all VLDS procedures to access the data. Because these procedures are maintained by another agency, the workgroup felt this was an appropriate area for regulatory reduction.

Additionally, the proposal sets out a process for requests for data submitted through a data trust portal. In recent years, the General Assembly has enacted legislation developing various data trusts that enable data to be shared across multiple state agencies. The Virginia Workforce Trust requires certain specified state agencies, including the department, to join the trust for the purpose of sharing and matching data that will assist in analyzing and improving efficiency across public workforce programs. The Commonwealth Data Trust, created several years ago by legislative enactment, requires the inclusion of data from state, regional, and local governments. DJJ is currently a member of this trust, and while the statute does not expressly require a data contribution, the workgroup recommended setting out the process for these trusts. Accordingly, the proposal requires case-specific data requests submitted through the Commonwealth Data Trust to comply with the process for external case-specific data requests. Because DJJ is required to contribute data to the Virginia Workforce Trust in accordance with § 2.2-2041 of the Code, such requests will be exempt from the more burdensome process for external case-specific data requests. The proposal provides that in either case, requests submitted through a data trust portal will be subject to the additional requirements for data trusts set out in 6VAC35-170-67.

The proposal recommends several additional amendments to Section 67 that streamline the process, remove unnecessary requirements, and reduce burdens on the reviewer.

Proposal for external research –Section 100; Guidance Document, III(C)

The current regulation requires the principal researcher, when submitting a proposal for external research, to capture certain specified information, including, for example, the researcher’s name, address, telephone number, email address, title, and affiliation and requires the submission of similar information of any person coordinating the project who is not the principal. The proposal adds a requirement currently contained in the Guidance Document that the principal researcher (now the proposed external project lead) and student, if applicable, provide a copy of their resume or Curriculum Vitae. The proposal recommends additional minor changes to simplify and shorten the provision.

Initial review by coordinator of external research – Section 110, Guidance Document, III(D) and (H)

The current provision imposes certain requirements on the coordinator of external research in the individual’s initial review of external research proposals. Among these, the coordinator shall ensure that proposals are in the required format and include all required information. Section 60 directs that required forms be completed before submission, making this provision redundant. Additionally, the provision requiring the coordinator to refer the proposals to appropriate DJJ personnel for review is operational and need not be included in the regulation. The proposal recommends striking both provisions and moving the remaining language to Section 100, thereby enabling the repeal of Section 110.

Quality or Process Improvement Projects – Regulation Section 125; Guidance Document, III(E)

The current regulation is silent on the requirements for quality or process improvement projects, and the guidance document does not apply to these requests. The proposal seeks to provide a separate, simplified process for such projects that do not involve case-specific data requests and do not include human research. The proposed process also prevents the HRRC chair from approving requests that do not satisfy certain specified criteria, restricts how information collected from these projects may be shared, and directs the requester to submit annual progress reports and a final presentation of its findings.

Requirements specific to human research – Regulation Section 70, Guidance Document, III(F)

Currently, the regulation discourages researchers from offering incentives for participation in human research. The proposal recommends striking this language. Offering incentives appropriate to the juveniles' custodial status and proportionate to their situation remains an effective means of encouraging participation in human research that ultimately may benefit the department.

The proposal also recommends additional language requiring an endorsement from an Institutional Review Board for human research not exempted under § 32.1-162.17 of the Code. This requirement is currently contained in the Research Proposal and the Guidance Document but is not mandated by regulation.

Finally, the proposal modifies language to clarify that human research requests require approval of the HRRC and the department.

Timelines for meetings and review – Regulation Sections 65 and 140; Guidance Document, III(D), (G)

The current regulation requires the development of an internal committee to review external case-specific data requests after the coordinator of external research's initial review. The internal committee is required to meet within 20 business days of receiving the request. Similarly, the HRRC tasked with reviewing human research proposals is required to conduct its review within 30 business days of receiving a complete proposal. Due to challenges with aligning committee members' schedules to meet these deadlines, the proposal recommends removing each of these timeframes and leaving the chapter silent on when the internal committee and HRRC must meet and review the applicable requests.

Amendments to approved projects and expedited review processes – Regulation Sections 69, 140; Guidance Document, III(D), (I)

The existing regulation establishes processes for amending requests for external data and human research projects. Section 69 allows the chair of the HRRC to conduct an expedited, final review for minor amendments to requests previously approved by the director, provided the amendment does not alter the scope of the request. The proposal clarifies that the chair's expedited review must occur in writing.

Section 140, addressing human research proposals, allows for an expedited review process by an HRRC when the proposal involves no more than minimal risk to the human subjects and another agency's HRRC has approved the proposal, or the individual is requesting minor changes to a previously approved project.

The proposal adds language requiring the changes to occur during the approved project period consistent with language in § 32.1-162.19 of the Code. Additionally, the proposal removes the authorization for this expedited process when the proposal has been reviewed and approved by another agency's HRRC. Because other HRRCs may have different requirements for approval, the department has been reluctant to allow for expedited reviews based solely on other agencies' approvals.

Researcher noncompliance -Section 185; Guidance Document, III(J)

The Guidance Document requires the researcher to report protocol violations, including relevant dates, times, locations, personnel involved, events, details, and actions taken and planned, to the coordinator of external research within five business days of learning of the incident. The regulation does not impose this requirement. Because the department considers this a discretionary requirement in accordance with ORM guidance, the proposal adds this requirement to Section 185 of the regulation.

Progress reports – Regulation Section 200; Guidance Document, III(A), (B), and (E)

The current regulation gives the department discretion to require periodic progress reports regarding the status of the project and requires the researcher to submit annual reports if projects are not completed within one year. The proposal clarifies this language by requiring annual progress reports addressing the progress of all pending research and any additional reports requested by the department. The proposal also gives the director discretion to reconsider or withdraw any approvals based on information in the progress report or the researcher's failure to file a progress report in a timely manner.

Permission to Use Research Findings – Regulation Section 210

The current regulation mandates that the Research Agreement give the department permission to use any data, summaries, charts, graphs, or other illustrations resulting from the research project. The proposal recommends repealing this provision as unnecessary. Because the guidance document does not include similar language, a conforming change to the guidance document is not required.

Research Findings – Regulation, Section 220; Guidance Document III(B)

Under the existing regulation, the researcher shall submit up to 10 copies (at the department's discretion) of a formal final report with a statement indicating that the department does not necessarily endorse the researcher's conclusions. The director may waive inclusion of this statement. The proposal removes the department's discretion to require this specified number of copies, since all such reports are submitted electronically. Consistent with the current Guidance Document, the proposal adds the deadlines for submitting the report and other documents generated from the data and research, which differ depending upon whether the director has exercised the discretion to waive the statement.

Written procedures – Regulation Section 230; Guidance Document III(C)

The existing regulation contains language mandating that the department establish written procedures that create a process for getting an endorsement from the organizational unit head for external research proposals. The guidance document currently explains this process; however, the workgroup did not think the regulation should mandate any supplemental guidance and recommended removing this language.

Additionally, to emphasize the distinction between guidance documents and written procedures, the proposal replaces references to procedures in the catchline and throughout this section, with “guidance.”

IV. SUMMARY OF AMENDMENTS TO PROVISIONS CONTAINING STATUTORY REQUIREMENTS

Informed consent and exemptions from the human research process – Regulation Section 80 and 90; Guidance Document, III(F), (H)

Section 80 enumerates the informed consent requirements for human research projects as established in § 32.1-162.18 of the Code of Virginia. Section 90 establishes the categories of human research that are exempt from this regulatory chapter in accordance with § 32.1-162.17 of the Code. These provisions are almost identical to the existing statutory language except that some areas of the statute were omitted unintentionally from the regulatory language. Additionally, the statute does not contain the language in current Section 90, which indicates that exempt research activities shall be subject to the department’s nonhuman research review and approval process.

The proposal recommends removing the regulatory language that mirrors statutory provisions in favor of a direct reference to the applicable statute. Doing so removes the possibility of omissions, ensures the regulatory requirements will always align with the statute, and preserves whatever requirements remain in the cited provisions, even as statutes are amended. Because the department has never established a separate nonhuman research review process and has not processed requests for these projects, the proposal also removes this reference.

Finally, the proposal retains the exceptions to the provisions for research conducted upon certain individuals involuntarily confined in penal institutions and certain children under 18 years of age pursuant to the Code of Federal Regulations. The proposal replaces the erroneous federal regulation citation with the updated federal reference.

Human Research Review Committee Criteria and Recommendations –Sections 130 and 170; Guidance Document, III(G)

Section 130(A) of the regulation directs DJJ to develop an HRRC and establishes various criteria for HRRC committee members, including background requirements and restrictions on their involvement with proposed research projects. Because each requirement is mandated by statute, the proposal recommends replacing them with a mandate to establish an HRRC in accordance with the applicable statutory provision, § 32.1-162.19(A).

In interpreting the current statutory and regulatory language, the guidance document erroneously authorizes HRRC members to have direct involvement or administrative authority over a research project outside their HRRC membership role, provided they do not vote on such research. This language appears to conflict with § 32.1-162.19 of the Code and 6VAC35-170-130, both of which prohibit HRRC members from being directly involved with or having administrative approval authority over proposed human research, apart from their HRRC roles. The proposal amends the Guidance Document to reflect these prohibitions.

The proposal removes Section 130(C), which permits the HRRC to require additional information from the researcher before making its recommendation to the director. In practice, the HRRC's requests for additional information are made only within the scope of what is already required by regulation, rendering this provision redundant. Furthermore, proposed language in Section 170 allows the HRRC to defer its recommendation to the director pending additional information or changes to the proposal.

Finally, the proposal makes a minor change to Section 170 directing the coordinator of external research to notify the external project lead of the director's final decision **within five days** of the director's action on the research request. This minor change reflects a requirement in the guidance document and in the regulatory language addressing external data requests that was omitted from the human research regulatory provisions.

HRRC review of human research proposals - Section 150; Guidance Document, III(H)

This section establishes the HRRC's requirements for reviewing a human research proposal. Under the existing regulation, the HRRC is required to consider the potential benefits and risks to the human subjects and may not recommend approval of the human research project if eight additional requirements, all set out in § 32.1-162.19(B) of the Code are not met. Under the current statute, these eight issues need only be considered by the HRRC in its determination for approval, and failure to fulfill each requirement is not an automatic barrier for approval. The proposal aligns the regulatory provision with the statutory language by directing the HRRC to consider the potential benefits and risks to the human subjects as well as each element outlined in § 32.1-162.19(B) of the Code rather than making each element a requirement. This will give the HRRC greater discretion in recommending approval of projects that may not meet all requirements currently set out in this regulation section.

HRRC review of informed consent provisions -Regulation Section 160; Guidance Document III(H)

This section details the requirements for obtaining informed consent from human subjects in a human research project. Subsection B and C allow the HRRC to approve a consent procedure that omits or alters elements of informed consent or waives informed consent requirements if certain specified criteria outlined in § 32.1-162.18(D) and 32.1-162.18(E) respectively are satisfied. Rather than enumerating these specific requirements, the proposal allows for these omissions, modifications, and waivers of informed consent requirements if the researcher complies with § 32.162.18(D) and (E).

V. ADDITIONAL NONSUBSTANTIVE AMENDMENTS

Clarification regarding responsibilities for data requesters and researchers: In several sections , the proposal adds references to data requesters or researchers to clarify that the request may have been made by either party, and the requirement articulated in that section may fall on either or both parties, depending upon the section context.

Changing names of various forms: The proposal modifies the name of the research agreement and proposals so that they address data requests and requests to perform research. The new forms will be called the Data and Research Agreement and the Data and Research Proposal.

Correcting outdated citations: Numerous outdated Code of Federal Regulation provisions are cited in the current regulatory chapter, as well as the Code of Virginia. The proposal corrects these citations.

Rearranging language: The proposal recommends rearranging some of the provisions in Section 190 for simplification.

VI. CONCLUSION

The department believes the proposed amendments satisfy the criteria outlined in Executive Order 19. The changes clarify current processes, remove redundant language, eliminate burdensome and impractical requirements imposed on the regulated entity and the state agency, and will reduce the discretionary regulatory requirements in this chapter by just over 15%. Proposed changes to the guidance document align with the proposed regulatory changes, simplify the document, and will reduce the guidance document’s length. The breakdown for the anticipated reduction of regulatory requirements is displayed in the tables below.

Total Counts for 6VAC35-170

Category	Current count	Count of amended text
Regulant discretionary	81	68
Regulant mandatory	11	4
Agency discretionary	85	58
Agency mandatory	11	4

Total Counts for Guidance Document

Category	Current Length	Length of Amended Text
N/A	16 pages	13 pages

Accordingly, the department requests that the board approve these amendments and authorize the department to advance these amendments to the Proposed stage of the standard regulatory process.

Virginia Administrative Code
Title 6. Criminal Justice and Corrections
Agency 35. Department (Board) of Juvenile Justice
Chapter 170. Regulation Governing Juvenile Data Requests and Research Involving
Human Subjects

Proposed Text for Advancement to the Proposed Stage

6VAC35-170-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

~~"Aggregate data" means statistics that relate to broad classes, groups, or categories so that it is not possible to distinguish the properties of individuals within those classes, groups, or categories.~~

"Case-specific data" means ~~nonaggregated~~ data ~~that provides information~~ about specific individuals or cases within a group.

"Coordinator of external research" means the department employee designated by whom the director designates to receive research proposals and data requests from external entities and to ensure that ~~the proposals~~ and requests are reviewed in accordance with this chapter ~~and related department procedures~~.

"Data Trust" means a secure information-sharing environment that the department has joined via a memorandum of understanding or other written agreement. For purposes of this definition, data trust shall be limited to the Commonwealth Data Trust authorized in § 2.2-203.2:4 of the Code of Virginia and the Virginia Workforce Data Trust authorized in § 2.2-2041 of the Code of Virginia.

"De-identified data" means data with ~~common~~ identifiers, such as names and ~~phone numbers~~, social security numbers, ~~and addresses~~ removed ~~in order to eliminate the ability of prevent~~ an individual viewing the data to from determine determining the subject's identity ~~of an individual~~.

"Department" means the Department of Juvenile Justice.

"Director" means the director of the department or the director's designee.

"External project lead" means the individual responsible for the research and data analysis design, implementation, supervision of staff, and findings, and who is not employed by or under contract to perform research for the department.

"External research or evaluation project" means ~~research-a project~~ conducted at or using the resources of a facility, program, or organization that is owned, operated, or regulated by the department or the Board of Juvenile Justice by ~~researchers~~ individuals who are not ~~part of the department~~ employed by or under contract to perform data analysis, quality improvement projects, or research ~~for~~ with the department, ~~or who are not employees of another state agency conducting a study at the direction of the General Assembly.~~

"Human research" means a systematic investigation, including research development, testing, and evaluation, utilizing human subjects that is designed to develop or contribute to generalized knowledge. Human research shall not be deemed to include research exempt from federal research regulation pursuant to 45 CFR ~~46.101(b)~~ 46.104(d), nor to include quality or process improvement projects.

"Human Research Review Committee" or "HRRC" means the committee established ~~by the department~~ to oversee human research proposals ~~and activities~~ in accordance with ~~6VAC35-170-130 and~~ § 32.1-162.19 of the Code of Virginia ~~and~~ 6VAC35-170-130.

"Human subject" means an individual ~~who is under recruited for research due to the individual's contact with the department or facilities or programs regulated by the department's care, custody, or supervision; under the care, custody, or supervision of a facility or program regulated by the department or the Board of Juvenile Justice; or a family member of the family of such an or guardian of the individual; and who is, or who is proposed to be, a subject of human research. For purposes of this definition, human subject also means~~ an individual ~~who is employed in or provides~~ by or providing contractual services to ~~a juvenile correctional center or other~~ the department or facility or facilities or programs regulated by the ~~department or the~~ Board of Juvenile Justice ~~and who is or who is proposed to be a subject of human research.~~

"Informed consent" means the knowing and voluntary agreement without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion of a person who is capable of exercising free choice. The basic elements necessary for informed consent regarding human research include:

1. A reasonable and comprehensible explanation to the person of the proposed procedures and protocols to be followed; their purposes, including descriptions of attendant discomforts; and the risks and benefits reasonably to be expected;
2. A disclosure of alternative procedures or therapies that might be helpful to the person;

3. An instruction that the person may withdraw ~~his~~ consent and stop participating in the human research at any time without prejudice ~~to him~~;
4. An explanation of costs or compensation that may accrue to the person and whether ~~third party~~third-party reimbursement is available for the proposed procedures or protocols; and
5. An offer to answer, and answers to, questions by the person about the procedures and protocols.

"Internal committee" means the committee established ~~by the department~~ pursuant to 6VAC35-170-65 to oversee de-identified case-specific data.

~~"Legally authorized representative" means the parent having custody of a prospective subject; the legal guardian of a prospective subject; or any person or judicial or other body authorized by law to consent on behalf of a prospective subject to such subject's participation in the particular human research, including an attorney in fact appointed under a durable power of attorney, provided the power grants the authority to make such a decision. For purposes of this chapter, "legally authorized representative" shall not include an official or employee of the institution or agency conducting or authorizing the research.~~

"Minimal risk" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

~~"Nontherapeutic research" means human research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the human subject.~~

"Organizational unit head" means the person in charge of ~~a juvenile correctional center, court service unit, or other~~an organizational unit of the department or a Board of Juvenile Justice-regulated facility, program, or service.

~~"Principal researcher" means the individual who is responsible for the research design, research implementation, supervision of research staff, and research findings.~~

"Quality or process improvement project" means a project designed to monitor, analyze, or improve the indicators of quality in service of a specific program without intentions to publish or share findings beyond the researcher, provider, and other groups at the discretion of the department. For purposes of this chapter, a quality or process improvement project is not a human research project. A quality or process improvement project may not include case-specific data requests.

"Research" means the systematic ~~development of knowledge essential to effective planning and rational decision making. It involves the assessment of current knowledge on conceptual problems selected, the statement of those problems in researchable format, the design of methodologies appropriate to the problems, and the application of statistical techniques to organize and analyze data~~ investigation, including research development, testing, and evaluation designed to develop or contribute to generalizable knowledge.

"Researcher" means an individual conducting research.

~~"Research project" means the systematic collection of information, analysis of the data, and the preparation of a report of findings.~~

"Sensitive data" means data, the compromise of which, with respect to confidentiality, integrity, or availability, could have a material adverse effect on agency programs or the privacy to which individuals are entitled.

"Virginia Longitudinal Data System" or "VLDS" means a data system that ~~provides~~ allows qualified individuals to access de-identified case-specific data from participating agencies ~~to qualified researchers~~ through a process ~~that involves~~ involving submission of requests and approval or denial by each sponsoring agency from which data are sought in ~~an effort~~ order to create usable information for policy and generate cross-agency research.

"Written," "writing," or "in writing" means ~~the required information is communicated in writing either in hard copy or electronic form~~ any representation of words, letters, symbols, numbers, or figures, whether (i) printed or inscribed on a tangible medium or (ii) stored in an electronic or other medium and retrievable in a perceivable form as defined in Chapter 2.1 (§ 1-257) of Title 1 of the Code of Virginia.

6VAC35-170-15. Applicability.

A. Except as otherwise provided, this chapter applies to external requests for case-specific data maintained by the department, including requests for case-specific data submitted through the VLDS or through a data trust. The chapter also applies to external research or evaluation project proposals and external requests submitted to the department for quality or process improvement projects.

B. Except as otherwise provided, this chapter shall not apply to the following:

1. Research or evaluation projects conducted by employees of another state agency at the direction of the General Assembly, or
2. Requests for juvenile records and reports in accordance with § 16.1-300 of the Code of Virginia.

6VAC35-170-17. Department requests for research; research conducted by state criminal justice agencies.

A. Whenever a person, agency, organization, or institution outside the department agrees, at the department's request, to conduct research on or evaluation of the department or its divisions, the department shall have the discretion to impose any or all requirements in this chapter.

B. State criminal justice agencies seeking juvenile data in accordance with § 16.1-300 shall complete and submit to the department the Data and Research Proposal and Confidentiality Agreement to verify their authority to receive the requested information and to comply with the provisions in § 16.1-300. For purposes of this section, state criminal justice agencies shall include only state governmental entities identified in the definition of criminal justice agencies in § 9.1-101.

6VAC35-170-20. General requirements of external researchers project leads.

A. The principal researcher external project lead shall have academic or professional standing in the pertinent field or job-related experience in the areas of study, ~~or be directly supervised by such a person.~~

B. The external project lead ~~principal researcher~~ shall be responsible for ensuring that all applicable requirements in this chapter are met. ~~(i) the conduct of the research staff, (ii) the protection of the rights of subjects involved in the project, and (iii) the provision of information required by the coordinator of external research, organizational unit heads, and the HRRC.~~

6VAC35-170-30. Professional ethics. (Repealed).

~~All research shall conform to the standards of ethics of professional societies such as the American Correctional Association, the American Psychological Association, the American Sociological Association, the National Association of Social Workers, the American Evaluation Association, or their equivalent.~~

6VAC35-170-40. Confidentiality requirements of all research.

A. Research findings shall not identify individual subjects.

B. All records and all information given by ~~human research~~ subjects or employees of the department shall be kept confidential in accordance with ~~§ 16.1-300 of the Code of Virginia and applicable laws, rules and~~ regulations, ~~regarding confidentiality of juvenile records.~~

~~C. Persons who breach confidentiality shall be subject to sanctions in accordance with applicable laws, regulations, policies, and procedures.~~

~~DC.~~ Confidentiality does not preclude reporting results utilizing de-identified data or giving raw data to the department for possible further analysis.

6VAC35-170-50. Conditions for department approval of external research or evaluation projects and data requests.

The department may approve research and data requests only ~~when it determines~~upon determining, in its sole discretion, that the following conditions have been met:

1. The department has sufficient financial and staff resources to support the request and ~~that~~, on balance, the benefits of the request justify the department's involvement; and
2. The request will not interfere significantly with department programs or operations, particularly those of the operating units that would participate in the proposed research; and
3. ~~The request is compatible with the purposes and goals of the juvenile justice system and with the department's organization, operations, and resources.~~

6VAC35-170-55. ~~Review and approval of aggregate data requests.~~ Repealed.

~~A. The department shall determine the following prior to approving aggregate data requests:~~

1. ~~That the request meets the conditions for department approval of research identified in 6VAC35-170-30 and 6VAC35-170-50;~~
2. ~~That the data requested is accessible;~~
3. ~~An estimate of the time required to process the data request; and~~
4. ~~Based on staff workload, whether staff resources are available to process the request.~~

~~B. The department may approve and coordinate the provision of data.~~

~~C. The department shall provide the principal researcher with a written notification of the approval or denial of the data request within 20 business days of the department's receipt of the proposal.~~

1. If the department denies the data request, documentation of the rationale for the denial shall accompany the proposal.

2. If the department approves the data request, it shall provide the principal researcher with a written estimated timeline for receipt of the data.

6VAC35-170-60. Submissions requiring department forms; ~~Formal formal~~ agreement required for certain requests and proposals.

A. To initiate the process for departmental review, external case-specific data requests, external research or evaluation project proposals, and quality improvement project requests shall be submitted to the department by completing and providing all required signatures and attachments on the Confidentiality Agreement, the Data and Research Proposal, and the Data and Research Agreement.

B. External case-specific data requests submitted through the VLDS or through a data trust portal shall require submission of the forms outlined in subsection A only if the department will serve as the sponsoring agency for the VLDS request or the department's contribution to the data trust was not mandated by the Code of Virginia.

C. The Confidentiality Agreement shall be signed by every individual who may access the data.

D. The Data and Research Agreement shall outline the responsibilities of the parties and shall specify the following:

1. That any external articles, reports, presentations, and publications generated from the data collected shall be submitted electronically to the department no later than 30 days after the publication or presentation date and shall include the statement, "The findings of this study are the responsibility of the researchers, and cooperation by the Virginia Department of Juvenile Justice in facilitating this research should not be construed as an endorsement of the conclusions drawn by the researchers;

2. That the director shall have the discretion to waive the statement mandated in subdivision D(1) of this section, in which case, all external articles, reports, presentations, and publications shall be submitted to the department for review and approval at least 30 days before the anticipated submission date;

3. That the Data and Research Agreement shall not be effective until signed by both the external project lead and the director;

4. That the requester agrees to provide the department with annual progress reports and any additional progress reports in an electronic format and according to the

schedule set by the department. If the data request also involves human research, this schedule of progress reports shall be developed in consultation with the HRRC; and

5. That the requester agrees to provide a final presentation and an electronic report of the requester's findings, which include goals for improvement and an actionable plan for implementing changes.

E. Except as provided in subsection B, ~~No~~ no case-specific data request, ~~or~~ human research request, or quality or process improvement project shall begin until all applicable reviews required by this chapter have been completed and the external project lead principal researcher receives an electronic copy of the Data and Research Agreement signed by the director.

6VAC35-170-62. (Repealed.)

6VAC35-170-65. External case-specific data requests.

~~A. External case-specific data requests shall be submitted to the department using the Confidentiality Agreement Form, the Research Proposal Form, and the Research Agreement Form.~~

~~B. The Research Agreement Form shall be signed by the principal researcher and the student researcher, if applicable, at the time of submission.~~

~~C. A. Within 10 business days of receiving the completed forms to initiate the data request, tThe coordinator of external research shall determine the following within 10 business days of receiving the data request:~~

- ~~1. That the request meets the conditions for department approval of research identified in ~~6VAC35-170-30 and 6VAC35-170-50;~~~~
- ~~2. That the proposal request is not a human research proposal and is does not required to be reviewed require by the HRRC review; however, requests that include sensitive data shall be reviewed by the HRRC;~~
- ~~3. That the principal researcher external project lead has appropriate academic or professional standing or job-related experience in the area to be studied;~~
- ~~4. That the proposal is in the required format and includes all required information;~~
- ~~5. That the proposal complies with basic research standards and applicable laws;~~
- ~~6. That the data requested is accessible; and~~
- ~~7. That department resources are available to process the data request; and~~

86. An estimate of the time required to compile the data request.

~~D~~B. ~~Except as provided in subsection E of this section, the~~The following identifiers are considered sensitive data and shall be removed from the data provided to ~~researchers~~data requesters or researchers:

1. Names;
2. Dates of birth;
3. Postal street addresses;
4. Telephone numbers;
5. Email addresses;
6. Social security numbers;
7. Medical record numbers;
8. Biometric identifiers, including finger and voice prints; and
9. Full face photographic images and any comparable image.

C. The department may consider the following identifiers as sensitive data based on the details of the project and other information included in the data set, and shall remove such identifiers from the data provided to data requesters or researchers if deemed sensitive:

1. Dates of admission, release, etc.;
2. Location information more detailed than town or city, state, and zip code;
3. Record numbers, such as juvenile numbers or direct care numbers; and
4. Any other combination of fields that would enable a reasonable person to identify individuals.

~~E~~D. ~~On a case-by-case basis, the~~The director may ~~on a case-by-case basis~~ approve the dissemination of data containing a limited number of the identifiers listed in subsection ~~D-B~~B of this section ~~for research benefiting the department,~~ provided: (i) the provision of data does not violate any confidentiality provisions in Title 16.1, and (ii) the data requester or researcher agrees that any such information shall be kept to keep the information confidential in accordance with 6VAC35-170-40 or ~~released~~release or ~~published~~publish the information only in aggregate form.

~~F.E.~~ The human research review process shall be followed when the data requested by a researcher are such that a reasonable person could identify the research participants.

~~G.F.~~ Industry standard levels of encryption shall be required to protect all juvenile ~~record~~ information provided to data requesters and researchers.

~~H.G.~~ Upon determining the requirements in subsection ~~C.A.~~ of this section are met, the director shall designate an internal committee, which ~~shall meet within 20 business days of receiving the proposal.~~ The internal committee shall:

1. Verify that the request meets the conditions for department approval of research identified in 6VAC35-170-50;
2. Review the data requested and determine if it is necessary to restrict the scope of the information provided. The scope of information may be restricted for any reason.
- ~~2. Determine the research is beneficial to the department.~~
3. Ensure juvenile confidential information will be protected adequately; and
4. Make a written recommendation to the director to approve or disapprove the request.

~~H.~~ The director shall approve or deny the proposal request within 10 business days of receiving the recommendation.

~~H.I~~ Within five business days of receiving the director's decision, ~~t~~The department shall provide the data requester or researcher with written notification ~~notify that the researcher of the director's decision within five business days of the director making the decision.~~ request has been denied, or a signed electronic copy of the Data and Research Agreement if the request is approved.

- ~~1. If the director denies the proposal, the notification shall include a written rationale for the denial.~~
- ~~2. If the director approves the proposal, the notification shall include the research agreement containing the director's signature. The agreement shall outline the respective responsibilities of the parties and shall specify:~~
 - ~~a. When progress reports shall be required. If the external research request also involves human research, this schedule of progress reports shall be developed in consultation with the HRRC;~~
 - ~~b. That the department shall have unrestricted permission to use the research findings in accordance with professional standards of research;~~

c. That a final report shall be submitted electronically to the department;

d. That unless waived by the director or the director's designee, all external articles, reports, and presentations made from the data collected shall be submitted electronically to the department and shall include the statement "The findings of this study are the responsibility of the researchers, and cooperation by the Virginia Department of Juvenile Justice in facilitating this research should not be construed as an endorsement of the conclusions drawn by the researchers;" and

e. That the research agreement shall not be effective until signed by both the principal researcher and the director.

K. The department shall provide the principal researcher, by first class mail, electronic mail, or facsimile, a final copy of the research agreement containing the director's signature.

L. External de-identified case-specific data requests submitted through the VLDS or a data trust shall not be subject to the requirements of this section only if the department will serve as the sponsoring agency for the VLDS request or the department's contribution to the data trust was not mandated by the Code of Virginia. All VLDS and data trust requests shall comply with 6VAC35-170-67, regardless of whether the department serves as the sponsoring agency or whether the contribution to the data trust was mandated by statute. Researchers submitting such requests shall adhere to the provisions of 6VAC35-170-67.

6VAC35-170-67. Requests submitted through the VLDS or a data trust requests.

A. External case-specific data requests submitted through the VLDS shall be submitted to the department using the VLDS portal.

B. The researcher shall comply with all VLDS procedures in order to access data through the VLDS.

~~C. A.~~ The chair of the HRRC shall have primary responsibility for reviewing and approving requests submitted through the VLDS or data trust portals. ~~The chair of the HRRC and~~ may not approve an external case-specific data request a request unless the request it meets the following requirements:

1. ~~The request satisfies the conditions for department approval of research identified in 6VAC35-170-30 and 6VAC35-170-50;~~

2. ~~The request is not a human research proposal and does not require the HRRC's review;~~

3. The research aim and the requested data are appropriate in content and scope;

~~The request is in the required format and includes all required information;~~

~~42. The request complies with basic research standards and applicable laws; and~~

~~5. The data requested are accessible and available in the VLDS.~~

~~3. The requester agrees to provide the department with annual progress reports and a final report of the requester's findings, which include goals for improvement and an actionable plan for implementing changes.~~

~~D. Upon reviewing the data request, the chair of the HRRC may restrict the scope of the data, provided the data requested are unrelated to the purpose of the research study.~~

6VAC35-170-69. Minor amendments to data requests.

If the ~~researcher~~ data requester offers a minor, nonsubstantive amendment to an external data request that the director previously approved in accordance with the provisions of this chapter, the chair of the HRRC may conduct an expedited review of the amendment in writing, provided the amendment does not alter the scope of the request. Additional review or approval by the internal committee or director shall not be required.

6VAC35-170-70. Requirements specific to human research.

A. All human research shall comply with Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia and all other applicable laws regarding human research.

B. Human research involving known and substantive physical, mental, or emotional risk to subjects, including ~~the withholding of any~~ prescribed programs of treatment, and all experimental medical, pharmaceutical or cosmetic research, are specifically ~~prohibited~~ forbidden.

~~C. Offering incentives to participate in research is discouraged but not prohibited. Researchers may offer incentives to participate in research, provided they are~~ Incentives shall be appropriate to the juveniles' custodial status and proportionate to the situation.

D. If sensitive data are provided, the researchers must comply with appropriate security and non-disclosure requirements.

E. No human research shall be conducted without the review and approval of the HRRC and the department.

F. Human research that is not exempted by § 32.1-162.17 of the Code of Virginia requires endorsement from an Institutional Review Board.

6VAC35-170-80. Informed consent required for human research.

~~A. All researchers shall obtain informed consent in accordance with Code of Virginia § 32.1-162.18 before conducting human research.~~

~~Except as provided elsewhere in this chapter, no researcher may involve a human subject in human research without first obtaining the informed consent of the human subject or his legally authorized representative. A researcher shall seek such consent only under circumstances that provide the human subject or the legally authorized representative sufficient opportunity to consider whether to participate and that minimize the possibility of coercion or undue influence.~~

~~B. If a human subject is competent, informed consent shall be given in writing by the subject and witnessed.~~

~~C. If a human subject is not competent, informed consent shall be given in writing by the subject's legally authorized representative and witnessed.~~

~~D. If a human subject is a minor who is otherwise capable of giving informed consent, informed consent shall be given in writing by both the minor and his legally authorized representative.~~

~~E. If two or more persons who qualify as legally authorized representatives with decision-making authority inform the researcher that they disagree as to the participation of the human subject, the subject shall not be enrolled in the human research that is the subject of the consent.~~

~~F. Notwithstanding consent by a legally authorized representative, no person who is otherwise capable of giving informed consent shall be forced to participate in human research.~~

~~G. A legally authorized representative may not consent to nontherapeutic research unless the HRRC determines that the research will present no more than a minimal risk to the human subject.~~

~~H. The informed consent form shall not include any language through which the human subject waives or appears to waive any legal right, including the release of an individual, institution, or agency or any agent thereof from liability for negligence.~~

6VAC35-170-90. Exemptions from the requirements governing human research.

~~A. Except as provided in subsections B and C of this section, the following categories of human research identified in § 32.1-162.17 of the Code of Virginia are not subject to~~

this chapter's ~~provisions governing requirements for~~ human research. ~~Except as otherwise provided by law or regulation, these activities shall be subject to the nonhuman research review and approval process established by the department.~~

~~1. Activities of the Virginia Department of Health conducted pursuant to § 32.1-39 of the Code of Virginia.~~

~~2. Research or student learning outcomes assessments conducted in educational settings involving regular or special education instructional strategies; the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods; or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in a manner so that subjects cannot be identified, directly or through identifiers linked to the subject.~~

~~3. Research involving solely the observation of public behavior, including observation by participants, or research involving survey or interview procedures unless subjects can be identified from the data either directly or through identifiers linked to the subjects, and either:~~

~~a. The information about the subject, if it became known outside the research, reasonably could place the subject at risk of criminal or civil liability or be damaging to the subject's financial standing or employability; or~~

~~b. The research deals with sensitive aspects of the subject's own behavior, such as sexual behavior, drug or alcohol use, or illegal conduct.~~

~~4. The collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the subjects cannot be identified from the information either directly or through identifiers linked to the subjects.~~

~~5. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated, or to improve the quality of the subject's life.~~

B. Pursuant to 45 CFR ~~46.101~~46.104, the exemptions outlined in ~~this section~~§ 32.1-162.17 of the Code of Virginia shall not apply to research conducted upon individuals involuntarily confined in a penal institution, including individuals committed to a juvenile correctional center or juvenile secure detention center, unless the research is aimed at involving a broader subject population that only incidentally includes these individuals.

C. Pursuant to 45 CFR 46.101, ~~the~~ exemptions outlined in ~~subdivision A 3 of this section § 32.1-162.17(3)~~ shall not apply to research conducted on children who have not attained ~~age~~-18 years of age unless permitted under 45 CFR 46.104.

6VAC35-170-100. Proposal for external research.

A. If the external research is proposed to take place in a particular organizational unit, the ~~principal researcher~~external project lead shall present a preliminary research proposal to the organizational unit head and get the organizational unit head's endorsement.

B. The ~~principal researcher shall submit to the coordinator of external research a complete~~completed Data and research Research proposal Proposal shall describing describe the research project and ~~containing include the following information:~~

1. Name, ~~address, telephone number, email address,~~ contact information, title, and affiliation of the ~~principal researcher~~external project lead;
2. Name, ~~telephone number,~~ and ~~email address~~ contact information of the person who will coordinate the project, if different from the ~~principal researcher~~external project lead;
3. Funding source, if any;
4. Date of the proposal's submission to the department;
5. Title or descriptive name of the proposed research project;
6. Statement of the specific purpose of the proposed research project with anticipated results, including benefit to the department;
7. A concise description of the research design and techniques for data collection and analysis and of the likely effects of the research methodology on existing programs and institutional operations;
8. Timeframes indicating proposed beginning and ending dates for (i) data collection, (ii) analysis, (iii) preliminary report, and (iv) final report;
9. A list of resources the researcher will require from the department or its units, such as staff, supplies, materials, equipment, work spaces, or access to clients and files;
10. The written endorsement from the organizational unit head in accordance with subsection A of this section;

11. A written endorsement from the institutional review board of the institution or organization with which the researcher is affiliated; and
12. A signed and dated statement that the ~~principal researcher~~external project lead and research staff have read, understand, and agree to abide by these regulations.

C. The coordinator of external research shall receive all research proposals and confirm that the proposal complies with basic research standards and applicable laws.

6VAC35-170-110. Initial review by coordinator of external research. (Repeal).

The coordinator of external research shall receive all research proposals from external researchers and shall:

1. Ensure that the proposals are in the required format and include all required information;
2. Confirm that the proposal complies with basic research standards and applicable laws; and
3. Refer the proposals to appropriate department personnel for review, which, for all proposed human research shall include the department's HRRC.

6VAC35-170-120. (Repealed.)

6VAC35-170-125. Quality or process improvement projects.

A. The chair of the HRRC shall have primary responsibility for reviewing and approving quality or process improvement project requests and may not approve a request unless it meets the following requirements:

- ~~— The request is not a human research proposal and does not require the HRRC's review;~~
- 1. The quality or process improvement aim and the requested data are appropriate in content and scope;
- 2. The requesters may not share information outside of the department and approved groups and may not give presentations or publish research findings using information or data from the quality or process improvement project;
- 3. The request complies with basic research standards and applicable laws; and

4. The request includes safeguards to ensure the adequate protection of juvenile confidential information;

C. The requester shall provide the department with annual progress reports and a final presentation and report of the requester's findings, which include goals for improvement and an actionable plan for implementing changes.

6VAC35-170-130. Human Research Review Committee.

~~A. The department shall establish an HRRC composed of persons of various backgrounds to ensure the competent, complete, and professional review of human research activities conducted or proposed to be conducted or authorized by the department. No member of the HRRC shall be directly involved in the proposed human research or have administrative approval authority over the proposed research except in connection with his role on the HRRC. The department shall establish an HRRC in accordance with § 32.1-162.19(A) of the Code of Virginia.~~

B. The HRRC may ask persons with pertinent expertise and competence to assist in the review of any research proposal or ongoing human research activities.

~~C. The HRRC may require additional information from the researcher before making a recommendation to the director.~~

6VAC35-170-140. ~~Timeline for review of~~ Minor amendments to human research proposals.

~~A. The HRRC shall review proposals involving human research within 30 business days of receiving a complete research proposal.~~

~~B. A. At the request of the researcher and upon written approval by the chair, the HRRC may conduct an expedited review when the proposed research involves no more than minimal risk to the human subjects, and the changes occur during the approved project period; and~~

~~1. The proposal has been reviewed and approved by another agency's HRRC; or~~

~~2. The review involves only minor changes to a previously approved research project.~~

~~CB. A proposal that undergoes expedited review pursuant to subdivision B 2 of this section shall be approved in writing by the chair of the HRRC before the researcher may proceed shall not require additional review or approval by the director shall not be required.~~

6VAC35-170-150. HRRC review of human research proposals.

In reviewing the human research proposal, the HRRC shall consider the potential benefits and risks to the human subjects ~~and as well as each element outlined in § 32.1-162.19(B) of the Code of Virginia shall recommend approval only when:~~

- ~~1. The benefits to the human subjects outweigh the risks;~~
- ~~2. The methodology is adequate for the proposed research;~~
- ~~3. The research, if nontherapeutic, presents no more than a minimal risk to the human subjects;~~
- ~~4. The rights and welfare of the human subjects are adequately protected;~~
- ~~5. Appropriate provisions have been made to get informed consent from the human subjects, as detailed in 6VAC35-170-160;~~
- ~~6. The researchers are appropriately qualified;~~
- ~~7. The criteria and means for selecting human subjects are valid and equitable; and~~
- ~~8. The research complies with the requirements set out in this chapter.~~

6VAC35-170-160. HRRC review of informed consent provisions.

A. The HRRC shall review and approve the consent process and all required consent forms for each proposed human research project before recommending approval to the director.

B. The committee may approve a consent procedure that omits or alters some or all of the basic elements of informed consent or waives the requirement to get informed consent if the HRRC ~~finds and documents that~~ complies with the requirements in § 32.1-162.18(D:) of the Code of Virginia.

- ~~1. The research involves no more than a minimal risk to the subjects;~~
- ~~2. The omission, alteration, or waiver will not adversely affect the rights and welfare of the subjects;~~
- ~~3. The research could not be performed practicably without the omission, alteration, or waiver; and~~
- ~~4. After participation, the subjects will be given additional pertinent information when appropriate.~~

C. The HRRC may waive the requirement that the researcher get written informed consent for some or all subjects ~~provided the conditions in § 32.1-162.18(E) are satisfied, if the principal risk would be potential harm resulting from a breach of confidentiality, and the only record linking the subject and the research would be the consent document. The HRRC may require the researcher to give the subjects and legally authorized representatives a written statement explaining the research. Further, the researcher shall ask each subject whether he wants documentation linking him to the research, and the subject's wishes shall govern.~~

6VAC35-170-170. Recommendation to director and final action.

A. The HRRC shall make a recommendation to the director to deny, ~~or approve, or~~ conditionally approve the proposed human research, or defer a recommendation pending receipt of additional information or modification of the proposal.

B. The director shall approve or deny the proposal within 10 business days of receiving the committee's recommendation.

C. The ~~Data and R~~ Data and R ~~research A~~ research A ~~greement shall become effective only after all reviews required by this chapter are completed and the director signs the agreement on behalf of the department. The coordinator of external research shall~~ notify the external project lead of the director's final decision within five business days of receipt, and if approved, send provide a copy of the signed ~~Data and R~~ Data and R ~~research agreement Agreement to the principal researcher~~ before the project may begin.

~~D. The coordinator of external research shall notify the principal researcher of the director's final decision.~~

6VAC35-170-180. Annual review of human research activities.

The HRRC shall review all human research activities at least annually to ensure that they are conducted in conformance with the proposals as approved by the director.

6VAC35-170-185. Researcher noncompliance.

A. The ~~researcher external project lead~~ shall report noncompliance with the approved research proposal to the HRRC and the institutional review board.

B. The external project lead shall report all protocol violations to the coordinator of external research within five business days of learning of the incident.

BC. If the HRRC determines that the research activities fail to comply with the approved proposal or violate the Code of Virginia or the Virginia Administrative Code, the department may (i) restrict or terminate further research, (ii) ~~prohibit forbid~~ the

researcher from presenting or publishing the research results, ~~or and~~(iii) bar the researcher from conducting future studies.

6VAC35-170-190. Committee reports required.

A. In accordance with §§ 66-10.1 ~~and 32.1-162.19~~ of the Code of Virginia, the HRRC shall:

~~1. Submit to the Governor, the General Assembly, and the director at least annually a report on human research projects reviewed and approved by the HRRC and the status of such research, including any significant deviation from the proposals as approved; and~~

~~2. Ensure that an overview of the required report containing a summary of approved human research projects and the results of such projects, is posted on the department's website unless otherwise exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et. seq. of the Code of Virginia).~~

B. The HRRC also shall submit annually to the Board of Juvenile Justice the same report ~~as required by subsection subdivision A(1)~~ of this section.

~~C. The HRRC shall ensure that an overview of the report required in subsection A of this section, containing a summary of approved human research projects and the results of such projects, is posted on the department's website unless otherwise exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).~~

6VAC35-170-200. Progress reports.

~~A. The department may require periodic reports on the progress of any research project in accordance with this chapter. The principal researcher external project lead shall be responsible for providing such an annual progress report reports addressing the progress of all pending research and any additional periodic progress reports or supplementary information the department requests requested by the department in a timely manner.~~

~~B. The researcher shall submit an annual progress report to the coordinator of external research when the research is not completed within one year of approval.~~

~~B. Upon review of the progress reports or the failure to timely file a progress report, approvals may be reconsidered, reassessed, or rescinded for good cause at the director's discretion.~~

6VAC35-170-210. Department permission to use research findings. (Repeal.)

The research agreement shall specify that the department has unrestricted permission to use, as they are published, all data, summaries, charts, graphs or other illustrations resulting from the research project.

6VAC35-170-220. Final report Research findings.

A. The department shall require the principal researcher external project lead to submit a formal final report to the coordinator of external research, and may require up to 10 copies of the report.

B. The final report and all external articles, reports, presentations, and publications generated from the data and research shall be submitted electronically to the coordinator of external research no later than 30 days after the publication or presentation date and shall include contain, unless waived by the director or designee, the following statement:

"The findings of this study are the responsibility of the researchers, and cooperation by the Virginia Department of Juvenile Justice in facilitating this research should not be construed as an endorsement of the conclusions drawn by the researchers."

C. The director may waive the statement required in subsection B, in which case, applicable materials shall be submitted to the coordinator of external research at least 30 days before the anticipated submission date.

6VAC35-170-230. Written procedures Guidance.

A. The department shall establish written procedures regarding the process for obtaining the organizational unit head's endorsement for any external research proposal, as required in 6VAC35-170-100.

BA. The department may establish written procedures provide guidance that outlines additional requirements processes for the submission, approval, and review of research projects, and data requests, and quality improvement projects authorized in this chapter. The written procedures also may identify additional data elements that the department deems to be sensitive data.

CB. The department shall ensure that any written procedures guidance established pursuant to this chapter are is posted on the agency website.



**Department of Juvenile Justice
Guidance Document Interpreting 6VAC35-170
Review and Approval of Data Requests and Research Proposals**

In accordance with § 2.2-4002.1 of the Code of Virginia, this guidance document conforms to the definition of a guidance document in § 2.2-4101.

I. PURPOSE AND SCOPE

This guidance document provides the process for the review, approval, and coordination of the following external data requests, research proposals, and projects: (1) Virginia Longitudinal Data System requests, (2) data trust requests, (3) other external case-specific data requests, (4) human research proposals, and (5) quality or process improvement projects. The document interprets the Regulation Governing Juvenile Data Requests and Research Involving Human Subjects (6VAC35-170).

Unless otherwise specified, this guidance document does not apply to research conducted by employees of another state agency at the direction of the General Assembly or requests for juvenile records and reports in accordance with § 16.1-300 of the Code of Virginia. Entities outside of DJJ that research or evaluate the department or its programs at the department's request, however, may be subject to all or a portion of the regulation's requirements at the department's discretion. Similarly, state criminal justice agencies seeking juvenile data, while not subject to all provisions in 6VAC35-170, are required to submit to the department the Data and Research Proposal and Confidentiality Agreement to verify their authority to receive requested information.

This guidance document will help ensure that research activities conducted within Virginia's juvenile justice system complies with applicable state and federal laws and regulations; guarantees the safety, health, privacy, and confidentiality of clients and staff; forbids unauthorized access to and publication of information identifying individuals or families; and is conducted in a manner that does not impede juvenile rehabilitation and treatment, compromise the security of juvenile facilities, or threaten public safety.

II. DEFINITIONS

The following words and terms, when used in this guidance document, shall have the following meanings unless the context clearly indicates otherwise:

Case-specific data – Data about specific individuals or cases.

Coordinator of external research - The department employee whom the director designates to receive research proposals and data requests from external entities and to ensure that proposals and requests are reviewed in accordance with 6VAC35-170.

Data trust – A secure information-sharing environment that the department has joined via a memorandum of understanding or other written agreement. For purposes of this document, data trust shall be limited to the Commonwealth Data Trust authorized in § 2.2-203.2:4 of the Code of Virginia and the Virginia Workforce Data Trust authorized in § 2.2-2041 of the Code of Virginia.

De-identified data - Data with identifiers, such as names and social security numbers removed to prevent an individual from determining the subject's identity.

**Guidance Document Interpreting 6VAC35-170
Review and Approval of Data Requests and Research Proposals**

Department - The Department of Juvenile Justice.

Director - The director of the department or the director's designee.

External project lead – The individual responsible for the research and data analysis design, implementation, supervision of staff, and findings, and who is not employed by or under contract to perform research for the department.

External research or evaluation project - A project conducted at or using the resources of a facility, program, or organization that is owned, operated, or regulated by the department or the Board of Juvenile Justice by individuals who are not employed by or under contract to perform data analysis, quality improvement projects, or research for the department.

Human research - A systematic investigation, including research development, testing, and evaluation, utilizing human subjects that is designed to develop or contribute to generalized knowledge. Human research shall not be deemed to include research exempt from federal research regulation pursuant to 45 CFR 46.104(d), nor to include quality or process improvement projects.

Human Research Review Committee (HRRC) - The committee established to oversee human research proposals in accordance with § 32.1-162.19 of the Code of Virginia and 6VAC35-170-130.

Human subject - An individual recruited for research due to the individual's contact with the department or facilities or programs regulated by the Board of Juvenile Justice; a family member or guardian of the individual; or an individual employed by or providing contractual services to the department or facilities or programs regulated by the Board of Juvenile Justice.

Informed consent - The knowing and voluntary agreement without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion of a person who is capable of exercising free choice. The basic elements necessary for informed consent regarding human research include:

1. A reasonable and comprehensible explanation to the person of the proposed procedures and protocols to be followed; their purposes, including descriptions of attendant discomforts; and the risks and benefits reasonably to be expected;
2. A disclosure of alternative procedures or therapies that might be helpful to the person;
3. An instruction that the person may withdraw consent and stop participating in the human research at any time without prejudice;
4. An explanation of costs or compensation that may accrue to the person and whether third party reimbursement is available for the proposed procedures or protocols; and
5. An offer to answer, and answers to, questions by the person about the procedures and protocols.

Internal committee - The committee established pursuant to 6VAC35-170-65 to oversee de-identified case specific data.

Minimal risk - The risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

Nontherapeutic research - Human research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the human subject.

Organizational unit head - The person in charge of an organizational unit of the department or a Board of Juvenile Justice-regulated facility, program, or service.

Quality or process improvement project - A project designed to monitor, analyze, or improve the indicators of quality in service of a specific program without intentions to publish or share findings beyond the researcher, provider, and other groups at the discretion of the department. For purposes of this document, a quality or process improvement project is not a human research project. A quality or process improvement project may not include case-specific data requests.

Research - The systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.

Researcher - An individual conducting research.

Sensitive data - Data, the compromise of which with respect to confidentiality, integrity, or availability, could have a material adverse effect on agency programs or the privacy to which individuals are entitled.

Virginia Longitudinal Data System (VLDS) - A data system that allows qualified individuals to access de-identified case-specific data from participating agencies through a process involving submission of requests and approval or denial by each sponsoring agency from which data are sought to create usable information for policy and generate cross-agency research.

Written, writing, or in writing - Any representation of words, letters, symbols, numbers, or figures, whether (i) printed or inscribed on a tangible medium or (ii) stored in an electronic or other medium and retrievable in a perceivable form as defined in Chapter 2.1 (§ 1-257) of Title 1 of the Code of Virginia.

III. PROCESS FOR REQUESTS AND PROPOSALS

A. VLDS and Data Trust Requests

1. If requesting that the department serve as the sponsoring agency of a VLDS data request or if requesting case-specific data from a data trust when the department's underlying data contribution was not required by statute, the process for external de-identified case-specific data requests described in subsection III(C) of this document shall be completed before submission through the applicable portal. External case-specific data requests submitted through the VLDS with a different sponsoring agency or submitted through a data trust when the department's underlying data contribution is required by statute, do not need to complete the process for external de-identified case-specific data and may proceed with the submission through the applicable portal.
2. The chair of the HRRC shall have primary responsibility for reviewing and approving all requests submitted through the VLDS or data trust portals and may not approve a request unless it meets the following requirements:

**Guidance Document Interpreting 6VAC35-170
Review and Approval of Data Requests and Research Proposals**

- a. The research aim and the requested data are appropriate in content and scope.
 - b. The request complies with basic research standards and applicable laws; and
 - c. The requester agrees to provide the department with annual progress reports and a final report of the requester's findings, which include goals for improvement and an actionable plan for implementing changes.
3. The following process applies for requests to modify an approved VLDS or data trust project:
- a. If the department sponsored the VLDS request or the data trust request sought data for which the department's data contribution was not required by statute, the process for modifying external case-specific data requests established in subsection III(D)(12) shall be followed. Approval must occur before submitting the amendment through the applicable portal.
 - b. If sponsored by a different agency or requested through a data trust for which the department's data contribution was required by statute, the requester need not receive approval before submitting an amendment through the applicable portal.

B. General Requirements Regarding the Data and Research Agreement, Data and Research Proposal, and Confidentiality Agreement

1. Whenever this guidance document requires the completion and submission of a Data and Research Agreement, the Agreement shall outline the responsibilities of the parties and shall specify the following:
 - a. The frequency with which progress reports shall be required;
 - b. The external project lead's obligation to submit to the coordinator of external research an electronic copy of the formal final report that contains an executive summary, and all required progress reports;
 - c. Whether the department needs to preview and approve documents before external publication;
 - d. That all external articles, reports, presentations, and publications generated from the data collected shall be submitted electronically to the coordinator of external research no later than 30 days after the publication or presentation date and shall include the statement, "The findings of this study are the responsibility of the researchers, and cooperation by the Virginia Department of Juvenile Justice in facilitating this research should not be construed as an endorsement of the conclusions drawn by the researchers;"
 - e. That the director may waive the statement mandated in subdivision III(B)(1)(d), in which case, all external articles, reports, presentations, and publications shall be submitted to the coordinator of external research for review and approval at least 30 days before the anticipated submission date;
 - f. That the Data and Research Agreement is not effective until signed by both the external project lead and the director; and
 - g. That the requester agrees to provide the department with annual progress reports and a final presentation and report of the requester's findings, which includes goals for improvement and an actionable plan for implementing changes.
2. Whenever this guidance document requires the completion and submission of a Data and Research Proposal, the proposal shall contain the following elements:

**Guidance Document Interpreting 6VAC35-170
Review and Approval of Data Requests and Research Proposals**

- a. Name, address, telephone number, email address, title, and affiliation of the external project leads. For student projects, the external project lead must be the academic advisor rather than the student;
 - b. Name, telephone number, and email address of the person who will coordinate the project, if different from the external project lead;
 - c. Resume or Curriculum Vitae for the external project lead and students, if applicable;
 - d. Funding source, if any;
 - e. Date of the proposal's submission to the department;
 - f. Title or descriptive name of the proposed project;
 - g. Statement of the specific purposes of the proposed research project with anticipated results, including benefit to the department;
 - h. A concise description of the research design and techniques for data collection and analysis and of the likely effects of the research methodology on existing programs and institutional operations;
 - i. Timeframes indicating proposed beginning and ending dates for data collection, analysis, preliminary report, and final report;
 - j. A list of resources the researcher will require from the department or its units, such as staff, supplies, materials, equipment, workspaces, or access to clients and files;
 - k. Identification of the organizational unit where the research will be conducted and letter of support acknowledging the organizational unit's agreement to participate in research-related activities, if applicable.
 - i. If the external research will occur in a particular organizational unit, the external project lead shall present a preliminary research proposal to and get a written endorsement from the organizational unit head, which shall be attached to the proposal.
 - ii. The organizational unit head supporting the project is responsible for requesting a written endorsement from the deputy director of the appropriate division before submitting the proposal packet to the coordinator of external research.
3. The Confidentiality Agreement shall be signed by every individual who may access the data.

C. General Requirements for External De-Identified Case-Specific Data Requests and Human Research Proposals

1. Unless otherwise provided, external data requesters, external researchers, and department personnel proposing to conduct human research shall follow the same steps to submit proposals for the department's consideration. If a project involves both an external de-identified case-specific data request and a human research proposal, the entire project shall be subject to the human research proposal process.
2. External data requesters and researchers to whom juvenile information is disclosed may not redisclose an individual's juvenile information beyond the purpose of the original disclosure. External data requesters and researchers may publish research findings based on juvenile information, provided the findings are presented using aggregate data or data from which individually identifying information has been removed, encoded, or encrypted.

3. External de-identified case-specific data requests and research proposals shall be emailed to the coordinator of external research and shall include the completed Confidentiality Agreement, the Data and Research Proposal, and the Data and Research Agreement, containing all required signatures and attachments.
4. Industry standard levels of encryption shall be required to protect juvenile information provided to researchers.
5. The external project lead must comply with the plan stated in the Data and Research Proposal, including the plan for disseminating findings. Requests to change the research plan must be submitted to the coordinator of external research and approved by the department before being implemented.

D. External Case-Specific Data Requests

1. The department considers the following identifiers to be sensitive data that shall be removed from the data provided to researchers:
 - a. Names;
 - b. Dates of birth;
 - c. Postal street addresses;
 - d. Telephone numbers;
 - e. Email addresses;
 - f. Social security numbers;
 - g. Medical record numbers;
 - h. Biometric identifiers, including finger and voice prints; and
 - i. Full face photographic images and any comparable images.
2. The department may consider the following identifiers as sensitive data based on the details of the project and other information included in the data set, and shall remove these additional identifiers from the data provided to researchers and data requesters if deemed sensitive:
 - a. Dates of admission, release, etc.;
 - b. Location information more detailed than town or city, state, and zip code;
 - c. Record numbers, such as juvenile numbers or direct care numbers; and
 - d. Any other combination of fields that would enable a reasonable person to identify individuals.
3. On a case-by-case basis, the director may approve the dissemination of data containing a limited number of otherwise sensitive identifiers provided: (i) the provision of data does not violate any confidentiality provisions in Title 16.1, and (ii) the requester or researcher agrees to keep such information confidential or release or publish it only in aggregate form in accordance with the following requirements:
 - a. Research findings shall not identify individual subjects.
 - b. All records and all information given by research subjects or employees of the department shall remain confidential in accordance with applicable laws and regulations.

**Guidance Document Interpreting 6VAC35-170
Review and Approval of Data Requests and Research Proposals**

- c. Confidentiality does not preclude reporting results utilizing de-identified data or giving raw data to the department for possible further analysis.
4. Within 10 business days of receiving the completed forms to initiate the data request, the coordinator of external research shall determine the following:
 - a. The request meets the conditions for department approval of research identified in 6VAC35-170-50;
 - b. The proposal is not a human research proposal and does not require HRRC review;
 - c. The external project lead has the appropriate academic or professional standing or job-related experience in the area to be studied;
 - d. The proposal complies with basic research standards and applicable laws;
 - e. The data requested is accessible; and
 - f. An estimate of the time required to compile the data request.
 5. The Research Manager shall determine if staff and resources are available to process the data request.
 6. An internal committee, chaired by the Research Manager who designates committee members, shall meet in person, by conference call, or via email to review and act on the research proposal. The internal committee shall verify that the proposal meets the following conditions set forth in 6VAC35-170-50:
 - a. The department has sufficient financial and staff resources to support the request, and on balance the benefits of the request justify the department's involvement; and
 - b. The request will not interfere significantly with the department's programs or operations, particularly those of the operating units that would participate in the proposed research.
 7. In addition, the internal committee shall:
 - a. Review the data requested and determine if it is necessary to restrict the scope of the information provided. The scope of information may be restricted for any reason.
 - b. Ensure juvenile confidential information will be protected adequately.
 - c. Make a written recommendation to the director to approve or disapprove the request.
 8. The coordinator of external research shall submit the Data and Research Proposal, the signed Data and Research Agreement, and the internal committee's recommendation to the director for review.
 9. The director shall approve or deny the proposal within 10 business days of receiving the recommendation and communicate the decision to the Research Manager and the coordinator of external research.
 10. Within five business days of receiving the director's decision, the coordinator of external research shall provide the researcher with written notification that the proposal was denied or a signed electronic copy of the Data and Research Agreement if the proposal is approved.

11. Unless otherwise provided, no case-specific data request shall begin until all applicable required reviews have been completed and the external project lead receives an electronic copy of the Data and Research Agreement signed by the director.
12. The following process shall be followed for requests to modify an approved project:
 - a. The external project lead shall email a redline version (e.g., Track Changes) and clean version of the modified Data and Research Proposal to the coordinator of external research.
 - b. Within 10 business days of receiving the modified proposal, the coordinator of external research shall consult with the Research Manager to determine if the modifications substantively change the criteria considered in the original review or alter the study's scope.
 - c. Substantive revisions require a full review and shall follow the process described in this section for new external case-specific proposals. For nonsubstantive revisions, the Research Manager may conduct an expedited review of the amendment in writing. Additional review or approval by the internal committee or director shall not be required.
 - d. The coordinator of external research shall notify the external project lead of the decision.

E. Quality or Process Improvement Projects.

1. Quality or process improvement project proposals shall be submitted to the department by completing and providing all required signatures on the Confidentiality Agreement, the Data and Research Proposal, and the Data and Research Agreement.
2. The chair of the HRRC shall have primary responsibility for reviewing and approving quality or process improvement project requests and may approve only those requests that meet the following requirements:
 - a. The aim of the improvement and the requested data are appropriate in content and scope;
 - b. The requesters may not share information outside of the department and approved groups, and requesters may not give presentations or publish research findings using information or data from the quality or process improvement project;
 - c. The request complies with basic research standards and applicable laws; and
 - d. The request includes safeguards to ensure juvenile confidential information will be protected adequately.
3. The requester shall provide the department with annual progress reports and a final presentation and report of the requester's findings, which include goals for improvement and an actionable plan for implementing changes.
4. Unless otherwise provided, no quality or process improvement projects shall begin until all applicable required reviews have been completed and the external project lead receives an electronic copy of the Data and Research Agreement containing the required signatures.

F. Human Research General Provisions

1. Except as provided in subsections III(F)(2) and III(F)(3), the categories of human research identified in § 32.1-162.17 of the Code of Virginia shall be exempt from 6VAC35-170 and from the requirements in this guidance document.
2. Pursuant to 45 CFR 46.104, the exemptions outlined in § 32.1-162.17 of the Code of Virginia shall not apply to research conducted upon individuals involuntarily confined in a penal institution, including individuals committed to a juvenile correctional center or juvenile secure detention center unless the research is aimed at involving a broader subject population that only incidentally includes these individuals.
3. The exemptions outlined in § 32.1-162.17(3) of the Code of Virginia shall not apply to research conducted on children who have not attained 18 years of age unless permitted in 45 CFR 46.104.
4. Human research that is not exempted by § 32.1-162.17 of the Code of Virginia requires endorsement from an Institutional Review Board (IRB).
5. Human research involving known and substantive physical, mental, or emotional risk to subjects, including withholding prescribed programs of treatment, and all experimental medical, pharmaceutical or cosmetic research, are specifically forbidden.
6. No human research shall be conducted without the review and approval of the HRRC and the department.
7. At the researcher's request and upon written approval by the chair, the HRRC may conduct an expedited review when the proposed research involves no more than minimal risk to the human subjects and the review involves only minor changes to a previously approved research project.
8. Researchers may provide incentives to participate in research, provided the incentives are appropriate to the juveniles' custodial status and proportionate to the situation.
9. The external project lead shall be responsible for ensuring that all applicable requirements in 6VAC35-170 are satisfied.

G. Human Research Review Committee

1. The department shall establish an HRRC composed of persons representing diverse backgrounds in work and life experience, race, ethnicity, gender, and other characteristics. The HRRC shall ensure the competent, complete, and professional review of proposed and conducted human research activities.
2. The Research Manager shall keep a current listing of members of the HRRC.
3. The HRRC shall consist of at least seven persons, including:
 - a. The Research Manager or designee, who will serve as chair;

**Guidance Document Interpreting 6VAC35-170
Review and Approval of Data Requests and Research Proposals**

- b. The director of the Behavioral Services Unit or the individual's designee;
 - c. At least three persons who are not employed by the department;
 - d. At least one person from a nonscientific profession, such as a lawyer or clergyperson; and
 - e. At least one person with the experience to advocate for the welfare of human research subjects.
4. Committee members shall be chosen by the chair of the HRRC with input from current HRRC members and other department staff. Committee members shall serve two-year terms with the option to renew.
5. HRRC Operation:
- a. The HRRC shall meet as often as necessary to give timely consideration to human research proposals. Whenever practicable, proposals shall be emailed to the HRRC members.
 - b. No HRRC member shall be directly involved in a research project or have administrative authority over a research project apart from the member's role on the HRRC.
 - c. The HRRC may meet in person, by conference call, or via email. A simple majority of HRRC members constitutes a quorum.
 - d. The HRRC may consult with any person who has expertise or is competent regarding the proposed research. Consultants may offer their opinions but may not vote when the HRRC makes its decision.

H. Review of Human Research Proposals

1. Within 10 business days of receiving the research proposal, the coordinator of external research shall determine the following:
 - a. The external project lead has appropriate academic or professional standing or job-related experience in the area to be studied;
 - b. The proposal complies with basic research standards and applicable laws;
 - c. The proposal supports the mission and goals of the department;
 - d. The proposal could reasonably comply with the criteria to be examined by the HRRC; and
 - e. The data requested is accessible, if applicable.
2. If, after consulting the research manager, the coordinator of external research determines that these criteria cannot be satisfied through reasonable modifications to the proposal, the proposal will be denied and written notification sent to the external project lead. If approved, the coordinator of external research will notify the external project lead of necessary changes, additional information, or clarifications.
3. Within 10 business days of the coordinator of external research's receipt of a research proposal that complies with the required criteria, the proposal shall be emailed to the HRRC.
4. In reviewing a human research proposal, the HRRC must determine that the proposal meets the following conditions set forth in 6VAC35-170-50:
 - a. The department has sufficient financial and staff resources to support the request, and on balance the benefits of the request justify the department's involvement; and

**Guidance Document Interpreting 6VAC35-170
Review and Approval of Data Requests and Research Proposals**

- b. The request will not interfere significantly with the department's programs or operations, particularly those of the operating units that would participate in the proposed research.
5. In reviewing a human research proposal, the HRRC also shall consider the following:
- a. Each of the questions addressed in § 32.1-162.19(B) of the Code of Virginia;
 - b. Whether the research complies with the requirements set out in 6VAC35-170 and this guidance document; and
 - c. Whether informed consent will be obtained by methods that are adequate, appropriate, and in accordance with the requirements of § 32.1-162.18 of the Code of Virginia, and 6VAC35-170-160. Any form used must be understandable to potential participants.

6. Informed Consent

The HRRC:

- i. Shall review and approve the consent process and all required consent forms for each proposed human research project before recommending approval to the director.
- ii. May approve a consent procedure that omits or alters some or all basic elements of informed consent or waives the requirement to get informed consent if the HRRC complies with the requirements in § 32.1-162.18(D) of the Code of Virginia;
- iii. May waive the requirement that the researcher get written informed consent for some or all subjects provided the conditions in § 32.1-162.18(E) are satisfied.

7. After reviewing the human research proposal, the HRRC may:

- a. Recommend that the director approve the research;
- b. Recommend that the director reject the research proposal as inconsistent with state law, inconsistent with 6VAC35-170, or incompatible with available resources; or
- c. Defer a recommendation pending receipt of additional information or modification of the proposal by the external project lead.

8. The coordinator of external research shall submit the Data and Research Proposal, the signed Data and Research Agreement, and the HRRC's recommendation to the director.

9. The director shall approve or deny the proposal within 10 business days of receiving the recommendation and communicate the decision to the research manager and the coordinator of external research. The director may reject the approval recommendation upon finding the research proposal is inconsistent with state law, or 6VAC35-170, or is incompatible with available resources. The director also may set conditions on the research, which shall be put in writing.

10. Within five business days of receiving the director's decision, the coordinator of external research shall notify the external project lead of the director's decision, and, if approved, send the signed Data and Research Agreement to the external project lead.

I. Modifications to Approved Human Research

1. The following process shall be followed to request and approve a modification to an approved project:
 - a. The external project lead shall email a redline version (e.g., Track Changes) and clean version of the modified Data and Research Proposal to the coordinator of external research.
 - b. Within 10 business days of receiving the research proposal, the coordinator of external research shall consult the research manager to determine if the requested modifications substantively change the criteria considered in the original review or alter the scope of the study.
 - c. Substantive revisions require a full review and shall follow the process described in subsection III(H) for new proposals. For nonsubstantive revisions, the HRRC may conduct an expedited review of the amendment upon written approval by the chair and provided the proposed research involves no more than minimal risk to the human subjects, the changes occur during the approved project period, and the review involves only minor changes to previously approved research. Additional review or approval by the director shall not be required.
 - d. The coordinator of external research shall notify the external project lead of the final decision.

J. Review of Human Research in Progress and Researcher Noncompliance

1. In accordance with 6VAC35-170-180, the HRRC shall review all human research activities at least annually to ensure that the project is conducted in conformance with the proposal as approved by the director.
2. The external project lead shall report to the coordinator of external research all protocol violations, including the reporting of adverse events, sponsor-imposed or IRB-imposed protocol suspensions, protocol deviations or violations, confidentiality breaches, and participant complaints. Reports must be submitted within five business days of the external project lead's knowledge of the incident. The report shall include relevant dates, times, locations, personnel involved, event details, and actions taken and planned.
 - a. Within five business days of receiving the report, the coordinator of external research shall email the report to the HRRC for review.
 - b. Within ten business days of receiving the report, the HRRC shall recommend further action to the director.
 - c. Within ten business days of the HRRC's recommendation, the director shall make a final determination of further action.
 - d. Within five business days of the director's determination, the coordinator of external research shall notify the external project lead of the decision.
3. The following actions may be taken at any time if a research project deviates significantly from the proposal as approved or from any conditions imposed by the director or increases the level of harm to participants or others:

**Guidance Document Interpreting 6VAC35-170
Review and Approval of Data Requests and Research Proposals**

- a. Require the external project lead to submit a report to their IRB, copying the coordinator of external research on all correspondence;
 - b. Temporarily halt research activities until a corrective action plan can be approved and implemented; and
 - c. Revoke approval of the research in whole or part.
4. The researcher shall report noncompliance with the approved research proposal to the HRRC and the IRB.
5. If the HRRC determines that the research activities fail to comply with the approved proposal or violate the Code of Virginia or the Virginia Administrative Code, the department may restrict or terminate further research, prohibit the researcher from presenting or publishing the research results, and bar the researcher from conducting future studies.

K. Annual Reporting

The HRRC shall submit to the Governor, the General Assembly, the Board of Juvenile Justice, and the director at least annually a report on human research projects reviewed and approved by the HRRC and the status of such research, including any significant deviation from approved proposals. The report shall include a summary of approved human research projects and the results of such projects and be posted on the department's website unless otherwise exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).



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MEMORANDUM

TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

DATE: November 1, 2024

SUBJECT: Request for a Fast-Track Action to Amend Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System (6VAC35-160)

I. ACTION REQUESTED

The Department of Juvenile Justice (department) respectfully requests the State Board of Juvenile Justice's (board's) authorization to initiate a fast-track regulatory action to amend two sections in 6VAC35-160, *Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System*. The purpose of this regulatory action is to reduce the number of discretionary regulatory requirements contained within this chapter to assist in carrying out the Governor's 25% regulatory reduction mandate established in Executive Order 19 (2022).

II. BACKGROUND

VJJIS Generally

Section 16.1-222 of the Code of Virginia establishes the Virginia Juvenile Justice Information System (VJJIS) within the Department of Juvenile Justice (the department) and mandates that the system receive, classify, and file certain data. Code of Virginia § 16.1-223 directs the board to promulgate regulations governing the security and confidentiality of such data submitted into the VJJIS. In accordance with this statute, the regulations contained in 6VAC35-160 were promulgated in 2004 to establish a system whereby "participating agencies" have access to data contained within the VJJIS and are subject to rules regarding confidentiality, security, and disclosure. The regulations also set out the process by which juvenile record information may be disclosed to parties authorized to inspect juvenile record information under § 16.1-300 of the Code of Virginia, and the process for storing, retaining, and expunging such records.

Documents Incorporated by Reference

In accordance with 1VAC7-10-140, when a regulation adopts text by referencing all or a portion of an external publication or document, the text in the external document becomes an enforceable part of the

regulation. The current VJJIS regulation incorporates two external Commonwealth of Virginia Information Technology Resource Management Standards (COV ITRM Standards) developed and maintained by the Virginia Information Technology Agency (VITA) that provide technical or programmatic guidance regarding the ITRM framework. As standalone documents, these standards apply to the Commonwealth's executive, legislative, and judicial branches, along with independent agencies and institutions of higher education. The standards are updated frequently to reflect statutory changes, clarify issues, and otherwise incorporate recommendations from the public.

Of note, COV ITRM Standard SEC 501-09.1, the 165-page standard which became effective in 2016 and established requirements for information security and risk management activities for the Commonwealth's agencies, is currently incorporated into two provisions in the VJJIS Regulation. Section 10 of the regulation defines "data owner" as "a department employee responsible for the policy and practice decisions regarding data, as identified by COV ITRM Standards SEC 501-09.1." Section 130 of the chapter, which establishes rules when devices remotely accessing the VJJIS are left unattended, directs the regulated entity to implement a screen saver lockout period after a maximum of 15 minutes of inactivity in accordance with COV ITRM Standards SEC 501-09.1.

III. ANTICIPATED CHANGES

Removal of Document Incorporated by Reference

The department is seeking to remove COV ITRM Standards Sec 501-09.1 from the list of DIBRs. COV ITRM SEC 501-09.1 has been updated nine times since 2016, and was superseded by COV ITRM Standard SEC 530, effective March 2023. Thus, SEC COV ITRM Standard Sec 501-09.1 is not the proper version to be incorporated into the regulation. Furthermore, the two provisions in the VJJIS regulation that incorporate COV ITRM Standard SEC 501-09.1, are sufficient as standalone provisions. Reference to the outdated COV ITRM Standard SEC 501-09.1 and to the current COV ITRM Standard SEC 530 provide no additional guidance regarding the definition of data owner or the need for regulated accessors of the VJJIS to implement the required screen saver lockout period after leaving a device unattended within the time specified in Section 130. Given the frequent updates COV ITRM Standard SEC 501 experienced over several years before it was ultimately superseded and the sufficiency of the current regulatory language, the department believes that continuing to incorporate the updated standard in these two sections is no longer prudent.

The removal of COV ITRM Standard SEC 501-09.1 as an incorporated document is expected to result in a significant reduction in this chapter's discretionary regulatory requirements imposed on regulants. In accordance with guidance provided by the Office of Regulatory Management, regulations that intend to incorporate only a portion of an external document should explicitly identify the portions of the DIBR that the agency intends to be binding on regulated entities. The current VJJIS regulation lists COV ITRM Standard SEC 501-09.1 as a DIBR but does not expressly specify which sections of the DIBR the agency intends to incorporate; therefore, the entire document, including each of its nearly 1000 discretionary regulatory requirements, is considered binding on the regulated entity. For purposes of determining whether the department has met its regulatory reduction burden, guidance from the Office of Regulatory Management provides that states may not receive regulatory reduction credit for provisions that bind the agency (e.g., agency discretionary and agency mandatory provisions). It is the department's understanding that removal of the incorporated regulant discretionary provisions will result

in an 85% reduction of requirements in this chapter and a 20% reduction of regulatory requirements overall.

The existing regulatory count and anticipated reduction from this change is set out in the table below:

Total Counts for Discrete Regulatory Requirements - 6VAC35-170

Category	Current Count ¹	Count of Amended Text
Regulant discretionary (6VAC35-170)	1165	178
Agency discretionary (6VAC35-170)	1176	188
Regulant discretionary (aggregate)	4867	3880
Agency discretionary (aggregate)	4753	3765

IV. PROCESS FOR SUBMISSION OF FAST-TRACK ACTION AND NEXT STEPS

Given the volume of regulatory reduction anticipated from this action and the looming deadline for meeting the Governor’s reduction mandate, the department would like to accomplish the proposed regulatory amendment as soon as practicable. Section 2.2-4012.1 of the *Code of Virginia* allows for an expedited regulatory process for submitting proposed regulations anticipated to be noncontroversial. The “fast-track process” allows state agencies to bypass the initial stage of the standard regulatory process and compresses the timeframes for executive branch review of the regulatory package. If a member of the applicable standing committee of the Senate or House of Delegates, a member of the Joint Commission on Administrative Rules (JCAR), or ten or more members of the public raise objections to the proposed amendment, the package is continued using the standard, three-stage, regulatory process.

Because the proposed amendment seeks to remove an unnecessarily incorporated technology standard, the department does not expect this change to be controversial. The fast-track process appears to be the quickest and most efficient means of amending the regulation. The table below provides the required timeframes, commencing with submission of the action through the Virginia Regulatory Town Hall, proceeding through the executive branch review phases, and following the process through completion of review when the proposed amendments become effective.

Timeframes for Fast-Track Stage

Action/Review	Deadline for Completion
Submit Action to Virginia Regulatory Town Hall	No deadline after board approval
Office of the Attorney General	No deadline
Department of Planning and Budget	30-40 ² day deadline
Secretary of Public Safety and Homeland Security	14-day deadline
Office of Regulatory Management	14-day deadline
Governor/Chief of Staff	No deadline

¹ Current count column is based on information contained in the Department’s July 31 Baseline Regulatory Catalog and includes the sum of requirements contained in regulatory provisions and in documents incorporated by reference.

² The Department of Planning and Budget’s initial review considers whether the regulatory package is appropriate for the fast-track process and must occur within 10 days of DPB’s receipt of the package. After the initial review, DPB has 30 days to prepare its policy and economic analyses.

Publication of NOIRA in Virginia Register	In accordance with Register's Schedule
Public Comment Period	30-day deadline
Effective date	15 days after close of public comment period unless triggering objections occur

VI. CONCLUSION

The department believes filing this fast-track action will put the department on track to accomplish significant regulatory reduction by removing a currently incorporated document that is obsolete and adds no additional meaningful guidance regarding the VJJIS. Accordingly, the department asks the board to approve this request and authorize the department to initiate this fast-track action.

Project 8035 - Fast-Track

Department (Board) of Juvenile Justice

Proposed Fast-Track Action to Remove DIBR from VJJIS Regulation

6VAC35-160-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Access" means the ability directly to obtain information concerning an individual juvenile contained in manual or automated files.

"Commonwealth of Virginia Information Technology Resource Management Standards" or "COV ITRM Standards" means the information technology standards applicable to all Commonwealth executive branch agencies that manage, develop, purchase, and use information technology resources in the Commonwealth of Virginia.

"Data owner" means a Department of Juvenile Justice employee who is responsible for the policy and practice decisions regarding data ~~as identified by COV ITRM Standard Security (SEC) 501-09.1.~~

"Department" means the Department of Juvenile Justice.

"Destroy" means to totally eliminate and eradicate by various methods, including shredding, incinerating, or pulping.

"Dissemination" means any transfer of juvenile record information, whether orally, in writing, or by electronic means to any person other than an employee of a participating agency who is authorized to receive the information under § 16.1-300 of the Code of Virginia and who is not barred from receiving the information by other applicable law.

"Expunge" means to destroy all records concerning an individual juvenile, or all personal identifying information related to an individual juvenile that is included in aggregated files and databases, in accordance with a court order or the Code of Virginia.

"Juvenile record information" means any information in the possession of a participating agency pertaining to the case of a juvenile who is or has been the subject of an action by an intake officer as provided by § 16.1-260 of the Code of Virginia, as well as to personal identifying information concerning such a juvenile in any database or other aggregated compilation of records. The term does not apply to statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable.

"Need to know" means the principle that a user should access only the specific information necessary to perform a particular function in the exercise of his official duties.

"Participating agency" means the department, including state-operated court service units; any locally operated court service unit, secure juvenile detention center, or juvenile group home; or any public agency, child welfare agency, private organization, facility, or person who is treating or providing services to a child pursuant to a contract with the department or pursuant to the Virginia Juvenile Community Crime Control Act as set out in Article 12.1 (§ 16.1-309.2 et seq.) of Chapter 11 of Title 16.1 of the Code of Virginia, that is approved by the department to have direct access to juvenile record information through the VJJIS or any of its component or derivative information systems. The term "participating agency" does not include any court.

"Remote access" means a connection to the department's systems from a remote location other than a department facility.

"Telecommunication connection" means the infrastructure used to establish a remote access to department information technology systems.

"Virginia Juvenile Justice Information System" or "VJJIS" means the equipment, facilities, agreements and procedures used to collect, process, preserve or disseminate juvenile record information in accordance with § 16.1-224 or 16.1-300 of the Code of Virginia. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

6VAC35-160-130. Security of telecommunications.

A. The department may permit the use of a nondedicated means of data transmission to access juvenile record information when there are adequate and verifiable safeguards in place to restrict access to juvenile record information to authorized persons. Industry standard levels of encryption shall be required to protect all juvenile record information moving through any network.

B. Where remote access of juvenile record information is permitted, remote access devices must be secure. Remote access devices capable of receiving or transmitting juvenile record information shall be secured during periods of operation. When the remote access device is unattended, the device shall be made inoperable for purposes of accessing juvenile record information by implementing a screen saver lockout period after a maximum of 15 minutes of inactivity for devices as required by ~~COVITRM Standards SEC 501-09.1~~. In addition, appropriate identification of the remote access device operator shall be required.

C. The telecommunications connection used with the remote access device shall also be secured. Telecommunications connections shall be reasonably protected from possible tampering or tapping.

Documents Incorporated by Reference (6VAC35-160)

Information Technology Resource Management Standard - Removal of Commonwealth Data from Electronic Media Standard, 514-04, Virginia Information Technologies Agency (rev. 12/2015)

~~Commonwealth of Virginia Information Technology Resource Management Standard, Information Security Standard, 501-09.1, Virginia Information Technologies Agency (rev. 12/2016)~~



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MEMORANDUM

TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Variance for Direct Supervision Staff in JCC to Actively Supervise Residents, 6VAC35-71-810

DATE November 1, 2024

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully asks the State Board of Juvenile Justice (board) to reinstate the variance to the noncritical regulatory requirement in subsection E of 6VAC35-71-820, as initially issued on June 11, 2014, and extended on May 6, 2019, on behalf of the Bon Air Juvenile Correctional Center and other existing juvenile correctional centers (JCCs). The variance authorized direct supervision staff to supervise residents outside the active supervision of direct care staff.

II. BACKGROUND

History of Variance

On June 11, 2014, the board granted the JCCs a variance to the regulatory requirement contained in subsection E of 6VAC35-71-820. That subsection provides:

There shall be at least one trained **direct care staff** on duty and actively supervising residents at all times that one or more residents are present.

For purposes of this requirement, “direct care staff” is defined in 6VAC35-71-10 as

[T]he staff whose **primary job responsibilities** are for (i) maintaining the safety, care, and well-being of residents; (ii) implementing the structured program of care and the behavior management program; and (iii) maintaining the security of the facility.

The department had operationalized “active supervision” to mean that direct care staff must have sight and sound supervision at a minimum of every 15 minutes.

Conversely, the regulation also defines “direct supervision” in 6VAC35-71-10, as

[T] he act of working with residents who are not in the presence of direct care staff. Staff members who provide direct supervision are responsible for maintaining the safety, care, and well-being of the residents in addition to providing services or performing the primary responsibilities of that position.

The agency's direct supervision employees worked closely with residents and therefore had to ensure the residents' safety, care, and well-being, but also were providing services directly to the residents. Direct supervision employees included teachers, rehabilitation counselors, therapists, and recreational staff.

When read together, these provisions prohibited direct supervision staff who failed to satisfy the three-pronged test for direct care staff, from being alone with residents unless they were observed periodically through the sight and sound supervision of a direct care employee. Prior to issuance of the variance, these regulatory requirements impeded many direct supervision employees in the JCCs from effectively accomplishing their duties. As an example, if a therapist wanted to conduct a group session with residents from a unit, and a direct care staff member was not available to actively supervise these sessions, the group sessions could not be conducted.

The variance resolved these issues by allowing qualifying employees to continue directly supervising residents without direct care staff actively viewing and monitoring the residents at least once every 15 minutes. To guarantee the safety of the direct supervision employees and residents in these scenarios, the variance applied only if such direct supervision employees satisfied the following additional requirements:

- Completion of the 120 hours¹ of training required by 6VAC35-71-160 (Required initial training) and the retraining requirements provided for in 6VAC35-71-170;
- Completion of the department's approved training for non-security staff on safety and security prior to being alone with residents outside the active supervision of direct care staff. The training had to include teachings on the supervision and control of residents, verbal de-escalation techniques, age-appropriate defensive tactics, and crisis intervention.
- Ability to communicate immediately with direct care staff by two-way radio or other means during any period where the resident is not actively supervised by direct care staff; and
- Completion of check-ins with a direct care staff member before and after being alone with any resident.

In May 2019, the board approved an extension of this variance for a period of five years or until the applicable regulatory provision was amended to capture these requirements. While the action to amend the Regulations Governing Juvenile Correctional Centers, which incorporated the provisions of this variance, was advanced to the Final stage of the standard regulatory process after the board's approval on September 21, 2022, the action continues to undergo executive branch review. Consequently, the variance expired on May 19, 2024, without the proposed regulatory amendments having taken effect.

Continued Need for Variance

Effective May 1, 2024, the department changed its internal training requirements to mandate that all direct supervision staff receive the same Handle with Care training as direct care staff unless they receive an

¹Pursuant to a separate variance last issued in September 2022, employees responsible for the direct supervision of residents are required to complete 40 hours of initial training prior to working with residents and the remaining 80 hours before the close of their first year of employment. This variance is scheduled to expire in September 2027, but its provisions also were incorporated into the proposed regulatory action last approved by the board in November 2017.

accommodation. These changes to training were intended to ensure that such staff are equipped to support full access to residents while providing services. Newly hired staff now attend the department's Basic Skills for Direct Care Staff, and existing direct supervision staff have completed a separate training addressing Handle with Care. In addition to the modified training requirements, direct supervision staff's duties have been enhanced to require that they address and resolve crises and conflicts involving residents. Although these staff are now subject to the same training as direct care staff and remain obligated to maintain resident safety and security, it is the department's understanding that direct supervision staff still do not satisfy the third prong of the direct care staff definition, as they are not primarily responsible for maintaining facility security. Despite their modified training and enhanced responsibilities, they do not provide security in housing units, assume security posts, or perform other duties of direct care staff. Therefore, it is the department's understanding that if direct supervision employees need to be alone with residents without direct care staff actively supervising such residents, the variance must be reinstated.

III. PROPOSED VARIANCE

The proposed variance would continue to allow staff responsible for the direct supervision of residents to "actively supervise residents," but the language of the variance would be updated to reflect the changes in the department's internal training requirements for direct supervision staff. The updated variance language is set forth below:

...E. There shall be at least one trained direct care staff on duty at all times that one or more residents are present. ~~and. One direct care staff or one staff responsible for the direct supervision of residents shall be actively supervising residents at all times that one or more residents are present. Staff responsible for the direct supervision of residents, with the exception of staff hired on or before May 1, 2024, who have an approved medical waiver,~~ shall ensure that the following conditions are satisfied in order to actively supervise residents:

- The employee completes the 120 hours of training required by 6VAC35-71-160 (Required initial training) and the retraining requirements provided for in 6VAC35-71-170 (Retraining);
- The employee completes department-approved training on the supervision and control of residents, verbal de-escalation techniques, age-appropriate defensive tactics, and crisis intervention before the employee is permitted to be alone with residents who are not actively supervised by direct care staff;
- During any period where the resident is not actively supervised by direct care staff, the employee has the capability for immediate communication with direct care staff; and
- The employee checks in with direct care staff before and after meeting with any residents.

IV. SCOPE OF VARIANCE

The department requests that this variance be granted to the Bon Air Juvenile Correctional Center and any other JCC established and operating during the duration of the variance. The department asks that the variance be in place for a period of five years or until 6VAC35-71 is amended to capture the substance of this variance, whichever occurs first.

V. RATIONALE AND CONCLUSION

By acceding to the department's request to incorporate the substance of the variance into the proposed amendments to 6VAC35-71 and in approving the substance of the variance on two separate occasions, the board has demonstrated its approval of this variance. The variance has been in place for ten years and has remained an effective tool for ensuring that necessary services are provided to residents at the Bon Air Juvenile Correctional

Center without interruption, regardless of whether direct care staff are available to actively supervise residents in the areas where the required services are provided. Enhanced training in crisis prevention and age-appropriate defensive tactics, among other topics, helps ensure that direct supervision staff are prepared to respond to any crises that may occur while direct supervision staff are alone with residents. Accordingly, the department recommends that the board reinstate this variance with the minor changes outlined in this memorandum.



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TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Authorization for a Variance to 6VAC35-150-390 (Transfer of Case Supervision)

DATE November 1, 2024

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully asks the State Board of Juvenile Justice (board) to authorize a variance to the regulatory requirement in 6VAC35-150-390 for the purpose of expanding authorization to transfer court service unit (CSU) supervision to units in other jurisdictions in cases where the supervisee's place of abode falls outside the jurisdiction of the original CSU. The department requests this variance on behalf of the 32 state and locally operated CSUs in the Commonwealth of Virginia.

II. STATUTORY AND REGULATORY BACKGROUND

Section 16.1-295 of the *Code of Virginia* establishes the requirements and process for transferring court service unit supervision when a person under supervision relocates to a Virginia jurisdiction outside the jurisdiction of the person's original CSU. The provision provides, in part:

If any person on probation to or under the supervision of any juvenile probation officer or other officer of the court removes his **residence** or **place of abode** from the county or city in which he was so placed on probation or under supervision to another county or city in the Commonwealth, the court in the city or county from which he removed his residence or place of abode may then arrange the transfer of the supervision to the city or county to which he moves his place of residence or abode, or such transfer may be ordered by the transferring court.

The regulation that governs court service units and other nonresidential services and programs appears to impose a restriction on such CSU transfers of supervision. The applicable provision, 6VAC35-150-390, provides, in part,

When the **legal residence** of an individual under the supervision of a CSU is not within the jurisdiction of the original CSU, the supervision of the case may be transferred to another unit in Virginia in accordance with § 16.1-295 of the Code of Virginia and approved procedures.

None of the provisions in Chapter 11 of Title 16.1 define the terms, “residence” or “place of abode.” Neither is the term “legal residence” defined anywhere in 6VAC35, the administrative code provisions the board has promulgated to establish rules and requirements for the facilities and programs it regulates. In the absence of any clear guidance on these terms either in Title 16.1 of the Code or in 6VAC35, the department looked to definitions elsewhere in the statutes and regulations to ascertain the legislative and regulatory intent of these provisions.

Section 24.2-101, the provision in Title 24.2 that provides definitions involving elections in the Commonwealth, defines “residence,” for purposes of qualification to register and vote, to require both domicile and a place of abode. In accordance with this definition, to establish domicile, “a person must live in a particular locality with intention to remain.” The provision goes on to define “place of abode” as “the physical place where a person dwells.” The statute suggests that for purposes of registering to vote or voting in the Commonwealth, that the place where a person lives at any given time meets the requisite definition of “residence” if, in addition to having a physical dwelling place, there is an intention to remain or to stay permanently. While Title 24.2 has no relevance to the department or the juvenile courts, this statute appears to be the only area in the Code that contains a definition for “place of abode” and distinguishes that term from “residence.” The “residence” definition also is consistent with the commonly understood legal definition of “residence,” which means “living or dwelling in a certain place permanently or for a considerable length of time.”

Unlike the statute, 6VAC35-150-390 does not expressly allow CSUs to transfer supervision based on the supervisee’s place of abode. Instead, the provision authorizes juvenile courts to arrange for the transfer of CSU supervision only in instances where the **legal residence** of an individual under CSU supervision falls outside the jurisdiction of the original CSU. The term, “legal residence” is not defined in 6VAC35-150 or elsewhere in the Board of Juvenile Justice’s regulations or in the Code of Virginia. For purposes of defining “legal residence,” Black’s Law Dictionary directs the reader to its definition for “domicile,” which means “a person’s true, fixed, permanent home and principal establishment, and to which, whenever he is absent, he has the intention of returning.”

It is the department’s understanding that 6VAC35-150-390’s use of the term legal residence coupled with the omission of the “place of abode” language conveys an intent to restrict the court’s discretion to transfer CSU supervision only in those instances in which the supervisee’s permanent home or domicile is located in a different jurisdiction than that of the original CSU, and not to instances where the supervisee’s place of abode is outside the original CSU’s jurisdiction. This language is far more restrictive than the statutory language and often impacts services to youth under CSU supervision, as further explained in Part III.

III. PROPOSED VARIANCE

Language

The department is proposing the following variance to 6VAC35-150-390:

When the legal residence or place of abode of an individual under the supervision of a CSU is not within the jurisdiction of the original CSU, the supervision of the case may be transferred to another unit in Virginia in accordance with § 16.1-295 of the Code of Virginia and approved procedures.

Justification

6VAC35-150-40 allows a program administrator to request a variance to a regulatory requirement if the administrator is unable to comply with a section or subsection of the Regulations for Nonresidential Services, provided the request meets the requirements of 6VAC35-20-92. Pursuant to that section, a variance request must be submitted in writing and include the following:

- The noncritical regulatory requirement for which a variance is requested;
- The justification for the request;
- Any actions taken to come into compliance, the person responsible for the action, and the date and time at which compliance is expected; and
- The specific time period requested for the variance.

The department believes the request meets the regulatory requirements for a variance as set out in 6VAC35-150-40 and 6VAC35-20-92. First, the request is not a critical regulatory requirement. Currently, critical regulatory requirements apply exclusively to residential regulations; therefore, none of the regulatory requirements captured in the Regulations for Nonresidential Services (6VAC35-150) are deemed critical and disqualified from the variance process.

Second, the department believes there is sufficient justification for the variance request. As the department continues to implement new requirements to enhance meaningful contacts between probation and parole officers and their supervisees, this regulatory restriction has significantly burdened the agency's resources by imposing excessive costs for probation officers to travel, sometimes hours outside their jurisdiction, to meet with supervisees for whom the regulation precludes transfer to another court service unit. Many CSUs supervise juveniles who are placed temporarily in residential facilities outside the jurisdiction of their assigned CSU but whose domicile remains in the locality of the CSU. Similarly, some supervisees in foster care and under legal custody of the Department of Social Services may be placed in a foster family home, group home, or emergency shelter outside the CSU's jurisdiction, but the legal residence remains in the locality that has legal custody of the juvenile despite the location of the juvenile's placement. In many of these cases, the best interests of the juvenile may necessitate a transfer of CSU supervision even though the youth's legal residence has not changed, but the department is bound by the regulatory restrictions, and therefore, is unable to execute a transfer. In addition, restrictions on the ability to transfer supervision has added a layer of unnecessary bureaucracy by requiring the current probation or parole officer to work with staff in the CSU in the location where the juvenile resides to facilitate access to programs and services available in that jurisdiction. Having probation officers with direct access to this information and these services would reduce the strain on resources and help ensure the process for obtaining these services is more efficient. The proposed variance also would expand the regulatory language to align more closely with the existing statute and to provide the same manner of flexibility already available under § 16.1-295 of the Code for probationers or other supervisees who live temporarily outside the jurisdiction of the assigned CSU.

Finally, because the department's current practice is to transfer CSU supervision only when the supervisee's legal residence changes or falls outside the jurisdiction of their original CSU, the department does not need to provide additional information on efforts to come into compliance.

Proposed Scope

The department requests that the variance apply to each of the 32 state and locally operated court service units in the Commonwealth of Virginia, and that the variance be in place for a five-year period or until 6VAC35-150-390 is amended to resolve this issue, whichever occurs first.

IV. CONCLUSION

Based on the information provided in this memorandum, the department believes that adopting the variance language, as described above, will give CSUs the needed flexibility to ensure constant, meaningful contacts with youth under CSU supervision by reallocating the needed resources to the appropriate locality. This reallocation of resources will help ensure that probation and parole officers are “aiding and encouraging their supervisees to bring about improvement in the supervisee’s conduct and condition” in accordance with the PO’s statutory obligation under § 16.1-237 of the Code. The proposed variance also aligns with the authorization for court service unit transfers set forth in § 16.1-295. Accordingly, the department recommends that the board approve this variance request.



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MEMORANDUM

TO: Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Extension of Variance Applicable to New River Valley Juvenile Detention Home; Control Room

DATE November 1, 2024

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully requests that the Board of Juvenile Justice (the board) approve an extension of the variance currently in place for New River Valley Juvenile Detention Home (New River Valley). The board last approved this variance on November 13, 2019, effective for five years. New River Valley seeks to extend the variance to exempt the facility and its staff from meeting the requirements pertaining to control centers in secure juvenile detention centers in 6VAC35-101-520.

II. BACKGROUND

At its November 13, 2019, meeting, the board granted New River Valley an extension of the variance to the regulatory requirement contained in 6VAC35-101-520. This regulatory provision contains the following requirements:

To maintain the internal security, a control center that is secured from residents' access shall be staffed 24 hours a day and shall integrate all external and internal security functions and communications networks.

The board had previously granted the same variance in 2014.

III. RATIONALE

New River Valley asserts that, while the facility does not meet the requirements of 6VAC35-101-520, its practices comply with the spirit of the provision.

According to the department's Compliance Manual, the purpose of 6VAC35-101-520 is to "ensure that residents have a safe and secure environment." The regulation requires secure juvenile detention centers to accomplish this goal in part by operating a secure control center that acts as a hub for each facility's internal and external security and communications functions. All the other 23 juvenile detention centers have more modern facilities with electronic locking and unlocking capability for gates and doors on the premises, closed circuit televisions and intercom devices for monitoring residents, and other communication devices, all of which are operated and monitored within the facility's central control room.

In contrast, since its opening in 1974, New River Valley has never had a control center. The facility accomplishes its essential security and communications functions through alternate means. Instead of an automated locking system for locking and unlocking doors and gates on the premises, staff, teachers, and in-house mental health workers each receive a set of work keys daily. These keys operate internal doors within the facility, and staff can unlock and relock doors as needed. Except in emergencies, exterior doors are immediately accessible only to administrators. Keys are inventoried and controlled, and key rings are tamper-proof and must be cut to replace or remove keys. When not in use, key sets are stored in locked key cabinets, and staff must account for each key during security checks. Residents may not handle or touch keys or lock or unlock doors or cabinets within the facility.

Staff on duty also are responsible for perimeter control. When visitors approach the main or side intake entrance and ring the bell, it sounds throughout the entire facility. Reception staff manage public visitors through the front entrance during regular business hours. During non-business hours or when individuals approach the side intake door (e.g., law enforcement for intake), the shift supervisor or designee responds to the bell.

New River Valley has placed 48 cameras in strategic locations both internally and externally throughout the premises, along with numerous video monitors used to observe and monitor resident activity. The facility also consistently meets and frequently exceeds the 1:8 staffing ratio during waking hours and 1:16 during resident sleeping hours. The facility's written procedures require residents to remain within sight and sound supervision of staff while moving within the facility, and residents must be escorted by at least one staff member. Staff also supervise residents using an intercom system that is monitored 24/7 and is accessible remotely via a wireless monitor carried by floor staff.

Staff at New River Valley communicate primarily through a two-way radio system used to coordinate resident movement, call for assistance, or indicate a change in staff presence. A multi-line telephone system also is available for contact with staff or the community; if this system fails, staff can make outside calls to the community using the facility's emergency cell phone.

New River Valley's physical plant limitations make it infeasible to establish a control center that complies with the regulatory requirement. Due to its low population, the facility has postponed indefinitely its plan to renovate the facility to add a control room. Further, New River Valley's procedures governing key control, communications, and staff supervision effectively eliminate the need for the control room and its staffing because the facility can maintain security and communications without it.

IV. PROPOSED VARIANCE:

Under the proposed variance, New River Valley will be authorized to continue its current supervision protocol without renovating the facility to add a new room that “integrates all external and internal security functions and communication networks.”

The language of the proposed variance is as follows:

6VAC35-101-520. Control center.

A. To maintain the internal security, a control center that is secured from residents’ access shall be staffed 24 hours a day and shall integrate all external and internal security functions and communications networks.

B. The provisions of this section shall not apply to the New River Valley Juvenile Detention Home.

The proposal would extend the variance granted in 2019 for a period of five years or until the facility undergoes renovations, whichever occurs first.

New River Valley Juvenile Detention



VARIANCE REQUEST RENEWAL

Submitted to:

Virginia Board of Juvenile Justice
February 14, 2024
Richmond, Virginia

VARIANCE REQUEST RENEWAL

Program: New River Valley Juvenile Detention Home

Program Administrator: Joseph W. Young, Jr., MBA, Superintendent

This request is forwarded for review pursuant to 6VAC35-101-70 (Variances).

6VAC35-101-520. Control center.

To maintain the internal security, a control center that is secured from residents' access shall be staffed 24 hours a day and shall integrate all external and internal security functions and communications networks.

Justification for the request. (Details on pp. 5 and 6)

The New River Valley Juvenile Detention Home, a rural, 24 bed facility, has not had a control center since it opened in 1974. It had/has a variance under the old standards (6 VAC 35-140-600).

The facility has a supervisor station on the main activity floor that controls the lights for the residents' rooms. The fire alarm indicator panel is located in the admin area. The detention home does not have a control room. The New River Valley Juvenile Detention Home uses keys so there is no automated lock system to open any doors or gates. Shift Supervisors are stationed on the activity floor only a few steps away from both classrooms and the main activity area. All activities, with the exception of gym and outside recreation, occur in this area.

All staff on duty are responsible for perimeter control and are under the direct supervision of the Shift Supervisor. If a visitor comes to the front they push an intercom that calls the requested station. During regular business hours, admin staff handle public visitors through the front door. For the side intake door and during off business hours, the Shift Supervisor on duty or his/her designee responds to the intake doorbell. Visitors are checked-in and screened in the lobby using a metal detector and computer.

Happily, this marks our 50th anniversary of serving our community. We have done it all this time without a control room and see no real reason why that should change. We have the staffing and training to provide outstanding safety and security to our kids, staff, visitors and community.

Any actions taken to come into compliance.

No actions have been taken to come into compliance as this has never been raised as an issue. Future renovations would include updated security systems operated through a control center. Any renovation plans have been put on an indefinite hold due to funding.

The person and agency responsible for such action.

Not applicable but if action is required, the responsible person is Joseph W. Young, Jr., MBA, Superintendent of New River Valley Juvenile Detention Home.

The date at which time compliance is expected.

Compliance is not expected unless the facility is renovated.

The specific time period requested for this variance.

This variance is requested on a 5-year basis, or until we are renovated, as provided by 6VAC35-101-70.

Detailed Justification for the Request

Looking at: 6 VAC 35-101-520 Control center. "To maintain the internal security, a control center that is secured from residents' access shall be staffed 24 hours a day and shall integrate all external and internal security functions and communications networks." I pull from this that we need to maintain internal security, in an area that is not accessible to detainees, that uses internal and external means to ensure security and to communicate both internally and externally. Without a permanently manned control center, we accomplish the same goals in a number of different ways.

The first part to achieving the goals is communications. Looking at SOP 6.05 (Communication System) and SOP 6.12 (Radio Protocol) you can see how we are able to communicate peer-to-peer via internal phone/intercom system, two-way radios and cellphones. For day-to-day tasks, staff use a two-way radio system and multi-line telephone system. This allows them to coordinate movements of the detainees, call for assistance, indicate a change in staff presence and so on. In instances where the main phone system may be down, and contact with the community is required, a facility cell phone is readily accessible for staff to make any call that is required.

The second part to realizing the goal of safety and security is key and perimeter control/detainee movement. Our key control policy is SOP 6.07. This policy and procedure manual outlines how the shift supervisor or his designee is responsible for key control. To exit the facility for outdoor recreation, the shift supervisor opens the exterior door for staff. In an emergency, an exterior door key is in a key lock box and is accessible to all staff. Only administrators have immediate access to exterior doors. This policy was reviewed and approved by our local Fire Marshal. This will render the staff keys nearly useless if they fall into the hands of a detainee. They can access gaming cabinets, benign hallway corridors and one resident bathroom.

Detainee movement is outlined in SOP 6.02. We are currently averaging 8 detainees and have 2 secure staff plus a shift supervisor on the floor. Our staff to detainee ratio is well within and exceeds the required 1:8 ratio. Staff are always within sight and/or sound of the detainees. Detainees are never left unsupervised, ever. The shift supervisor monitors all detainee movement.

Perimeter control is covered in SOP 6.06. This policy includes how all visitors are handled by the shift supervisor or his designee. Security checks are performed before and after group activities in the gym or on the playground. As mentioned in key control, line staff keys cannot gain access to the exterior of the building (in case a detainee gains access to their keys).

The third part to attaining safety and security is detainee monitoring. Our Staffing Plan and Supervision of Children policy (SOP 1.26) details our assessment and practice to maintain security. Staffing ratios are maintained to meet or exceed those required by DJJ Regulations.

Detainees are monitored by floor staff, shift supervisors and other administrative staff via the CCTV system. Shift supervisors also perform two unannounced rounds per shift. When detainees are in their rooms, they are physically checked every 20 minutes and also checked at additional random intervals.

Our intercom system was upgraded in 2023 and is monitored 24/7/365 and can be accessed remotely via an iPad that staff can carry with them to class, outside or anywhere they may be in the facility. We have added 49 cameras to the interior and exterior of the facility. They are monitored by the Shift Supervisors, Superintendent, Deputy Superintendent, Principal and front admin.

Due to the unique environment and small centralized layout, and while considering policy/building revisions based on state-wide experience and procedural practice, I feel that we meet and exceed the spirit of 6 VAC 35-101-520. Movement throughout any given day is limited and would not be made safer by a staffed control room. Currently, safety and security operations are easily managed, assessed and improved via an on-going review process.

We are proud of our two most-recent triennial DJJ licensure audits where we earned 100% full compliance. We take our mission and philosophy seriously and believe that one-on-one contact with the residents works best for us and our facility.

I humbly ask that you renew this variance on a 5-year basis, or until we may be renovated, as provided by 6VAC35-101-70.

Attached you will find the POPs and SOPS mentioned above.

Thank you for your time.



Joseph W. Young, Jr., MBA

Superintendent

NRV Juvenile Detention

POLICY and PROCEDURE ATTACHMENTS

NEW RIVER VALLEY JUVENILE DETENTION HOME
Personnel Operating Procedures
Personnel Manual
Chapter 1

P.O.P 1.26 STAFFING PLAN & SUPERVISION OF CHILDREN

APPLICABLE REGULATIONS:

DJJ: 6VAC35-101-880, 890A-F, & H, 900, 910, 920

PREA: 115.313, 315(d)

PURPOSE: To ensure compliance with applicable standards related to staffing patterns and supervision of children and to provide for safe and secure facility operations.

APPLICABILITY: Applies to all staff members.

POLICIES:

The NRVJDH has developed, implemented the following staffing plan so that it provides protection for residents against sexual abuse by ensuring:

1. Adequate levels of staffing; and where applicable,
2. Video monitoring.

The NRVJDH has also considered:

1. Generally accepted juvenile detention and correctional/secure residential practices;
The NRVJDH shall fully comply with the Virginia Department of Juvenile Justice's Juvenile Detention Regulations (6 VAC 35-101).
2. Any judicial findings of inadequacy;
At this point in time, the NRVJDH does not have any such findings.
3. Any findings of inadequacy from Federal investigative agencies;
At this point in time, the NRVJDH does not have any such findings.
4. Any findings of inadequacy from internal or external oversight bodies;
At this point in time, the NRVJDH does not have any such findings.
5. All components of the facility's physical plant (including "blind spots" or areas where staff or residents may be isolated);

Cameras have been added/upgraded in the following areas:

- a. Gym, gym classroom, gym foyer, girl's shower area, back girl's dorm hall, front girl's dorm hall, intake shower area, clinic, boy's dorm hall, activity floor, lobby, front door, intake door, kitchen and exterior kitchen door.
- b. These cameras go above and beyond to help eliminate blind spots and to maintain a clear line of sight during detainee movement.
- c. Additional cameras will be added to the two remaining classrooms, intake, intake hallway, front boy's dorm hall, dining area and any other area identified.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Personnel Operating Procedures
Personnel Manual
Chapter 1

6. The composition of the resident population;
The NRVJDH is a co-ed facility and the staffing plan reflects that.
7. The number and placement of supervisory staff;
Due to the facility's small centralized lay out, one shift supervisor can sufficiently supervise the floor staff.
8. Institution programs occurring on a particular shift;
Programs are similar from shift to shift and occur in the same areas.
9. Any applicable State or local laws, regulations, or standards;
The NRVJDH shall comply with state or local laws, regulations and standards.
10. The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
In the history of NRVJDH's existence (40 years) there have been only a handful of CPS complaints alleging staff sexual misconduct. Although this is low, the staffing plan takes into account any possibility of staff misconduct.
11. Any other relevant factors.
The staffing plan also addresses factors that could cause staffing levels to drop such as inclement weather, detainee illness requiring outside attention, staff illness, off-site activities and so on.

Using the guidelines above, the Superintendent and Deputy Superintendent developed the following.

SHIFT COVERAGE

It is the policy of the NRVJDH to respect each employee's ability to engage in normal activities of daily life during non-work hours. The NRVJDH, however, is a 24-hour, 7-day per week secure facility and there will be times when an employee will be required to report to work during non-scheduled hours in order to maintain adequate staffing levels. While voluntary willingness to work non-scheduled hours or to stay beyond scheduled shifts will be encouraged and honored, it is sometimes necessary to select employees to work. The Deputy Superintendent will be responsible for maintaining an updated shift coverage list, which shall be made available to all employees.

The shift coverage list shall be organized based upon an employee's seniority at the NRVJDH. Employees with the most full-time years of service to the NRVJDH shall be at the bottom of the list. Employees will be selected to work from the list in revolving order. There will be two exceptions to following the shift coverage order: 1. no one will be required to work an 11-7 shift and then a 7-3 shift; and 2. Times when a specific gender is required. In these cases, the staff person will be skipped on the list and will be utilized the next time coverage is needed.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Personnel Operating Procedures
Personnel Manual
Chapter 1

Upon selection from the shift coverage list, the selected employee shall be contacted by the Superintendent or his designee to arrange shift coverage.

Any employee for whom the Superintendent or his designee leaves a voicemail, text message, e-mail, or other electronic communication shall return the Superintendent's or designee's message, by phone, within four (4) hours of receipt and return to duty when so requested, except upon good cause shown. Failure to comply with this shift coverage policy may result in disciplinary action.

INCLEMENT WEATHER

Definitions:

Essential – employees who are responsible for basic minimum services and who are required to work during inclement weather conditions.

Conditionally essential – all other employees who are non-essential, but by virtue of their position need to be called in, at which time their status changes to essential. Examples of conditional essential staff include, but are not limited to, Financial Administrator when reduced services fall on the date of payroll. Conditionally essential staff will be activated by their supervisor on a case-by-case basis.

Inclement weather - Inclement weather can include, but is not limited to, any kind of extreme weather, usually snow, or ice, which might create hazardous driving conditions or significantly impair normal operations at the detention home.

1. This inclement weather policy is in effect when inclement weather is:
 - a. Forecasted and/or Imminent;
 - b. Currently happening; or
 - c. Is over, but is still causing hazardous driving conditions.
1. Shift supervisors, floor staff, and cooks are considered essential staff. Any other staff position may be considered conditionally essential dependent on the needs of the detention home.
2. Essential staff shall report for duty when assigned. Essential and conditionally essential staff shall complete their full shift assignment. This policy establishes that absences or leaving early by essential employees, during inclement weather, will only be excused with a doctor's note. Per P.O.P. 1.12, being absent from work without permission may result in disciplinary action against the employee up to and including termination. If there is any question about your need to report for duty, contact your immediate supervisor.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Personnel Operating Procedures
Personnel Manual
Chapter 1

ADJUSTMENTS

1. Whenever necessary, in consultation with the PREA Coordinator, but no less frequently than once each year, the Superintendent shall assess, determine and document (via the PREA Staffing/Facility Logistics Assessment form) whether adjustments are needed to:
 - a. The staffing plan;
 - b. Prevailing staffing patterns;
 - c. Deployment of video monitoring systems and/or other monitoring technologies; and
 - d. Resources the detention home has available to commit to ensure adherence to this staffing plan.

MEDICAL STAFF

NRVJDH contracts with a licensed physician to provide medical treatment for detainees. NRVJDH has a licensed nurse on staff.

SUPPORT FUNCTIONS

1. Floor staff and other staff responsible for the direct supervision of detainees may assume the duties of non-direct care personnel only when these duties do not interfere with their direct care or direct supervision responsibilities. If a floor staff is asked to perform a non-direct care task, he or she will be relieved of their duty to supervise detainees prior to engaging in the non-direct care task.
2. Detainees shall not be solely responsible for support functions, including but not necessarily limited to, food service, maintenance of building and grounds, and housekeeping. NRVJDH employs food services and maintenance workers to handle these responsibilities. Detainees assist only with clean up in their living areas and occasionally work in the greenhouse as part of the school program.
 - a. Assignment of chores, that are unpaid work assignment, shall be in accordance with the age, health, ability, and service plan of the detainee.
 - b. Chores shall not interfere with school programs, study periods, meals, or sleep.
 - c. The superintendent or designee shall evaluate unpaid work assignments for appropriateness.

STAFF SUPERVISION OF DETAINEES

NEW RIVER VALLEY JUVENILE DETENTION HOME
Personnel Operating Procedures
Personnel Manual
Chapter 1

1. When staffing the floor, supervisors should consider programs occurring on a particular shift, the prevalence of substantiated and unsubstantiated incidents of sexual abuse and any other relevant factors.
2. No member of the floor staff shall be on duty more than six consecutive days without a rest day except in an emergency or as approved by the lead regulatory agency for live-in staff.
3. Floor staff shall have an average of at least two rest days per week in any four-week period. Rest days shall be in addition to vacation time and holidays. These rest days are incorporated into all work schedules.
4. Floor staff shall not be on duty more than 16 consecutive hours except in an emergency.
5. There shall be at least one trained floor staff on the premises on duty and actively supervising children at all times that one or more children are present.
6. Whenever staff are supervising detainees, there shall be at least one staff person present with a current basic certification in standard first aid and a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.
7. Supervision Policies: The supervision policies listed below are based on the needs of the population served, the types of services offered, the qualification of the facility's staff, and the number of residents served.
 - a. Floor staff shall provide sight and sound supervision of detainees when the detainees are out of their rooms. At no time shall a detainee be left without staff supervision. Staff shall also be mindful of blind spots or areas where residents may be isolated.
 - b. Floor staff shall be posted in or near each classroom, in the gym, on the playground, and around the activity floor when any of these areas are occupied by detainees.
 - c. All floor staff are responsible for knowing the whereabouts of detainees and shall conduct census counts throughout the day.
 - d. Floor staff shall position themselves in the most strategic locations during detainee activities to ensure the safety and security of all. Therefore, staff shall not congregate all in one area.
 - e. During mealtimes, staff shall place themselves to provide the most strategic advantage in the event of a disturbance.
8. Staff of the opposite gender to announce their presence when entering a resident housing unit.

VIDEO MONITORING

Closed circuit surveillance is utilized to eliminate blind spots and to facilitate in monitoring detainees and staff. Cameras have been placed in areas that will allow for the maximum amount

NEW RIVER VALLEY JUVENILE DETENTION HOME
Personnel Operating Procedures
Personnel Manual
Chapter 1

of coverage. Cameras will be added if/when additional areas are identified (and funds are available).

PROCEDURES

Contingency plans for resident illness:

1. Detainees who become ill are supervised on site. Routine medical care is provided and if the child is confined to their room, staff will make visual checks at least every thirty minutes (or every fifteen minutes if the child is on suicide watch). For life-threatening illness, staff shall call 9-1-1 for rescue squad assistance. If the child must be transported to a hospital, a staff member shall accompany the child. If necessary, the Shift Supervisor shall call in an additional staff member to ensure that the 1:8 ratio (waking hours) or 1:16 ratio (bedtime) is met, except during limited and discrete exigent circumstances, which shall be fully documented.. Effective October 1, 2017, or sooner by notice of Superintendent, the staff to detainee ratio for waking hours will be 1:8.
2. Supervision during emergencies: In the event of an emergency, which cannot be handled by the staff immediately supervising a group of detainees, the staff shall call for assistance over the radio. All available staff shall respond. If necessary, the remaining detainees shall be locked down pending resolution of the emergency. The regular program will resume when the Shift Supervisor announces and "All Clear" over the radio.
3. Supervision during off site activities:
 - a. There shall be at least 1 staff member for every 4 detainees transported off site.
 - b. There shall be at least one staff member trained in First Aid and CPR for every 16 detainees transported off site.
 - c. If a detainee is scheduled to take medication during the outing, a certified Medication Aide shall also accompany the group on the outing.
 - d. Detainees shall always be in sight and sound supervision of staff.
 - e. Detainees shall be searched upon their return to the facility in accordance with S.O. P. 6.03 Searches.
 - f. Should a detainee become seriously ill during an off-premises activity, the group leader shall assign a staff member to escort the detainee to a medical facility and the remaining staff shall escort the rest of the group back to the facility.
 - g. Medical transportation will be in accordance to SOP 5.20 Medical Transportation.
 - h. All detainee transportation will be in accordance with POP 1.22 Vehicle & Power Equipment Operation and Safety.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Personnel Operating Procedures
Personnel Manual
Chapter 1

Detainee preferences:

NRVJDH is a secure detention facility; therefore, participation in all programs and activities, with the exception of religious programs, is required and minimal accommodation is made for detainee preferences.

1. A copy of these supervision policies and procedures will be provided, upon request, to the placing agency or the detainee's legal guardian.
2. During the hours that detainees are scheduled to be awake, there shall be at least one floor staff member awake, on duty, and responsible for supervision of every ten (10) detainees or a portion thereof, on the premises or participating in off-campus, detention center sponsored activities. Effective October 1, 2017, or sooner by notice of Superintendent, the staff to detainee ratio for waking hours will be 1:8. There shall also be a designated Administrator on Duty or shift supervisor on duty to supervise and support the floor staff members.
3. During the hours that detainees are scheduled to be asleep, there shall be no less than one floor staff member on duty and responsible for supervision of every 16 detainees, or portion thereof, on the premises.
4. Floor staff shall provide 24-hour, awake supervision seven days a week. In accordance with P.O.P. 1.12 Prohibited Practices, sleeping while on duty is strictly prohibited and is grounds for disciplinary action up to and including dismissal.
5. When both males and females are housed in the same dorm, at least one male and one female staff member shall be actively supervising at all times.
6. Staff shall always be in plain view of another staff person when entering an area occupied by detainees of the opposite sex.
7. Detainees shall be provided privacy from routine sight supervision by members of the opposite gender while bathing, dressing, or conducting toileting activities. This does not apply to medical personnel performing medical procedures or to staff assisting detainees whose physical or mental disabilities dictate the need for assistance with these activities as justified in the detainee's record.
8. Detainees will be transported in accordance with P.O.P. 1.22 Vehicle & Power Equipment Operation and Safety and in accordance with the Department of Juvenile Justice's "Guidelines for Transporting Juveniles in Juvenile Detention," which can be found as Attachment A to P.O.P. 1.22

NEW RIVER VALLEY JUVENILE DETENTION HOME
Personnel Operating Procedures
Personnel Manual
Chapter 1

9. No detainee or groups of detainees shall be allowed to exercise control or authority over other detainees except when practicing leadership skills as part of an approved program under the direct and immediate supervision of staff.
10. This staffing plan must be followed except during limited and discrete exigent circumstances and the cause for deviation shall be fully documented in the logbook.

Exigent circumstances is defined as: “Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.” Such circumstances include, for example, the unforeseen absence of a staff member whose presence is indispensable to carrying out a specific standard, or an outbreak of violence within the facility that requires immediate action.”

Outside Personnel Working in Facility

1. Staff shall monitor all situations in which outside personnel perform any kind of work in the immediate presence of detainees. This shall not apply to the NRVJDH Mental Health Clinician, Case Manager, or the schoolteachers. Even though these employees are not directly employed by NRVJDH, they have completed the necessary background checks and training to supervise detainees. The maintenance technician or another staff member will directly supervise any work performed by outside vendors, contractors, or laborers. At no time shall an outside worker be left unaccompanied within the secure perimeter.
2. Adult inmates or persons assigned to perform services as a result of a conviction in an adult court shall not work in areas of the facility where juveniles are present. NRVJDH does not allow adult inmates or court-ordered workers on premises.

Staff & Detainee Interaction

The rapport established between floor staff and detainees is important to the impact of a detainee’s stay in detention. As a detention home employee, you serve as a role model for detainees. Therefore, it is critical that you act accordingly.

1. Detention Staff Professionalism
 - a. Staff shall establish appropriate adult-youth relationships that encourage mutual respect.
 - b. Overly casual, sociable and personal interactions breach appropriate professional boundaries and staff should avoid even the appearance of these types of relationships with detainees.
 - c. Staff must use appropriate language, be clear, and be concise with detainees. The use of profane, demeaning, or humiliating language toward detainees and other staff is strictly prohibited.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Personnel Operating Procedures
Personnel Manual
Chapter 1

- d. Staff shall not engage in personal relationships nor discuss any personal information relating to themselves or other staff with any detainee.
- e. If a detainee is a relative or family friend of a staff member, it is the responsibility of that employee to report this to the shift supervisor.
- f. Staff shall eliminate the influence of personal feelings, prejudices, animosity, or friendships in decision-making and detainee interaction.
- g. Staff shall not enter the sleeping quarters of the opposite sex unless accompanied by a staff member of the same sex as the detainee.
- h. Staff shall not engage in horseplay, either verbal or physical, with any detainee.
- i. Staff shall not have inappropriate written correspondence or verbal communication, including telephone calls, with any current or former detainee.
- j. While on Commission property, staff shall not advocate for any particular religion, especially with the detainees.
- k. Staff shall not have physical contact with any detainee that could be viewed as potentially inappropriate.
- l. Staff shall immediately report knowledge of suspected misconduct by other staff to their supervisor.
- m. Staff shall ensure that detainee confidentiality is assured at all times and shall not release any information about current or former detainees to the general public or news media.
- n. Staff shall refrain from any behavior that satisfies personal needs at the expense of detainees.

2. Detainee Supervision

- a. When supervising detainees, staff shall promote a therapeutic social climate while maintaining safety and security.
- b. Staff who are available to respond shall promptly come to the aid of anyone who is being physically assaulted and assist any fellow staff member who is attempting to prevent a physical altercation.
- c. At the beginning of each activity, staff shall clearly explain their expectations for detainee behavior.
- d. Staff shall be firm, fair, and consistent in the enforcement of facility rules and are required to react accordingly to any inappropriate behavior of the detainees under their supervision.
- e. Whenever possible, staff shall give recognition for appropriate detainee behavior.
- f. The development of good listening skills enables staff to effectively communicate with detainees from diverse backgrounds, cultures, and belief/value systems.
- g. Any information obtained from detainees in the course of normal interaction that may affect facility safety or security shall be reported to the shift supervisor and recorded in the logbook.
- h. Staff must consider the possibility that information shared with them by detainees may not always be factual. Follow-up with another staff to ensure accuracy before jumping to conclusions.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Personnel Operating Procedures
Personnel Manual
Chapter 1

- i. Staff of the opposite gender to announce their presence when entering a resident housing unit.
 - j. If at any time a detainee makes an allegation of child abuse or neglect, staff must notify the shift supervisor immediately to ensure that it is reported to the proper authorities.
3. Unannounced Rounds
- a. As a best practice, the Shift Supervisor or Administrator on Duty shall conduct and document daily in the logbook, two unannounced rounds to identify and deter staff sexual abuse and sexual harassment. At a minimum, there shall be weekly unannounced rounds, twice per shift on all shifts.
 - b. When documenting the rounds, the supervisor or AOD shall record information as to areas of the facility covered, general activities of staff, and any other information that is deemed important. All areas shall be covered.
 - c. At no time should staff member alert other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

AUTHENTICATION

Pursuant to the authority vested in me by Section 16.1-318 of the Code of Virginia (1950), as amended, the forgoing regulation entitled P.O.P. # 1.26, pages 1 through 10, with attachments is promulgated this _____ day of _____, 20____, to be effective immediately as revised.

S. Rebecca Hughes, Chair
New River Valley Juvenile Detention Commission

NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6

S.O.P. 6.02 DETAINEE MOVEMENT IN FACILITY

APPLICABLE REGULATIONS:
DJJ – 6VAC35-101-890 G
PREA 115.315

Purpose: To ensure that all corridors are safe and secure during all detainee movement.

Responsibility: All Staff.

POLICY:

1. Staff shall regulate the movement of detainees within the secure facility in accordance with the procedures outlined below.
2. Only staff members trained in Handle With Care shall escort detainees in the corridors.
3. All detainees shall always be in sight and sound supervision of a staff member while moving within the facility.

PROCEDURES:

1. A staff member shall always escort detainees.
2. All detainee movement shall be monitored by the Shift Supervisor.
3. When lining detainees for movement in the facility, ensure that detainees are spaced an arm's length behind the detainee in front of them.
4. Staff members shall ensure that detainees remain quiet with hands to themselves while moving in the facility.
5. Staff members shall conduct a head count prior to leaving a destination and upon arrival at the intended destination.
6. Detainees sentenced to the Post Dispositional Program may on occasion move independently from the group with proper staff supervision.
7. When detainees are being taken to the gym in the evening, or when the need for lighting is evident, staff shall go out and turn the lights on 10-15 minutes before taking detainees out.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6

8. When moving detainees between the gym/post disposition classroom, staff must ensure that they have site of **all** detainees at **all** times

9. Cross-gender Supervision
 - a. Generally, detainees will be released from and returned to their rooms by staff members of their same sex.
 - i. If at any time it becomes necessary for detainees to be released from or returned to their rooms by a staff of the opposite gender staff must announce their presence in the dorm hallway, but only when staff of the same gender as the detainee is also present in the dorm hallway. Before each door is opened, ask the detainee if he or she is ready for his/her door to be opened.
 - ii. Both staff will be in site of all detainees and each other until all detainees are in their rooms.
 - b. Any staff entering the girl's dorm must be visually monitored by the opposite sex if there are, in fact, both sexes back in the dorm.
 - c. Staff shall also announce their presence so that detainees of the opposite sex are aware.
 - d. At no time shall a staff member of the opposite sex go into an occupied dorm and/or room unless escorted by a staff member of the same sex as the child.
 - e. Never allow a child to look into a room window of another child, especially if they are of the opposite sex.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6

S.O.P. 6.05 COMMUNICATION SYSTEM

APPLICABLE REGULATIONS:

DJJ –6VAC35-101-570

Purpose: To comply with regulations for secure facilities.

Responsibility: All Staff.

POLICY:

1. NRVJDH has a means of communicating from the supervisors' station, Superintendent's office and mobile devices to the living areas.
2. In the event of an emergency, telephones (land line and cell) will be used to communicate with the community.
3. A back-up emergency cell phone is at the supervisor's station for use if the primary phone system fails.

PROCEDURES:

1. Staff shall communicate with the community via the telephone system. Emergency numbers are posted at/by each phone.
2. Floor staff can radio any available staff member to call 9-1-1 or other emergency response number.
3. If the primary phone system fails, staff shall use the back-up cell phone which is located at the supervisor's station, to call for emergency assistance.
4. Staff shall also utilize peer-to-peer communications via the two-way radios. See S.O.P. 6.12.
5. Staff shall minimize the frequency and duration of personal calls so as not to tie-up the phone lines in the event that they are needed for emergency communication.

**SECURITY INSPECTIONS /PERIMETER CONTROL
NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6**

S.O.P. 6.06 SECURITY INSPECTIONS /PERIMETER CONTROL

**APPLICABLE REGULATION:
DJJ – 6VAC35-101-530**

Purpose: To establish a procedure for conducting interior and exterior security inspections. To maintain safety and security by containing residents and by preventing unauthorized access by the public.

Responsibility: All staff members and school personnel are responsible for security inspection of their assigned work areas. Shift Supervisors/ AODs are responsible for making exterior perimeter checks.

Policy:

1. In accordance with a written plan, the NRVJDH shall control it's perimeter by appropriate means to provide that:
 - a. Detainees remain within the perimeter
 - b. Unauthorized access by the public is prevented
2. Pedestrians and vehicles shall enter and leave at designated points in the perimeter of the NRVJDH

Procedure Entry and Exit:

1. All visitors are monitored and handled by the Shift Supervisor or his/her designee.
2. Proper identification is required of all personal and professional visitors before access to any detainee(s) is granted. Visitors should expect to have documentation of **name and title** verified.
3. Professional and personal visitors shall enter and exit using the front entrance.
 - a. The date and time and the visitor's name, title, and purpose of visit shall be recorded in the Visitor Log.
 - b. Visitors shall hang up their coats in the closet and secure their personal belongings in the lock boxes provided in the lobby.
 - c. If a lock box is utilized, the box # will also be recorded.
 - d. All Non-professional visitors shall pass through a metal detector and may be subject to search via a hand-held device.
4. Law enforcement shall enter and exit through the intake door.
 - a. Law enforcement officials shall either secure their weapons in their vehicle or they shall utilize the weapon locker located immediately inside the intake door

SECURITY INSPECTIONS /PERIMETER CONTROL
NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6

5. Food deliveries shall be made through the exterior kitchen door.

Procedure Security Inspections:

1. All staff members and school personnel shall conduct a safety inspection of their work area.
 - a. Any hazardous conditions discovered shall be immediately reported
 - b. Maintenance issues shall be documented in the Maintenance Log
 - c. Security of all doors shall be checked and ensured before detainees enter an area

3. The shift supervisor or designee is responsible for making security checks prior to any activity involving the athletic field.
 - a. Visually inspect the field for any items that may have been tossed into the fenced area.
 - b. Walk the inside of the perimeter and check the security of the following locations:
 1. Storage room door (adjacent to activity room)
 2. Mechanical room door
 3. Gate #4
 4. Raised flower beds
 5. Exterior bathroom
 6. Equipment room door
 7. File room door
 8. Girl dorm fire exit door
 9. Gate leading to gym
 10. Pavilion area
 11. Basketball court
 12. Inside of fence perimeter
 13. Gate #5
 - c. Visually inspect the chicken wire to ensure that there are no gaps or debris caught in the wire.
 - d. Walk along the interior perimeter and physically shake sections of fencing to ensure solidity.
 - e. Document the inspection using the PIPE Touch Monitoring System (PTMS).
 - f. Record any findings (or lack thereof) in the Logbook.

4. At the conclusion of activities held on the athletic field, the Shift Supervisor or designee shall conduct a security inspection to ensure all equipment is put away and all doors have been secured. This check shall be recorded in the Logbook.

5. The shift supervisor or designee is responsible for making security checks prior to any activity involving the gym.
 - a. Walk the path leading to, and the perimeter of the gym. Check the security of the following locations:

**SECURITY INSPECTIONS /PERIMETER CONTROL
NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6**

1. Laundry room door
 2. Dorm door
 3. Shower area
 4. Foyer
 5. Exterior foyer doors
 6. Mechanical room door
 7. Conference room door
 8. Financial Administrator door
 9. Visually inspect the gym for any items that do not belong
 10. Training room door
 11. Detainee bathroom
 12. Gym exit door
 13. Gate #3
 14. Gate leading to Activity Field
6. The lights to the gym shall be turned on at the time of the security check.
7. At the conclusion of activities held in the gym, the Shift Supervisor or designee shall conduct a security inspection to ensure all equipment is put away and all doors have been secured. This check shall be recorded in the Logbook.
8. There shall be two nightly security checks made of all interior doors and lights.
- a. Maintenance issues shall be documented in the Maintenance Log.
 - b. Document the inspection using the PIPE Touch Monitoring System (PTMS).
 - c. Record any findings (or lack thereof) in the Logbook.

Procedure Perimeter Control: Outside Perimeter Checks

1. During daylight hour shifts, the Shift Supervisor/ AOD is responsible for conducting an outside perimeter check.
 - a. Any issues shall be immediately reported
 - b. Maintenance issues shall be documented in the Maintenance Log
 - c. All doors, gates, security cable, and fencing, shall be checked
2. The responsible party must completely walk the property while checking for safety and security.
 - a. Walk along the exterior perimeter and physically shake sections of fencing to ensure solidity.
 - b. Look for damage to fencing and ensure that doors and gates are locked and in working order.
 - c. Document the perimeter check using the PIPE Touch Monitoring System (PTMS) at the following locations:

SECURITY INSPECTIONS /PERIMETER CONTROL
NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6

1. Front door
 2. Security cable at the building's rear access point
 3. Gate #3
 4. Outside Activity Field South
 5. Outside Activity Field Southeast
 6. Corner of Activity field (top of steps)
 7. Gate #2
 8. Gate #1
 9. North corner of building
 10. Intake door
- d. Record any findings (or lack thereof) in the Logbook.
3. The goal of the N.R.V.J.D.H. is to have an outside perimeter check completed daily.
- a. If possible, this check should be completed during the 7-3 shift; If it is not, the check must be done on the 3-11 shift.
 - b. The Shift Supervisor/ AOD will use their best judgement to determine if conditions allow for this check to be made safely. If a perimeter check is not completed, the reason must be documented in the Logbook.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6

S.O.P. 6.07 KEY CONTROL

APPLICABLE REGULATION:

DJJ – 6VAC35-101-590, 610

Purpose: To provide accountability for keys and security equipment and to always maintain a safe/secure facility and environment.

Responsibility: All staff.

POLICY:

1. The secure facility shall have a written key control plan to keep keys secure at all times.
2. The secure facility shall have a written procedure for checking security equipment.
3. Fire and emergency keys shall be instantly identifiable by sight and touch.
4. There shall be different masters for the interior security and outer areas.

PROCEDURES:

1. Keys shall not be duplicated except by the authority of the Deputy Superintendent. All keys shall be inventoried and controlled. If a key becomes unusable, return it to the Deputy Superintendent for replacement. The key rings are tamper proof and must be cut in order to replace or remove keys. Non-functional keys will be destroyed by the Deputy Superintendent.
2. All fire and emergency keys shall be instantly identifiable by sight and touch. The fire pull stations reset key is located in the Fire Panel Door in the Control Room. The fire box keys are also located in the Superintendent's office key cabinet.
3. There are different masters for the interior security and outer areas. There shall be different keys issued to staff for interior security and outer areas. By approval of the local fire marshal, floor staff key sets cannot open exterior doors. These exterior door keys are on the shift supervisor's keys and in the key lock box in the control room.
4. Under no circumstances shall you allow a detainee to handle or touch keys or permit them to lock or unlock any door or cabinet.
5. Do not discuss with the detainees the purpose of any key(s) or where the keys are stored.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6

6. Staff shall become familiar with all keys used during work. Staff shall be able to quickly identify and respond to the use of a key quickly.
7. Detainees are not to have access to equipment or supplies that are securely stored. Do not allow detainees access to cabinets, storage closets, or other storage areas.
8. Return all equipment, materials, and supplies to their designated, secure storage area. Count items to be sure all equipment, materials, and supplies are accounted for and secured.
9. Develop a security conscious working relationship with your co-worker. Do not assume that they will lock a door or secure an area behind you – COMMUNICATE – BOTH OF YOU ARE RESPONSIBLE!!!!
10. Remove ignition keys and lock the doors and trunk of your vehicle when you arrive at work.
11. Keep your personal belongings such as purses, bags, etc. in a staff locker. Do not leave them where detainees may have access to them.
12. Do not allow detainees to have access to or to use any toxic flammable or caustic materials. These chemicals must be stored in areas to which detainees have no access.
13. Detainees are not allowed in the kitchen or kitchen storage areas for any reason.
14. Detainees are not allowed in the administrative area.
15. All doors must be closed and locked behind you at all times.
16. Administrative offices may be left open when they are occupied and administrative staff is on duty.
17. The cooks shall be responsible for locking all kitchen and food storage areas before leaving for the day.
18. Doors to the individual cells must be kept locked at all times when occupied.

KEY SET ASSIGNMENTS

All operational staff keys and staff's personal car keys (traded for work keys) are maintained in locked key boxes/cabinets in the lobby area.

1. A key set shall be assigned to each employee (MH, teacher, administrative, and line staff) on duty. Car keys shall be traded for work keys. If the individual did not drive, trade their driver's license for the keys. Key sets are to be stored in their designed place and accounted for at time of security checks. The keys are not to be left unattended.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6

2. The medication cart key is assigned to the medication agent on duty and is passed to the relief medication agent at shift change. **THIS KEY IS TO REMAIN ON THE PERSON OF THE MEDICATION AGENT UNTIL THE KEY IS SIGNED FOR BY THE ONCOMING MEDICATION AGENT.**
3. Any key not iterated by the above procedures shall be handled in the same way. At no time shall any staff member be assigned more than one key set at a time.

SECURITY EQUIPMENT

At time of key assignment, security staff shall also be issued a radio.

The following items are checked/inventoried monthly:

- a. All two-way radios;
- b. Intercom system;
- c. Surveillance cameras;
- d. Emergency/Transport cellphone;
- e. Flashlights;
- f. Weather radio; and
- g. Transport handcuffs and leg irons

The Deputy Superintendent shall maintain extra keys. An inventory of all facility keys and a list of each key assignment shall be maintained and kept on file.

NEW RIVER VALLEY JUVENILE DETENTION HOME
Standard Operating Procedures
Security
Chapter 6

S.O.P. 6.12 RADIO PROTOCOL

APPLICABLE REGULATIONS

DJJ – N/A

Purpose: To provide consistent and professional communications via two-way radio.

Responsibility: All Staff.

POLICY: It shall be the policy of the New River Valley Juvenile Detention Home to use plain English while communicating via facility two-way radios.

PROCEDURES:

1. Staff shall adhere to approved protocol for use of two-way radio communications.
2. Radios shall be given to the on-coming shift supervisor by the outgoing staff. The on-coming shift supervisor/designee will inspect the radios and complete the radio check off log. Once inspected, the radios will be distributed to the on-coming staff.
3. Staff shall keep radio communications to a minimum.
4. Communications shall begin by announcing the person's name you are contacting, pausing until they acknowledge and then continuing with the communication.
5. Staff shall speak in a clear and slow manner.
6. Staff shall use detainee's first name via radio communication. In the event that two detainees have the same name, use the first initial of the last name.
7. At no time shall a detainee ever be given a staff member's radio.



Amy M. Floriano
Director

COMMONWEALTH OF VIRGINIA
Department of Juvenile Justice

P.O. Box 1110
Richmond, VA 23218
(804) 371.0700
Fax: (804) 371.6497
www.djj.virginia.gov

TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Amendment of Board Policy 05-005 (Employee Drug Screening); Request Retention of Board Policies 02-016 (Cooperation with Federal, State, and Local Officials) and 20-107 (Tobacco Products)

DATE: November 1, 2024

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully requests that the State Board of Juvenile Justice (the board) approve the amendment of one board policy and the retention of two board policies pursuant to the authority established in *Code of Virginia* § 66-10.

II. BACKGROUND OF THE REQUEST

Code of Virginia § 66-10 contains three provisions that empower the board to establish certain policies and give rise to duties related to policies. The statute provides in pertinent part:

The board shall have the following powers and duties:

1. To establish and monitor policies for the programs and facilities for which the Department is responsible under this law;
2. To ensure the development of a long-range youth services policy;
3. To monitor the activities of the Department and its effectiveness in implementing the policies developed by the Board...

Pursuant to this statutory authority, the board currently has 34 active policies in place ranging in subject matter from overall administration of the department to operations within facilities and programs regulated by the department. Many of these policies were established in the early 1990s and were last reviewed or updated more than ten years ago.

At the April 2022 board meeting, the department informed the board of its intent to conduct a comprehensive review of each existing board policy and to make a formal recommendation to the board to retain, amend, or rescind each one based upon that review. The department described its plan to recommend retaining or

amending those policies that are mandated by statute or that provide guidance above and beyond what is required by regulation and to recommend rescinding those policies that have been subsumed into regulation, that duplicate existing law, or that are obsolete.

To date, the department has made recommendations and the board has acted on 15 policies. The department is now recommending action on three additional policies. Summaries of the existing policies and recommendations for action are contained in Part IV of this memorandum.

III. DIFFERENCES BETWEEN BOARD POLICIES AND BOARD REGULATIONS

Code of Virginia § 2.2-4001, which provides definitions for terms used in the Administrative Process Act (§ 2.2-4000 et. seq.) (the Act), defines the term “regulation” as “any statement of general application, having the force of law, affecting the rights or conduct of any person, adopted by an agency in accordance with the authority conferred on it by applicable basic laws.” The Act makes it clear that all regulations are subject to the requirements contained in the Act unless an exception or exemption applies.

In contrast, policies are neither defined nor expressly addressed in the Act. Furthermore, while policies may be enforced by the authorized body to the extent that they do not collide with a law or regulation, they do not have the same force and effect of law afforded to regulations.¹ It is the Department’s understanding, therefore, that policies are not regulations subject to the requirements of the Act. This means that the authority to establish, amend, and rescind board policies rests solely with the board, and additional involvement or approval by other executive branch agencies is not required, nor must the board consider any public comments before taking action to amend or rescind such policies.

IV. POLICIES IDENTIFIED FOR AMENDMENT OR RETENTION

Current Policy

05-005 Employee Drug Screening

To promote the safety of staff and youth in Department programs and to enhance security in Department facilities, the Department shall promote a work environment free of the adverse effects of alcohol and other drugs. The Department shall provide for urine drug screening for staff, volunteers, and contract personnel who have direct contact with probationers, juveniles, and parolees.

All staff shall be provided with a copy of the Department’s drug screening procedures including a list of positions subject to the drug screening, provisions for pre-employment screening of selected candidates for employment and random in-service screening of subject employees, provisions for staff seeking assistance in dealing with a substance abuse problem, and safeguards for individual privacy and confidentiality.

Effective Date: March 12, 1992

Most Recent Review: June 11, 2008

Recommendation: Amend

¹ 2011 Op. Va. Att’y Gen. 99, 102.

Proposed Amended Policy:

05-005 Employee Drug Screening

To promote the safety of staff and youth in department programs and enhance security in its facilities, the department shall promote a work environment free of the adverse effects of alcohol and other drugs. The department shall provide for random drug screening for department employees and contract personnel who have more than incidental direct contact with residents and clients served by the department.

The department's procedures governing drug and alcohol testing shall identify the positions subject to drug screening, the conditions under which such screening will occur, and safeguards for individual privacy and confidentiality, and shall comply with the provisions of the policies for drug and alcohol testing established by the Virginia Department of Human Resource Management.

Effective Date: March 12, 1992 *Most Recent Review:* November 1, 2024

Rationale for Recommendation:

The Department of Human Resource Management's (DHRM) Policy 1.05 applies to all executive branch employees and provides detailed, comprehensive rules and guidance on testing for drugs and alcohol in executive branch agencies. Consistent with DHRM's policy, the department has a procedure in place that governs employee drug and alcohol testing. The procedure addresses the four circumstances under which the department will conduct drug or alcohol screening tests. These include: 1) pre-employment drug tests prior to hiring new employees; 2) drug tests conducted at random on employees and contract employees who will have more than incidental direct contact with residents and clients; 3) testing upon reasonable suspicion that an employee is under the influence while performing job duties; and 4) testing that occurs after an accident caused or contributed to by the employee when the accident results in damage to property or injuries to an individual. The department's procedure also establishes the process by which employees subject to random drug testing may voluntarily disclose their alcohol or drug problems to DJJ supervising staff.

Given the comprehensive nature of both DHRM's existing policy and the department's procedure, the department does not believe extensive board policies are needed in this area. The DHRM policy, however, does not impose a minimum requirement for random drug testing. In a separate Policy Guide, DHRM acknowledges that positions responsible for the care, treatment, or custody of clients, wards and offenders must be fit for duty, suggesting that the influence of alcohol or drugs could jeopardize these obligations. Thus, the department has a significant interest in ensuring that staff who have more than incidental direct contact with residents and clients remain free from the harmful effects of drugs. Random drug testing provides a means for monitoring such employees and determining and ensuring that they refrain from harmful drug use. Therefore, the department recommends an amendment to this policy to require DJJ to conduct random drug testing on staff who have more than incidental direct contact with residents and clients. This requirement would stand regardless of whether DHRM changes its policies in the future.

The board's current policy also establishes the employees to whom the department's procedures should be distributed. The department currently provides all employees with access to its procedures, making this requirement unnecessary. The department recommends striking this language.

The remainder of the current policy establishes the topics that must be addressed in the department's procedures regarding drug testing. In addition to complying with DHRM's policies, the department has identified the three areas it believes a comprehensive drug-testing procedure should include, regardless of whether DHRM requires their coverage.

Current Policy

02-016 Cooperation with Federal, State, and Local Officials

The Department shall ensure that personnel in all its facilities and programs cooperate fully with federal, state, and local legislative and executive bodies. Designated staff shall respond promptly to requests for information about programs and operations or about specific youth from federal, state, and local legislators, executives, and other constituents of juvenile justice with due regard to privacy protection statutes.

Effective Date: April 1, 1993

Most Recent Review: November 14, 2007

Recommendation: Retain

Rationale for Recommendation: Cooperation with federal, state, and local legislative and executive bodies is important not only for the department itself but also for the youth we serve. The information provided to those bodies about programs and operations can impact the department's funding and reputation, and information about specific youth potentially can result in assistance with that youth's rehabilitation. Importantly, the policy reminds staff to observe privacy protection laws when providing information to external bodies and other constituents. Existing regulatory requirements do not address this topic, so the department recommends that the board retain it.

Current Policy

20-107 Tobacco Products

Facilities regulated by the Board shall not permit residents to use, possess, purchase, or distribute any tobacco product on facility property. Staff of and visitors to any such facility shall not use any tobacco products where residents may see or smell the tobacco product.

Effective Date: May 13, 1993

Most Recent Review: September 17, 2008

Recommendation: Retain

Rationale for Recommendation:

While all three residential regulations contain provisions pertaining to the use of tobacco on facility property, they are not entirely consistent with one another, nor do they all completely comply with the policy. For example, the existing JDC provision prohibits staff and visitors from using tobacco products at the facility, but it does not mention residents. The updated language now in the final stage for these three regulations is more complete and consistent and likely would make the policy unnecessary; however, the department is unable to determine exactly when the updated regulations will take effect. For this reason, the department recommends

retaining the policy in its current form until the amended regulations are effective and the department brings the matter back to the board.

V. IMPACT AND EFFECTIVE DATE OF BOARD ACTION

If the board votes in support of the department's recommendations in Part IV of this memorandum, the proposed changes will take effect immediately. Adopting the department's recommendations will ensure that departmental staff continue to cooperate with federal, state, and local officials within the parameters of federal and state law and regulations and that the department remains committed to the goal of maintaining facilities free from the harmful effects of tobacco products, alcohol, and drugs. Accordingly, the department recommends that the board adopt these amendments.

SUMMARY
RECOMMENDED DIRECTOR'S CERTIFICATION ACTIONS
September 23, 2024

Certified the 31st District Court Service Unit (Manassas) to April 20, 2027.

Certified the Henrico Juvenile Detention Home to August 21, 2027, with a letter of congratulations for 100% compliance.

Certified Northern Virginia Juvenile Detention Home and Post-dispositional Detention Program to May 15, 2027.

Certified Summit West Transitional Living Program to September 1, 2027, with a letter of congratulations for 100% compliance.

Extended the current certification status of Virginia Beach Crisis Intervention Home to January 1, 2025, with a status report on areas of noncompliance.

Extended the current certification status of Bon Air Juvenile Correctional Center to April 12, 2025, with a referral to the DJJ Medical Compliance Administrator for monitoring of the area of noncompliance and a status report.

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

31st District Court Service Unit (Manassas)
9540 Center Street, Suite 200
Manassas, VA 20110
(703) 792-6200
Kimberly Keller, Director
Kimberly.Keller@djj.virginia.gov

AUDIT DATES:

December 18, 2023

CERTIFICATION ANALYST:

Learna R. Harris

CURRENT TERM OF CERTIFICATION:

April 20, 2021 – April 19, 2024

REGULATIONS AUDITED:

6AC35-150 Regulations for Nonresidential Services Available to Juvenile and Domestic Relations District Courts

PREVIOUS AUDIT FINDINGS April 28, 2021:

100% Compliance Rating

CURRENT AUDIT FINDINGS – December 18, 2023:

97.96 Compliance Rating
Number of Deficiencies: Three
350(A) Supervision plans for juveniles.
350(B) Supervision plans for juveniles.
355(4). Electronic Monitoring (Time Frame).

DIRECTOR'S CERTIFICATION ACTION September 23, 2024: Certified the 31st District Court Service Unit (Manassas) to April 20, 2027.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

TEAM MEMBERS:

Learna Harris, Team Leader
Wanda Parris-Flanagan, Certification Analyst
Shelia Hinton, Certification Analyst

POPULATION SERVED:

The 31st District Court Service Unit serves Prince William County and the Cities of Manassas and Manassas Park.

PROGRAMS AND SERVICES PROVIDED:

The 31st District Court Service Unit provides mandated services including:

Standard Supervision/Parole

Community supervision is the core function of the Juvenile Court Service Unit. Probation (community) supervision is provided as a dispositional alternative for the Juvenile Court in accordance with §16.1-278.8 of the Code of Virginia for youth convicted of criminal and non-criminal but illegal acts. Placement on probation subject to the terms and conditions determined by the Judge is monitored by probation officers whose caseloads currently average between 15 and 20 monthly. Supervision includes monitoring behavior and compliance and utilizing the YASI, success planning, and EPICS interventions. Contact is made in the home, school or on the job and includes random urine screens as well as unannounced curfew checks. Appropriate case management services to youth and families in accordance with state standards and state code proved to be effective as compared to costs or benefits of incarceration. Parole services and support begin with commitment. The Court Service Unit has one Parole Officer who supervise youth both in direct care, on parole in the community as well as some probation cases. Parole supervision includes participation in staffing and classification of cases to include the Comprehensive Re-entry Case Planning process, Community Placement Programs and Detention Reentry programs. Parole Officers maintain contact with youth in direct care, working with the behavioral services and counseling staff to plan for parolees transitional needs upon re-entry to the community covering a range of service needs such as education, healthcare, individual and family counseling and employment. Probation staff conducts NCTI in-house groups to include COLORS and anger management.

Intake

Intake screens complaints and processes petitions on juveniles and Domestic Relations matters for the Juvenile Court at both ends of the county. The unit diverts cases as appropriate and provides informal supervision of Diversion cases up to 120 days. The Intake staff is accessible and available 24/7. After-hours, weekend, and holiday calls for services are screened by the Intake Officers and if detention is necessary the process is completed by the video Intake Unit of the 9th Judicial District CSU. If that service is unavailable, the Intake Unit responds and completes the intake process. Electronic Monitoring is also coordinated thorough Intake as a detention alternative. The Intake unit has seven probation officers and an Intake Supervisor.

Diversion Unit

This unit consists of a supervisor and three probation officers working closely with Intake receiving a majority of the diversion referrals and facilitates NCTI Diversion Groups to Truancy and Anger Management. Also provided is Individual one-on-one Shoplifting and substance abuse education. The team also conducts pre- court services.

Assessment Unit

The Assessment Unit ensures a higher quality, consistent assessment process. The development of the Assessment Unit has allowed probation officers to supervise and case manage juveniles at a higher level of quality. The current unit consists of two assessors, the DJJ/CS mental health position, and a Court Liaison. The assessors' primary function is onboarding juveniles placed on probation to include, but not limited to completing the YASI, Supervision Plan, and pre and post Social History reports, and transfer reports. The team also conducts detention and shelter contacts for pre-dispositionally placed juveniles and secures funding for court ordered evaluations. The Court Liaison position within the Assessment unit has resulted in a significant decrease in low risk and minor offenders coming to probation from court. This position collaborates with the Commonwealth Attorney and Defense counsel, if available, to divert low risk cases and refer them to more appropriate services in lieu of being placed on probation.

CORRECTIVE ACTION PLAN
TO THE
DEPARTMENT OF JUVENILE JUSTICE

FACILITY/PROGRAM: 31st District Court Service Unit (Manassas)
SUBMITTED BY: Kimberly Keller, CSU Director
CERTIFICATION AUDIT DATES: December 18, 2023
CERTIFICATION ANALYST: Learna R. Harris

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

350 (A) Supervision plans for juveniles.

To provide for the public safety and address the needs of a juvenile and that juvenile's family, a juvenile shall be supervised according to a written individual supervision plan, developed in accordance with approved procedures and timeframes, that describes the range and nature of field and office contact with the juvenile, with the parents or guardians of the juvenile, and with other agencies or providers providing treatment or services.

Audit Finding:

Two of five applicable cases reviewed did not include the parent as a contributor in the development of the supervision case plan.

Program Response

Cause:

The cause was that the youths' parents did not appear for scheduled appointments when plan was being developed.

Effect on Program:

The effect on not including the parent in the development of the plan is potential lack of "buy-in" to the plan from the parent and lack of parental support.

Planned Corrective Action:

Probation Officers will make every effort to have the youth's parent at appointments, especially during appointments where supervision plan development is occurring. If the parent is not participating, the Probation Officer shall bring this to the attention of the supervisor to discuss other opportunities such as engaging the parent virtually or by phone prior to the plan deadline. When the parent participates in the plan development, Probation Officers will include in the Badge narrative that the parent participated in the development of the plan and contributed to the plan.

While staffing with Probation Officers, Supervisors should discuss parent(s) involvement during staffing during the supervision planning stage.

Supervisors during the supervisory reviews shall ensure a statement is in the BADGE narrative:

“PO facilitated the development of the supervision plan with the youth and parent/ guardian. The youth and the parent contributed to the plan.”

Director will “spot check” cases on a bi-weekly basis and provide feedback to supervisors to 5/16/24 and then on a quarterly basis.

Completion Date:

Ongoing, but confirmed compliance by 5/16/24.

Person Responsible:

Probation Officers, Probation Supervisors, Director

Current Status on June 4, 2024: Not Determinable

There were no applicable cases for review.

350(B) Supervision plans for juveniles.

Supervisory Reviews

Audit Finding:

Six of eight applicable cases reviewed were missing the language that the supervisory review had been completed, approved, or modified as indicated.

Program Response

Cause:

The cause of non-compliance was due to reviewers not using the specific words “reviewed and approved.” Also, the supervisor recommended a modification to the plan, but did not have a follow up entry indicating approval.

Effect on Program:

There was no effect on the cases. The supervisory reviews were very comprehensive.

Planned Corrective Action:

Supervisors will include as part of the supervisory review narrative: “Supervisor reviewed the plan and it is approved” or “Supervisor reviewed the plan is recommending a modification of the plan”. If a supervisor requests a modification to the plan, the supervisor should complete a follow up review within two weeks to indicate another review and ultimately an approval.

Director will “spot check” cases on a bi-weekly basis and provide feedback to supervisors to 5/16/24 and then on a quarterly basis.

Completion Date:

Ongoing, but confirmed compliance by 5/16/24.

Person Responsible:

Probation Supervisors and Director

Current Status on June 4, 2024: Compliant

One of three applicable cases reviewed was missing the language that the supervisory review had been completed, approved, or modified as indicated.

355(4). Electronic Monitoring (Time Frame).

1. Within the supervision or service plan for a juvenile on electronic monitoring, it will be clearly established the length of time the juvenile will be monitored using enhanced surveillance techniques. However, unless specifically approved by the CSU director of a given locality, or directed by a duly authorized court, the maximum amount of time a juvenile will be placed on an electronic monitoring program will not exceed 45 days.

Audit Finding:

Two of four applicable cases reviewed there was no timeframe provided.

Program Response

Cause:

Probation officer did not note on the supervision plan amendment an end date in one case and in the other case a start date and end date was not noted on the supervision plan amendment.

Effect on Program:

A youth potentially was on electronic monitoring longer than necessary. No timeframe could have led to confusion on the youth/ parent's part.

Planned Corrective Action:

The CSU created EM Supervision Plan Amendment form will be updated to emphasize the need for a timeframe to be entered (i.e. bold, highlighted, need for initials). Probation Officer will review the form for completeness prior to sending to the supervisor for signature. Timeframes shall also be entered into the BADGE narrative.

Supervisor will confirm the timeframe on completed Supervision Plan Amendment form prior to signing the form. Supervisor shall enter narrative into Badge indicating review and approval of the modified plan and state the timeframe.

Director will "spot check" cases on a bi-weekly basis and provide feedback to supervisors to 5/16/24 and then on a quarterly basis

Completion Date:

Ongoing, but confirmed compliance by 5/16/24.

Person Responsible:

Probation Officers, Probation Supervisors, and Director

Current Status on June 4, 2024: Compliant

Six of six applicable cases reviewed provided the timeframe.

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

Henrico Juvenile Detention Home
4201 East Parham Road
P.O. Box 90775
Henrico, Virginia 23273
(804) 501-4944
Edward O. Martin, Superintendent
Mar24@henrico.us

AUDIT DATES:

July 12, 2024

CERTIFICATION ANALYST:

Learna Harris

CURRENT TERM OF CERTIFICATION:

August 26, 2021 – August 25, 2024

REGULATIONS AUDITED:

6VAC35-101 Regulation Governing Juvenile Secure Detention Centers

PREVIOUS AUDIT FINDINGS - June 19-28, 2021:

100%

CURRENT AUDIT FINDINGS – July 12, 2024

100%

DIRECTOR'S CERTIFICATION ACTION September 23, 2024: Certified the Henrico Juvenile Detention Home to August 21, 2027, with a letter of congratulations for 100% compliance. *Pursuant to 6VAC35-20-100C.1, if the certification audit finds the program or facility in 100% compliance with all regulatory requirements, the director or designee shall certify the facility for three years.*

TEAM MEMBERS:

Learna Harris, Team Leader
Shelia Hinton, Central Office

POPULATION SERVED:

- Service Area: 14th District Court Service Unit, Henrico County
- Certified Capacity: 20
- Gender: Males/ Females
- Age Range: 11 thru 17-years olds

PROGRAMS AND SERVICES PROVIDED:

- The Detention Home holds in secure custody those juveniles who, by statutory criteria, require such for either their own safety and/or community's protection. The program will provide educational programs through Henrico Public Schools, therapeutic recreational activities, religious, and Mental Health Services. The facility will provide protection, safe care, basic needs, and services as required by the Juvenile and Domestic Relations Court

Law (Title 16.1 Code of Virginia.) and pursuant to standards for secure detention
Community: Henrico Health department (STD checks), Henrico Parks & Rec (Art activities,
nature lessons), Henrico Mental Health Services (Resolving Conflict).

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

Northern Virginia Juvenile Detention Home
200 South Whiting Street
Alexandria, Virginia 22304
(703) 751-3700
Johnitha McNair, Executive Director
jmcnair@jdcnv.org

AUDIT DATES:

May 7, 2024

CERTIFICATION ANALYST:

Wanda Parris-Flanagan

CURRENT TERM OF CERTIFICATION:

May 15, 2021-May 14, 2024

REGULATIONS AUDITED:

6VAC35-101 Regulation Governing Juvenile Secure Detention Centers

PREVIOUS AUDIT FINDINGS – June 28, 2021:

98.62% Compliance Rating

No repeat deficiencies from previous audit

6VAC35-101-170 (A). Employee and volunteer background checks. CRITICAL

6VAC35-101-350 (B). Buildings and inspections. CRITICAL

6VAC35-101-350 (C). Buildings and inspections.

6VAC35-101-1200 (A). Individual service plans in post-dispositional detention programs.

6VAC35-101-1210 (A). Progress reports in post-dispositional detention programs

CURRENT AUDIT FINDINGS – May 7, 2024

99.38% Compliance Rating

No repeat deficiencies from previous audit

6VAC35-101-100 (C). Grievance Procedure

6VAC35-101-340 (B). Face Sheet

6VAC35-101-340 (C). Face Sheet

DIRECTOR'S CERTIFICATION ACTION September 23, 2024: Certified Northern Virginia Juvenile Detention Home and Post-dispositional Detention Program to May 15, 2027.

Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.

TEAM MEMBERS:

Wanda Parris-Flanagan, Team Leader

Angela Rice-Norfolk JDC

Terri Brown-Norfolk JDC

Dakota Tomlin-Central Office

Joy Cole-Central Office

POPULATION SERVED:

Northern Virginia Juvenile Detention Home is a secure custody facility operated by the Juvenile Detention Commission for Northern Virginia. The members of the Commission include the cities of Alexandria and Falls Church and the county of Arlington. The facility serves a pre-dispositional population of 70 male and female residents ages 10 through 17. There is a post-dispositional detention program for 10 male and female residents, ages 14 through 17, included in the rated capacity.

PROGRAMS AND SERVICES PROVIDED:

In addition to all mandated services Northern Virginia Juvenile Detention Center interacts with the community in obtaining such services as:

- Psycho-educational groups through the Alexandria Community Service Board
- Counseling and crisis intervention by mental health staff through local jurisdictions
- On-site education through the Alexandria Public School System
- Local religious-based organizations provide youth the opportunity for spiritual guidance as well as religious services.

**CORRECTIVE ACTION PLAN
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

FACILITY/PROGRAM: Northern Virginia Juvenile Detention Center
SUBMITTED BY: Johnitha R. McNair, Executive Director
CERTIFICATION AUDIT DATE: May 7, 2024
CERTIFICATION ANALYST: Wanda Parris-Flanagan

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

6VAC35-101-100 (C). Grievance Procedure

C. The grievance procedure shall be (i) written in clear and simple language and (ii) posted in an area easily accessible to residents and their parents and legal guardians.

Audit Finding:

The grievance procedure was not posted on the pods in three out of the four opened pods at the facility.

Program Response

Cause:

The grievance procedures were removed on May 7, 2024, to be repaired (laminated) and were not returned to the units prior to the Certification Unit conducting a walk through.

Effect on Program:

N/A – The residents were in the education area while the procedures were being repaired.

Planned Corrective Action:

N/A

Completion Date:

N/A

Person Responsible:

The grievance procedures were posted on May 7, 2024 after being laminated.

Current Status August 27, 2024: Compliant

The grievance procedure is posted on all opened pods at the facility.

6VAC35-101-340 (B). Face Sheet

B. Information shall be updated when changes occur.

Audit Finding:

Four out of six (6) case files reviewed did not have updated information on the face sheet as changes occurred.

Program Response

Cause:

Frequent staff turnover made it challenging to ensure that new staff are adequately trained in the procedures and protocols for intake document management. It impacted the accuracy and completeness of intake documents.

Effect on Program:

Outdated or incomplete information regarding the residents' face sheets can result in miscommunication between the facility and stakeholders in addition to negatively affecting emergency preparedness.

Planned Corrective Action:

Consistent staffing assigned to intake, adequate on boarding, annual training and internal audits of case files.

Completion Date:

The corrective action had already been initiated effective September 2023 and reflected favorably during the audit.

Person Responsible:

Compliance Managers Salithea Eubanks and Patricia Smith and Intake Specialist Lilian Lazarte.

Current Status as of August 27, 2024: Compliant

All six (6) case files reviewed were updated as changes occurred to include discharge information on the face sheet upon the resident's discharge.

6VAC35-101-340 (C).

C. Upon discharge, the (i) date of discharge and (ii) name of the person to whom the resident was discharged, if applicable, shall be added to the face sheet.

Audit Finding:

Four out of six case files reviewed were not updated to include discharge information on the face sheet upon the resident's discharge.

Program Response

Cause:

Frequent staff turnover made it challenging to ensure that new staff are adequately trained in the procedures and protocols for intake document management. High turnover rates resulted in inconsistencies in the intake process, errors in completing intake tasks and lack of continuity in managing resident case files.

Effect on Program:

High turnover rates resulted in inconsistencies in the intake process, errors in completing intake tasks and lack of continuity in managing resident case files.

Planned Corrective Action:

Consistent staffing assigned to intake, adequate on boarding, annual training and internal audits of case files.

Completion Date:

The corrective action had already been initiated effective September 2023 and reflected favorably during the audit.

Person Responsible:

Compliance Managers Salithea Eubanks and Patricia Smith and Intake Specialist Lilian Lazarte.

Current Status as of August 27, 2024: Compliant

All six (6) case files reviewed were updated to include discharge information on the face sheet upon the resident's discharge.

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

The Summit West Transitional Living Program
1301 3rd Street SW
Roanoke, Virginia 24016
(540) 342-2790
Heather Rose, Director of Residential and Specialty Programs
hlrose@intercepthealth.com

AUDIT DATES:

August 12, 2024

CERTIFICATION ANALYST:

Shelia L. Hinton

CURRENT TERM OF CERTIFICATION:

February 1, 2024 – September 1, 2024

REGULATIONS AUDITED:

6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses

PREVIOUS AUDIT FINDINGS – January 30, 2024

New Program
100%

CURRENT AUDIT FINDINGS – August 12, 2024:

100% Compliance Rating

DIRECTOR'S CERTIFICATION ACTION September 23, 2024: Certified Summit West Transitional Living Program to September 1, 2027, with a letter of congratulations for 100% compliance.

Pursuant to 6VAC35-20-100C.1, if the certification audit finds the program or facility in 100% compliance with all regulatory requirements, the director or designee shall certify the facility for three years.

TEAM MEMBERS:

Shelia L. Hinton, Team Leader
Justin Woodley, Quality Assurance

POPULATION SERVED:

The Summit Transitional Living Program facility is a 4178 sq. ft. residential home situated in a quiet neighborhood in Roanoke, VA. This three-level home includes four (4) total double occupancy bedrooms, three (3) bathrooms, kitchen, living room, dining area, recreation room, computer area, access to laundry facilities and staff office. The property also has a large wrap around porch with a view of the mountains.

The Summit Transitional Living Program accepts males, ages 17 to 21 with a minimum IQ of 65, who are being discharged from a Department of Juvenile Justice commitment. Youth referred to and placed at the transitional living home will demonstrate various levels of risk to reoffend and commonly display the following behaviors and criminogenic and non-criminogenic needs:

1. Criminal history and propensity to commit crimes
2. History of running away from home, foster care, and/or residential placements

3. History of association with anti-social companions
4. Pro-criminal, risky thinking)
5. Antisocial personality such as impulsivity, poor emotional regulation and inadequate decision-making skills
6. Limited coping skills and low frustration toleration
7. Low educational achievement and history of poor school performance
8. History of low family affection/history of poor supervision
9. History of substance abuse
10. History of self-destructive behavior
11. History of mental health diagnoses (such as post-traumatic stress disorder, depression, Oppositional Defiance Disorder, and Attention Deficit Hyperactivity Disorder)
12. Low or limited functioning youth with a minimum IQ of 65
13. Lower levels of job readiness and independent living skills
14. Need for focused intensive transition and community reintegration services
15. History of trauma and exposure to violence
16. Impaired social functioning

PROGRAMS AND SERVICES PROVIDED:

The Summit Transitional Living Program provides the following services to the residents:

- Direct:
 - Aggression Replacement Training (ART)
 - Casey-Life Skills
 - YASI screening reviewed
 - Cognitive Behavioral Interventions (CBI)
 - Core Correctional Practices (CCP)
 - Motivational Interviewing
 - The Risk, Need, Responsivity (RNR) Model,
 - Understanding of the Youth Assessment & Screening Instrument (YASI),
 - DJJ's Assessment-Driven Case Planning Practices (Comprehensive Re-Entry Case Plan – CRCP)
 - DJJ's Community Model Utilized in the JCCs,
 - Behavioral Intervention
 - Video conferencing for external services and communication (court, family visitation, telehealth)
 - Computers and internet access
 - Individual, Group, and Family counseling
 - Supervision
 - Treatment planning
 - Psychoeducational groups on independent living skills, substance abuse education, AIDS and sexually transmitted diseases, victim sensitivity, self-esteem, parenting, decision making, anger management, and more
 - Career assessment
 - Employment skills
 - Education skills/support (Not to be confused with teaching. Courses can be accessed via online learning, but are NOT offered through/by The Summit)
 - Nutrition/Meal Planning
 - Community engagement
 - Identifying/strengthening relationships with natural supports

- Facilitating visitation with family and natural supports
- Transportation support

- Community:
 - Enrichment activities and programs – Various professional and community groups
 - Spiritual programs – Various local spiritual groups
 - AIDS and sexually transmitted disease – Various organizations and community groups such as, Planned Parenthood
 - Transportation
 - Parenting skills – Mentoring; Various community groups
 - Dental/Vision Care – Local provider of choice
 - Medical Care – Local provider of choice (assuming Medicaid or resident private insurance is accepted)
 - Literacy and Math - Local educational institutions; tutors; online learning platforms, as indicated
 - Social Skills (Program and Community service)
 - Independent Living Skills – Programs identified on an as-need basis
 - Experiences/Exposure
 - Community: (Services offered by community agencies and resources)
 - Outpatient Services – Additionally purchased service available through Intercept or identified provider of choice
 - Anger Management Intervention
 - Clinical Group
 - Crisis Stabilization
 - Dialectical Behavior Therapy Group
 - Face to Face Surveillance
 - Therapeutic Mentor
 - Family Centered Treatment
 - Gang Intervention
 - GPS Electronic Monitoring
 - Home-Based Services
 - Individual, Group and Family Therapy and relapse prevention for Substance Abuse
 - Individual, Group and Family Therapy for youth and relapse prevention with sexualized Behaviors
 - Intensive In-Home Services
 - Mental Health Skill Building
 - Multi-Systemic Therapy
 - Nonclinical Group
 - Parenting Group
 - Psychological Services
 - Psycho-Sexual Evaluation
 - Restorative Justice
 - Seven Challenges Group for Substance Abuse
 - Strengthening Families Program
 - Substance Abuse Intensive Outpatient Program

Justen Woodley Assessment/Resident Interview

As a Quality Assurance Program Specialist, I facilitated an onsite visit of Summit West Transitional Living Program in Roanoke Virginia. Upon entry on the grounds, I noted that the home's grounds were well-maintained, clean, and free from trash and debris. The front door was locked per Summit's policy, preventing unauthorized visitors from entering. The home's interior was clean with two staff present in addition to the Director of Residential and Specialty Programs. The entrance area is well furnished with clean comfortable seating, and an area for youth to utilize computers for various tasks like resume writing and filling out job applications. The medication closet is locked from youth access but centrally located for staff medication distribution. A tour of the kitchen showed a fully stocked kitchen with leftovers available and a closet with resident's snacks accessible. There are soft but firm pads staff can use to react to an aggressive youth without needing Physical Use of Force. Cameras posted around the home allow staff to remotely monitor the comings and goings within the program to ensure safety and compliance with programmatic rules. A tour of the resident's living area displayed clean comfortable rooms with linen and toiletries readily available to the youth. The bathrooms were appropriately clean and free from clutter. The clean view of the home is due to a chore chart across from the medication closet which outlines which youth is responsible for each chore for a given week.

A resident interview yielded similar adherence to compliance. The youth expressed that the staff assists in ensuring his needs are met. He is provided with help filing a grievance if needed, following appropriate procedures when searching residents, communicating when emergencies arise, and engaging with POs, and other DJJ and Law enforcement stakeholders. The resident is provided with food, hot showers, clean bed and bath linens, correct fitting clothing, and access to health care services as needed. The program also allows the youth to speak, send letters, and visit with family (when family visitation is approved through the proper program procedures). The youth expressed knowledge of the placement rules and expectations including behavior management, further stating that everything is appropriately outlined during orientation and within the resident handbook provided upon placement in the program.

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

Virginia Beach Crisis Intervention Home
811 13th Street
Virginia Beach, Virginia 23451
(757) 422-4521
William Wimbish, Deputy Director of TYS
wwimbish@tyscommision.org

AUDIT DATES:

March 13, 2024

CERTIFICATION ANALYST:

Learna R. Harris

CURRENT TERM OF CERTIFICATION:

May 13, 2021 – May 12, 2024

REGULATIONS AUDITED:

6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses

PREVIOUS AUDIT FINDINGS December 20, 2021

100% Compliance Rating

CURRENT AUDIT FINDINGS – March 13, 2024

89.4% Compliance Rating

No repeat deficiencies.

6VAC35-41-110 (A). Grievance procedure.

6VAC35-41-490 (I). Emergency and evacuation procedures. **CRITICAL**

6VAC35-41-860 (A). Individual service plans.

6VAC35-41-1210 (A). Tuberculosis screening. **CRITICAL**

6VAC35-41-1280 (H). Medication. **CRITICAL**

6VAC35-41-1300 (B). Behavior support.

6VAC35-41-1320 (D). Physical restraint.

DIRECTOR'S CERTIFICATION ACTION September 23, 2024: Extended the current certification status of Virginia Beach Crisis Intervention Home to January 1, 2025, with a status report on areas of noncompliance.

Pursuant to 6VAC35-20-100 (4.a)

4. If the certification audit finds the program or facility in less than 100% compliance with all critical regulatory requirements or less than 90% on all noncritical regulatory requirements or both, and a subsequent status report, completed prior to the certification action, finds less than 100% compliance on all critical regulatory requirements or less than 90% compliance on all noncritical regulatory requirements or both, the program or facility shall be subject to the following actions:

a. If there is an acceptable corrective action plan and no conditions or practices exist in the program or facility that pose an immediate and substantial threat to the health, welfare, or safety of the residents, the program's or facility's certification shall be continued for a specified period of time up to one year with a status report completed for review prior to the extension of the certification period.

TEAM MEMBERS:

Learna Harris, Certification Analyst

POPULATION SERVED:

The Crisis Intervention Home (CIH) provides 24-hour intake for up to 12 males and females between the ages of 13-17 from referrals made by the Court Service Unit and Social Service agencies. CIH opened under the aegis of the Tidewater Regional Group Home Commission (TRGHC) in 1975 at its first location at 317 20th Street, Virginia Beach. In the winter of 1986, the facility moved to 811 13th Street, Virginia Beach. Our current building was built in 1985. In 1988, an extension was added to the building to include a Director's office, conference room, and staff bathroom. It is a one-story facility constructed of a brick exterior with wood trim. In 2009, the Commission changed its name to the Tidewater Youth Services Commission.

The following rooms are located in the building: Secretary's office, schoolroom, front/staff office, Assistant Director's office, Counselor workstation area, laundry room, utility closet, storage closet, 6 bedrooms, 4 resident bathrooms, 2 staff bathrooms, kitchen, pantry, resident common/ living area, dining area, Director's office, and a conference room. There are also two detached storage sheds.

The CIH is situated in a residential area, eight blocks from the Oceanfront. It is fenced on three sides and is approximately sixty feet from the road on 13th street. A parking lot accommodates twelve automobiles, one of which is a handicapped space.

PROGRAMS AND SERVICES PROVIDED:

The Crisis Intervention Home (CIH) offers an intensive, short-term crisis intervention program designed to stabilize youth and their families and help them clarify and resolve crisis situations. CIH also offers long term programming (3-6 months) for females referred and accepted into the post-dispositional program. The goal is to prevent further involvement with the court system and to offer an alternative to detention for youth in crisis. The staff assists each youth in recognizing his/her own life goals and establish steps to achieve them. An Initial Objectives and Strategies Plan are developed for each youth within 72 hours of their placement. An Individual Service Plan /Behavior Support Plan are created for residents who are in the program for 30 days or longer.

This Plan is created with the resident and involves the referring agency and parent/legal guardian to present a level of accountability for the resident. It also allows staff to understand what triggers a resident's negative behavior and what interventions work and do not work with a particular resident. The staff works with referring agencies to help prepare youth without family involvement for future placements. Residents accepted into the post-dispositional program are also required to receive Family Counseling and Aggression Replacement Training during their placement. Home visits are another component of the post-dispositional program that is designed to help the child transition back into their family environment.

SERVICES PROVIDED:

- Direct:
 - Individual Counseling
 - Aggression Replacement Training
 - Periodic Life Skills and Adolescent Groups
 - Recreational Activities
 - Assessment of Client Needs
 - Family Counseling upon request from the referring agency/worker

- Community:
 - Academic and vocational education in Virginia Beach School system
 - Medical, dental and psychological services
 - Star of the Sea Catholic Church, The Virginia Beach Rotary, The Bayshore Circle of the Kings Daughters, Cape Henry Rotary, Open Door Community Chapel, and various other organizations and individuals – Provide monetary gifts and service donations to the facility youth for needs such as prescription medication refills, clothing, school supplies, projects for the Crisis Intervention Home, and recreational outings.

Significant Issues Encountered:

Following the March 13, 2024, audit the following issues were encountered which made it impossible to determine compliance of regulations cited during the July 10, 2024 status visit.

As related by Mr. William Wimbish, in March 2024, the Tidewater Youth Services Commission faced an unprecedented situation. Over 70% of the programming staff resigned, including Program Director Katie Keeter on March 7, 2024, and Program Assistant Director Peter McNeil on March 9, 2024. This sudden staff shortage necessitated a temporary closure of the Crisis Intervention Group Home, with the last youth leaving on March 11, 2024.

Given the staffing crisis, the executive team decided to prioritize a revitalization plan for the Crisis Intervention Group Home, focusing on beautification and functionality to create a trauma-informed space. The main objective was to replace old carpeting and vinyl with high-end industrial vinyl flooring.

Timeline of Events:

1. Vapor Barrier Identification and Installation:
 - Identified: April 4, 2024
 - Installed: April 22-29, 2024
2. Flooring Installation:
 - Scheduled Start Date: April 18, 2024
 - Actual Start Date: May 2, 2024
 - Completion Date: May 24, 2024
3. Gas Line Leak:
 - Identified: June 25, 2024
 - Fixed: August 9, 2024

During the revitalization process, we encountered significant challenges with contractors, which severely impacted our timeline. Initially, we were quoted that the flooring would be completed during the first week of May. However, the contracted flooring provider refused to honor any warranties due to the lack of encapsulation in the building's crawl space. This unexpected requirement forced us to seek bids for the vapor barrier installation.

Despite our efforts to expedite the process, we faced further delays. One contractor, who had accepted the bid, failed to show up without any explanation. This no-show not only caused frustration but also pushed the vapor barrier installation from its identified date of April 4 to April 22-29, 2024. The delay in installing the vapor barrier meant that the flooring installation, initially scheduled for April 18, could not commence until May 2, 2024.

The situation worsened when, during the vapor barrier installation, the city turned off the gas supply to the building. Upon completion of the flooring and after the installation of the vapor

barrier, the city gas company identified a leak in the gas lines, which further delayed the project. Finding a contractor to address the gas leak proved challenging, and the gas line was not repaired until August 9, 2024.

These contractor-related issues significantly extended our project timeline. What was initially projected to be a two-month renovation turned into a six-month journey of waiting and shifting plans. The continuous delays and lack of reliable contractors not only caused frustration but also hindered our ability to provide timely services to the youth in need.

Following the gas line repair, the Virginia Health of Department conducted an inspection on August 15, 2024. The Crisis Intervention Group Home was able to intake its first youth on August 21, 2024.

Despite the unexpected challenges and delays, the renovations were successfully completed, ensuring a safer and more functional environment for the youth. This experience underscores the importance of reliable contractors and the impact their actions can have on critical projects.

**CORRECTIVE ACTION PLAN
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

FACILITY/PROGRAM: Virginia Beach Crisis
SUBMITTED BY: William Wimbish, Deputy Director
CERTIFICATION AUDIT DATES: March 13, 2024
CERTIFICATION ANALYST: Learnna R. Harris

Under Planned Corrective Action indicate; 1) The cause of the identified area of non-compliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

6VAC35-41-110 (A). Grievance procedure.

- A. Written procedure shall provide that residents are oriented to and have continuing access to a grievance procedure that provides for:**
- 1. Resident participation in the grievance process with assistance from staff upon request;**
 - 2. Investigation of the grievance by an objective employee who is not the subject of the grievance;**
 - 3. Documented, timely responses to all grievances with the reasons for the decisions;**
 - 4. At least one level of appeal;**
 - 5. Administrative review of grievance;**
 - 6. Protection from retaliation or threat of retaliation for filing a grievance; and**
 - 7. Hearing of an emergency grievance within eight hours.**

Audit Finding:

Four of four applicable cases reviewed did not provide documented, timely responses to the grievances with the reason for the decision.

Program Response

Cause:

We acknowledge the findings of the audit and appreciate the diligence in identifying areas for improvement. The lack of timely responses to grievances was due to an oversight in our staff training and development and our case management process. The previous program supervision did not follow the robust mechanisms in place to track and ensure timely responses to grievances.

Effect on Program:

This finding may have led to a lack of trust in our agency's grievance redressal process. It could also impact our program's reputation if not addressed promptly.

Planned Corrective Action:

We plan to implement a more robust staff training and development management system. That includes program administrators being more than reminders for pending grievances and a structured process for documenting and communicating the reasons for our decisions. We will also conduct regular training sessions for our staff to ensure they are well-versed with the new process and understand the importance of timely responses.

Completion Date:

We aim to have the new system in place and all staff trained by June 10, 2024. We will continue to monitor the effectiveness of these changes and make necessary adjustments to ensure continuous improvement.

Person Responsible:

Virginia Beach Crisis Intervention Home programing staff, program middle level management, with overview from the executive leadership team of the Tidewater Youth Services Commission.

Current Status on July 10, 2024: Not Determinable

Virginia Beach Crisis has not had residents since March 11, 2024.

6VAC35-41-490 (l). Emergency and evacuation procedures. Critical

- I. **At least one evacuation drill (the simulation of the facility's emergency procedure) shall be conducted each month in each building occupied by residents. During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.**

Audit Finding:

No evacuation drills were conducted on the overnight shift for the months of May, June, July, August, September, October, November, and December 2023.

Program Response

Cause:

The absence of evacuation drills during the overnight shift for the specified months was due to a deficiency of clarity from the previous program director. It was also a lack of understanding and staff training for our safety protocols regarding the scheduling of drills across different shifts. The oversight led to the drills being conducted primarily during the day and evening shifts.

Effect on Program:

This could have potentially compromised the safety and preparedness of our overnight staff. In the event of an emergency, the lack of practice could lead to confusion and inefficiency in evacuation, posing a risk to the safety of our staff and residents.

Planned Corrective Action:

We will revise our training expectations of our program director to ensure that evacuation drills are conducted across all shifts, including the overnight shift. We will also schedule safety protocol training for all staff and the program director. In future mid-month inspections for drills can allow for make-up drills specifically for the overnight staff to cover any previously missed drills during the month.

Completion Date:

We aim to complete the training of the safety protocol and conduct the drills moving forwards by June 10, 2024.

Person Responsible:

Virginia Beach Crisis Intervention Home programing staff, program middle level management, with overview from the executive leadership team of the Tidewater Youth Services Commission.

Current Status on July 10, 2024: Not Determinable

Virginia Beach Crisis has not had residents since March 11, 2024.

6VAC35-41-860 (A). Individual service plans.

- A. An individual service plan shall be developed and placed in the resident's record within 30 days following admission and implemented immediately thereafter. The initial individual service plan shall be distributed to the resident; the resident's family, legal guardian, or legally authorized representative; the placing agency; and appropriate facility staff.

Audit Finding:

Three of six applicable cases reviewed did not have documentation of a service plan being developed.

Program Response

Cause:

The lack of service plan documentation in three of the six cases reviewed was primarily due to inadequate supervision and accountability mechanisms. The program director did not effectively enforce the requirement for proper documentation or provide the necessary training to staff. Furthermore, the absence of checks and balances allowed these oversights to go unnoticed.

Effect on Program:

This has the potential to compromise the quality of our services and could have led to inconsistencies in service delivery. It has also affected staff morale and productivity, as they may not have received the necessary guidance and support to perform their roles effectively.

Planned Corrective Action:

We will implement a comprehensive review of our supervision and accountability structures. This will include the introduction of regular audits of case files, mandatory training for all staff on documentation requirements, and the establishment of a clear accountability framework. We also have leadership changes within Crisis Intervention Home.

Completion Date:

We aim to complete the review and implement the necessary changes by June 10, 2024.

Person Responsible:

This affected the satisfaction levels of the executive level management. These concerned parties made immediate and sustained changes in training and expectations of program management.

Virginia Beach Crisis Intervention Home programing staff, program middle level management, with overview from the executive leadership team of the Tidewater Youth Services Commission.

Current Status on July 10, 2024: Not Determinable

Virginia Beach Crisis has not had residents since March 11, 2024.

6VAC35-41-1210 (A). Tuberculosis screening. CRITICAL

A. Within seven days of placement each resident shall have had a screening assessment for tuberculosis. The screening assessment can be no older than 30 days.

Audit Finding:

One of five applicable cases reviewed did not have a tuberculosis screening within seven days.

Program Response

Cause:

The failure to conduct a tuberculosis screening within seven days in one of the five cases reviewed was due to inadequate supervision and lack of accountability mechanisms in our program. The program director did not effectively train the staff or hold them accountable for completing the necessary documentation. There were no checks and balances in place to ensure compliance with our protocols.

Effect on Program:

This lapse has potentially compromised the health and safety of our clients and staff. It also raises concerns about the overall effectiveness and credibility of our program, which could impact our reputation and trust with stakeholders.

Planned Corrective Action:

We will implement a comprehensive review and revision of our training and supervision protocols. This will include the introduction of checks and balances to ensure all necessary documentation is completed correctly and on time. We will also introduce regular audits to monitor compliance and effectiveness of these measures.

Completion Date:

We aim to complete the training of the safety protocol and conduct the drills moving forwards by June 10, 2024.

Person Responsible:

The newly appointed Program Director will be responsible for overseeing these changes and ensuring their successful implementation. Virginia Beach Crisis Intervention Home programing staff, program middle level management, with overview from the executive leadership team of the Tidewater Youth Services Commission.

Current Status on July 10, 2024: Not Determinable

Virginia Beach Crisis has not had residents since March 11, 2024.

6VAC35-41-1280 (H). Medication. CRITICAL

H. In the event of a medication incident or an adverse drug reaction, first aid shall be

administered if indicated. Staff shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented. A medical incident shall mean an error made in administering a medication to a resident including the following (i) a resident is given incorrect medication; (ii) medication is administered to an incorrect resident; (iii) an incorrect dosage is administered; (iv) medication is administered at a wrong time or not at all; and (v) the medication is administered through an improper method. A medication error does not include a resident's refusal of appropriately offered medication.

Audit Finding:

Four of six applicable cases reviewed medication was not administered and there was no documentation that a medication incident had occurred.

Program Response

Cause:

In our program, the inability to provide medication in four out of the six cases examined, coupled with the lack of records for medication incidents, stemmed from insufficient oversight and an absence of responsibility systems. The program director fell short in providing effective training to the staff and enforcing their responsibility for the required paperwork. Our protocols lacked the necessary checks and balances to guarantee adherence.

Effect on Program:

This oversight may have put the health and safety of our clients and staff at risk. It also brings into question the overall efficiency and reliability of our program, potentially affecting our standing and the confidence our stakeholders have in us.

Planned Corrective Action:

We plan to carry out a thorough evaluation and modification of our training and supervision procedures. This will involve the establishment of checks and balances to guarantee the accurate and timely completion of all essential paperwork. Additionally, we will incorporate routine audits to track adherence and assess the efficacy of these initiatives.

Completion Date:

We aim to complete the training of the safety protocol and conduct the drills moving forwards by June 10, 2024.

Person Responsible:

The newly appointed program director will be responsible for overseeing these changes and ensuring their successful implementation. Virginia Beach Crisis Intervention Home programming staff, program middle level management, with overview from the executive leadership team of the Tidewater Youth Services Commission.

Current Status on July 10, 2024: Not Determinable

Virginia Beach Crisis has not had residents since March 11, 2024.

6VAC35-41-1300 (B). Behavior support.

- I. Individual behavior support plans shall be developed in consultation with the:**
- 1. Resident;**
 - 2. Legal guardian, if applicable;**
 - 3. Resident's parents, if applicable;**
 - 4. Program director;**
 - 5. Placing agency staff; and**
 - 6. Other applicable individuals.**

Audit Finding:

Four of six applicable cases reviewed did not provide documentation that a behavior support plan had been developed.

Program Response

Cause:

The primary cause of the issue was a lack of emphasis on staff training and development, particularly in the areas of behavior support and individual service plans. The program director focused more on supervision and staffing, neglecting the importance of equipping staff with the necessary skills to perform the therapeutic components of their job.

Effect on Program:

The program suffered from a lack of comprehensive behavior support plans, which are crucial for the effective management and progress of cases. This has potentially compromised the quality of service provided and may have hindered the achievement of desired outcomes for the individuals served.

Planned Corrective Action:

We plan to implement a comprehensive staff training program that emphasizes the development of skills necessary for creating and implementing behavior support plans and individual service plans. We will also review and revise our supervision strategies to ensure they include a focus on staff development.

Completion Date:

We aim to complete the training of the safety protocol and conduct the drills moving forwards by June 10, 2024.

Person Responsible:

The newly appointed program director will be responsible for overseeing these changes and ensuring their successful implementation. Virginia Beach Crisis Intervention Home programing staff, program middle level management, with overview from the executive leadership team of the Tidewater Youth Services Commission.

Current Status on July 10, 2024: Not Determinable

Virginia Beach Crisis has not had residents since March 11, 2024.

6VAC35-41-1320 (D). Physical restraint.

- D. Each application of physical restraint shall be fully documented in the resident's**

record including:

1. **Date and time of the incident**
2. **Staff involved;**
3. **Justification for the restraint;**
4. **Less restrictive behavior interventions that were unsuccessfully attempted prior to using physical restraint;**
5. **Duration;**
6. **Description of method or methods of physical restraint techniques used;**
7. **Signature of the person completing the report and date; and**
8. **Reviewer's signature and date.**

Audit Finding:

One of one applicable case reviewed did not have the documentation of the restraint in the resident's file.

Program Response

Cause:

The issue arose due to a lack of proper documentation procedures in place for recording restraints in the resident's file. The program director's focus on staffing and supervision, rather than on the necessary training and development of staff, is why we must ensure proper development of the new program director. This previous mis-prioritizing of duties and responsibilities resulted in staff not being adequately trained on how to document restraints in the resident's file.

Effect on Program:

The lack of proper documentation of restraints in the resident's file compromises the integrity of our records and could potentially impact the quality of care provided to the residents. It also raises concerns about compliance with regulations and standards. The absence of this crucial information in the resident's file could potentially impact the program's credibility.

Planned Corrective Action:

We will implement a comprehensive training program that includes specific training on the documentation of restraints. We will also revise our supervision strategies to ensure a balance between supervision and staff development. We will also introduce a regular internal audit of files to ensure compliance with documentation standards.

Completion Date:

We aim to complete the training of the safety protocol and conduct the drills moving forward by June 10, 2024.

Person Responsible:

The newly appointed program director will be responsible for overseeing these changes and ensuring their successful implementation. Virginia Beach Crisis Intervention Home programming staff, program middle level management, with overview from the executive leadership team of the Tidewater Youth Services Commission.

Current Status on July 10, 2024: Not Determinable

Virginia Beach Crisis has not had residents since March 11, 2024.

**CERTIFICATION AUDIT REPORT
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

PROGRAM AUDITED:

Bon Air Juvenile Correctional Center
1900 Chatsworth Avenue
Richmond, Virginia 23235
(804) 323-2550
Stephanie Morton, Superintendent
stephanie.morton@djj.virginia.gov

AUDIT DATES:

January 22-25, 2024

CERTIFICATION ANALYST:

Shelia L. Hinton
Kenneth Bailey (Status Review)

CURRENT TERM OF CERTIFICATION:

April 12, 2021 – April 11, 2024

REGULATIONS AUDITED:

6VAC35-71 Regulation Governing Juvenile Correctional Centers

PREVIOUS AUDIT FINDINGS – September 30, 2021:

99.38% Compliance Rating

6VAC35-71-960 (C). Medical examinations. CRITICAL

6VAC35-71-1070 (H). Medication. CRITICAL

CURRENT FINDINGS – January 25, 2024

98.00% Compliance Rating

*Repeat deficiency

6VAC35-71-470. Security Procedures

6VAC35-71-430 (D). Nutrition.

***6VAC35-71-1070 (H). Medication. CRITICAL**

6VAC35-71-1070 (J). Medication. CRITICAL

6VAC35-71-1140 (B). Room confinement

6VAC35-71-1140 (C) Room confinement.

***Special Note**

This audit was scheduled for September 2023, but was extended to January 2024, for the newly appointed administrative staff to prepare for the audit. All areas of non-compliance in the January 22, 2024, audit was based on documentation related to events prior to the assignment of Superintendent Morton.

DIRECTOR'S CERTIFICATION ACTION September 23, 2024: Extended the current certification status of Bon Air Juvenile Correctional Center to April 12, 2025, with a referral to the DJJ Medical Compliance Administrator for monitoring of the area of noncompliance and a status report.

Pursuant to 6VAC35-20-100 (4.a)

If the certification audit finds the program or facility in less than 100% compliance with all critical regulatory requirements or less than 90% on all noncritical regulatory requirements or both, and a subsequent status report, completed prior to the certification action, finds less than 100% compliance on all critical regulatory requirements or less than 90% compliance on all noncritical regulatory requirements or both, the program or facility shall be subject to the following actions:

a. If there is an acceptable corrective action plan and no conditions or practices exist in the program or facility that pose an immediate and substantial threat to the health, welfare, or safety of the residents, the program's or facility's certification shall be continued for a specified period of time up to one year with a status report completed for review prior to the extension of the certification period.

TEAM MEMBERS:

Shelia Hinton, Team Leader
Learna Harris, Central Office
Deborah Hayes, Central Office
Wanda Parris-Flanagan, Central Office
John Adams, Central Office
Jennifer Mays, Training Unit
Jared Grimes, Newport News Juvenile Detention Center
Nikia Massenburg, W. W. Moore Juvenile Detention Center
Spring Johnson, Piedmont Juvenile Detention Center
Ian Rachal, Northern Virginia Juvenile Detention Center
Michelle Nave, Blue Ridge Juvenile Detention Center
Kasey France, Roanoke Juvenile Detention Center
Joy Cole, DJJ Quality Assurance

POPULATION SERVED:

Bon Air Juvenile Correctional Center is a secure custody facility operated by the Commonwealth of Virginia. The facility serves a coed population, males and females ages 11-20 who have been committed by the juvenile court. Residents placed at the facility have been convicted of crimes ranging from misdemeanors to felonies. Lengths of commitment may range from a minimum of 3-6 months to a maximum of seven (7) years or until the day before the resident's 21st birthday. The licensed capacity is 270.

PROGRAMS AND SERVICES PROVIDED:

Facility: (Services offered by facility staff)

- Specialized treatment services include substance abuse, aggression management, sex offender, and mental health services.
- Mental health services are provided by the Behavioral Services Unit under the direction of a clinical supervisor. Eight psychologists, one licensed clinical social worker, and four therapists provide individual and group treatment services. The following specialized treatment programs are offered: 16-bed male sex offender units, a male intensive services unit, a 12-bed female aggression management and substance abuse treatment unit that services the general population, and a 16-bed male aggression management and substance abuse unit. Psychiatric services are provided by a child and adolescent psychiatrist who consults three days per week.
- A counselor assigned to each resident provides rehabilitative counseling services. A full range of educational and vocational services is provided at both campus schools by staff employed through the Division of Education. The recreation specialists coordinate structured recreational activities. One youth advocate is assigned to address resident grievances.
- Medical and dental services are provided at the Central Infirmary, and residents are transported to the community for medical care as required. Volunteers provide weekly programming, to include tutoring, religious studies, and special activities.

- Upon completion of treatment objectives and length of stay, youth are placed on parole through a coordinated effort of the Bon Air counselor and parole officer.

For those juveniles with mental health needs, the counselor, BSU therapist, health services staff, PO, juvenile, juvenile's family, and community services providers collaborate to develop a Mental Health Services Transition Planning for the juvenile to provide a continuum of care for mental health services between the facility and community.

Community: (Services offered by community agencies and resources)

Bon Air's volunteer program is going strong. Although we are in the midst of a pandemic, the volunteers have been vital to the population that we serve by donating arts & craft items, snacks, sent birthday cards to all of the residents and were very intricate in ensuring our residents received items during the holiday season. We currently have a total of 178 volunteers. The individuals or groups providing other services, which include:

- Birthday Parties (on hold due to COVID)
- Community Advisory Board members
 - Meetings are conducted virtually since COVID pandemic

The medical department works with various agencies to ensure access to quality health and dental care during their stay and after they leave.

- Virginia Department of Health and Centers for Disease Control offer a program called Vaccine for Children which provides free required vaccines to all of our residents. They provide training, offer inspections, and provide consultative services to Bon Air Medical in relation to our mandated immunization program.
- Virginia Department of Health has been intricate working with the department to address COVID-19 related issues.
- Virginia Department of Health also has a vaccine registry called Virginia Immunization Information System. They provide Bon Air with access to the database which allows us to access immunizations in a more efficient way. Likewise, it keeps track of our vaccine, expiration dates, immunizations due, and provides our residents with easy access to their immunization record when they leave DJJ.
- Other community partnerships for medical include:
 - Virginia Department of Health, which offers resources, education, consultative services and the aforementioned services named.
 - Westwood Pharmacy is the pharmacy we use to fill medication orders for our residents. They also provide nurse medication education, medication audit services, quarterly reports, electronic computer ordering and report services, and consultations regarding new medications, effectiveness of medication, and new trends in pharmaceuticals.
- The Division of Education has also partnered with J. Sergeant Reynolds to offer college courses to our residents. Bon Air JCC education department also became a SAT and ACT testing site. Canvas was adopted as a learning management system. The new class opportunities for the residents are as follows:
 - Forklift Operator
 - Plumbing
 - HVAC
 - Barbering
 - Culinary Arts
 - Advertising and Design

- Cadet Corp
 - Music Production
 - Entrepreneurship
 - College Courses
 - Adult GED
 - Economic and Personal Finance
 - Art
 - Workforce Development
 - Electrical
 - Quilting/Upholstery
-
- The facility continues to coordinate with DMV to bring their mobile office (DMV2Go) on campus regularly to provide state-issued picture identifications for the residents.
 - Residents continue to participate in the SGA, where weekly meetings are held with the Superintendent.
-

**CORRECTIVE ACTION PLAN
TO THE
DEPARTMENT OF JUVENILE JUSTICE**

FACILITY/PROGRAM: Bon Air Juvenile Correctional Center
SUBMITTED BY: Stephanie Morton, Superintendent
CERTIFICATION AUDIT DATES: January 22-25, 2024
CERTIFICATION ANALYST: Shelia L. Hinton

Under Planned Corrective Action indicate; 1) the cause of the identified area of noncompliance. 2) The effect on the program. 3) Action that has been taken/will be taken to correct the standard cited. 4) Action that will be taken to ensure that the problem does not recur.

6VAC35-71470. Security Procedures:

Each JCC shall follow written security procedures related to the following:

1. Post orders or shift duties for each security post;
2. Population count;
3. A control center that integrates all external and internal security functions and communications, is secured from residents' access, and is staffed 24 hours a day;
4. Control of the perimeter;
5. Actions to be taken regarding any escapes or absences without permission;
6. Searches of the buildings, premises, and persons; and
7. The control, detection, and disposition of contraband.

Audit Finding: Noncompliant

There were 20 Post Order books reviewed and there was no documentation of the supervisor's signature and in some cases staff signatures in 197 incidences as required by JCC Standing Operating Procedures — Development of Posting Orders.

Program Response

Cause:

Lack of knowledge and oversight.

Effect on Program:

Based on the population of residents that we have and the various specialize units, staff will not have all the knowledge, rules, and understandings of working in a specific housing unit.

Planned Corrective Action:

Staff will be reminded by the shift commanders in campus check-in to review and sign their post orders monthly. Staff will also be reminded that each time they work a different unit that they are not assigned to, they must review the post orders and sign them. The supervisors will be required to check the post order books as they are making their security rounds. They will also be required to document that they reviewed the post orders with staff. The Director of Compliance will also ensure that we are meeting compliance.

Completion Date:

March 25, 2024

Person Responsible:

Rukiya Bellamy & Nikesha Roberts

Current Status August 1, 2024: Compliant

Post orders were reviewed for Units 54, 63, 65, and 67 and found were in compliance with documentation of staff and shift commanders' signatures.

6VAC35-71-430 (D). Nutrition.

D. Staff who eats in the presence of the residents shall be served the same meals as the residents unless a special diet has been prescribed by a physician for the staff or residents are observing established religious dietary practices

Audit Finding: Noncompliant

Three of six residents interviewed stated staff who eat in presence do not eat the same meats as the residents.

Program Response

Cause:

Effect on Program:

Resident complaints and the possibility of receiving food that could create medical issues.

Planned Corrective Action:

All staff will be notified campus wide that there is no consumption of foods in the presence of the residents. There will be an acknowledgement form generated to ensure staff understands the directive. This will be maintained by the Director of Compliance.

Completion Date:

March 25, 2024

Person Responsible:

Lakara Providence & Nikesha Roberts

Current Status August 1, 2024: Compliance

Interviews with residents from six units did not reveal that staff eat different meals in the presence of the residents.

6VAC35-71-1070 (H). Medication. CRITICAL

H. In the event of a medication incident or an adverse drug reaction, first aid shall be administered if indicated. As addressed in the physician's standing orders, staff shall promptly contact a physician, nurse, pharmacist, or poison control center and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible, and the actions taken by staff shall be documented. A medical incident shall mean an error made in administering a medication

to a resident including the following: (i) a resident is given Incorrect medication; (ii) medication is administered to the incorrect resident; (iii) an incorrect dosage is administered; (iv) medication is administered at a wrong time or not at all; and (v) the medication is administered through an improper method. A medication incident does not include a resident's refusal of appropriately offered medication.

Audit Finding: Noncompliant

One of one applicable medication incident reviewed did not have documentation that the attending physician was notified as soon as possible, and the actions taken by staff. December 18, 2022, the resident did not receive MiraLAX as prescribed by the doctor.

Program Response

Cause:

Variable — Multi tasking; Incomplete documentation; Forgetfulness

Effect on Program:

Variable — A critical incidence could occur for failure to follow 6VAC35-71-1070 (H).

Planned Corrective Action:

- Random MAR checks by Nursing Supervisor
- Train all nurses on the importance of adherence to 6VAC35-71-1070 (H).

Completion Date:

3/2024

Person Responsible:

Nursing Staff. Nursing Supervisors and Nurse Manager

Current Status August 1, 2024: Compliance

Six of six medical reviewed did not have any medication incidents.

6VAC35-71-1070 (J). Medication. CRITICAL

J. Medication refusals shall be documented including action taken by staff. The facility shall follow procedures for managing such refusals, which shall address:

1. Manner by which medication refusals are documented; and
2. Physician follow-up, as appropriate.

Audit Finding: Noncompliant

Three of eight applicable medication refusals reviewed did not have documentation of action taken by staff.

Program Response

Cause:

Multi-tasking; Incomplete documentation.

Effect on Program:

Variable — A critical incidence could occur for failure to follow by 6VAC35-1070 (J).

Planned Corrective Action:

- Train all staff on the importance of adherence to 6VAC35-71-1070(J)
- Random MAR checks by Nursing Supervisor
- Peer review by nursing staff

Completion Date:

3/2024

Person Responsible:

Nursing Staff, Nursing Supervisors and Nurse Manager

Current status 8/1/2024: Noncompliance

Three of six applicable medication refusals reviewed did not have documentation of action taken by staff.

6VAC35-71-1140 (B). Room confinement

8. Whenever a resident is confined to a locked room, including but not limited to being placed in isolation, staff shall check the resident visually at least every 30 minutes and more frequently if indicated by the circumstances.

Audit Finding: Noncompliant

Three of four applicable confinements reviewed did not document that staff visually checked the resident every 30 minutes and more frequently if indicated by circumstances.

Program Response

Cause:

Improper filing and staffing shortage.

Effect on Program:

Residents could exceed the isolation period. This could also leave room for other incidents to occur such as SIB behaviors.

Planned Corrective Action:

In the instance that Disciplinary Segregation is given as a sanction the following protocol will be followed to ensure compliance with Regulatory Requirement 6VA35-71-1150. Upon a resident entering a plea of guilty to the Shift Commander or a hearing disposition of guilty rendered by a member of the Human Rights Coordinator and disciplinary segregation delineated as a sanction the following will occur:

- The Shift Commander or Human Rights Coordinator will place a *Special Housing Advisory Magnet* and a *Confinement Date/Time* magnet (filled out with the offense, beginning date, ending date, start time and stop time) upon the resident's door.
- The Shift Commander or Human Rights Coordinator will then complete the Confinement Approval form *VOL IV-4.1-1-1.16 Attachment #2*. This form will be placed in the Disciplinary Segregation paperwork folder.
- The Shift Commander or Human Rights Coordinator will send an email to the assigned Housing Unit Coordinator, Director of Compliance and Assistant Director of Compliance stating the following:

1. Resident Name
2. Offense
3. DR/IIR Name
4. Start/End Time
5. Start/End Date

- Staff will conduct observation checks on the Disciplinary Segregation Confinement form (yellow form). Receipt of the breakfast meal, lunch meal, dinner meal, snack, shower, and Large Muscle Activity start/stop time will be notated on this form. The Shift Commander or Human Rights Coordinator will conduct the first observation check notating that the resident is now on Disciplinary Segregation status
- Upon completion of the designated time staff will place the Disciplinary Segregation Confinement forms in the *Disciplinary Segregation paperwork folder*
- The Housing Unit Coordinator will then conduct a supervisory review of the paperwork
 - Upon completion of the supervisory review the Housing Unit Coordinator will provide the paperwork to the Compliance department no later than 5 p.m. of the next business day.
 - Upon receipt by the Compliance department the paperwork will be filed in an individual file labeled with the respective resident's name.

Please note that in the absence of the assigned Housing Unit Coordinator, another staff member will be assigned by the Director of Compliance to complete the supervisory review and submit to the Compliance Department.

Completion Date:

March 16, 2024

Person Responsible:

Nikeshia Roberts/Lakara Providence

Current Status August 1, 2024: Compliance

Six of six applicable confinements reviewed documented that staff visually checked the resident every 30 minutes and more frequently if indicated by circumstances.

6VAC35-71-1140 (C) Room confinement.

C. Residents who are confined to a locked room, including but not limited to being placed in isolation, shall be afforded the opportunity for at least one hour of physical exercise, outside of the locked room, every calendar day unless the resident's behavior or other circumstances justify an exception. The reasons for any such exception shall be approved in accordance with written procedures and documented.

Audit Finding: Noncompliant

Four of four applicable confinements reviewed did not document the resident was afforded the opportunity for at least one hour of physical exercise outside of the locked room, every calendar day unless the resident's behavior or other circumstances justify an exception.

Program Response

Cause:

Staffing shortage

Effect on Program:

Violation of resident's rights and create the possibility of other incidents.

Planned Corrective Action:

In the instance that Disciplinary Segregation is given as a sanction the following protocol will be followed to ensure compliance with Regulatory Requirement 6VA35-71-1150. Upon a resident entering a plea of guilty to the Shift Commander or a hearing disposition of guilty rendered by a member of the Human Rights Coordinator and disciplinary segregation delineated as a sanction, the following will occur:

- The Shift Commander or Human Rights Coordinator will place a *Special Housing Advisory Magnet* and a *Confinement Date/Time* magnet (filled out with the offense, beginning date, ending date, start time and stop time) upon the resident's door.
- The Shift Commander or Human Rights Coordinator will then complete the Confinement Approval form *VOL IV-4.1-1-1.16 Attachment #2*. This form will be placed in the Disciplinary Segregation paperwork file.
- The Shift Commander or Human Rights Coordinator will send an email to the assigned Housing Unit Coordinator, Director of Compliance and Assistant Director of Compliance stating the following:

Resident Name
Offense
DR/IIR Name
Start/End Time
Start/End Date

- Staff will conduct observation checks on the Disciplinary Segregation Confinement form (yellow form). Receipt of the breakfast meal, lunch meal, dinner meal, snack, shower, and Large Muscle Activity start/stop time will be notated on this form. The Shift Commander or Human Rights Coordinator will conduct the first observation check notating that the resident is now on Disciplinary Segregation status.
- Upon completion of the designated time staff will place the Disciplinary Segregation Confinement forms in the *Disciplinary Segregation paperwork folder*.
- The Housing Unit Coordinator will then conduct a supervisory review of the paperwork.
- Upon completion of the supervisory review the Housing Unit Coordinator will provide the paperwork to the Compliance department no later than 5 p.m. the next business day.
- Upon receipt by the Compliance department the paperwork will be filed in an individual file labeled with the respective resident's name.

Please note that in the absence of the assigned Housing Coordinator, another staff member will be assigned by the Director of Compliance to complete the supervisory review and submit to the Compliance department.

Completion Date:

March 16, 2024

Person Responsible:

Nikeshia Roberts/Lakara J Providence

Current Status August 1, 2024: Compliance

Six of six applicable confinements reviewed documented the resident was afforded the opportunity for at least one hour of physical exercise outside of the locked room, every calendar day.

Lakara Providence 3/14/24
Assist. Superintendent Providence Date

Stephanie Morton 3/14/24
Superintendent Morton Date

Dale Holden 3.13.24
Chief Holden Date

Signature:

Email: dale.holden@djj.virginia.gov

Email: Wendy.Hoffman@djj.virginia.gov

Department of Juvenile Justice
Human Research & De-Identified Case Specific Data Requests
Annual Report FY 2024

Administrative Code

On February 9, 2005, 6 VAC 35-170, *Minimum Standards for Research Involving Human Subjects or Records of the Department of Juvenile Justice*, adopted by the Board of Juvenile Justice, became effective. This Administrative Code requires the establishment of a Human Research Review Committee (HRRC) and sets out the conditions required for approval of external research proposals. The Administrative Code was most recently revised on June 24, 2021. Select sections of the regulations are included below to provide an overview of the review process:

6VAC35-170-130. Human Research Review Committee

A. In accordance with § 32.1-162.19 of the *Code of Virginia*, the department shall establish an HRRC composed of persons of various backgrounds to ensure the competent, complete, and professional review of human research activities conducted or proposed to be conducted or authorized by the department. No member of the HRRC shall be directly involved in the proposed human research or have administrative approval authority over the proposed research except in connection with his role on the HRRC.

6VAC35-170-150. Committee review of human research proposals.

In reviewing the human research proposal, the HRRC shall consider the potential benefits and risks to the human subjects and shall recommend approval only when:

1. The benefits to the human subjects outweigh the risks;
2. The methodology is adequate for the proposed research;
3. The research, if nontherapeutic, presents no more than a minimal risk to the human subjects;
4. The rights and welfare of the human subjects are adequately protected;
5. Appropriate provisions have been made to get informed consent from the human subjects, as detailed in 6VAC35-170-160;
6. The researchers are appropriately qualified;
7. The criteria and means for selecting human subjects are valid and equitable; and
8. The research complies with the requirements set out in this chapter.

6VAC35-170-50. Conditions for department approval of external research and data requests.

A. The department may approve research projects and data requests only when it determines, in its sole discretion, that the following conditions have been met:

1. The department has sufficient financial and staff resources to support the request, and, on balance, the benefits of the request justify the department's involvement;
2. The request will not interfere significantly with department programs or operations, particularly those of the operating units that would participate in the proposed research; and
3. The request is compatible with the purposes and goals of the juvenile justice system and with the department's organization, operations, and resources.

6 VAC 35-170-190. Committee reports required.

A. In accordance with § 66-10.1 of the *Code of Virginia*, the HRRC shall submit to the Governor, the General Assembly, and the director at least annually a report on human research projects approved by the HRRC and the status of such research, including any significant deviations from the proposals as approved.

B. The HRRC also shall submit annually to the Board of Juvenile Justice the same report as required by subsection A of this section.

Human Research Review Committee

During fiscal year (FY) 2024, the Department of Juvenile Justice's (DJJ) HRRC was comprised of members from various backgrounds. The following members were active as of June 30, 2024:

- Nina Hyland (Chair) – Research Manager, DJJ*
- Robin Binford-Weaver, Ph.D. – Director, Behavioral Services Unit, DJJ*
- Lara Todd – Records and Legal Support Manager, DJJ*
- Rebecca Westfall – Policy and Legal Support Coordinator, DJJ*
- Betsy “Katie” Baldacci – Probation Officer I, 9th Court Service Unit, DJJ*
- Will Egen – Policy Analyst, Virginia Commission on Youth
- Rebecca Smith, Ph.D. – Program Manager for Undergraduate Research, Institute for Research on Behavioral and Emotional Health at Virginia Commonwealth University
- Erin K. Maloney – Superintendent, Northwestern Regional Juvenile Detention Home

*Members also served on the internal sub-committee that reviewed de-identified case-specific data requests.

DJJ Senior Research Associate, Peter Gregory, Ph.D., served as the Coordinator of External Research.

In addition to reviewing the human subjects research studies as defined in the Administrative Code, an internal sub-committee reviews requests for de-identified case-specific data, including those made through the Virginia Longitudinal Data System (VLDS) where DJJ is the sponsoring agency. The following report includes projects involving either human subjects research or de-identified case-specific data.

During FY 2024, the Deputy Director of Community Programs and the Superintendent of Bon Air Juvenile Correctional Center placed a hold on the review of new human research proposals due to the need to focus on other agency priorities. During the year, DJJ approved one de-identified case-specific data proposal, and, as of June 30, 2024, two other de-identified case-specific proposals were under review. The following sections summarize the twelve studies that were active during FY 2024, including those approved in prior years and/or closed this year, as well as the two proposed/pending studies. (Amendment dates indicate the most recently approved amendment; several projects involve multiple amendments over the course of the project.) The Research Unit also reviewed five VLDS studies in which DJJ was not the sponsoring agency. These studies are not included in the report.

In accordance with § 32.1-162.19, *Human research review committees*, an executive summary of completed projects can be found in Appendix A. One project was completed in FY 2024.

I. Active Studies

Evaluation of a Comprehensive Community-Level Approach to Youth Violence

Researchers: Derek Chapman and Diane Bishop

Institution: Virginia Commonwealth University

Study Type: De-Identified Case-Specific Data Request

Approval Date: November 28, 2017; amended January 28, 2020

Most Recent Progress Report Received: November 30, 2023

The purpose of the study is part of a larger project aimed at learning more about youth violence in low-income neighborhoods of Richmond, Virginia. The researchers will examine retrospective, de-identified data for youth between the ages of 10 and 24 who were associated with an intake case at Richmond City Court Service Unit (CSU) between January 2012 and December 2019. The researchers requested data on intake decisions, youth demographics, offense information, Detention Assessment Instrument (DAI) ranking, select Youth Assessment & Screening Instrument (YASI) items, length of stay (if applicable), and recidivism rates. Since the researchers are interested in low-income neighborhoods of Richmond (e.g., Mosby Court, Gilpin Court, Creighton Court) they requested individual block-level geographical data. The researchers trained the DJJ Research Unit staff on how to clean and geocode the data manually. The researchers identified the variables they need from DJJ, and the data and the data dictionary were delivered to the study's researchers in July 2020. The researchers reviewed the data, and data analysis and reporting is underway. The researchers plan to ask for the remaining data (2020 and 2021) and expect to complete this study in FY 2025 after the data are obtained, analyzed, and described in an updated fact sheet. The researchers are coordinating with the Research Unit to establish a more exact timeline.

Exploring Perceptions of Juvenile Court Service Personnel: Do Cognitive-Communicative Skills Impact Outcomes for Juvenile Offenders?

Researcher: Allison Chappell

Institution: Old Dominion University

Study Type: Human Research

Approval Date: December 9, 2021

Most Recent Progress Report Received: December 15, 2023

The purpose of the study is to examine CSU staff's views on the relationship between youth's communication skills and the legal process, including outcomes and decision-making. Existing research found that nearly half of juvenile offenders have a cognitive-communicative disorder that can impact their ability communicative effectively and appropriately. The researcher gathered qualitative data at CSUs 2 (Virginia Beach) and 4 (Norfolk) on staff and other stakeholder's views on cognitive-communicative impairments and their impacts. Data analysis is ongoing, and the researchers expect to submit a final report by the end of FY 2025.

OJJDP Juvenile Justice System Reform Initiative: Virginia

Researcher: Rebecca Cohen

Institution: Council of State Governments (CSG) Justice Center

Study Type: De-Identified Case-Specific Data Request

Approval Date: November 15, 2022

Most Recent Progress Report Received: February 23, 2024

The purpose of this study is to support DJJ in conducting a comprehensive assessment of the “front-end” (e.g., diversion and intake) of Virginia’s juvenile justice system. The assessment will identify system strengths and support DJJ in coming to consensus on opportunities to better align system referral, screening, and diversion policies, practices, and funding with what research shows works to improve community safety, improve youth outcomes, and reduce disparities. The qualitative and quantitative assessment phases of this project are complete. Findings from the quantitative and qualitative data analysis were included in a presentation to the DJJ Director on June 28, 2023. CSG Justice Center staff are providing continued technical assistance to the DJJ for the recommendation and implementation phase of the project.

Research on Juvenile Reoffending

Researcher: Zachary Hamilton

Institution: Nebraska Center for Justice Research, University of Nebraska – Omaha

Study Type: De-Identified Case-Specific Data Request

Approval Date: August 31, 2022

Most Recent Progress Report Received: August 6, 2024

The purpose of this study is to examine YASI risk and needs profiles in relation to gender, race, ethnicity, family structure/type, rural and urban settings, and poverty. The study aims to advance the researcher’s original work in a previously approved project by analyzing additional variables. The original study examined data from 10 states’ risk assessments and identified advancements for state, agency, or youth-specific gender responsiveness and outcomes. In addition to the main goals, the researcher will provide DJJ with a state recidivism comparison, a task which DJJ’s Research Unit is unable to complete due to various barriers that the researcher can overcome with direct access to other states’ data. The researcher requested data from FY 2015-2021, to include risk assessment, demographic, offense history, treatment need, supervision location, case management, and recidivism data. Data cleaning was initiated in 2023, prior to merging with data from other states included in the study. Next steps will involve data analysis and coordination with DJJ to ensure the proper use and interpretation of the data.

Identifying Variation in Juvenile Judicial Sentencing

Researcher: Karen Kitchens

Institution: Virginia Tech

Study Type: De-Identified Case-Specific Data Request through VLDS

Approval Date: October 19, 2022

Most Recent Progress Report Received: February 20, 2024

The purpose of this study is to use existing BADGE and VLDS data to identify if variation in sentencing exists, and if so, which sentencing/programs lead to the best outcomes. The study population is juveniles in the state of Virginia who interacted with the court system as identified through the BADGE system during the years 2010 to 2020. To account for changes in the court system as a result of COVID-19, the study does not include juveniles whose first encounter with DJJ occurred after the start of the pandemic. In 2023, the researchers received data, created basic models, and met with the members of the Research Unit to determine the plausibility of adding judge-level information to the VLDS system. Next steps involve finalizing models and utilizing models as a proof of concept for grant funding.

Process Evaluation of the Virginia Department of Juvenile Justice Regional Service Coordinator Model

Researcher: Kelly Murphy

Institution: Child Trends

Study Type: Human Research

Approval Date: August 10, 2018; amended August 26, 2022

Final Report Received: September 6, 2024 (See Appendix A)

The purpose of the study was to conduct an in-depth evaluation of DJJ's Regional Service Coordinator (RSC) model by conducting focus groups and semi-structured interviews with CSU staff, RSC staff, and youth as well as analyzing administrative data. The study had three primary objectives: (i) conduct a process evaluation of the RSC model to understand the extent to which it is being implemented as intended; (ii) provide an initial assessment of the extent to which implementation of RSC model is associated with youth outcomes; and (iii) translate and disseminate findings to target audiences, such as DJJ, other systems that are interested in similar models, and stakeholders. The researcher conducted 17 interviews with direct service providers and 14 focus groups with CSU staff. The researcher worked with the Deputy Director of Community Programs to increase recruitment efforts with the CSU staff. The researcher was unsuccessful in recruiting youth to be interviewed. In addition, after some outreach assistance from DJJ, the researcher paused judge interviews due to COVID-related limitations.

Rigorous Evaluation of the Virginia Department of Juvenile Justice's Second Chance Act Reentry Reform

Researcher: Kelly Murphy

Institution: Child Trends

Study Type: Human Research

Approval Date: October 30, 2019; amended May 24, 2023

Most Recent Progress Report Received: August 16, 2024

The purpose of the study is to conduct an evaluation of DJJ's reentry reform efforts. The researcher aims to examine (i) the extent to which DJJ is implementing the recommendations developed during the Second Chance Act Juvenile Reentry Reform Planning Grant, (ii) the extent to which the agency's services align with the youth's needs, (iii) what the youth's participation in reentry services look like, and (iv) how the implementation of the reforms have impacted youth outcomes. The evaluation will be conducted over a four-year period, including a pilot period. The evaluation includes focus groups with various stakeholders, such as DJJ's reentry advocates, parole officers, juvenile correctional center (JCC) counselors, and more. The researcher also created a VLDS data request to examine long-term outcomes for youth involved with the juvenile justice system, which was submitted and approved as a separate project proposal. Next steps involve continued coordination with DJJ to analyze relevant data and determining key themes from interviews and focus groups.

Rigorous Evaluation of the Virginia Department of Juvenile Justice's Second Chance Act Reentry Reform (VLDS)

Researcher: Kelly Murphy

Institution: Child Trends

Study Type: De-Identified Case-Specific Data Request through VLDS

Approval Date: October 19, 2022

Most Recent Progress Report Received: August 16, 2024

The researcher is conducting an in-depth evaluation of DJJ's Second Chance Act (SCA) reentry reform efforts to better understand the quality of implementation and effectiveness. This multi-year evaluation is already ongoing. The purpose of this project is to add VLDS data to the ongoing analysis to investigate educational outcomes through data matched with the Department of Education. Next steps involve continued coordination with DJJ to obtain and analyze relevant data.

Analysis of DAI in Fairfax County

Researcher: Courtney Porter
Institution: Marymount University
Study Type: De-Identified Case-Specific Data Request
Approval Date: March 15, 2024

The purpose of this study is to evaluate the public safety impact of the Detention Assessment Instrument (DAI) in Fairfax County. The public safety impact will be examined by looking at the rates of new offenses and failures to appear in court for the youth released or under various forms of community supervision as detention alternatives. The researcher notes that it is important to reassess that the instrument continues to be used correctly with minimal bias. The researcher is requested data from FY 2013-2022, to include intake, demographic, DAI, and offense data. The researcher has been sent the data and is in the process of analyzing the data.

National Juvenile Court Data Archive Project

Researchers: Melissa Sickmund and Sarah Hockenberry
Institution: National Center for Juvenile Justice
Study Type: De-Identified Case-Specific Data Request
Approval Date: August 15, 2022; amended February 6, 2023
Most Recent Progress Report Received: August 6, 2024

This study is not a traditional research study. Rather, its purpose is to contribute data to an archive that creates national estimates of juvenile court delinquency, status offenses, and case processing. Historically, DJJ has participated in the data archive project; however, due to revised internal processes, the HRRC requested an updated amendment packet for consideration, which it subsequently received and approved. Data for calendar year 2023 were provided to the Archive project in March 2024. Archive staff are currently working on a grant proposal to renew the project. Next steps include submitting a request to DJJ to release aggregate counts for cases disposed in 2024 for the Statistical Briefing Book and working with DJJ staff to renew the transfer agreement to cover the award cycle of a new grant.

Juvenile Delinquency and Adult Gun Sales: Comparative Effect of Different Minimum Age Standards for Firearm Purchase

Researcher: Jeff Swanson
Institution: Duke University
Study Type: De-Identified Case-Specific Data Request
Approval Date: August 19, 2020
Most Recent Progress Report Received: August 4, 2023

The purpose of the study was to conduct a comparative analysis of three southern states with different laws regarding juvenile delinquency records and the minimum age standards for gun sales. The researcher selected three states that have differing thresholds for the minimum age of gun purchase for people with juvenile criminal records. By working with multiple state agencies, the researcher planned to conduct a longitudinal comparison of gun-related adverse outcomes in order to provide an evaluation of the effectiveness of the minimum-age standards in preventing gun violence and suicide. After recurring delays, this project was canceled by DJJ on May 16, 2024.

Optimizing Supervision and Services Strategies to Reduce Reoffending: Accounting for Risks, Strengths, and Developmental Differences

Researcher: Gina Vincent

Institution: University of Massachusetts Medical School

Study Type: De-Identified Case-Specific Data Request

Approval Date: December 30, 2021; amended May 10, 2022

Most Recent Progress Report Received: December 29, 2023

The purpose of the study is to (i) identify which risk and protective factors are most strongly associated with reduction in recidivism to inform supervision practices, (ii) examine which services and supervision practices facilitate positive youth development and reduce reoffending, and (iii) assist with capturing data regarding protective factors, service usage, and reoffending to inform decision-making. The researcher requested archival data from 2015-2017 to serve as a baseline, to include risk assessment, demographic, offense history, case management, service, and recidivism data. The researcher also requested prospective data from five CSUs, which are piloting a protective factors survey for comparison purposes and to understand how services impact youth outcomes. After receiving the data, the researchers shared a brief summary of key study findings with DJJ in July of 2024. The researcher anticipates the project will be completed by December of 2024, following analysis of the final wave of recidivism data.

II. Proposed / Pending Studies as of June 30, 2024

Prevalence Estimation of Co-occurring Disorders in Juvenile Justice Facilities

Researcher: Ashlin Oglesby-Neal and Sarah Aukuamp

Institution: Urban Institute

Study Type: De-Identified Case-Specific Data Request

Approval Date: Pending

The purpose of this study is to estimate the prevalence of youth with co-occurring mental health and substance use disorders (COD) in select state juvenile justice residential facilities and examine disparities in diagnoses and treatment by race and ethnicity. The study has three main objectives: 1) determine the prevalence of youth with COD in particular juvenile justice residential facilities in five selected states over a multi-year period, as determined by a clinical assessment; 2) examine variation in prevalence rates by race and ethnicity and other demographics, time period, and agency facility type through statistical analyses; and 3) assess the approaches, attitudes, and perceptions of juvenile justice agency staff and behavioral health professionals in identifying and treating youth with mental health and substance use disorders via a process evaluation. The proposal for this project is currently under review.

The Trauma to Prison Pipeline: Exploring the Nexus of Childhood Adversity, the K-12 Education System, and the Risk of Incarceration

Researcher: Charol Shakeshaft and Dana Ainsworth

Institution: Virginia Commonwealth University

Study Type: De-Identified Case-Specific Data Request

Approval Date: Pending

This study proposes an expansion of the school-to-prison-pipeline metaphor to include discussion of the intersection of childhood adversity, student behavior in schools, exclusionary discipline, and the heightened risk of incarceration. The research aims to highlight the role of schools in mitigating or mediating the impact of adversity and the socioeconomic variables that increase the risk of trauma exposure. The proposal for this project is currently under review.

III. Denied Proposals

No research proposals were denied during this fiscal year. Projects withdrawn by the researcher are not included in this report.

IV. Administratively Closed Proposals and Studies

Administratively closed proposals and studies include proposal packets the Coordinator of External Research or the HRRC reviewed, but the agency did not hear back from the researcher(s) after providing feedback and/or requesting revisions. They also include studies for which no significant progress has been reported and for which DJJ determined it could not continue to provide resources. One research proposal was administratively closed during this fiscal year.

Juvenile Delinquency and Adult Gun Sales: Comparative Effect of Different Minimum Age Standards for Firearm Purchase

Researcher: Jeff Swanson

Institution: Duke University

Study Type: De-Identified Case-Specific Data Request

Approval Date: August 19, 2020

Most Recent Progress Report Received: August 4, 2023

The purpose of the study was to conduct a comparative analysis of three southern states with different laws regarding juvenile delinquency records and the minimum age standards for gun sales. The researcher selected three states that have differing thresholds for the minimum age of gun purchase for people with juvenile criminal records. By working with multiple state agencies, the researcher planned to conduct a longitudinal comparison of gun-related adverse outcomes in order to provide an evaluation of the effectiveness of the minimum-age standards in preventing gun violence and suicide. After recurring delays, this project was canceled by DJJ on May 16, 2024.

Appendix A: Executive Summaries of Completed External Projects

Note: Executive summaries are completed by the researchers, and the content is not revised by DJJ.

Process Evaluation of the Virginia Department of Juvenile Justice Regional Service Coordinator Model

Researcher: Kelly Murphy

Institution: Child Trends

Study Type: Human Research

Approval Date: August 10, 2018; amended August 26, 2022

Final Report Received: September 6, 2024

Project Summary

In 2017, the Virginia Department of Juvenile Justice (DJJ) initiated the Regional Service Coordination (RSC) model as part of its broader Transformation Plan. The primary goal of this initiative was to establish a statewide continuum of community-based services and alternatives to incarceration for youth involved in Virginia's juvenile justice system. The RSC model aimed to reduce reliance on restrictive interventions, increase service availability, and address disparities in service access between rural and non-rural areas.

To support this transformative effort, DJJ partnered with Child Trends to conduct a comprehensive six-year process evaluation. The study aimed to evaluate the effectiveness of DJJ in implementing the RSC model and to assess how it affects service delivery and outcomes for youth involved in the juvenile justice system. Child Trends' evaluation of the RSC model focused on assessing four key aspects of the model's implementation: Adherence to the model; Quality of implementation; Service access and youth participation; and Youth outcomes.

The study had four core research questions:

1. To what extent is the RSC model being implemented as intended? If changes have been made, why were they made?
2. To what extent are the services provided to youth aligned with their needs?
3. What does youth participation in the services received through the RSC model look like?

How, if at all, are youth outcomes associated with implementation of RSC Model?

Methodology and Data

Child Trends adopted a utilization-focused evaluation approach to conduct the evaluation—an approach designed to support evidence-informed decision-making by fostering a close partnership between the evaluator (Child Trends) and the intended users of the evaluation results (DJJ). To ensure that the evaluation served DJJ's specific needs, Child Trends actively involved DJJ in all phases of the evaluation process.

Child Trends employed a mixed-methods approach, combining qualitative and quantitative data to provide a comprehensive analysis of the RSC model. Qualitative data were gathered through interviews and focus groups with key partners, including Court Service Unit (CSU) staff, Regional Service Coordinators (RSCs), judges, and direct service providers. Unfortunately, Child Trends was unable to recruit youth to participate in this study, which was a significant limitation. Quantitative data included administrative datasets regarding youth background characteristics, Youth Assessment and Screening Instrument (YASI) data, and youth participation in RSC model-funded programs and services.

Study Findings

Overall, Child Trends found that the implementation of the Regional Service Coordination (RSC) model has been a pivotal shift in Virginia's juvenile justice landscape. This change required the coordinated adoption of a complex, statewide systems-change intervention across a diverse array of organizations and partners, including state-level authorities such as the State Assembly, the governor, the Virginia Department of Juvenile Justice (DJJ), local Juvenile & Domestic Relations courts, Court Service Units (CSUs), the Central Admission and Placement (CAP) Unit, Regional Service Coordinators (RSCs), and various contracted direct service providers. Given the complexity and range of entities involved, some variation in the adoption and implementation of the model was anticipated.

Key findings from the study are summarized below. For a comprehensive account of the findings, see the study's final report (Murphy et al., 2023).

Implementation Success: The RSC model, which integrates multiple partners across autonomous agencies, has largely operated as intended. This success persisted even during the COVID-19 pandemic.

Efficiency and Improved Service Access: CSU staff praised the model's efficiency in connecting youth with services, reducing administrative burdens, and increasing the range of services available to youth and families. The pandemic-induced shift to telehealth has also enhanced service accessibility—a practice that both DJJ and RSCs plan to sustain moving forward.

Collaboration and Funding: The model fostered improved collaboration and trust among stakeholders, particularly RSCs and CSU staff. Guaranteed funding streamlined service initiation and referrals, addressing previous uncertainties and administrative delays.

Responsive Improvement and Challenges: The RSC model demonstrated adaptability to feedback, especially in streamlining referral processes. However, several implementation challenges arose, including initial knowledge gaps among judges and service providers regarding the model's purpose and implementation; concerns about the continuation of services post-supervision; and ongoing skepticism and limited buy-in from judges.

YASI Implementation: The Youth Assessment and Screening Instrument (YASI) is central to the RSC model, helping standardize goal setting and case planning and creating a “common language” among different stakeholder groups. However, concerns were raised about its comprehensiveness. Further discussions with DJJ revealed the availability additional tools and resources, indicating a need for better awareness, support, and training among staff.

Service Expansion and Efficacy: The model significantly expanded the number and range of services available to youth and families, particularly evidence-based programs such as Multisystemic Therapy (MST) and Functional Family Therapy (FFT). High approval and initiation rates for service referrals were also observed. However, challenges with service availability persisted, particularly for youth and families in rural areas, non-English speakers, and youth transitioning from direct care placements.

Recidivism Rates and Service Impact: Recidivism remains a challenge, with rearrest rates of youth who have received one or more services funded through the RSC model reaching 37.5% within 12 months and 52.2% by 24 months. However, completing at least one RSC-funded service significantly reduced the likelihood of rearrest and reconviction, underscoring the importance of service engagement. Specifically, youth who completed a service had 29% lower odds of being rearrested (OR = 0.71, $p < .01$) and 33% lower odds of reconviction (OR = 0.67, $p < .001$) within 12 months of service initiation.

Recommendations

The shift to the Regional Service Coordination (RSC) model marks a significant advancement in Virginia's approach to juvenile justice, focusing on community-centered practices that prioritize rehabilitation and support over punitive measures. The insights from this study offer a valuable framework for other states seeking to transform their juvenile justice systems. Continued commitment to implementing the recommendations from this study will be essential for ensuring sustainable impact and ongoing improvements in the system.

Based on the evaluation findings and identified limitations, we propose the following recommendations to enhance the implementation and impact of the RSC model:

- **Strengthen Supervisory Support:** Engaging supervisors more actively in the implementation process can provide Court Service Unit (CSU) staff with focused guidance, helping ensure adherence to policies, procedures, and greater awareness of resources, such as assessments and tools that complement the YASI.
- **Enhance Communication:** Initial communication challenges between Regional Service Coordinators (RSCs) and CSU staff were overcome through additional outreach, community-building, and sharing evidence of program effectiveness. In addition to these efforts, RSCs also built trust by adapting procedures based on CSU staff feedback. These initiatives should be continued and extended to judges, many of whom expressed skepticism or misunderstandings about the RSC model. Although some resistance may persist, much of it can be mitigated with an inclusive, participatory approach that respects professional judgment while clearly conveying the rationale behind the change, supported by research evidence.
- **Incorporate Youth and Family Perspectives:** A key gap in the evaluation was the absence of direct input from youth and families affected by the RSC model. DJJ should prioritize including these perspectives in future assessments and program improvements. Youth and family feedback is critical for understanding participation barriers and ensuring services are aligned with their needs.
- **Continuous Monitoring and Evaluation:** By 2022, a rigorous quality assurance process was established to monitor and enhance the quality of direct service providers funded through the RSC model. Ongoing internal performance monitoring as well as external research partnerships are vital for identifying areas of improvement and strengthening the model.
- **Address Disparities in Service Access:** The evaluation revealed disparities in service access, particularly for youth released from direct care, those in rural areas, and non-English speakers. DJJ should develop targeted strategies to ensure equitable access to services, focusing on overcoming barriers specific to these communities. This may involve expanding resources in underserved areas and enhancing cultural responsiveness in service delivery. Thoughtfully engaging youth and families in identifying and addressing these barriers is crucial to overcoming this challenge.

Conclusion

Through innovative financing, data-driven strategies, and collaboration, the Virginia Department of Juvenile Justice's (DJJ) Regional Service Coordination (RSC) model offers key lessons for states transitioning to community-centered treatment models. Virginia's approach, focused on reducing incarceration and increasing local investment to address service disparities, engaged a wide range of

stakeholders, including policymakers, probation offices, the judiciary, service coordinators, and community providers.

Despite the challenges posed by the COVID-19 pandemic, our evaluation of the RSC model yielded positive results and practical recommendations for juvenile justice reform. The model has demonstrated its potential to improve the efficiency and effectiveness of community-based treatment services, with a significant link between completed services and reduced recidivism. For sustained impact, it is essential to continue internal performance monitoring—disaggregating data by youth demographics to ensure equity—and foster external research partnerships. These steps will help the RSC model evolve into a more equitable, efficient, and impactful system. Virginia’s shift to the RSC model represents a major advancement in youth justice reform, emphasizing the importance of community engagement and trust-building among stakeholders. This model holds the potential to inspire similar transformations in other states, benefiting both youth and their communities.

Disclaimers

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Further, the findings of this study are the responsibility of the researchers, and cooperation by the Virginia Department of Juvenile Justice in facilitating this research should not be construed as an endorsement of the conclusions drawn by the researchers.

Finally, portions of this report received copy editing support from OpenAI’s Chat GPT, a machine learning model. While Chat GPT assisted in refining the text for clarity and readability, the content, analysis, and conclusions presented in this report are solely those of the authors and do not reflect the views or opinions of OpenAI.