

Jennifer Woolard, Chair  
Tyren Frazier, Vice-Chair  
Dana G. Schrad, Secretary  
Michael N. Herring  
David R. Hines  
Scott Kizner  
Robyn Diehl McDougle  
Quwanisha Hines Roman  
Robert Vilchez



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COMMONWEALTH of VIRGINIA  
*Board of Juvenile Justice*

**BOARD MEETING**

June 19, 2019

Main Street Centre, 600 East Main Street, Richmond 23219 – 12<sup>th</sup> Floor South Conference Room

**A G E N D A**

9:30 a.m. Board Meeting

1. **CALL TO ORDER AND INTRODUCTIONS**
2. **APPROVAL OF MAY 6, 2019, MINUTES** (Pages 3-24)
3. **PUBLIC COMMENT**
4. **DIRECTOR'S CERTIFICATION ACTIONS** (Pages 25-46)
5. **OTHER BUSINESS**
  - A. Virginia Juvenile Community Crime Control Act Plan Approvals – Beth Stinnett, Statewide Program Coordinator, Dept. of Juvenile Justice (Pages 47-52)
  - B. Juvenile Correctional Center Variance Renewal (6VAC35-71-830) – Kristen Peterson, Regulatory and Policy Coordinator, Dept. of Juvenile Justice (Pages 54-57)
  - C. Review of Proposed Amendments to Regulation Governing Minimum Standards for Juvenile Information Requests from and Research Involving Human Subjects within the Department of Juvenile Justice (6VAC35-170) – Kristen Peterson, Regulatory and Policy Coordinator, Dept. of Juvenile Justice (Pages 58-72)
  - D. Remarks on Juvenile Detention Center Regulation (Senator Adam P. Ebbin)
  - E. Legislative Process – James Towey, Legislative and Regulatory Affairs Manager, Dept. of Juvenile Justice
6. **DIRECTOR REMARKS AND BOARD COMMENTS**
7. **NEXT MEETING:** September 18, 9:30 a.m., Main Street Centre, 12<sup>th</sup> Floor South
8. **ADJOURNMENT**

## GUIDELINES FOR PUBLIC COMMENT

1. The Board of Juvenile Justice is pleased to receive public comment at each of its regular meetings. In order to allow the Board sufficient time for its other business, the total time allotted to public comment will be limited to thirty (30) minutes at the beginning of the meeting with additional time allotted at the end of the meeting for individuals who have not had a chance to be heard. Speakers will be limited to 5 minutes each with shorter time frames provided at the Chair's discretion to accommodate large numbers of speakers.
2. Those wishing to speak to the Board are strongly encouraged to contact Wendy Hoffman at 804-588-3903 or [wendy.hoffman@djj.virginia.gov](mailto:wendy.hoffman@djj.virginia.gov) three or more business days prior to the meeting. Persons not registered prior to the day of the Board meeting will speak after those who have pre-registered. Normally, speakers will be scheduled in the order that their requests are received. Where issues involving a variety of views are presented before the Board, the Board reserves the right to allocate the time available so as to insure that the Board hears from different points of view on any particular issue. Groups wishing to address a single subject are urged to designate a spokesperson. Speakers are urged to confine their comments to topics relevant to the Board's purview.
3. In order to make the limited time available most effective, speakers are urged to provide multiple written copies of their comments or other material amplifying their views. Please provide at least 15 written copies if you are able.

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**COMMONWEALTH OF VIRGINIA**  
*Board of Juvenile Justice*

**DRAFT MEETING MINUTES**

May 6, 2019

Main Street Centre, 600 East Main Street, 12<sup>th</sup> Floor, North Conference Room  
Richmond, Virginia 23219

**Board Members Present:** Tyren Frazier, Michael Herring, David Hines, Dana Schrad, Robert "Tito" Vilchez, and Jennifer Woolard

**Board Members Absent:** Scott Kizner, Robyn McDougale, and Quwanisha Roman

**Department of Juvenile Justice (Department) Staff Present:** Ken Bailey, Eli Bowles, Valerie Boykin, Ken Davis, Russell Jennings, Art Mayer, Margaret O'Shea (Attorney General's Office), Jamie Patten, Kristen Peterson, James Towey, Angela Valentine, Robin Binford Weaver, and Kristina McGuire

**Guests Present:** Kerry Chilton (disAbility Law Center of Virginia), Carlos Hooker (Westhaven Boys Home), Jason Houtz (Fairfax County Juvenile Detention Center), Erin Madden (Office of the Lieutenant Governor), Gina Mingee (Merrimac Center), Thomasine Norfleet (Crisis Intervention Home), Casey Powell, Cathy Roessler (Blue Ridge Juvenile Detention Center), Ivy Tillman (Fairfax County Court Service Unit), and Amy Woolard (Legal Aid Justice Center)

**CALL TO ORDER**

Chairperson Jennifer Woolard called the meeting to order at 9:40 a.m.

**INTRODUCTIONS**

Chairperson Woolard welcomed all who were present and asked for introductions.

Chairperson Woolard congratulated Valerie Boykin on her appointment as the new Director of the Department.

**APPROVAL of January 8, 2019, MINUTES**

The minutes of the January 8, 2019, Board meeting were provided for approval. On motion duly made by Michael Herring and seconded by Tyren Frazier, the Board approved the minutes as presented.

## **PUBLIC COMMENT PERIOD**

Kerry Chilton, disAbility Law Center of Virginia (dLCV), thanked the Board for their consideration and efforts to understand the use of mechanical restraints and to hear from subject matter experts. Due to the inherent physical and psychological dangers associated with the emergency restraint chair, the dLCV believes this device should be prohibited at Department facilities. Several of the juvenile detention centers currently do not use this device, so it is not necessary to ensure safety at these facilities.

Over the years, dLCV worked with many individuals who have suffered injury or trauma due to restraint. Even in mental health facilities, where the use of the emergency restraint chair is highly regulated, dLCV has seen instances of injury due to its use or its misuse. Ms. Chilton provided an example of a young man admitted to a mental health facility whose wrist was fractured during transfer to the restraint chair. Despite this resident telling staff his wrist hurt and that he heard a popping sound during the restraint, the resident was kept in the chair for almost an hour before being transferred to the emergency room and diagnosed with a fractured wrist. dLCV also worked on an incident of a youth who was restrained and transferred to the chair and stopped breathing. CPR was administered but was not successful, and the individual died.

In addition to the dangers associated with transfer to a restraint chair, it also places individuals in an extremely vulnerable position in which they are unable to defend themselves. dLCV has heard of at least one instance where an individual was assaulted by a peer during his time in the restraint chair. For these reasons, among others, dLCV recommends regulations prohibiting the use of the emergency restraint chair. dLCV believes, with guidance from the Department as well as those juvenile detention centers who have already eliminated its use, that the juvenile detention centers currently using the chair can successfully transition to alternatives that are safer and more trauma informed both for the youth and staff.

Amy Woolard, Legal Aid Justice Center, thanked the Board for bringing in experts on mechanical restraints and considering the issue from all angles. The Legal Aid Justice Center recognizes how complex the conversation and decision is on the restraint chair. Ultimately, the presentations by Michael Umpierre from Georgetown and Kelly Dedel from One in 37 were the most compelling to the Legal Aid Justice Center in helping them reach their position.

The chair is so rarely used in Virginia's juvenile detention centers and the juvenile correctional center that the Legal Aid Justice Center believes elimination of its use is certainly feasible and, from their perspective, suggests a prohibition on the restraint chair. Kelly Dedel noted that even when staff had the best intentions or when regulations require a stringent oversight, concerns arose and procedures sometimes were not followed. Youth placed in the chair too long did not benefit from

possible less restrictive measures, staff did not engage with youth, and at times it appeared the chair was used more punitively than protectively. Additionally, eliminating the chair would further signal, especially to child-focused disability advocates, the Department's commitment to a trauma-informed practice that centers on the need to address and reduce the situations that might lead to consideration of the chair in the first place.

Ms. Woolard concluded that the Board will consider several options. If a decision is made to continue the use of the restraint chair, Ms. Woolard hopes the Board would strongly consider (i) intense reporting on its use, (ii) placing the restraint chair on the Board's agenda annually to see how the tighter protections are working, and (iii) continuing conversations with advocates in order to monitor the effects of the chair's use.

#### **DIRECTOR'S CERTIFICATION ACTIONS**

Ken Bailey, Certification Manager, Department

Included in the Board packet were the individual audit reports and a summary of the Director's certification actions completed on January 28, 2019.

The Blue Ridge Juvenile Detention Center and Post-dispositional Detention Program received 100% compliance on their recent audit and were certified for three years with a letter of congratulations.

The audit for the Norfolk Juvenile Detention Home and Post-dispositional Detention Program found eight deficiencies; six were critical, three were repeats from the previous audit, and five were in medical services. The Department Director was concerned with the audit findings and certified the facility for only one year with monitoring visits every two months. The Certification Unit conducted the monitoring visits in February and April, and the facility was in 100% compliance on the eight deficiencies. Norfolk Juvenile Detention Home and Post-dispositional Detention Program hired a full-time registered nurse who is attentive to the regulations and knows how to operate a good medical program. The Certification Unit will continue bi-monthly visits.

The audit for the Roanoke Valley Juvenile Detention Center found two deficiencies. The Certification Unit completed their monitoring visits, and the facility was in 100% compliance.

The audit for the Tidewater Youth Services Apartment Living Program found one area of non-compliance. The Certification Unit completed their monitoring visits, and the facility was in 100% compliance and certified for three years.

#### **REQUEST AUTHORIZATION TO PROCEED WITH RECOMMENDATIONS TO AMEND SEVERAL REGULATORY CHAPTERS PURSUANT TO THE PERIODIC REVIEW PROCESS**

Kristen Peterson, Regulatory and Policy Coordinator, Department

Ms. Peterson reported at the January Board meeting that the Department has embarked on an effort to become compliant with the statutory provision requiring state agencies to conduct periodic

reviews of their regulations every four years and to complete a report recommending either to amend, retain, or repeal those provisions. To begin the periodic review process, the Department has published notice of three regulatory chapters in the *Virginia Regulatory Town Hall* and the *Virginia Register of Regulations*. When a state agency wants to conduct a periodic review of their regulations, the agency must publish notice in the Virginia Register, which triggers a 30-day public comment period, after which time the agency has 120 days to complete the report and make the recommendations. That public comment gives the public an opportunity to review the existing provision and comment if they feel the regulation should be amended or repealed. The report is due on three regulatory chapters before the next Board meeting.

**Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities (6VAC35-20):** These regulations govern the monitoring and approval of juvenile residential facilities, court service units, and the Virginia Juvenile Community Crime Control Act (VJCCCA) programs. These are the only regulations not currently statutorily mandated; however, the regulation is an essential tool by which the Department can measure compliance to determine whether facilities, programs, and court service units are complying with the regulation. In addition, the regulation provides a process for appeals if entities are not in agreement with certification decisions and an opportunity to request variances. The Department recommends neither repealing nor retaining the regulations as they currently exist because some provisions in the regulation reference other regulatory chapters currently under review. Once those chapters are updated and amended, the Department will revisit the certification regulations. The recommendation is to amend this regulation.

**Regulation Governing Juvenile Work and Educational Release Programs (6VAC35-190):** This regulation was last reviewed in 2015, at which time the Department was undergoing implementation of the Community Treatment Model and updating the Length of Stay Guidelines. At that time, the recommendation was to retain but revisit after the programs were fully implemented. Now that those programs have been fully implemented, the Department is recommending amending these provisions.

For each of these chapters, the Department is asking the Board to endorse the recommendation to amend. If the Board agrees, the Department would include this recommendation in the report, and convene a workgroup at a later date to begin a comprehensive review of each regulation chapter.

**Public Participation Guidelines (6VAC35-11):** By statute, every state agency must have Public Participation Guidelines to ensure the public can be involved in the development, repeal, and amendment of regulations. The Department's Public Participation Guidelines, generally comply with the model guidelines created by the Department of Planning and Budget. However, there is one provision omitted from the Department's Guidelines. Legislation enacted in 2012 requires state agencies with interested parties involved in the public comment process to afford those interested parties the opportunity to be represented by counsel. The Department is asking the Board to approve the incorporation of that specific language into the Public Participation Guidelines for advancement

through the fast-track process. The department will not need to convene a separate workgroup to review this regulation.

On motion duly made by Dana Schrad and seconded by Michael Herring, the Board of Juvenile Justice granted the Department of Juvenile Justice permission to recommend in the report required as part of the periodic review process mandated by § 2.2-4007.1 of the *Code of Virginia* that the following regulatory chapters be amended: (i) Regulations Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities (6VAC35-20); (ii) Regulations Governing Juvenile Work and Educational Release Programs (6VAC35-190); and the Public Participation Guidelines (6VAC35-11). Motion carried.

On motion duly made by Jennifer Woolard and seconded by Dana Schrad, the Board of Juvenile Justice approved the proposed amendment to 6VAC35-11-50, which amendment requires the Department, when considering nonemergency, nonexempt regulatory actions, to afford interested persons an opportunity to be accompanied by and represented by counsel or other representatives. The Board granted the Department of Juvenile Justice permission to proceed with the filing of the proposed amendment through the fast-track regulatory process pursuant to *Code of Virginia* 2.2-4012.1. Motion carried.

**REQUEST EXTENSION OF VARIANCE APPLICABLE TO JUVENILE CORRECTIONAL CENTERS RE: ACTIVE SUPERVISION (6VAC35-71-810)**

Kristen Peterson, Regulatory and Policy Coordinator, Department

In 2014, the Board issued a variance to the juvenile correctional centers for the regulatory requirement set out in 6VAC35-71-820 in subsection E. The subsection requires at least one direct care staff member on duty and responsible for actively supervising residents in all areas of the facility. Direct care staff are primarily responsible for maintaining the safety and well-being of residents, implementing the behavior management program, and maintaining the security of the facility. If staff members in the facility do not meet the required definition, under the existing regulation, they are not permitted to be alone with residents outside of the active supervision of direct care staff. The Department has operationalized active supervision for those purposes to mean direct care staff members actively supervising residents and checking on them at least once every 15 minutes. The Department learned this significantly impeded the implementation of the Community Treatment Model. In some instances, direct supervision staff, such as teachers and rehabilitation counselors, wanted to meet with residents alone, outside of the active supervision of direct care staff, and if no direct care staff were available, then that impeded their ability to provide therapy. To address these impediments, in 2014, the Board approved a variance essentially allowing the direct supervision staff to stand in the shoes of direct care staff for purposes of these supervision requirements.

Stipulations are in place regarding direct supervision staff and their ability to act as direct care staff for these purposes. The current variance is applicable if such direct supervision employees comply with the following additional requirements:



- Staff receive the initial 40 hours of training before working with residents and the remaining 80 hours of training before the end of the year.
- Staff receive 120 hours of training and complete additional training dedicated specifically to non-security staff, to include such topics as crisis intervention and verbal de-escalation.
- Staff have a means of immediately communicating with other direct care staff members by either two-way radio or another form of immediate communication.
- Staff notify a direct care employee immediately before and immediately after meeting alone with a resident.

The current variance noting all of the above was issued in 2014 for a five-year period or until such time as the regulations were updated. In November 2017, the Board reviewed the proposed amendments to the juvenile correctional center regulation and endorsed the concepts embedded in the variance. The Department requests the Board extend the variance for an additional five years or until such time as the proposed amendments to the Regulation Governing Juvenile Correctional Centers go through the regulatory process.

On motion duly made by Dana Schrad and seconded by David Hines, pursuant to 6VAC35-20-92 of the Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities, the Board of Juvenile Justice approved an extension of the variance to the regulatory requirement provided in subsection E of 6VAC35-71-820 that requires at least one trained direct care staff to be actively supervising residents at all times that one or more residents are present. This variance shall continue to authorize staff responsible for the direct supervision of residents who satisfy the preconditions, as approved by the Board at the May 6, 2019, meeting, to actively supervise residents outside the presence of direct care staff. This variance shall remain in effect until 6VAC35-71 is amended or for five years, whichever occurs first.

#### **UPDATE ON ESTABLISHMENT OF TRAINING STANDARDS**

James Towey, Legislative and Regulatory Affairs Manager

In the *Code of Virginia*, juvenile correctional officers, now referred to as resident specialists, must be trained according to certain standards. Until 2012, those training standards were developed and approved by the Board. In 2012, that responsibility was moved to the Department of Criminal Justice Services (DCJS) to follow the same training standards used for jail and correctional officers. The reasoning behind that decision was that juvenile correctional officers fit better in the correctional category. In 2014, changes took place at the Department with the transformation plan and the Community Treatment Model. In addition to the security functions the DCJS training standards covered, additional training topics were needed to ready the Department for a therapeutic environment.

The Department believed it made sense to request that the General Assembly place the training regulations back with the Board due to the continued transformation work. The Department's training academy is currently instructing resident specialists on these additional duties. The



legislation was a Department bill that was incorporated into the Governor's legislative platform this year. The bill was successful, and the training standards have been added to the Powers and duties of Board under § 66-10 of the *Code of Virginia*.

Board Member Schrad asked if Mr. Towey saw an increase in the minimum mandatory hours for resident specialists based on requirements for correctional officers.

Mr. Towey responded that resident specialists are taught the security aspect and transformation topics, but some areas were not necessary, such as firearms training, which does not apply to Department resident specialists. Director Boykin added that the Department will take a closer look at the training curriculum and does not envision many additional hours. The Department found that resident specialists needed more therapeutic training.

#### **REVIEW OF THE REGULATION GOVERNING JUVENILE GROUP HOMES AND HALFWAY HOUSES (6VAC35-41)**

Kristen Peterson, Regulatory and Policy Coordinator, Department

Ms. Peterson began by introducing three representatives from various group homes, who served on the workgroup that reviewed the regulations and were attending the meeting to provide a brief introductory overview: Carlos Hooker, Program Director for Westhaven Boys Group Home; Thomasine Norfleet, Director of the Virginia Beach Crisis Intervention Home; and Ivy Tillman, Deputy Director of Residential Services for Fairfax County Juvenile and Domestic Relations Court. Ms. Tillman provided the overview.

The mission of group homes is to provide a temporary residential alternative to secure detention facilities dedicated to at-risk youth. Group home programs provide a safe, structured, nurturing, and supportive living environment that encourages positive development. Through evidence-based services, youth learn the tools needed for successful integration into the community and their families.

There are different ways youth enter group homes: (1) emergency placement, such as the Department of Social Services (DSS) placing in a group home a youth who is disruptive and removed from their own home, (2) shelter care orders that come through the court system for youth who are status offenders, for example, youth who run away from home or do not go to school, (3) regular court orders where a judge orders a youth into the group home's program, (4) formal placement for residential facilities. Youth might be interviewed and determined to be appropriate for the program, and after a completed placement agreement, the youth is accepted.

There are male and female group homes, co-ed facilities, and independent living programs. Some group homes are attached to a juvenile detention center and use their services, such as medical; however, there are stand-alone programs responsible for obtaining their own medical services.

Virginia does not currently have family-oriented group homes, wilderness programs, or experiential outdoor living programs.

Group homes do not place youth in locked rooms as a form of punishment. Group home youth spend a decent amount of time in the community performing community service, attending school, bowling or engaging in other recreational activities in the community. Group home youth have home passes where they are permitted to leave the facility and return home for a period.

The population at group homes includes a variety of males and females from eight to 18 years of age. Youth are at-risk, meaning there has been family disruption, health issues, substance abuse issues, or youth struggling and acting out. The apartment living youth are at-risk youth between the ages of 17 and 21.

Group home residential programs are designed to serve at-risk youth and young adults; however, each program has a vetting process, and the criteria must be met to ensure the safety and well-being of each individual. If an individual has committed any of the exclusionary offenses such as a sexual offense or violent crime, he or she may not be welcomed into the program. To ensure the safety of the youth, group home facilities are Prison Rape Elimination Act (PREA) compliant.

Group homes differ from juvenile detention centers and juvenile correctional centers. One main difference is that group homes have a smaller staff. There might be an assistant director, a director, an administrative assistant, a food service manager, possibly two to four evening counselors, and one to two overnight counselors.

Group homes offer individual, group, and family counseling; crisis management; educational services on site or the opportunity for youth to attend school off site; recreational services; and nutritional services. Group homes also must meet required medical needs, and often the family or other involved parties are called upon to meet those needs.

Group homes work on social skills, mental health counseling, independent living counseling, and decision-making and problem solving skills.

Ms. Peterson reviewed the most significant proposed amendments to the group home regulation for advancement to the proposed stage of the regulatory process.

### **Section 210 – Required retraining**

The existing regulation requires group homes to receive 40 hours of annual training in six specified topics (suicide prevention, resident rights, behavior intervention procedure, child abuse and neglect, mandatory reporting, and standard precautions). The workgroup had concerns about the existing requirement, particularly with completion of the 40 hours of annual refresher training. This is inconsistent with similarly situated group homes regulated by the Department of Social Services (DSS) and the Department of Behavioral Health and Developmental Services (DBHDS). Under those regulations, the direct care staff receive specified training in the topics noted above but do not

receive 40 hours. Rather, they receive the training in the specified topics and an additional 15 hours of training in whatever additional topics they deem necessary. This allows the group home flexibility to tailor their training to better meet the needs of their residents and programs. The recommendation of the workgroup is to remove the required 40 hours of annual refresher training and instead align with the DSS and DBHDS group home regulations, which require an additional 15 hours of training and training on those specified topics noted above.

Previously, the Board heard a variance request from the juvenile detention centers regarding a similar issue. The detention centers withdrew their variance request before the Board had time to make a determination. The workgroup was not sure of the Board's ultimate position on the issue but decided to move forward and hear the Board's determination of this issue.

### **Section 510 - Searches of residents**

Group homes differ from juvenile detention centers and juvenile correctional centers regarding the use of pat down and frisk searches. There are few restrictions on pat down and frisk searches; however, the regulations do require the person conducting the search to be the same sex as the resident being searched. There are, however, a number of restrictions on strip searches and the more invasive body cavity searches. Under the existing provisions, if a group home wants to conduct a strip search or a visual body cavity search, either they need to receive approval by the Board, obtain a court order, or have it conducted by a law enforcement officer in their official capacity. According to the workgroup, parts of the provision seem impracticable, such as trying to secure a court order for a search when typically these types of searches are urgent, or trying to assemble the Board to get approval. The committee recommends removing the authorization to conduct these invasive searches. This would be consistent with DSS and DBHDS regulations prohibiting these types of invasive searches in group homes. Group homes are not secure settings, so these types of searches typically are unnecessary.

### **Section 550 - Transportation**

The workgroup also wanted to incorporate language to honor the spirit of the failed transportation legislation introduced by Delegate Hayes in 2018. The legislation sought to ensure that when individuals other than staff assume custody of residents for the purpose of transportation, they will be given important information needed to safely transport the resident. The workgroup recommended language requiring that for those residents who have been flagged for additional monitoring due to: (i) recent suicide attempts; (ii) suicidal ideation; or (iii) other special medical needs, to the extent the information is known by the facility, the information be shared on a department-approved form with the individual transporting the resident. The purpose of this amendment is to help protect the resident as they are being transported.

An exception was added which exempts the facility from having to meet this requirement in emergency situations, such as a resident being rushed to the hospital so as not to delay the process of addressing the emergency because the forms have not been completed.

### **Section 900 – Resident visitation at the homes of staff**

Currently, residents may visit the homes of staff, but only if they receive written permission from the facility administrator, applicable placing agency, and parent or legal guardian. The workgroup had concerns with this provision because it could open the facility up to liability and possibly encourage improper behavior. The recommendation is to completely remove the provision and prohibit the resident from visiting the homes of staff. This is to protect both the staff and resident.

### **Section 920 – Staff supervision of residents**

Under Section 920, there must be a direct care staff member on duty and responsible for supervising residents wherever residents are present. This posed issues, especially with the apartment living program. The apartment living program is designed for residents to establish independence. Residents are placed in an apartment setting and are taught skills such as meal preparation, purchase of necessities, and job skills. Most residents have jobs in the community. The apartment-style group homes found residents were sometimes away from the facility, sometimes working at restaurants, and carried late hours. Residents might encounter an emergency off campus. At the apartment living program, the overnight staff might include only one direct care staff member on duty and this provision prevented them from leaving the facility to address the emergency situation.

In 2016, the Board issued the Tidewater Youth Services Commission a variance to allow direct care staff in such apartment-style living programs to leave the facility for a period not longer than one hour in order to attend to a resident's emergency situation. That variance is in place until January 2020. The workgroup thought it important to incorporate the provisions of that variance into these proposed amendments. The following stipulations were placed on the variance and are being proposed as part of these amendments: staff members must provide an emergency telephone number or other means of immediate communication with another staff member to the residents who remain at the facility and the facility must have written procedures in place to implement this exception.

The Board also approved a variance for Tidewater Youth Services Commission regarding the nutrition provisions found in Section 650. There are two provisions at issue for apartment-style living. One was subsection C, which required the facility to have and retain menus of actual meals served for six months. The second was subsection E, which prohibits staff from allowing more than 15 hours to pass between dinner and breakfast the next morning. It is difficult for independent living programs to monitor residents who are away from the facility, working in the community and being independent. As part of that variance, the Board approved an exception to those two requirements. The workgroup also wanted to incorporate these variance provisions into the proposed amendments.

### **Section 930 - Staffing patterns**

Current regulation requires one direct care staff member for every 10 residents (1:10) in most group homes. The recommendation is to change the staff-to-resident ratio to 1:8 to comply with the PREA. Another provision in the existing regulation requires staffing ratios of 1:15 for independent living programs. Independent living programs encourage residents to establish independence; therefore, the same level of supervision arguably is not necessary. The workgroup recommended amending the staffing ratio requirement for independent living programs from 1:15 to 1:16 because the 15 number

is arbitrary. The current relaxed standard is 1:16 as there must be one staff member supervising every 16 residents who are sleeping. In addition, the existing regulation imposes a requirement that group homes have one direct care staff member for every 30 residents on each floor where residents are sleeping. The workgroup could not determine the origin or purpose of this requirement, given that most group homes are not structured compositionally in that manner. The workgroup recommended striking this language.

**Section 935 - Periodic monitoring of residents**

Juvenile detention centers and juvenile correctional centers allow for room confinement and room restriction of their residents. Under Section 560 of the group homes regulation, group homes are not permitted to place their residents behind a locked door or in an area where they are restricted from leaving. It is likely because there is no room confinement in group homes that the group home regulations lack a requirement that staff conduct periodic checks on the residents. The workgroup recommended adding language, imposing a requirement for staff to check on residents in the facility at least once every 30 minutes. The proposal allows for an exception for apartment-style living and independent living programs.

**Section 1220 – Medical examination and treatment**

Under the existing regulation, residents admitted to a group home must undergo a physical within seven days of admission to a group home, must have received a physical within the previous 90 days, or must have been transferred from another state-licensed facility where they received a physical within the previous 12 months. For emergency admissions that are unplanned and unexpected, the requirement is for the resident to receive a physical within 30 days of admission. The workgroup recommended adding language that makes the deadline for obtaining a physical contingent upon whether the resident is a planned or an emergency admission. If the resident is an emergency admission, generally, there is not sufficient time to acquire the information needed to conduct a physical. The workgroup recommended extending the requirement to obtain a physical from within 30 days to 90 days of admission for such emergency admissions. For routine and planned admissions, the existing seven-day requirement will stand.

**Section 1270 – Hospitalization and other outside medical treatment of residents**

The existing regulation requires that, when a resident must be transferred for medical treatment, one of three parties needs to accompany the resident: a law enforcement officer, a parent or legal guardian, or a group home staff member. On some rare occasions, a staff member is called upon to accompany the resident to the hospital or outside medical setting, which would result in inadequate coverage at the facility. The workgroup recommended adding an exception that would allow the facility to send a staff member as soon as reasonably practicable if leaving the facility to accompany the resident would result in inadequate coverage.

Ms. Peterson concluded her briefing on substantive proposed amendments to the group home regulations. The Board proceeded to discuss the recommendations presented.

Board Member Herring offered a scenario in response to the proposed amendments set out in Section 510 (searches) in which a counselor has reliable information on a resident who has concealed heroin in an undergarment, when discretion or intervention is eliminated for strip search. Mr. Herring asked whether in that scenario the counselor would do his or her best to maintain the status quo and call the police.

Ms. Peterson responded that based on the recommendations made by the workgroup, yes that is how the counselor would address the issue. Ms. Peterson pointed out that the existing regulation gives the facility the discretion not to impose searches of any kind if they indicate this in a written procedure. Ms. Peterson reminded the Board that even under the existing regulation, there are instances in which some group homes would never conduct searches.

Ms. Thomasine Norfleet added that if her facility encountered the scenario offered by Board Member Herring, law enforcement would be called, and facility staff would ask the youth to sit with a staff member and would interact with the youth until law enforcement arrives.

In response to the proposed amendments to Section 1270, Board Member Hines asked if these children are mandated to be at the group home.

Ms. Norfleet responded that children come to a group home for a variety of reasons, through social workers or the court. The residents of group homes are under court order. If they leave, the facility would take some type of court action. In an urgent situation where a youth leaves in an ambulance, the parent or social worker is called and asked to meet them at the hospital or medical facility. Facility staff cannot always go with the resident in the ambulance, but staff would certainly try to get to the hospital or medical facility as soon as possible.

Responding to a question from Board Member Hines about what the facility currently does if a resident is transported to the hospital, Ms. Tillman said that a staff member would go to the hospital. Ms. Tillman described a situation when a staff member gathered all the residents in a van and followed the ambulance to the hospital. It was disruptive to the other residents. If the situation happens at midnight, personnel will figure out a solution that has the least amount of impact to the program.

Board Member Schrad asked when a law enforcement officer would facilitate a transport and whether such transport would require an order.

Ms. Tillman answered that judges could order law enforcement or the Sheriff's Department to transport a youth from one placement to another. Ms. Tillman said that Fairfax County has the Sheriff's Department transport residents to and from the facility and to court. If the resident is detained due to a violation, the Sheriff's Department or the local police will transport the resident to the intake facility.

Board Member Schrad asked who makes the determination to use law enforcement.

Ms. Tillman answered, the court service unit. If the resident violated, the probation officer would file termination of services, and then the local police would usually transport the youth to intake. The facility does not make that decision.

Board Member Schrad asked if transportation by law enforcement is a frequent occurrence. Board Member Hines noted that his Department has not done a transport to a group home but has picked up residents from a group home on charges.

Director Boykin said that in her experience law enforcement that effected the arrest may transport the youth, as is done with youth in detention centers. Beyond that, it usually requires a transportation order, which is a court order signed by the clerk's office for law enforcement to transport group home residents for routine medical treatment or testing.

Board Member Hines expressed concern that the group home would not be maintaining custody of their youth in those instances in which a resident needs to go to the hospital and the facility sends a staff representative when it is no longer a hardship on the facility.

Ms. Norfleet clarified that the goal is to ensure that allowing the staff to leave the facility does not pose a safety issue for the facility.

Board Member Hines asked whether that means the facility has to call personnel to go to the hospital or facility.

Ms. Norfleet answered that when staff is called out due to an urgent situation, this means residents will be left unsupervised. The staff member is either going with the youth to the hospital, which leaves other residents alone at the facility waiting until another staff member can arrive, or the youth in the ambulance/hospital is left alone until a staff member can arrive. Either way there will be a gap.

Board Member Hines noted that the Board might need to address the gap since there is no time requirement for a staff member to arrive at the hospital.

Chairperson Woolard asked if there should be parameters on the time when a youth is transported to the hospital and there is no supervision.

Board Member Hines stated his concern that if a resident is transported to a hospital setting, there is no longer supervision.

Ms. Norfleet noted that the facility would be urgent about providing supervision and would likely be able to have staff meet the resident at the hospital.



Board Member Hines acknowledged that the group homes are not trying to avoid their supervision obligations, but he also understands that regulations are in place to mandate how often staff should check on residents throughout the day. Board Member Hines believes there should be a hard, fast timeframe. Although it may be inconvenient to call staff from home to ensure supervision, this may be necessary because the resident in question is still within the group home's custody.

Chairperson Woolard read the new language proposed in subdivision (A)(1) of 6VAC35-41-1270 (page 138), which provides, "if sending a staff member would result in inadequate coverage at the juvenile residential facility, the provider shall deploy a staff member to the hospital or outside medical facility as soon as reasonably possible." Chairperson Woolard said that she has no doubt the group homes would get to the hospital as soon as possible but asked the Board whether they wanted to set a specific timeframe for the regulation.

Board Member Hines noted his belief that a specific timeframe should be added.

Board Member Frazier agreed, noting his support of a 60-minute timeframe to allow for adequate time for a call-out to be made.

Board Member Herring indicated that while he agrees with the Board's concerns, logistically, the 60-minute timeframe might not be feasible because of transportation location issues of staff. The 60-minute window might impose a requirement that is impossible to meet. Board Member Herring said he understands why, for legal purposes, the term, "reasonably possible" is used because reasonableness is a legal standard often used when prescribing precise windows, and it becomes difficult to establish a standard that cannot contemplate unforeseen circumstances.

Board Member Frazier asked if group homes always send a staff member when a resident is in a hospital or other medical setting.

Ms. Tillman affirmed, explaining that on rare occasions, this occurs in the middle of the night, and an administrator, along with a parent or legal guardian, meets the resident at the hospital. During the day, more staff are present and a staff member follows behind the ambulance.

Board Member Frazier stated that while he agrees with Board Member Herring's comments regarding the "as reasonably possible" standard, he does not want to create an opportunity for the regulation to be relaxed or misinterpreted.

Chairperson Woolard asked whether the facility documents the length of time a youth is left unsupervised in these situations.

Mr. Hooker said with these situations an incident report would be completed documenting everything being done from the time the resident leaves the facility for the hospital to the time they return.

Board Member Schrad said she would be comfortable leaving the language as proposed and to review over the next year whether there were outliers where facilities took too long to meet the resident at the hospital and whether other issues arise.

Ms. Norfleet said the group homes would be looking at that information also.

With respect to the proposed amendments to Section 210 (required retraining), pg. 102, Chairperson Woolard indicated that she understands the interest in aligning with DSS and DBHDS regarding training and asked whether there would be no specific training hours requirement under the proposal.

Ms. Peterson responded that there would not be a mandated volume of hours associated with the specified required topics; however, according to subsection B, employees would need to receive at least 15 hours of training in additional topics. Ms. Peterson noted that the workgroup's original recommendation was to completely eliminate the required volume of annual training hours and that such a proposal was not without precedent. In 2011, court service unit staff had to receive 40 hours of required training, but, at the department's recommendation, the board approved removing the specified 40-hours of training and allowed the court service units to determine their own training hours. The proposal before the board is consistent with other agencies' requirements in relation to group homes. It would give the group homes additional flexibility and allow them to tailor their training to facility needs.

Most of the Board members were concerned about the potential for abuse if there were no specified volume of required training hours. An individual could conceivably cover all the topics in two hours.

Board Member Schrad asked about the training recordkeeping and if there is a current reporting requirement.

Ms. Norfleet responded that group homes keep training records with the employee's name and the number of training hours completed.

Ms. Peterson said the only regulatory requirement regarding training documentation is that whatever training is obtained be documented in the staff's personnel record.

Board Member Frazier asked if group homes have certification requirements regarding training.

Mr. Bailey said that was correct and explained the recordkeeping. There is a combination of recordkeeping; some facilities keep computerized records listing the employee, the number of hours, and the course name or topic. Other facilities keep a staff roster, the date of the course, the course name, and the number of hours, which goes into the training record.

Board Member Schrad asked if the Certification Unit is looking for deficiencies in training or whether they simply establish the existence of training records.

Mr. Bailey responded that the Certification Unit reviews the training records and tallies the hours to ensure staff are receiving the mandated hours.

Director Boykin added that during transformation, the Department has mandated specific training for court service units. It is the responsibility of the court service unit director or supervisor to determine the training required since the 40 hours was eliminated. In the last few years, court service units have been specific about their training, such as the youth risk assessment instrument and mandated EPICS training.

Board Member Hines said that currently, law enforcement is dealing with training that is more enhanced and more mandatory, that in his industry they have struggled with electives. He noted that while he is not seeking to place additional mandatory training requirements on the group homes, he believes there must be a standard of meeting a specified number of training hours.

Chairperson Woolard said her preference would be to not remove the specified volume of training hours.

Board Member Herring summarized that there is 40 hours of initial training and 40 hours of annual retraining. He explained that his industry requires 12 hours annual training, which can be onerous and is essentially two work days. Thinking about the typical provider, completing the training requirement in a week can virtually shut down an operation. Board Member Herring said he was not minimizing the importance of training but was not sure of the right balance and was more sympathetic to the rationale of the proposal.

Board Member Schrad said the flip side is that training mandates possibly drive budgets. Training may not have a dedicated budget commitment. Board Member Schrad was concerned there might not be funding for employees to receive necessary training and there may be an impact if the number of hours is not specified. Board Member Schrad suggested including required training objectives in the regulations.

Chairperson Woolard noted that there is a list of specific training topics and indicated that she would be hesitant to drop down to the objective level in these regulations.

On motion duly made by Jennifer Woolard and seconded by Michael Herring, the Board of Juvenile Justice approved the proposed amendments to the Regulations Governing Juvenile Group Homes and Halfway Houses (6VAC35-41) as agreed upon at the May 6, 2019, Board meeting and granted the Department of Juvenile Justice permission to proceed with the filing of the regulatory package to the Proposed stage of the standard regulatory process.

Chairperson Woolard read the motion for the Board's discussion.

Board Member Herring asked if moving to the Proposed stage deprives the Board of the opportunity to continue discussions, including best practices around annual training.

Ms. Peterson answered that the regulation will advance to the Proposed stage of the regulatory process, at which point it will undergo executive level review and then a public comment period. Once that is completed, the regulation will return to the Department for additional changes based on the public comment. The regulation will then come back to the Board for approval. There is additional time to make changes.

The Board carried the motion.

## **REVISIT PROPOSED AMENDMENTS OF MECHANICAL RESTRAINT AND RESTRAINT CHAIR PROVISIONS (6VAC35-101)**

Kristen Peterson, Regulatory and Policy Coordinator, Department

At the November 2018 Board meeting, the Board asked the Department to return at the next meeting with various options to address the use of mechanical restraints and the restraint chair in juvenile detention centers and the juvenile correctional center. A workgroup was convened of representatives from the Virginia Juvenile Detention Association, the juvenile correctional center, and other internal staff to review the regulation as approved by the Board in June 2018. The workgroup also took into consideration the information obtained from the panelists at the November Board meeting. The workgroup developed four options to address the use of mechanical restraints and the restraint chair, which were presented to the Board in January. At that meeting, the Board was unable to advance a formal proposal. The Department is asking the Board to reconsider the options provided at the January meeting. While four options were presented in January, the Department has removed one option, which is the default option. If all other proposals fail to advance at today's meeting, the Board would default to that option.

### **Summary of the Options**

The first option is the "catch all," in that it permits the use of mechanical restraints, the restraint chair, and protective equipment, including spit guards. The second option allows for the use of mechanical restraints and protective equipment including spit guards, but prohibits the use of the restraint chair. Under the second option, juvenile detention centers would be prohibited from using the restraint chair. The third option includes all the provisions contained in Option One but prohibits the use of spit guards and other protective equipment. Protective helmets are still permissible under Option Three, but spit guards are prohibited.

### **Option One**

There are three separate purposes for which the mechanical restraint chair may be used under option one: (1) for controlled movement, (2) as a self-regulation tool, and (3) if the resident's actions directly threaten himself or others.

Option One permits the use of the chair for controlled movement provided that the resident's refusal to move from one area of the facility to another directly and immediately threatens the resident or others or interferes with required facility operations. The use of the chair has to be the least restrictive intervention that is available to ensure the resident's safe movement.

Under Option One, the restraint chair also can be used as a self-regulation tool. This is uncommon, but on occasion, a resident has voluntarily asked or requested to be placed in the restraint chair as a means of regulating their own behavior. This practice is used fairly frequently in the Commonwealth Center. Those residents at the Commonwealth Center might be transferred to the juvenile detention center, so residents have grown accustomed to this process. In order to utilize the restraint chair as a self-regulation tool, the resident would need to request it, and the use would need to accord with an approved plan of care by a qualified mental health professional.

In addition, the restraint chair can be used (1) if the resident's actions directly threaten himself or others, (2) other less restrictive alternatives were attempted but failed to abate the threat or control the resident, and (3) the resident is removed from the chair immediately upon the threat being abated or the resident gaining self-control. In all of these instances, the facility administrator must provide approval before the resident may be placed in the restraint chair. Staff would need to immediately notify the facility's designated health authority, who would determine whether the resident needs to be transferred to a medical or mental health unit for emergency treatment. When a resident is placed in the restraint chair under Option One, staff must employ constant one-on-one supervision and must verbally engage with the resident to ensure de-escalation. A health trained staff member must come around once every 15 minutes to check on the resident and to check for signs of circulation.

The use of the mechanical restraint chair under Option One also requires the completion of a serious incident report every time a resident is placed in it. It would also trigger a mandated monitoring visit from the Department's Certification Unit regardless of the purpose or duration of its use.

A requirement would be imposed under Option One that the restraint chair use be captured on video. If the resident is mechanically restrained for purposes of controlled movement and is transferred from one area of the facility to another, the only part of the restraint that must be captured on video is the actual placement of the resident in the chair. If the resident is restrained for any other purpose, the entire restraint, from the time the resident is placed in the chair to the time they are removed, should be captured on video. The video documentation would need to be retained in accordance with the Department's current regulation, which is for three years.

As for mechanical restraints in general, once the purpose of the restraint has been accomplished, the staff member has to immediately remove the mechanical restraints from the resident.

When a resident is mechanically restrained, staff must conduct periodic checks. There are no requirements under Option One for constant one-on-one supervision with the regular mechanical

restraints. Staff will need to conduct checks every 15 minutes and engage with the resident. Health-trained personnel must check the resident at 15 minute intervals for signs of circulation.

Protective devices are those items placed on a resident's body in order to protect either the resident or staff members from injury. Under Option One, protective devices include spit guards. Protective devices may be used only in connection with a restraint. When the restraint has been completed, the protective device must be removed.

The Department imposed additional restrictions on the use of spit guards under Option One. Spit guards can be utilized only on residents who have previously bitten or spat on a staff member or are currently threatening to bite or spit on a staff member. Spit guards may not be used in a manner that inhibits the resident's breathing or ability to speak. Additionally, when the spit guard is placed on a resident, staff must employ constant one-on-one supervision to ensure residents are not exhibiting signs of respiratory distress. If such signs are exhibited, the spit guard must be removed. Staff is prohibited from using spit guards on residents who are vomiting or unconscious.

Option Two prohibits the use of the restraint chair. The only difference between Options One and Two is the prohibition of the restraint chair under Option Two. Option Three is the same as Option One, except spit guards are prohibited.

If the Board approves any of these options, the proposed amendments would be incorporated in the package that was approved in June 2018 and would move forward to the next stage of the regulatory process. With respect to the juvenile correctional center regulations, those regulations are currently moving through the process and are in the proposed stage. When the regulations are returned from the Governor's Office, there will be an opportunity to edit and incorporate any changes the Board decides to make at today's meeting.

Chairperson Woolard summarized the options for consideration, which include allowing the use of mechanical restraints, restraint chairs, spit guards, and other protective devices; prohibiting the use of the restraint chair; prohibiting the use of spit guards; or maintaining the status quo and not making any changes regarding the use of restraints. She noted that the Board has had sufficient time to discuss this difficult decision and heard from the experts, and should make a decision at this meeting.

Board Member Herring asked Ms. Peterson to elaborate regarding the status quo.

Ms. Peterson responded that the existing regulation does not address the mechanical restraint chair beyond including it in the definition of mechanical restraints. The provisions related to mechanical restraint also applies to the restraint chair. Currently, there are not many restrictions on the use of mechanical restraints or the restraint chair. One of the requirements under the existing regulation is that these types of devices cannot be used for purposes of punishment. There is another provision that says if a resident is mechanically restrained for more than two hours a qualified mental health representative has to be consulted. The restrictions are fairly limited under the existing regulation.

Chairperson Woolard said given the fact that a number of detention centers do not use the restraint chair and are able to manage, and given the concerns nationally from the experts at the Board's earlier meeting, she believes that Virginia should not use the restraint chair. Chairperson Woolard does not think it is best practice, although she is aware and sympathetic to the concerns of managing difficult children.

Board Member Frazier does not want to limit the available tools for juvenile detention centers or the juvenile correctional center. Board Member Frazier added that if Option One moves forward, there should be heavy reporting back to the Board in a 12-month timeframe to readdress and potentially abolish the use of the mechanical restraint chair. Board Member Frazier would like to heavily regulate the facilities if the mechanical restraint chair continues to be used. The status quo is unacceptable and each occurrence should be studied. Board Member Frazier's recommendation is Option One with the addition of a 12-month review by the Board.

Board Member Schrad struggled with her decision and could not think of any topic that has come before the Board that has troubled her more. With Mr. Frazier's additional comments about reporting back to the Board in order to monitor the occurrences, Board Member Schrad supported Option One. Board Member Schrad was impacted by the testimony when the restraint chair was used successfully, not only for the protection of the resident but also the staff. Option One allows for a gradual approach to possible elimination and allows the Board to monitor the limited use of the chair. If the Board sees anything that causes concern, there is an opportunity to revise the Board's position on the use of the chair.

Board Member Herring agreed with the perspective of Board Members Frazier and Schrad. Board Member Herring reviewed cases of in-custody deaths or serious injury, and he observed that the hypothetical that was posed of restraining a child in a chair does not capture the image of a good-sized teen detainee who is strong ;the efforts it would take to restrain and move that person could result in injury or death, not as a result of recklessness or gross negligence. Against that backdrop, Board Member Herring was a proponent of Option One. Board Member Herring indicated that he does not think eliminating the use of spit guards is unreasonable. While he would not want to be spat on, he commented that the spit guard conjures up images of Hannibal Lecter and asserted that the probability of aspiration and asphyxiation outweighs the risk posed by spitting. Board Member Herring is not in favor of the use of spit guards.

Board Member Schrad noted her agreement with Board Member Herring's position regarding spit guards.

Board Member Vilchez concurred with Chairperson Woolard and was firm on his decision from the last meeting. Board Member Vilchez believed an alternative to the chair can be found and implemented within the juvenile detention centers and the juvenile correctional center. Board Member Vilchez was in favor of Option Two.



On motion duly made by Jennifer Woolard and seconded by Michael Herring, the Board of Juvenile Justice approved the proposed amendments to the Regulations Governing Juvenile Secure Detention Centers (6VAC35-101) related to the use of mechanical restraints in juvenile detention centers, as established under "Option 3" in the Board packet and as further amended at the May 6, 2019, Board meeting. The Board granted the Department of Juvenile Justice permission to incorporate these amendments into the comprehensive regulatory package approved by the Board on June 13, 2018, for advancement to the Proposed stage of the standard regulatory process. Motion carried.

The Board then considered a second motion, Jennifer Woolard moved and Michael Herring seconded a motion to approve the proposed amendments to the Regulations Governing Juvenile Secure Detention Centers (6VAC35-101) related to the use of mechanical restraints in juvenile detention centers, as established under "Option 2" in the Board packet, and as further amended at the May 6, 2019, Board meeting and to grant the Department of Juvenile Justice permission to incorporate these amendments into the comprehensive regulatory package approved by the Board on June 13, 2018, for advancement to the Proposed stage of the standard regulatory process. Jennifer Woolard and Robert Vilchez voted in favor of the motion and Tyren Frazier, Dana Schrad, and Michael Herring voted to reject the motion. The motion failed.

#### **DIRECTOR'S COMMENTS**

Valerie P. Boykin, Director, Department

Director Boykin offered comments regarding her new role as Director of the Department of Juvenile Justice. Ms. Boykin stated that she is humbled by the opportunity and thankful to the Governor and Secretary Moran for their confidence in appointing her the agency director. The Department has an exceptional team committed to transformation, and has done a lot of work in the past five years to move Virginia forward. The Department is now being looked at by other states in what they have done and continue to do in transformation.

This is Public Service Recognition Week, and the Department has a series of events to celebrate.

The Department celebrated its fourth Leadership Summit in Charlottesville on April 18-19. This event has grown through the years, focusing on leadership and targeting supervisors and directors who need to move the work forward. This year was the Department's first joint activity with Residential Services. Assuming the Department's budget remains solvent, the conferences will continue in the years to come.

The Department completed a pilot in five court service units on the standardized dispositional matrix (SDM). This matrix will soon be implemented statewide to help probation officers assess the risk and needs of young people and to make recommendations based on those areas to the court on the disposition. The Department has tested the matrix in five localities: Warrenton, Chatham, Culpeper, Chesterfield, and Newport News. It is built historically on Juvenile and Domestic Relations dispositions and will be re-evaluated on its effectiveness on dispositions and the outcomes for young people who experience them. Young people received dispositions by location, the resources

available, and past practices. Probation has often become the default disposition, sometimes without a social history or risk assessment. Over the summer, the Department will establish the SDM in each jurisdiction across the Commonwealth and train stakeholders and staff. Implementation will be in the fall, with an effective date of January 1, 2020.

Dr. Robin Binford Weaver from the Behavioral Services Unit, Art Mayer from Operations, and Superintendent Russell Jennings continue to work on reforms in the juvenile correctional center. Bon Air hosted its first dance since the 1990s. Superintendent Russell said the event was a success and good practice for the young people to participate in normal behavior. This was a chance for Bon Air to recognize good behavior. There also will be cookouts later in the month and a 5k planned for May 18 with the residents.

The Department, along with the Department of General Services (DGS), was in communication and negotiation with the County of Isle of Wight for over a year to site a new, state-of-the-art, small juvenile correctional center. On April 18, the final vote to transfer the land to the Commonwealth failed, which was a surprise to the Department. The Department is committed to finding the best places for its young people and will continue to work with DGS siting new facilities as opportunities present.

#### **BOARD COMMENTS**

There were no Board comments.

#### **NEXT MEETING**

The next Board meeting is scheduled for June 19, 2019, at Main Street Centre, 600 East Main Street, Richmond.

#### **ADJOURNMENT**

Chairperson Woolard adjourned the meeting at 11:48 a.m.

**SUMMARY DEPARTMENT CERTIFICATION ACTIONS**  
**May 29, 2019**

**DEPARTMENT CERTIFICATION ACTION May 29, 2019:** Certified Fairfax Shelter Care II until May 10, 2022.

*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.*

**DEPARTMENT CERTIFICATION ACTION May 29, 2019:** Certified New River Valley Juvenile Detention Home and Post-dispositional Program until June 11, 2022 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.*

**DEPARTMENT CERTIFICATION ACTION May 29, 2019:** Certified Prince William County Juvenile Detention Center until April 13, 2022.

*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.*

**DEPARTMENT CERTIFICATION ACTION May 29, 2019:** Certified Richmond Juvenile Detention Center and Post-dispositional Program until June 12, 2022.

*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.*

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

**PROGRAM AUDITED:**

Fairfax Shelter Care II  
10670 Page Avenue  
Fairfax, VA 22030  
(703) 246-2900  
Marlon Murphy, Director  
[Marlon.Murphy@fairfaxcounty.gov](mailto:Marlon.Murphy@fairfaxcounty.gov)

**AUDIT DATES:**

December 3-4, 2018

**CERTIFICATION ANALYST:**

Clarice T. Booker

**CURRENT TERM OF CERTIFICATION:**

May 10, 2016 – May 9, 2019

**REGULATION AUDITED:**

6VAC35-41 Regulations Governing Juvenile Group Homes

**PREVIOUS AUDIT FINDINGS - December 8, 2015:**

6VAC35-41-300 (A). Orientation and training for volunteers or interns  
6VAC35-41-850 (B). Daily log  
6VAC35-41-1320 (D). Physical restraint

**CURRENT AUDIT FINDINGS – December 8, 2015:**

98.9% Compliance Rating  
6VAC35-41-90 (A). Serious incident reports CRITICAL  
6VAC35-41-90 (D). Serious incident reports  
6VAC35-41-350 (B). Buildings and inspections CRITICAL

**DEPARTMENT CERTIFICATION ACTION May 29, 2019:** Certified Fairfax Shelter Care II until May 10, 2022.

*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:**

Clarice T. Booker, Team Leader  
John Adams, Central Office  
Deborah Hayes, Central Office  
Rachel Kindell, Aurora House  
Mark Lewis, Central Office  
Shelia Palmer, Central Office

**POPULATION SERVED:**

Fairfax Shelter Care II is a co-ed residential group home under the administration of the Fairfax County Juvenile and Domestic Relations District Court, serving juveniles between the ages of 12 and 17. It has a capacity of 12 residents. All youth are placed in the facility by order of the court.

**PROGRAMS AND SERVICES PROVIDED:**

The program provides crisis intervention and stabilization in a safe environment to court involved juveniles awaiting their next court hearing, to return home or transfer to another placement. The pre-dispositional youth are usually in the program for no longer than 30 days. In addition to all mandated services, Fairfax Shelter Care II provides the following at the facility:

- Individual and group counseling
- Nutrition/wellness group
- Recreation/therapeutic recreation
- Cultural activities
- Life skills
- Drug/alcohol education group
- Parent group
- Psycho-educational groups

Fairfax Shelter Care II interacts with the community in providing such services as:

- Community service work
- Meals prepared by the food service staff of the Juvenile Detention Center
- On-site education through Fairfax County Public Schools
- Religious services
- Medical services
- Psychiatric services

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**CORRECTIVE ACTION PLAN  
TO THE  
BOARD OF JUVENILE JUSTICE**

**FACILITY/PROGRAM:** Fairfax Shelter Care II

**SUBMITTED BY:** Marlon Murphy, Director

**CERTIFICATION AUDIT DATES:** December 3-4, 2018

**CERTIFICATION ANALYST:** Clarice T. Booker

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.

**6VAC35-41-90 (A). Serious incident reports. CRITICAL**

The following events shall be reported within 24 hours to: (i) to the placing agency, (ii) to the parent or legal guardian, or both, as applicable and appropriate, and (iii) the director or designee:

1. Any serious incident, accident, illness, or injury to the resident;
2. Any overnight absence from the facility without permission;
3. Any runaway;
4. Any fire, hostage or emergency situation, or natural disaster that jeopardizes the health, safety, and welfare of the residents; and

5. Any suspected case of child abuse or neglect at the facility, on a facility event or excursion, or involving facility center staff as provided in 6VAC35-41-100 (suspected child abuse or neglect).

The 24-hour reporting requirement may be extended when the emergency situation or natural disaster has made such communication impossible (e.g., modes of communication are not functioning). In such cases, notice shall be provided as soon as feasible thereafter.

**Audit Finding:**

**There was no documentation that serious incidents were reported to the director or designee within 24 hours in two out of eight serious incident reports reviewed.**

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**Program Response**

**Cause:**

Shelter Care did not record notifications to the Virginia Department of Juvenile Justice Certification Unit when completing two Serious Incident Reports during the most recent audit period.

**Effect on Program:**

None

**Planned Corrective Action:**

The Shelter Care Program's Serious Incident Report (SIR) and procedures were modified. When the Shelter Care Administrator is contacted, the Administrator on Duty will instruct the reporting staff member to contact the VA Department of Juvenile Justice Certification Unit. Staff are required to contact within the first 24 hours, document on the SIR form, who and when they made the respective contact to the VA Department of Juvenile Justice Certification Unit; including the method of contact. See attached Serious Incident Form.

**Completion Date:**

January 10, 2019

**Person Responsible:**

Program Director and Assistant Director

**Current Status on April 12, 2019: Compliant**

Six serious incident reports were reviewed and all were reported within the required timeframes.

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**6VAC35-41-90 (D). Serious incident reports.**

The facility shall (i) prepare and maintain a written report of the events listed in subsections A and B of this section and (ii) submit a copy of the written report to the director or designee. The report shall contain the following information:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name or identifying information of the person who made the report to the placing agency and to either the parent or legal guardian, as appropriate and applicable; and
6. The name of or identifying information provided by the person to whom the report was

made, including any law enforcement or child protective service personnel

**Audit Finding:**

Serious incident reports did not contain the name or identifying information of the person who made the report to the placing agency and to either the parent or legal guardian, as appropriate and applicable, in five out of eight serious incident reports reviewed.

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**Program Response**

**Cause:**

The Shelter Care Program used the VA Department of Juvenile Justice Serious Incident Report Template. However, the program failed to document who contacted the placing agency and either the parent or legal guardian, as appropriate and applicable. It was the Shelter Care Program's practice/understanding, that it was "implied" that staff member completing the report was also the person responsible for making/verifying all contacts.

**Effect on Program:**

None

**Planned Corrective Action:**

The Shelter Care Program's Serious Incident Report and procedures were modified. Staff are required to document who made the respective contact to the Department of Juvenile Justice; including the method of contact. See attached Serious Incident Form.

**Completion Date:**

January 10, 2019

**Person Responsible:**

Program Director and Assistant Director

**Current Status on April 12, 2019: Compliant**

Six serious incident reports were reviewed and all were compliant.

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**6VAC35-41-350 (B). Buildings and inspections. CRITICAL**

A current copy of the facility's annual inspection by fire prevention authorities indicating that all buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13VAC5-51) shall be maintained. If the fire prevention authorities have failed to timely inspect the facility's buildings and equipment, documentation of the facility's request to schedule the annual inspection as well as documentation of any necessary follow-up with fire prevention authorities shall be maintained.

**Audit Finding:**

There were more than 13 months between fire inspections in 2017 and 2018. Fire inspections were conducted by the Fire Marshal on 7/12/17 and 11/28/18.

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**Program Response**

**Cause:**

The failure of the Shelter Care Program to be in compliance with regulation 6VAC35-41-350 was



a direct result of two occurrences. First, the Shelter Care Director went out for surgery and an extended absence on the same date as the Assistant Director's retirement, resulting in a failure to notice the pending expiration of the 2017-2018 inspection permit. Second, the Fairfax County Fire Department (FCFD) Office of Inspections changed the process of notification of inspections. Previously, the Office of the Fire Marshall would conduct annual inspections without any notification necessary. However, in 2019 prior to Shelter Care's inspection date, FCFD changed their process to one that required each facility to contact their office to initiate an inspection.

**Effect on Program:**

The Shelter Care Program was more than 30 days late in the completion of its 2018-2019 fire inspection from the identified inspection due date.

**Planned Corrective Action:**

The Shelter Care Program will notify the Fairfax County Department Office of the Fire Marshall every June 1<sup>st</sup> to schedule the July Fire Inspection.

**Completion Date:**

January 10, 2019

**Person Responsible:**

Program Director or his documented assigned designee.

**Current Status on April 12, 2019: Compliant**

There has been no inspection since 11/28/18. The facility Administrator reports that the next inspection has been scheduled with the Fire Marshall's Office for 4/30/19. A copy of that inspection report was forwarded to the Certification Unit for verification.

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

**PROGRAM AUDITED:**

New River Valley Juvenile Detention Home  
650 Wades Lane, NW  
Christiansburg, VA 24073  
(540) 381-0097  
Joe Young, Superintendent  
[joe.young@nrvdh.org](mailto:joe.young@nrvdh.org)

**AUDIT DATES:**

January 16-17, 2019

**CERTIFICATION ANALYST:**

Mark Ivey Lewis

**CURRENT TERM OF CERTIFICATION:**

June 11, 2016 – June 10, 2019

**REGULATIONS AUDITED:**

6VAC35-101 Regulation Governing Juvenile Detention Centers

**PREVIOUS AUDIT FINDINGS January 11-12, 2016:**

6VAC35-101-340 (A) – Face sheet  
6VAC35-101-800 (B) – Admission and orientation

**CURRENT AUDIT FINDINGS – January 16-17, 2019:**

100% Compliance Rating

**DEPARTMENT CERTIFICATION ACTION May 29, 2019:** Certified New River Valley Juvenile Detention Home and Post-dispositional Program until June 11, 2022 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:**

Mark Ivey Lewis, Team Leader  
Shelia Palmer, Central Office  
Clarice Booker, Central Office  
Tommy Gaskin, Bon Air JCC  
John Adams, Central Office  
Richard Banks, Roanoke Valley Juvenile Detention Center  
Mary Gardner, Roanoke Valley Juvenile Detention Center  
Michelle Johnson, WW Moore Juvenile Detention Center  
Trey Murray, Highlands Juvenile Detention Center

**POPULATION SERVED:**

New River Valley Juvenile Detention Home (NRVJDH), a 24-bed secure facility located in Christiansburg, VA, detains male and female residents between the ages of seven and 18. The facility is owned and operated by a Commission whose members are appointed by the governing bodies of Giles County, Montgomery County, Pulaski County and the City of Radford. Admissions are also accepted from other jurisdictions within the 27<sup>th</sup> Court Service Unit.

The building itself has changed very little since 1974, with the only additions being classrooms and a gymnasium. There are two dormitory wings located on either side of a central day room. The boys' wing has 14 beds and the girls' wing has 10 beds. All rooms are single occupancy. Though designated as a girls' wing, the hall is partitioned to allow for both sexes to occupy the space. Primarily, girls are housed in rooms at the end of the hall which are separated by a locked door from the boys' rooms. Door flaps are used to ensure privacy for both genders.

The facility has three classrooms. Two are located off of the dayroom parallel to the boys' wing. The third classroom was added as part of the gymnasium addition. Remedial instruction and library time occurs in the cafeteria section of the dayroom.

**PROGRAMS AND SERVICES PROVIDED:**

Facility administration and staff strive to maintain a home-like setting whenever possible. Though safety and security are the top priority, all staff members provide services that are consistent with the organization's motto, "Where Compassion Never Grows Old". This is accomplished through adherence to a structured daily program which consists of school, mental health services, psycho-educational groups, recreation and community guest speakers. Staff members serve as healthy adult role models for detainees. The Detention Home has strong community support from a wide variety of churches as well as Virginia Tech and Radford University.

The NRVJDH School Program is operated by Montgomery County Public Schools (MCSP). There are three full time teachers, one part time reading specialist and one part time administrative assistant. Classes in Math, Science, English, Reading, Social Studies, and Career/Life Skills are taught on weekdays 11 months of the year. The Career/Life Skills teacher doubles as the Post Disposition Program Teacher. MCPS provides an administrator to oversee the program at the Detention Home

NRVJDH general population includes residence in the Community Placement Program, Reentry Program and Pre-Disposition program. NRVJDC also has a Post Dispositional Detention Program called GOALS. Residents sentenced to the GOALS Program receive routine services as well as additional mental health support, vocational instruction, transitional and independent living skills classes.

Mental health support for residents is provided by a Mental Health Clinician and a Case Manager. These two individuals are employed by New River Valley Community Services but are stationed at the Detention Home. New River Valley Community Services also provides a Psychiatrist who sees residents at the facility twice monthly. The mental health workers provide individual and group therapy as well as educational groups.

**SERVICES PROVIDED:**

- Direct
  - Psycho-educational Groups
    - Anger Management
    - Substance Abuse Educational
    - Aggression Replacement Training (ART)
  - Post-Dispositional Program
  - Medical Services
  - Recreational Programs

- Community:
  - Educational Program to include GED program
  - Mental Health Services

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

**PROGRAM AUDITED:**

Prince William County Juvenile Detention Center  
14873 Dumfries Road  
Manassas, VA 20112  
(703) 792-8301  
John Dowdy, Superintendent  
jdowdy@pwcgov.org

**AUDIT DATES:**

November 5-6, 2018

**CERTIFICATION ANALYST:**

Clarice T. Booker

**CURRENT TERM OF CERTIFICATION:**

April 13, 2016 – April 12, 2019

**REGULATIONS AUDITED:**

6VAC35-101 Regulations Governing Juvenile Secure Detention Centers

**PREVIOUS AUDIT FINDINGS - January 20, 2016:**

99.26% Compliance Rating  
6VAC35-101-655 (A) Vulnerable populations  
6VAC35-101-820 (A) Mental health screening CRITICAL

**CURRENT AUDIT FINDINGS – November 6, 2018:**

97.64% Compliance Rating  
No repeat deficiency from previous audit  
6VAC35-101-80 (A) Serious incident reports CRITICAL  
6VAC35-101-80 (D) Serious incident reports  
6VAC35-101-170 (A) Employee and volunteer background checks CRITICAL  
6VAC35-101-300 (A) Volunteer and intern orientation and training  
6VAC35-101-350 (C) Buildings and inspections  
6VAC35-101-1060 (H) Medication  
6VAC35-101-100 (E) Room confinement and isolation

**DEPARTMENT CERTIFICATION ACTION May 29, 2019:** Certified Prince William County Juvenile Detention Center until April 13, 2022.

*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:**

Clarice Booker, Team Leader  
John Adams, Central Office  
Tara Alexander, Chesapeake Juvenile Services  
Joseph Barton, Virginia Beach Juvenile Detention Home  
Jason Henry, Rappahannock Juvenile Detention Home  
Mark Lewis, Central Office  
Shamika Massenburg, Henrico Juvenile Detention Home  
Leah Nelson, Central Office

Shelia Palmer, Central Office  
Deron Phipps, Central Office

**POPULATION SERVED:**

Prince William County Juvenile Detention Center is a secure custody facility operated by the Prince William Department of Social Services. The facility serves a pre-dispositional population of 72 male and female residents ages ten through 17 from Manassas, Manassas Park and Prince William County.

**PROGRAMS AND SERVICES PROVIDED:**

In addition to all mandated services, Prince William County Juvenile Detention Center interacts with the community in obtaining such services as:

- Mental health services
- Medical services
- On-site education through the Prince William County Public School System
- Various volunteer activities and groups, including arts and crafts, Girl Scouts, yoga, life skills and religious activities
- Community Placement Program (CPP)

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**CORRECTIVE ACTION PLAN  
TO THE  
BOARD OF JUVENILE JUSTICE**

**FACILITY/PROGRAM:** Prince William Juvenile Detention Home

**SUBMITTED BY:** John Dowdy, Superintendent

**CERTIFICATION AUDIT DATES:** November 5-6, 2018

**CERTIFICATION ANALYST:** Clarice T. Booker

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.

**6VAC35-101-80 (A). Serious incident reports. CRITICAL**

The following events shall be reported, in accordance with department procedures, within 24 hours to (i) the applicable court service unit; (ii) either the parent or legal guardian, as appropriate and applicable; and (iii) the director or designee:

1. Any serious incident, accident, illness, or injury to the resident;
  2. The death of a resident;
  3. Any suspected case of child abuse or neglect at the detention center, on a detention center-sponsored event or excursion, or involving detention center staff as provided in 6VAC35-101-90 (suspected child abuse and neglect);
  4. Any disaster, fire, emergency, or other condition that may jeopardize the health, safety, and welfare of residents; and
  5. Any absence from the detention center without permission.
-

**Audit Finding:**

There was no documentation that an incident was reported to the director or designee within 24 hours in one out of seven serious incident reports reviewed.

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**Program Response**

**Cause:**

The Assistant Superintendent, who has BADGE access, was scheduled off and the facility did not have a backup.

**Effect on Program:**

Timely notification was not made to the Department of Juvenile Justice (DJJ).

**Planned Corrective Action:**

The facility will ensure that all three Assistant Superintendents and the administrative assistant have BADGE access and are able to input SIR's in accordance with established regulations. The Superintendent will also notify, a minimum of one, DJJ Certification Team Member, via email, the day of a reportable incident. Also, the new staff who are obtaining BADGE access will be trained in how to complete SIR's correctly.

**Completion Date:**

November 15, 2018 for access request (completed) and January 1, 2019 for training of all staff.

**Person Responsible:**

J.T. Dowdy, Superintendent

**Current Status on April 11, 2019: Compliant**

Two applicable serious incidents were reviewed and were reported as required.

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**6VAC35-101-80 (D). Serious incident reports.**

The facility shall (i) prepare and maintain a written report of the events listed in subsections A and B of this section and (ii) submit a copy of the written report to the director or designee. The report shall contain the following information:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name or identifying information of the person who made the report to the applicable court service unit and to either the parent or legal guardian, as appropriate and applicable; and
6. The name or identifying information of the person to whom the report was made, including any law-enforcement or child protective service personnel.

**Audit Finding:**

The name or identifying information of the person who made the report to the applicable court service unit and to either the parent or legal guardian was missing in three out of seven serious incident reports reviewed.

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**Program Response**

**Cause:**

The facility was utilizing an internal contact notification sheet, but not including it in the narrative of the DJJ SIR.

**Effect on Program:**

DJJ could not verify that parents/guardians and/or probation officers had been notified of the incident.

**Planned Corrective Action:**

The facility began utilizing the updated DJJ SIR form, which now has columns for the contact information included. All supervisors and administrators have been trained/briefed on including the information from the facility notification form on the DJJ SIR form.

**Completion Date:**

November 13, 2018 (completed)

**Person Responsible:**

Asst. Superintendents Ford and Bynum

**Current Status on April 11, 2019: Compliant**

Two serious incident reports were reviewed and were documented as required.

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**6VAC35-101-170 (A). Employee and volunteer background checks. CRITICAL**

Except as provided in subsection B, all persons who (i) accept a position of employment at, (ii) volunteer on a regular basis and will be alone with a resident in the performance of their duties, or (iii) provide contractual services directly to a resident on a regular basis and will be alone with a resident in the performance of that person's duties shall undergo the following background checks in accordance with § 63.2-1726 of the Code of Virginia to ascertain whether there are criminal acts or other circumstances that would be detrimental to the safety of residents:

1. A reference check;
2. A criminal history record check;
3. Fingerprint checks with the Virginia State Police and Federal Bureau of Investigations (FBI);
4. A central registry check with Child Protective Services; and
5. A driving record check if applicable to the individual's job duties.

**Audit Finding:**

There was no criminal history check conducted in one out of five new staff files reviewed. The Central Registry check, and State Police and FBI fingerprint checks were conducted after the date of hire in three out of five new staff files reviewed. Five new volunteer files were reviewed and were compliant.

---

**Program Response**

**Cause:**

The Prince William County HR Policy doesn't allow for backgrounds to be initiated until the applicant has been given a contingency offer.

**Effect on Program:**

The facility isn't able to have the full background results back prior to the start date, which in turn doesn't allow the facility to utilize the recent hires in their intended work capacity.

**Planned Corrective Action:**

The facility will ensure that new hires will not be given a hire date until they are in receipt of all required background information, in accordance with the regulation.

**Completion Date:**

December 1, 2018

**Person Responsible:**

J.T. Dowdy, Superintendent

**Current Status on April 11, 2019: Compliant**

Three new staff and three new volunteer files were reviewed. Background checks were completed as required.

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**6VAC35-101-300 (A). Volunteer and intern orientation and training.**

Volunteers and interns shall be provided with a basic orientation on the following:

1. The facility;
2. The population served;
3. The basic objectives of the facility;
4. The facility's organizational structure;
5. Security, population control, emergency, emergency preparedness, and evacuation procedures;
6. The practices of confidentiality;
7. The residents' rights including, but not limited to, the prohibited actions provided for in 6VAC35-101-650 (prohibited actions); and
8. The basic requirements of and competencies necessary to perform their duties and responsibilities.

**Audit Finding:**

There was no documentation of orientation to the facility's organizational structure in four out of five volunteer records reviewed.

---

**Program Response**

**Cause:**

The facility was providing an overview of the organizational structure but hadn't updated the orientation checklist form to reflect such.

**Effect on Program:**

None

**Planned Corrective Action:**

**The facility updated the orientation checklist to include review of the organizational structure.**

**Completion Date:**

November 7, 2018 (completed). See Attachment A

**Person Responsible:**

Roman Morris, Volunteer Coordinator

**Current Status on April 11, 2019: Compliant**

The administration reported that all 25 current volunteers were retrained as a result of the audit. Three new volunteers are pending. Their background checks were completed, but their orientation is incomplete. The administration reported they will not be allowed to volunteer in the facility until their orientation and training are complete. The three pending volunteers had been given an orientation to the facility's organizational structure.

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**6VAC35-101-350 (C). Buildings and inspections.**

**A current copy of the detention center's annual inspection and approval, in accordance with state and local inspection laws, regulations, and ordinances, of the systems listed below shall be maintained. These inspections shall be of the:**

- 1. General sanitation;**
- 2. Sewage disposal system;**
- 3. Water supply; and**
- 4. Food service operations.**

**Audit Finding:**

**There was more than 13 months between the sanitation inspections (4/27/16 to 12/29/17) during the audit period.**

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**Program Response**

**Cause:**

**The facility, although it attempted on numerous occasions, failed to ensure that the County conducted a sanitation inspection within 13 months.**

**Effect on Program:**

None

**Planned Corrective Action:**

**The facility will begin requesting the inspection 3 months out from the due date and utilize the DJJ Food Operations Director as backup if the County informs us it can't meet our deadline.**

**Completion Date:**

November 14, 2018 (completed) See Attachment B

**Person Responsible:**

Justin Ford, Assistant Superintendent

**Current Status on April 11, 2019: Compliant**

A sanitation inspection was completed since the audit on November 14, 2018.

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**6VAC35-101-1060 (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 medication 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 error does not include a resident's refusal of appropriately offered medication.

**Audit Finding:**

There was no documentation of action taken by staff in an incident where an antibiotic pill was dropped on the floor and not given to the resident. No medication incident report was completed.

---

**Program Response**

**Cause:**

The facility did not have a plan of action to address medication waste due to accidental circumstances.

**Effect on Program:**

The youth did not receive his last dosage of the medication.

**Planned Corrective Action:**

The facility has developed a Medication Administration Incident Form that will be completed when any medication administration circumstances/incidents take place.

**Completion Date:**

November 7, 2018. (completed) see Attachment C

**Person Responsible:**

K. Dexter, Nursing Supervisor

**Current Status on April 11, 2019: Compliant**

Two medication incidents were reported since the audit and the incidents were properly documented on the new form.

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**6VAC35-101-1100 (E). Room confinement and isolation.**

**E. If the confinement extends to more than 72 hours, the (i) confinement and (ii) steps being taken or planned to resolve the situation shall be immediately reported to the director or designee. If this report is made verbally, it shall be followed immediately with a written, faxed, or secure email report in accordance with written procedures.**

**Audit Finding:**

**There was no documentation of notification to the director or designee in four out of 10 confinements of more than 72 hours.**

---

**Program Response**

**Cause:**

**The facility was notifying DJJ that the room confinement was being extended past 72 hours, but was not sending a plan of action to resolve the issue.**

**Effect on Program:**

**Youth sanctioned for more than 72 hours were not given the opportunity to work themselves back into the population prior to or at 72 hours.**

**Planned Corrective Action:**

**The facility has developed a protocol for administrative reviews and processing with youth that have been sanctioned with more than 72 hours of room confinement.**

**Completion Date:**

**November 16, 2018 (completed). See Attachment D**

**Person Responsible:**

**J.T. Dowdy, Superintendent**

**Current Status on April 11, 2019: Not determinable**

**No residents were confined for more than 72 hours since the audit. The facility procedures were revised to give staff more guidance on resolving the situation in the event that a resident is confined for more than 72 hours.**

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

**PROGRAM AUDITED:**

Richmond Juvenile Detention Center  
1700 Oliver Hill Way  
Richmond, Virginia 23219  
(804) 646-2937  
Letta P. Jones, Acting Superintendent  
letta.jones@richmondgov.com

**AUDIT DATES:**

January 28-29, 2019

**CERTIFICATION ANALYST:**

Mark Ivey Lewis

**CURRENT TERM OF CERTIFICATION:**

June 12, 2016 – June 11, 2019

**REGULATIONS AUDITED:**

6VAC35-101 Regulation Governing Juvenile Detention Centers

**PREVIOUS AUDIT FINDINGS – February 1-2, 2016:**

100% Compliance

**CURRENT AUDIT FINDINGS – January 29-30, 2019:**

6VAC35-101-80 (D). Serious incident reports  
6VAC35-101-1060 (M). Medication. CRITICAL

**DEPARTMENT CERTIFICATION ACTION May 29, 2019:** Certified Richmond Juvenile Detention Center and Post-dispositional Program until June 12, 2022.

*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:**

Mark Ivey Lewis, Team Leader  
Shelia Palmer, Central Office  
Clarice Booker, Central Office  
Deborah Hayes, Central Office  
Deidra Davis, Central Office  
John Adams, Central Office  
Tommy Gaskin, Central Office  
Levi Bass, Prince William County Government  
John Dowdy, Prince William JDC  
Cindy Hauschildt, New River Valley JDC  
Spring Johnson, Piedmont JDC  
William Orris, Merrimac JDC  
Bryan Reed, Chesterfield JDC

**POPULATION SERVED:**

The Richmond Juvenile Detention Center (RJDC) is a 60-bed facility designated to provide temporary and safe custody to male and female juvenile offenders between the ages of ten and

17. The age range for residents admitted to the Post Dispositional age is 14-17 and for the RE-Entry Program approved age range is 16-19.

The structure, which is approximately 17 years old, is divided into six 10-bed pods. The facility contains an intake and medical area, several classrooms, a library/computer lab, and there are security cameras scanning the interior and exterior perimeter of the building.

**PROGRAMS AND SERVICES PROVIDED:**

The Richmond Juvenile Detention Center is a pre-dispositional secure facility. The facility has a behavior management program that provides a system of rewards for positive behavior and teaches residents to be accountable for their behavior. Recreation is incorporated into the academic program and during leisure time. Residents participate in psycho-educational groups five days a week and life skills twice a week. Programs are designed to ensure residents have a more productive transition when they return home or are transferred to other facilities.

The Richmond Juvenile Detention Center Re-Entry Program provides services for residents transitioning from a Juvenile Correctional Center to detention up to 120 days prior to discharge from commitment onto parole. The Richmond Juvenile Detention Center will provide bed space for male/female juveniles from ages 16-19. The goal is to provide quality Detention Re-Entry services in a structured yet nurturing environment. The program is strengths based and will help each resident with maladaptive behaviors and replace them with socially appropriate skills to enhance self-esteem, develop competency skills and build character through individual, group and family therapy.

The Richmond Juvenile Detention Center's Post-Dispositional Program is governed by the Code of Virginia and certified through the VA Department of Juvenile Justice. It provides the 13<sup>th</sup> Court Service Unit a secure residential alternative to commitment to DJJ for City of Richmond youths. These non-violent juvenile offenders from ages 14 - 17 years of age are on suspended commitments to DJJ and can spend up to six months in the Post-D Program. The program is designed to meet their individual, behavioral, educational and treatment needs. The participation of parents and/or legal guardians is an integral component of the program as they take part in the treatment and progress of the youth through their transition back home.

**CENTRAL ADMISSION AND PLACEMENT UNIT**

Due to the closure of some juvenile correctional centers (JCC) within the VA Department of Juvenile Justice, the RJDC serves as an intake site for DJJ to conduct intakes/evaluations for juvenile offenders committed to DJJ. The intake process includes interviews, orientations, assessments and testing completed by DJJ staff. After completion of this three-week intake process, residents remain at the facility until accepted into a Community Placement Program (CPP) or placement at Bon Air JCC. When a placement is arranged, the residents are transported by DJJ to their designated facility placement.

Residents receive medical and mental health services as needed. Three nutritious meals and one snack are provided daily by the facility food services in accordance with USDA requirements.

The Dr. Virgie Binford Education Center, operated by the Richmond Public School system, is an eleven-month academic program. Arrays of services are provided to include GED preparation, remedial courses, social skills and basic reading, writing, and math lessons. A principal, several teachers and support staff operate the facility education program. When a resident is released, all their grades and testing results are communicated to the resident's designated school.

**SERVICES PROVIDED:**

- Direct:
  - Medical and mental health services
  - Educational enrichment
  - Emergency and medical transportation
  - Food service
  - Social and recreational services
  - Psycho-Educational groups
  - Life skills group
  - Volunteer Services
  
- Services accessed in the community:
  - Community service task
  - Community monitoring program
  - Psychiatric and mental health services



**CORRECTIVE ACTION PLAN  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**FACILITY/PROGRAM:** Richmond Juvenile Detention Center  
**SUBMITTED BY:** Letta P. Jones, Acting Superintendent  
**CERTIFICATION AUDIT DATES:** January 28-29, 2019  
**CERTIFICATION ANALYST:** Mark Ivey Lewis

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.

**6VAC35-101-80 (D). Serious incident reports.**

**D. The facility shall (i) prepare and maintain a written report of the events listed in subsections A and B of this section and (ii) submit a copy of the written report to the director or designee. The report shall contain the following information:**

- 1. The date and time the incident occurred;**
- 2. A brief description of the incident;**
- 3. The action taken as a result of the incident;**
- 4. The name of the person who completed the report;**
- 5. The name or identifying information of the person who made the report to the applicable court service unit and to either the parent or legal guardian, as appropriate and applicable; and**
- 6. The name or identifying information of the person to whom the report was made, including any law-enforcement or child protective service personnel.**

**Audit Finding:**

**Two of five serious incident reports reviewed did not have the name or identifying information of the person who made the report to the applicable court service unit and to either the parent or legal guardian.**

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**Program Response**

**Cause:**

Misinterpretation of the regulation.

**Effect on Program:**

All notifications were being made accordingly, but did not clearly indicate the individual who made each notification.

**Planned Corrective Action:**

Revised form to identify who is making all notifications, this information is also indicated in the BADGE system of the Department of Juvenile Justice and can be transferred over accordingly.

**Completion Date:**

February 13, 2019

**Person Responsible:**

Supervisors, Administration or Designee

**Current Status on April 29, 2019: Compliant**

Three of three incident reports reviewed included the name of the person who made the report to the applicable CSU and to the parents.

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**6VAC35-101-1060 (M). Medication. CRITICAL**

**M. Syringes and other medical implements used for injecting or cutting skin shall be locked and inventoried in accordance with facility procedures.**

**Audit Finding:**

There was little documentation that an inventory was taken of all the syringes and other medical implements used for injecting or cutting skin. There was documentation that an inventory was done on the syringes and sharps located on the medication cart but there was no documentation that an inventory was conducted on the remaining syringes and sharps located in the medical cabinet.

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**Program Response**

**Cause:**

Lack of proper documentation.

**Effect on Program:**

Equipment within the facility can become unaccounted for without adequate maintenance of inventory.

**Planned Corrective Action:**

Staff made a good faith effort to maintain compliance of this regulation, however, to prevent any further issues, an inventory form has been developed to accurately tally/maintain a daily count of TB syringes for full inventory of all items to include those in circulation as well as bulk. This form will only be completed by our medical department (nurses). Supervisor(s) will continue to sign off on the remaining sharps and other related items (see attached forms).

**Completion Date:**

February 13, 2019

**Person Responsible:**

Medical Department (Registered Nurse and Licensed Practical Nurse)

**Current Status on April 29, 2019: Compliant**

There was documentation that an inventory was being done on the syringes and sharps located on the medication cart as well as on the remaining syringes and sharps located in the medical cabinet.

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## About the Virginia Juvenile Community Crime Control Act (VJCCCA)

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- The VJCCCA was enacted in 1995 as part of an effort to address the need for localities to efficiently and effectively respond to juvenile crime.
- VJCCCA provides funding for localities to establish a community-based system of services and sanctions in a model that balances local flexibility and autonomy with appropriate state oversight and accountability mechanisms through the Board and Department of Juvenile Justice.
- Base block grant funds and additional funds appropriated by the General Assembly allowed all localities to implement an array of programs and services for juveniles involved in the juvenile justice system, with emphasis on alternatives to secure detention. (Around 1993 the General Assembly had received a number of requests to fund the construction of secure detention facilities for pre-dispositional placements for juveniles and a Commission on Youth study found that there were few non-secure pre-dispositional options available throughout the Commonwealth)
- Current appropriation \$10.3 million; Reduced from \$29 million in FY 1999)
- Participation in the VJCCCA is voluntary but all 133 localities in Virginia participate.
- Localities must develop a biennial plan for the use of funds, which must be approved by their local planning committee, DJJ Central Administration and the Board of Juvenile Justice. July 1, 2019, begins the 2<sup>nd</sup> year of biennial plans approved through June 30, 2020.
- Each participating locality determines their service array and budgets their appropriation accordingly based on Board approved guidelines.
- Local government designates who is responsible for plan management.
- Services may be provided by using funds to hire local government staff or by contracting with private provider agencies. The reallocation of existing allocations of funding would be difficult for localities that use their allocations to fund personnel and for localities that have existing contracts with private provider agencies.
- During the 2019 General Assembly a bill was passed to modify the VJCCCA statute (HB 1771). HB 1771 amended the Virginia Juvenile Community Crime Control Act (VJCCCA) effective July 1, 2019 to allow for the provision of community diversion and community-based resources for juveniles who are not involved in the juvenile justice system but who have been screened for needing community diversion or community-based services using an evidence-based assessment protocol. DJJ is developing guidelines, technical assistance strategies and guidance documents.



# VJCCCA Guidance Document

## Re: HB 1771 - Prevention Services Category

June 5, 2019

This guidance document is intended for Local VJCCCA Coordinators and Plan Contacts to provide preliminary guidance on the addition of Prevention Services as an Allowable VJCCCA Program and Service based on House Bill 1771 which amends the statute governing the Virginia Juvenile Community Crime Control Act (VJCCCA).

### Background and Guidance for FY 2020:

- During the 2019 General Assembly a bill was passed to modify the VJCCCA statute (HB 1771).
- HB 1771 amended the Virginia Juvenile Community Crime Control Act (VJCCCA) effective July 1, 2019 to allow for the provision of community diversion and community-based resources for juveniles who are not involved in the juvenile justice system but who have been screened for needing community diversion or community-based services using an evidence-based assessment protocol. View full text here: <https://lis.virginia.gov/cgi-bin/leqp604.exe?191+fjl+CHAP0105>
- Prevention Services Category: The bill allows localities and commissions to elect to add the category of prevention services to their plans, but localities are not required to add the new category.

### New Program Category - Prevention Services:

Prevention Services: Efforts that support youth who are "at-risk" of becoming involved in delinquent behavior and help prevent a youth from entering the juvenile justice system as a delinquent. Prevention also includes efforts to prevent youth from penetrating farther into the juvenile justice system after a juvenile has committed a delinquent act; these prevention efforts may include arbitration, diversionary or mediation programs, pro-social activities, and community service work or other treatment.

### Amending Your VJCCCA Plan

Most localities are operating under biennial plans approved by the Department of Juvenile Justice and the Board of Juvenile Justice through June 30, 2020. Though current plans are approved through June 30, 2020, localities have the option to request to make adjustments to their plans to add Prevention Services or other categories at any time. This guidance document will provide preliminary guidance for the inclusion of the new category. As we move forward with this initiative, DJJ will develop implementation strategies and will convene a work group with geographical and partner agency representation. Implementation will include the adoption of a screening or assessment tool, referral process, data collection methods and program management strategies.

No new funding was included with the legislation. Localities interested in adding the new Prevention Services category to their local VJCCCA plans, will need to amend their current plans and reallocate funding from other program and service categories. Localities interested in adding the Prevention Services category for FY 2020 need to amend their plans by September 1, 2019. Please indicate your intent to add the service category through communication with your Regional VJCCCA Coordinator by **July 1, 2019**.

The following steps are necessary to add the Prevention Services category to a VJCCCA Plan:

- 1) Development and submission of an updated Excel workbook, adding the Prevention Services Category and reallocating funding from existing programs and services. (Note: You may also submit a request to add the Prevention Services category with a budget of \$0.00 (zero dollars) while building your program and budget.)
- 2) Updated letters of support from required plan participants indicating their participation in plan development and their support for the changes to the plan, including the addition of the Prevention Services category
- 3) A one-page concept paper (see attached template).
- 4) Submission of a Plan for Tracking Non-DJJ Cases. The locality will need to develop a mechanism for tracking cases outside of DJJ's BADGE Community Placement Reporting (CPR) module. DJJ's system for tracking programmatic units and fiscal data is for tracking cases that have been assigned a juvenile number and processed through DJJ intake or the courts. Non-DJJ youth cannot be entered into DJJ's database.



## VJCCCA Guidance Document Re: HB 1771 - Prevention Services Category

June 5, 2019

- 5) **Assessment Tool:** The law requires the use of an evidence-based assessment tool. For FY2020, the locality will need to identify and propose an interim assessment tool and a program coordinator to administer the tool.
- 6) After submission of these documents, the DJJ will review, provide any technical assistance needed and make a determination with regards to the approval of the proposed service.

### **Development and Selection of Prevention Programs**

Prevention programs adopted should be evidence-based or evidence-informed. Programs focused on helping youth develop positive life skills, reduce risk factors, build protective factors, increase pro-social engagement, and gain opportunities for community involvement have proven to be the most effective. Prevention programs should be implemented locally even though they are funded by state or federal funds. With local support and action, prevention programs will have the greatest chance for success. Local collaboration is needed to target multiple risk and protective factors.

Most research identifies three major classes of effective prevention programs for children and youth:

- **Primary Prevention Programs** aims to prevent problem behaviors before they occur (pre-school programs that occur before children exhibit problems).
- **Secondary Prevention Programs** focus on reducing the impact of problem behaviors (early signs of delinquency, misbehavior, and conduct problems evident).
- **Juvenile Offender Programs** target interventions to divert youth from the justice system (interventions at contact with juvenile justice system).

The DJJ recommends the implementation of Secondary Prevention Programs. Secondary Prevention Programs include activities designed to enhance the skills, competencies and thinking of youth, as well as those that offer specific violence and crime prevention programming. These programs include education programs, afterschool activities, conflict resolution training, skill building, service learning, violence prevention training, employment opportunities, mentoring, pro-social engagement, and tutoring and remedial education programs.

Core principles for effective secondary prevention programs include:

- Delivered with a high dosage and intensity - greater amounts of contact time with participants
- Comprehensive – multi-component programs that address risk and protective factors
- Appropriately timed – specific times of need and participants most receptive to change
- Developmentally appropriate – age and developmentally appropriate for the target audience
- Well trained staff – efficacy, level of training, education, and experience
- Strong administrative support
- Regular assessment or evaluation

### **Model Programs**

Blueprints for Healthy Youth Development (Blueprints) identifies, recommends, and disseminates programs for youth that, based on scientific evaluations, have strong evidence of effectiveness. Blueprints serves as a resource for government agencies, schools, foundations, and community organizations trying to make informed decisions about their investments in youth programs. Blueprints began with a focus on youth programs to prevent violence, delinquency, and drug use, but has expanded its scope. Blueprints now also recommends programs to improve mental and physical health, self-regulation, and educational outcomes. The outcomes of interest involve more than preventing harmful behavior; they also involve positive behaviors and healthy development. Both promising and model programs meet basic Blueprints standards, but model programs meet additional experimental requirements. Link for researching model programs: <https://blueprintsprograms.org/program-search/>





## VJCCCA Prevention Services Category Concept Paper Template

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- **Name of Proposed Program**
- **Program Provider / Owned By / Operated By**
- **Program Coordinator and Contact Information**
- **Program Physical Address, Contact Information and Main Contact Person**
- **Program Days and Hours of Operation**
- **Program Projected Start Date**
- **Program Description and Target Population**
  - Overall Description of the Program (can include logic model / theory of change)
  - Evidence and Research-Base for Program Effectiveness / Reference for Listing Within Model Program Guide
  - Identify the delinquency-prevention population to be served (age, gender, at-risk behavior(s) to be targeted, referral source(s), etc.)
  - Program Content / Activities
  - Presenting Problem(s) Program Designed to Address
  - Criminogenic Need Areas and Protective Factors Program Designed to Target
  - Program Length / Duration
  - Program Capacity or Maximum Number of Participants
  - Program Staffing
  - Program Goals / Expected Outcomes
- **Referral Process Overview**
  - Referral Process
  - Referral Sources
  - Include the evidence-based assessment tool to be used to establish program need and who will administer the tool
- **Data Collection and Tracking Plan**
  - Include plan and processes for collecting youth-specific and systemic data, including service units / programmatic data and fiscal data.
- **Program Costs and Funding Sources**
  - Total Budget for This Specific Program or Service
  - Portion of budget from state VJCCCA funds
  - Portion of budget from VJCCCA required local match
  - Portion of budget from other local funds shown on VJCCCA plan
  - Portion of budget from other local funds not currently shown on VJCCCA plan
  - Other funding streams, revenue / potential revenue in addition to state and local funds
  - In-kind contributions in support of the program
  - Rate(s) established and units (e.g. \$ \_\_\_ per session per participant, \$ \_\_\_ per day per participant)

FY 2019-2020 VJCCCA Plan Detail; Localities with One Year Plans in FY 2019  
DRAFT

Locality / Plan	VJCCCA Program Type	Actual Program Name	FY2019 Yr 1 Youth	Year 1 Budget	FY2020 Yr 2 Youth	Year 2 Budget
Frederick Comb	Case Management	Post Disp Case Management	100	\$50,000	100	\$50,000
Frederick Comb	Prevention Services	TAC Site Coordinator (30%)	0	\$0	40	\$15,000
Frederick Comb	Alternative Day/Extended Day	Evening Reporting Center	12	\$29,702	0	\$0
Frederick Comb	Alternative Day/Extended Day	TAC Site Coordinator (70%)	0	\$0	60	\$35,000
Frederick Comb	Substance Abuse Education	Substance Abuse Education	20	\$2,000	20	\$2,000
Frederick Comb	Substance Abuse Treatment	Substance Abuse Treatment	18	\$10,500	15	\$5,000
Frederick Comb	Life Skills	Life Skills	20	\$5,000	35	\$8,000
Frederick Comb	Pro-Social Skills	Anger Management	30	\$4,000	30	\$4,000
Frederick Comb	Restitution/Restorative Justice	Larceny Reduction	20	\$5,800	35	\$5,358
Frederick Comb	Supervision Plan Services	Supervision Plan Services	10	\$8,626	10	\$4,000
Frederick Comb	Coordinator / Administrative	VJCCCA Coordinator	0	\$12,730	0	\$0
Manassas City	Case Management	Diversion Pathways	60	\$120,823	60	\$122,077
Rockingham Comb	Coordinator/Administrative	Early Intervention Program	45	\$53,587	40	\$48,904
Rockingham Comb	Community Service	Learn A Bike	20	\$4,570	20	\$4,720
Rockingham Comb	Pro-Social Skills	Choices Anger Management	20	\$3,200	20	\$3,200
Rockingham Comb	Pro-Social Skills	Listen and Learn	32	\$4,000	32	\$4,000
Rockingham Comb	Supervision Plan Services	Supervision Plan Services	10	\$3,401	10	\$5,599
Rockingham Comb	Outreach Detention	Outreach Detention/EM	15	\$3,375	15	\$3,375
Rockingham Comb	Pro-Social Skills	First Tee	20	\$1,500	15	\$1,875
Rockingham Comb	Case Management	Case Management	30	\$5,198	30	\$5,198
Rockingham Comb	Parenting Skills	Parent Project	40	\$6,000	40	\$7,960
Rockingham Comb	Restitution/Restorative Justice	Restorative Conferencing	10	\$2,000	10	\$2,000
Warren County	Surveillance/Intensive	Intensive Supervision Services	10	\$9,158	6	\$3,663
Warren County	Case Management	Case Management	15	\$18,315	30	\$18,315
Warren County	Outreach Detention	Outreach Detention	5	\$9,157	5	\$3,693
Warren County	Pro-Social Skills	Pro-Social Skills Diversion	0	\$0	30	\$10,959
Hampton	Outreach Detention/EM	Alternatives to Detention:	147	\$163,000	147	\$130,000
Hampton	Outreach Detention/EM	Alternatives to Detention:	36	\$50,000	32	\$45,500
Hampton	Surveillance/Intensive	Violation Intervention Program	79	\$125,000	51	\$112,000
Hampton	Pro-Social Skills Program	Anger Management	85	\$44,000	52	\$45,000
Hampton	Substance Abuse Treatment	Substance Abuse Treatment	38	\$30,000	75	\$52,500
Hampton	Outpatient Services	Individual, Group Counseling	10	\$14,427	0	\$0
Hampton	Pro-Social Skills Program	Structured Day Treatment	0	\$0	20	\$31,027
Hampton	Supervision Plans Services	Supervision Plan Services	0	\$0	7	\$10,400
Newport News	Outreach Detention / Electronic	Electronic Monitoring	250	\$367,660	250	\$340,388
Newport News	Outreach Detention / Electronic	Outreach Detention	150	\$264,911	150	\$245,638
Norfolk	Outreach Detention / Electronic	Outreach Detention	200	\$440,000	200	\$430,000
Norfolk	Group Homes	Pre/Post Dispositional Group	60	\$552,000	34	\$505,000
Norfolk	Outreach Detention/ Electronic	GPS Monitoring	252	\$33,000	265	\$33,000
Norfolk	Law Related Education	Law Related Education	135	\$36,000	100	\$36,000
Norfolk	Alternative Day Services and	Day Reporting, Evening (Pre-	40	\$25,308	40	\$25,408
Norfolk	Pro-Social Skills Program	Anger Management	35	\$26,000	25	\$20,000
Norfolk	Parenting Skills	Parenting Group	45	\$45,000	40	\$45,000
Norfolk	Employment/ Vocational	Employment/Vocational Career	14	\$28,000	24	\$50,000
Norfolk	Pro-Social Skills Program	Skills Coaching through	11	\$22,000	10	\$18,000
Norfolk	Alternative Day Services and	Summer Day Treatment Camp	8	\$8,000	8	\$8,000
Norfolk	Restitution/ Restorative Justice	Restorative Justice	0	\$50	0	\$100
Norfolk	Supervision Plan Services	Supervision Plan Services	0	\$50	0	\$100
Norfolk	Coordinator/	Juvenile Justice Administration	0	\$63,990	0	\$63,990
Norfolk	Case Management	Diversion Substance Abuse	0	\$200	0	\$100
Norfolk	Outreach Detention / Electronic	Outreach Detention (Sanction)	0	\$100	25	\$45,000
Norfolk	Substance Abuse Education	Diversion SA Education	0	\$100	0	\$100
Martinsville	Outreach Detention/GPS	Mobile Enhanced Outreach/GPS	0	\$0	34	\$61,956
Martinsville	Outreach Detention/GPS	Outreach Detention/GPS	59	\$70,212	5	\$8,256
Martinsville	Group Home	Anchor Group Home	13	\$221,515	13	\$221,515
Martinsville	Shelter Care	Anchor Shelter Care			0	\$0

FY 2019-2020 VJCCCA Plan Detail; Localities with One Year Plans in FY 2019  
DRAFT

Roanoke	Community Service	Enhanced Comm. Service	57	\$72,041	60	\$64,239
Roanoke	Coordinator	VJCCCA Coordinator	0	\$33,430	0	\$33,430
Roanoke	Shelter Care	Lynchburg Shelter Care	4	\$83,169	7	\$68,533
Roanoke	Counseling	City of Roanoke Counseling	62	\$7,300	10	\$4,000
Roanoke	Life Skills Coaching	Life Skills Coaching	31	\$4,000	50	\$37,000
Roanoke	Electronic Monitoring	Electronic Monitoring	83	\$61,161	80	\$63,777
Roanoke	Outreach Detention	Outreach Detention	112	\$193,630	120	\$180,767
Roanoke	Anger Management	Anger Management	15	\$15,000	10	\$2,000
Roanoke	Substance Abuse Education	Substance Abuse Education	48	\$60,554	125	\$60,539
Roanoke	Supervision Plan Services	Supervision Plan Services	24	\$5,000	9	\$7,000
Roanoke	Intensive Supervision	Intensive Supervision	50	\$133,309	10	\$133,309
Roanoke	Employment/Vocational Services	Employment/Vocational Serv	0	\$0	10	\$9,500
Roanoke	Case Management Services	Case Management	0	\$0	10	\$4,500
York	Crisis Intervention & Shelter Care	Crossroads Community Youth H	10	\$73,394	10	\$73,394
York	Group Homes	Crossroads Community Youth H	11	\$293,904	11	\$293,904
York	Supervision Plan Services	Supervision Plan Services	5	\$2,000	5	\$2,000
York	Surveillance/Intensive Supervision	Comm. Supervision-Intensive	15	\$30,147	15	\$30,147
York	Outreach Detention/Electronic Monitoring	Comm. Supervision-Electronic M	45	\$94,064	45	\$94,064
York	Community Service	Project Insight	125	\$53,897	125	\$53,897
York	Law Related Education	Project Insight - LRE	135	\$27,143	135	\$27,143
York	Substance Abuse Education	Substance Abuse Education	20	\$18,053	20	\$18,053



**DEPARTMENT OF JUVENILE JUSTICE  
REGULATORY UPDATE**

**June 19, 2019**

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**CURRENT ACTIONS:**

**6VAC35-71      Regulation Governing Juvenile Correctional Centers**

**Stage:** Proposed (Standard Regulatory Process).

**Status:** This regulation became effective on January 1, 2014. This action involves a comprehensive review of the regulatory requirements. The Notice of Intended Regulatory Action (NOIRA) was published in the *Virginia Register* on October 3, 2016. At the NOIRA stage, no public comments were submitted. The proposed regulation has been approved by the Department of Planning and Budget (DPB) and the Secretary of Public Safety and Homeland Security (SPSHS) as part of the Executive Branch review process. The regulation is currently under review by the Governor.

**Next step:** Once the Governor reviews and approves the Proposed Action and the Executive Branch review is complete, the proposed regulation will be published in the *Virginia Register*, followed by a 60-day public comment period.

**6VAC35-101-45      Regulation Governing Juvenile Secure Detention Centers,  
Contracts between juvenile detention centers and separate entities**

**Stage:** (Fast-Track Process).

**Status:** This is a new provision proposed for addition to the Regulation Governing Juvenile Secure Detention Centers, which became effective on January 1, 2014. This is a standalone action apart from the comprehensive review of the regulatory requirements in Chapter 101. The fast-track action was certified by the Office of the Attorney General (OAG) on September 17, 2018, and completed review by DPB on October 27, 2018, the SPSHS on November 6, 2018, and the Governor's office on June 5, 2019.

**Next step:** The fast-track will be published in the *Virginia Register* on July 8, 2019 followed by a 30-day public comment period. Unless the board receives objections by an applicable standing member of the House or Senate, a member of the Joint Commission on Administrative Rules, or 10 or more members of the public, the regulation will take effect 15 days after the close of the public comment period.

**6VAC35-11-150      Public Participation Guidelines  
Public comment**

**Stage:** (Fast-Track Process)

**Status:** This regulation became effective on September 17, 2008. This amendment is the result of a periodic review of this chapter, the results of which were reported on May 21, 2019. The fast-track has been submitted to the Virginia Regulatory Town Hall and currently is being reviewed by the Office of the Attorney General.

**Next step:** Once the OAG has reviewed the regulation, DPB will have 10 days to determine whether the regulation is appropriate for the fast-track process and 30 days to conduct its economic impact analysis.



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**COMMONWEALTH OF VIRGINIA**  
*Department of Juvenile Justice*

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**MEMORANDUM**

**TO:** State Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**SUBJECT:** Request Extension of Variance Applicable to Juvenile Correctional Centers; Security Staff Supervision of Residents During Transportation

**DATE** June 19, 2019

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**I. SUMMARY OF ACTION REQUESTED**

The Department of Juvenile Justice (the department) respectfully requests the State Board of Juvenile Justice (board) to approve an extension of the variance submitted on behalf of the juvenile correctional centers (JCCs) and originally approved by the board on September 19, 2016, pursuant to 6VAC35-20-92 (Variance request). The JCC seeks this extension of the variance to various regulatory requirements that collectively prevent staff classified as security staff from supervising residents during routine and emergency transportation without a direct care staff present. The variance allows staff classified as security staff or direct care staff to supervise residents during routine and emergency transportation.

**II. BACKGROUND**

On September 19, 2016, the board granted the juvenile correctional centers a variance primarily to the regulatory requirement contained in **subsection A of 6VAC35-71-830**. That subsection provides:

During the hours that residents are scheduled to be awake, there shall be at least one direct care staff member awake, on duty, and responsible for supervision of every 10 residents, or portion thereof, on the premises or participating in off-campus, facility-sponsored activities.

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.

Although the current regulations do not define security staff, the department has operationalized this term in its standard operating procedures to mean: “staff who are responsible for maintaining the safety, care, and well-being of residents and the safety and security of the facility to provide residents and staff with a safe living and work environment.” Because security staff do not have primary responsibility for implementing the structured program of care or behavior management program, they do not meet the definition of direct care staff.

The issue necessitating the 2016 variance arose in large part due to the department’s implementation of the Community Treatment Model (CTM) in the JCCs in 2015. As part of this implementation, the department reclassified the majority of the direct care staff positions (formerly juvenile correctional officers) into two separate categories: 1) resident specialists and 2) security staff. Employees classified as resident specialists, in addition to their supervisory and security functions, were given enhanced programmatic responsibilities consistent with the goals of developing communities and providing treatment within each correctional center unit. These tasks include leading therapeutic structured activities, facilitating and ensuring positive group interactions through coaching and mentoring residents, serving as accessible role models and advocates to assigned residents, and accompanying residents to core and elective classes to assist teachers. Under the existing variance, direct care staff include Resident Specialists I and II.

In contrast, security staff were given the primary responsibility of maintaining the security of the JCC, and were responsible for conducting perimeter checks, operating the central control center, and conducting searches at the security entrance. Security staff were not involved in the resident’s treatment and were not required to implement the behavior management program. As such, they did not meet the definition of direct care staff and were not authorized to transport residents outside the presence of direct care staff.

The variance, as approved by the board on September 19, 2016, incorporated the department’s operationalized definition of security staff into the definitions section of the regulation and authorized such staff to be responsible for actively supervising residents during routine and emergency transportation. At the time the variance was issued, the security staff classification definition expressly included Security Managers, Security Coordinators, and Security Specialists. Under the existing variance, these positions may transport residents from one area of the facility or premises to another and to off-site locations for purposes such as medical visits and court dates without having a direct care staff present.

The board granted this variance to the JCCs in operation at that time for a period of three years or “until 6VAC35-71 is amended, whichever occurs first.” While the board approved proposed amendments to 6VAC35-71 in November 2017 that incorporate the provisions of this variance, the amendments are currently undergoing executive level review in the Proposed stage of the standard regulatory process. Because the proposed amendments to Chapter 71 have not taken effect, the variance is scheduled to expire on September 16, 2019.

Since the board’s approval of the variance in 2016, the department has made a minor change to its security staff classification by retitling the Security Specialist position and modifying expectations regarding duties. The position now referred to as “Resident Specialist” must fulfill all of the security-related functions previously required of Security Specialists. In addition, the position is responsible for temporarily assuming the duties of the Resident Specialist I and providing coverage in the individual living units when there is a shortage of Resident Specialist I staff on the units. Although the modified Resident Specialist position is intended to temporarily assume the duties of the Resident Specialist I and receives significant training in the department’s CTM, the Resident Specialist position does not satisfy the definition of direct care staff because the position is not **primarily** responsible for implementing the behavior management program.

### III. PROPOSED VARIANCE

Extending the variance would continue to allow security staff to supervise residents during routine or emergency transportation without direct care staff being present. The provisions of the proposed variance are the same as approved by the board in 2016, except the definition of security staff has been amended to reflect the retitling of the Security Specialist position to "Resident Specialist."

#### 6VAC35-71-10. Definitions.

"Security staff" means staff who are responsible for maintaining the safety, care, and well-being of residents and the safety and security of the facility to provide residents and staff with a safe living and work environment. Security staff shall include resident specialists, security coordinators, and security managers.

#### 6VAC35-71-540. Transportation.

- A. Each JCC shall have transportation available or make the necessary arrangements for routine and emergency transportation.
- B. There shall be written safety rules for transportation of residents and for the use and maintenance of vehicles.
- C. Written procedure shall provide for the verification of appropriate licensure for staff whose duties involve transporting residents.
- D. Residents shall be supervised by security staff or direct care staff during routine and emergency transportation.

#### 6VAC35-71-830. Staffing pattern

- A. During the hours that residents are scheduled to be awake, there shall be at least one direct care staff member awake, on duty, and responsible for supervision of every ten residents, or portion thereof, on the premises or participating in off-campus, facility-sponsored activities, excluding routine and emergency transportation.
- B. During the hours that residents are scheduled to sleep, there shall be no less than one direct care staff member on duty and responsible for supervision of every 16 residents, or portion thereof, on the premises.
- C. There shall be at least one direct care staff member on duty and responsible for the supervision of residents in each building or living unit where residents are sleeping.

### IV. RATIONALE

While security staff do not meet all of the requirements for classification as direct care staff under Section 10 of the regulation, there are compelling reasons to continue to allow them to transport residents without the presence of direct care staff. First, under the department's current procedures, security staff are required to receive the same volume of training hours as direct care staff. Security staff receive 120 hours of training initially and 40 hours of training annually. Although some of the training content differs from that required for direct care staff, security staff are sufficiently trained to address any threats to safety and security that may be encountered while they are transporting residents.

Second, the temporary nature of transportation eliminates the need for supervision by staff tasked with implementing the CTM. Unlike the CTM housing units, which depend upon consistent staffing by employees trained to implement behavior management, it is not necessary for security who are supervising residents during routine or emergency transportation to have the heightened qualifications and training needed to lead group discussions and activities, facilitate group interactions, or satisfy other requirements related to treatment. Those security staff who do not have these heightened qualifications will continue to possess the training and skills needed to maintain the security of the facility and the safety of residents during transport.

Finally, by acceding to the department's request to incorporate the substance of the variance into the proposed amendments to 6VAC35-71, the board already has demonstrated its approval of the provisions in this variance. This variance has been in place for three years and has remained an effective tool for administering the CTM and ensuring that important activities and services are not interrupted when residents require transportation on or off-campus.

## **VI. DURATION OF VARIANCE**

The department requests that the variance be granted and remain in effect for an additional three years or until 6VAC35-71 is amended, whichever occurs first.



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**MEMORANDUM**

**TO:** State Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**DATE:** June 19, 2019

**SUBJECT:** Request to Amend Regulation Governing Minimum Standards for Juvenile Information Requests from and Research Involving Human Subjects within the Department of Juvenile Justice (6VAC35-170) through the Fast-Track Regulatory Process.

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**I. SUMMARY OF ACTION REQUESTED**

The Department of Juvenile Justice (department) is respectfully requesting the State Board of Juvenile Justice (board) to approve the proposed changes to 6VAC35-170, *Regulation Governing Minimum Standards for Juvenile Information Requests from and Research Involving Human Subjects within the Department of Juvenile Justice* and to grant permission to proceed through the fast-track regulatory process.

Pursuant to § 2.2-4012.1 of the Code of Virginia, regulations that are expected to be noncontroversial may be promulgated or amended through an expedited process. The changes that are being proposed are consistent with federal regulations, intended to permit research that will benefit the department while ensuring the confidentiality and protection of sensitive data, and are not expected to be controversial. Accordingly, the department respectfully requests the board to approve these changes for submission to the Virginia Regulatory Town Hall through the fast-track process.

**II. BACKGROUND OF THE REVIEW**

Section 66-10.1 of the Code of Virginia 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 of Virginia. Chapter 170 of the department's regulations 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.

Pursuant to the Administrative Process Act, the department conducted a comprehensive review and made several amendments to the regulation, which took effect in December 2016. The 2016 amendments established the process for review and approval of two types of external data requests: external aggregate data requests and external case-specific data requests. The 2016 revisions enumerated the categories of identifiers that would need to be removed from case-specific data provided to researchers and gave the director of the department the authority to allow for the release of data containing a limited number of such identifiers for research that ultimately would benefit the department.

In order to clarify provisions that have generated confusion among the regulated community, the department is recommending additional amendments to this regulation.

### III. SUMMARY OF PROPOSED SUBSTANTIVE AMENDMENTS

- **Section 10 - Definitions:** The department proposes the following amendments to Section 10 of the regulation:
  - Amend the definition of “director” to include the department director’s designee.
  - Strike the definition for the term “encrypted,” as that term is not used in the regulation. The department will provide information regarding encryption guidelines in the corresponding administrative procedure associated with this regulation.
  - Add a shortcite (HRRC) in the definition for the Human Research Review Committee to enable the shortcite to be used in lieu of the term, Human Research Review Committee or committee in Sections 20, 65, 70, 80, 110, 130, 140, 150, 160, 170, 180, 185, and 190.
  - Amend the definition of “human subject” to include individuals who are under the care, custody, or supervision of a facility or program regulated by the department or the board, as well as employees and contractors in these facilities. The existing definition fails to account for individuals who reside in a juvenile secure detention center, juvenile group home, or other residential facility regulated by the department and for staff and contractors in department-licensed facilities.
  - Add a definition for “internal committee,” the committee established to oversee de-identified case specific data requests. This change will create a clear distinction between the internal committee and the HRRC.
  - Revise the definition for “organizational unit head” to acknowledge that the head may be in charge of any board-regulated facility, program, or service, including those entities not operated by the department (e.g., juvenile detention centers and group homes).
  - Amend the definition of research to remove the unnecessary last sentence, which recommends that research findings provide valuable information to management for policy options.
  - Insert a definition for sensitive data that is consistent with a similar definition provided in the Commonwealth Information Technology Resource Management Standards. This new definition adds context for the amendment being proposed to Section 65 of this chapter.
  
- **Section 50 - Conditions for department approval of external research:** This section establishes conditions that must be satisfied before the department will approve an external research request. While not expressly stated here, these conditions also are necessary for external data requests. The

department proposes additional language indicating that the conditions established in this section are applicable to external data requests.

- **Section 55 (new) - Review and approval of aggregate data requests (moved from Section 62):** Currently, these provisions are set out in 6VAC35-170-62. The department proposes repealing Section 62 in its entirety and moving the content of that section into this newly created Section 55 for structural purposes.
- **Section 65 - External case-specific data requests:** The department proposes the following amendments to Section 65:
  - **Confidentiality Agreement Form (subsection A)** - Add the Confidentiality Agreement Form to the list of documents that must be submitted to the department when an external case-specific data request is presented. Although not explicitly provided in the existing regulation, the department requires all such requests to include a signed confidentiality agreement to assist in preventing the unauthorized disclosure of confidential information.
  - **Identifiers and Sensitive Data (subsections C, D, and E; Section 230)**
    - Strike several of the existing categories of identifiers that currently must be removed from case-specific data before such data may be provided to researchers. The existing regulation provides a list of identifiers, including, for example, names; dates of birth, admission, and release; postal address information other than town or city, state, and zip code; account numbers, such as juvenile tracking system and direct care numbers; social security numbers; and full face photographic images. Under the existing regulation, the department may disseminate data containing some of these identifiers with the director's approval and provided the research will benefit the department. While social security numbers, names, and dates of birth are sensitive by nature, other identifiers, such as account numbers and dates of admission or release, become sensitive only when paired with additional identifiers or other information. Because it is not necessary for all such identifiers to be excluded from the data, add a requirement that only identifiers deemed sensitive must be removed from the data provided to researchers and excluding from the categories of sensitive data, dates of admission, dates of release, post information, and account numbers.
    - Add language restricting the director's authority to approve on a case-by-case basis the dissemination of such sensitive data solely to those occasions when the researcher agrees to maintain the confidentiality of such information or to release or publish only the aggregated form of the data.
    - Add language in subsection C specifying that, while external case specific data requests do not require HRRC review, external case-specific data requests containing sensitive data must be reviewed by the HRRC.
    - Add a provision to Section 230 that gives the department the authority to establish written procedures identifying additional data elements that it deems sensitive.
  - **Internal Review Committee** - Clarify that the recommendation the internal committee makes to the director to approve or disapprove the case-specific external data request must be in writing.
- **Section 70 – Requirements specific to human research.** This section sets out requirements with which entities conducting human research must comply. Because the proposal adds new provisions



regarding sensitive data, the department recommends language in this section that imposes additional obligations on researchers to comply with appropriate security and non-disclosure requirements whenever sensitive data are provided.

- **Sections 80 – Informed consent required for human research.** This section refers the regulant to § 32.1-162.18 of the Code of Virginia as support for the requirements contained within. That statute currently requires the researcher to obtain informed consent of the human subject or his legally authorized representative before using the subject in human research. Rather than referencing this provision, the department recommends incorporating the applicable and currently omitted provision from the statute into this section.
- **Section 90 – Exemptions from the requirements governing human research.** This section exempts various categories of human research from sections 70 and 80, as well as all other provisions in this chapter governing human research. Two exempt categories identified in the federal regulation set out in 45 CFR 46.101(b) are omitted from this list and should be added to ensure compliance with the federal requirements: (i) research on individuals confined involuntarily in juvenile correctional centers or secure juvenile detention centers, and (ii) information regarding children under age 18 if such information could expose the child to criminal or civil liability or damage his financial standing or employability, or if such information deals with sensitive aspects of his behavior.
- **Section 100 - Proposal for external research: (subsection B)**
  - The current regulation requires the principal researcher, when submitting his proposal for external research to the coordinator of external research, to include the following information: (i) names, addresses, and telephone numbers of the principal researcher; and (ii) the name of other persons, besides the principal researcher, who is supervising the project. The department recommends expanding the required information regarding the principal researcher to include his email address and making additional changes to ensure the same information is provided for any other individual who will immediately supervise the project. Finally, because such other individuals typically will coordinate, rather than supervise the research, the department recommends amending the language to reflect this practice.
  - The current regulation requires the proposal to include endorsement from the researcher's academic advisor or other appropriate persons for student research (subdivision B11) and endorsement from the appropriate juvenile and domestic relations judge for research involving juvenile records at court service units (subdivision B12). The department recommends removing both of these misleading mandates. Subdivision B11 suggests that a student would be permitted to serve as a principal researcher, which is inconsistent with the general practice. Subdivision B12 requires judges to offer an endorsement about information that may fall outside their general knowledge.
- **Section 170 – Recommendation to the director and final action.** Under the current regulation, once the HRRC has reviewed a human research proposal, the committee must make a recommendation to the director. In turn, the director must approve or deny the proposal within 10 business days of receipt of the committee recommendation. The department recommends adding a provision requiring the coordinator of external research to notify the principal researcher of the final

decision to ensure that the researcher is aware of the director's decision and knows whether to proceed with the proposed human research.

- **Section 185 – Researcher noncompliance:** The department proposes to add an additional potential consequence for research activities that do not comply with the approved proposal or that violate state statutes or regulations. In addition to restricting or terminating further research and prohibiting the researcher from presenting or publishing the research results, the proposal allows the department to bar the researcher from conducting studies in the future.
- **Section 190 – HRRC reports required:** The department proposes adding a subsection C to this section that requires the HRRC to ensure that an overview of the annual report on human research projects be completed and posted on the department's website unless the information is exempt from disclosure under the Freedom of Information Act. This additional language is proposed to comply with the mandate in Code of Virginia § 32.1-162.19(E), which requires the human research report overview and results of such projects to be made public on the agency's website.
- **Section 200 – Progress reports.** The current regulation makes the principle researcher responsible for providing periodic reports or other supplemental information mandated by the department in a timely manner. The department recommends striking this requirement as vague.
- **Section 220 – Final report:** The department proposes to amend this section to clarify that the principal researcher is the party required to submit the formal final report to the coordinator of external research. The existing regulation imposes the requirement but does not specify which party has the obligation to submit the report.

#### IV. ADDITIONAL AMENDMENTS MADE TO MULTIPLE SECTIONS

***Incorporation by reference prohibited:*** Several provisions in the regulation require the regulant to comply "in accordance with department procedures." These provisions violate the Virginia Code Commission's 2016 regulation that prohibits state agencies from incorporating into their regulations by reference documents developed by that agency. The department proposes to replace these provisions with a mandate in the newly created Section 230 that the department develop written procedures related to the existing requirement. Amendments are proposed to the following sections:

- Section 50 – Conditions for department approval of external research and data requests (*removes the requirement that all external data requests and human research proposals comply with department procedures*).
- Section 55 – Review and approval of aggregate data requests (*removes the reference to incorporated procedures originally contained in Section 62*).
- Section 60 – Formal agreement required (*removes the provision prohibiting the commencement of case-specific data requests or human research requests until all reviews required by department procedure are completed*).
- Section 65 – External case-specific data requests (*removes the requirement that external data request be submitted to the department using any attachment mandated by department procedures*).

- Section 100 – Proposal for external research (*removes the provision requiring the presentation of the preliminary research proposal and the organizational unit head's endorsement in accordance with written procedures for research conducted in a particular organizational unit*).
- Section 150 – HRRC review of human research proposals (*removes requirement that human research must comply with the requirements set out in applicable department procedures and policies*).
- Section 170 – Recommendation to director and final action (*Prevents the research agreement from taking effect until all reviews required by department procedure are completed*).

***Removal of extraneous references to human research statute:*** Several sections in this chapter needlessly reference the statutory provisions regarding human research contained in § 32.1-162.16 et seq of the Code of Virginia. Because these references provide no additional guidance, the department recommends removing them from Sections 80, 90, and 130.

#### **IV. LIST OF RETAINED SECTIONS**

The department is not recommending amendments to the following sections:

- Section 30 – Professional ethics
- Section 40 – Confidentiality requirements of all research
- Section 210 – Department permission to use research findings

**DEPARTMENT (BOARD) OF JUVENILE JUSTICE  
CH 0170 Amend Regulation Governing Human Research**

**CHAPTER 170**

**REGULATION GOVERNING MINIMUM STANDARDS FOR JUVENILE INFORMATION REQUESTS FROM AND  
RESEARCH INVOLVING HUMAN SUBJECTS WITHIN THE DEPARTMENT OF JUVENILE JUSTICE**

**6VAC35-170-10. Definitions.**

~~Unless the context clearly indicates otherwise, the~~ The following words and terms when used in this chapter shall have the following meanings, consistent with the definitions offered in § 32.1-162.16 of the Code of Virginia 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 individuals within a group.

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

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

"Department" means the Department of Juvenile Justice.

"Director" means the ~~Director~~ director of the ~~Department of Juvenile Justice~~ department or the director's designee.

~~"Encrypted" means the transformation of data through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without the use of a confidential process or key or the securing of the information by another method that renders the data elements unreadable or unusable.~~

"External research" means research 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 who are not part of the department or under contract ~~to~~ 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 any 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).

"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.

"Human subject" means ~~any~~ an individual who is: under the department's care, custody, or supervision; or under the care, custody, or supervision of a facility or program regulated by the department or the Board of Juvenile Justice; or a member of the family of such an 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 contractual services to a juvenile correctional center or other facility or program 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 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 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 or parents 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 and the attorney in fact is not employed by the person, institution, or agency conducting the human research. No official or employee of the institution or agency conducting or authorizing the research shall act as a legally authorized representative. 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 organizational unit of the department or Board of Juvenile Justice-regulated facility, program or service.

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

"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, statement of those problems in researchable format, design of methodologies appropriate to the problems, and the application of statistical techniques to organize and analyze data. ~~Research findings should provide valuable information to management for policy options.~~

"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 any 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.

"Written" means the required information is communicated in writing. ~~Such writing may be available in either in~~ hard copy or electronic form.

#### **6VAC35-170-20. General requirements of external researchers.**

A. The principal researcher 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 principal researcher ~~is~~ shall be responsible for (i) the conduct of the research staff, (ii) the protection of the rights of subjects involved in the project, and (iii) ~~providing~~ provision of information required by the coordinator of external research, organizational unit heads, and the ~~Human Research Review Committee~~ HRRC.

#### **6VAC35-170-50. Conditions for department approval of external research and data requests.**

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 ~~resources~~ and staff resources to support the ~~research project request~~, and that, on balance, the benefits of the ~~research request~~ request justify the department's involvement;
2. The ~~proposed research request~~ 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 ~~proposed research request~~ request is compatible with the purposes and goals of the juvenile justice system and with the department's organization, operations, and resources; and

~~4. The proposed research requests for aggregate data or de-identified data, and the human research proposals, comply with all department procedures, which shall be posted on the department's website.~~

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

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 (professional ethics) and 6VAC35-170-50 (conditions for department approval of external research and data requests);

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. Formal agreement required.**

~~No external research case-specific data request or human research request shall begin until all reviews required by this regulation and department procedure chapter have been completed and the principal researcher is given receives a copy of the research agreement signed by the director.~~

**6VAC35-170-62. Review and approval of aggregate data requests(Repealed).**

~~A. Aggregate data requests shall be submitted to the department in accordance with procedures posted on the department's website.~~

~~B. The department shall determine the following prior to approving the request:~~

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

~~2. The data requested is accessible;~~

~~3. An estimate of the time required to process the data request; and~~

~~4. Based on staff workload, if staff resources are available to process the data request.~~

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

~~D. The principal researcher shall be notified in writing of the approval or denial of the data request within 20 business days of the department receiving the proposal.~~

~~1. The department shall provide the principal researcher with documentation of the rationale for the denial of the request when applicable.~~

~~2. The department shall provide the principal researcher with a written estimated timeline for receipt of the data when applicable.~~

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

~~A. External case-specific data requests shall be submitted to the department via using the Confidentiality Agreement Form, Research Proposal Form, and the Research Agreement Form, and any attachment required by department procedures.~~

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

~~C. The coordinator of external research shall determine the following within 10 business days of receiving the research proposal data request:~~

~~1. The That the request meets the conditions for department approval of research identified in 6VAC35-170-30 (professional ethics) and 6VAC35-170-50 (review and approval of aggregate data requests);~~

2. ~~The~~ That the proposal is not a human research proposal and is not required to be reviewed by the ~~Human Research Review Committee~~ HRRC; however, requests that include sensitive data shall be reviewed by the HRRC;

3. ~~The~~ That the principal researcher has appropriate academic or professional standing or job-related experience in the area to be studied;

4. ~~The~~ That the proposal is in the required format and includes all required information;

5. ~~The~~ That the proposal complies with basic research standards and applicable laws;

6. ~~The~~ That the data requested is accessible;

7. ~~Department staff and~~ That department resources are available to process the data request; and

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

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

1. Names;

2. ~~Dates (date of birth, date of admission, date of release, etc.)~~ Dates of birth;

3. Postal ~~street address information, other than town or city, state, and zip code~~ addresses;

4. Telephone numbers;

5. Email addresses;

~~6.~~ Social security numbers;

~~6.~~ Medical record numbers;

~~7. Account numbers (Juvenile Tracking System, Direct Care, etc.);~~

8. Biometric identifiers, including finger and voice prints; and

9. Full face photographic images and any comparable image.

E. The director ~~or his designee~~ may on a case-by-case basis approve the dissemination of data containing a limited number of the identifiers listed in subsection D of this section for research benefiting the department, provided the researcher agrees that any such information shall be kept confidential in accordance with 6VAC35-170-40 (confidentiality requirements of all research) or released or published only in aggregate form.

F. 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. Industry standard levels of encryption shall be required to protect all juvenile record information provided to researchers.

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

1. 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 ~~adequately~~ adequately protected adequately.

4. Make a written recommendation to the director ~~or his designee~~ to approve or disapprove the request.

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

J. The department shall notify the researcher of the director's decision within five business days of the director making the decision.

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 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. Notification of the denial of a proposal shall include a written rationale.~~

~~L. Notification of the approval of a proposal shall include the research agreement. The research agreement shall outline the respective responsibilities of the parties and will specify:~~

~~1. When progress reports shall be required. If the external research also involves human research, this schedule of progress reports shall be developed in consultation with the Human Research Review Committee;~~

~~2. The department shall have unrestricted permission to use the research findings in accordance with professional standards of research;~~

~~3. A final report shall be submitted electronically to the department;~~

~~4. Unless waived by the director or 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~~

~~5. The research agreement is not effective until signed by both the principal researcher and the director or his designee.~~

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

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

~~A. All human research shall comply with all applicable laws, particularly 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. Research Human research involving known and substantive physical, mental, or emotional risk to subjects, including the withholding of any prescribed program of treatment, and all experimental medical, pharmaceutical or cosmetic research, are specifically prohibited.~~

~~C. Offering incentives to participate in research is discouraged, but not prohibited. Incentives offered shall be appropriate to the juveniles' custodial status and shall be proportionate to the situation.~~

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

~~DE. No human research shall be conducted without the approval of the Human Research Review CommitteeHRRC.~~

#### **6VAC35-170-80. Informed consent required for human research (§ 32.1-162.18 of the Code of Virginia).**

~~A. 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.~~

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

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

~~CD. 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.~~



~~DE.~~ 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 prospective subject in human research subject, the subject shall not be enrolled in the human research that is the subject of the consent.

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

~~FG.~~ A legally authorized representative may not consent to nontherapeutic research unless the ~~Human Research Review Committee~~ HRRC determines that ~~such the nontherapeutic~~ research will present no more than a minimal risk to the human subject.

~~GH.~~ ~~No~~ The informed consent form shall not include any language through which the human subject waives or appears to waive any legal right, including any the release of any an individual, institution, or agency or any agent thereof from liability for negligence (~~see § 32.1-162.18 of the Code of Virginia~~).

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

~~In accordance with § 32.1-162.17 of the Code of Virginia, the~~ A. The following categories of human research are not subject to this ~~regulation's chapter's~~ provisions governing human research. Except ~~when~~ as otherwise provided for by law or regulation, these activities ~~may~~ 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 ~~become~~ became known outside the research, ~~could~~ 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, physically or mentally incapacitated, or to improve the quality of the subject's life.

B. Pursuant to 45 CFR 46.101(b), the exemptions outlined in this section 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.

C. Pursuant to 45 CFR 46.101(b), the exemptions outlined in subdivision A(3) of this section shall not apply to research conducted upon children who have not attained age 18.

#### **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 shall present a preliminary research proposal to ~~the head of that organizational unit and get the organizational unit head's endorsement of the proposal from the organizational unit head,~~ in accordance with procedures established by the department.

B. The principal researcher shall submit to the coordinator of external research a complete research proposal describing the research project, and containing:

1. Name, address, telephone ~~numbers~~ number, email address, title and affiliation of the principal researcher;
2. Name, telephone number, and email address of the person who will ~~immediately supervise~~ coordinate the project, if different from the principal researcher;

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 or purposes 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 listing 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. A The written endorsement from the ~~head of the~~ organizational unit where the research will be conducted, if applicable head in accordance with subsection A;
- ~~11. For student research, endorsement from the researcher's academic advisor or other appropriate persons;~~
- ~~12. For research involving records of juveniles at state and local court service units, a written endorsement from the appropriate juvenile and domestic relations judge or judges;~~
- ~~13~~11. For human research, a A written endorsement from the institutional review board of the institution or organization with which the researcher is affiliated; and
- ~~14~~12. For all research projects, a A signed and dated statement that the principal researcher and research staff have read, understand, and agree to abide by these regulations.

#### **6VAC35-170-110. Initial review by coordinator of external research.**

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 ~~shall include~~, for all proposed human research, shall include, the department's ~~human research review committee~~HRRC.

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

A. ~~In accordance with § 32.1-162.19 of the Code of Virginia, the~~ The department shall establish a ~~human research review committee~~ 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 ~~committee~~ 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 ~~committee~~HRRC.

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

#### **6VAC35-170-140. Timeline for review of human research proposals.**

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

B. At the request of the researcher, the ~~Human Research Review Committee~~ HRRC may conduct an expedited review when the proposed research involves no more than minimal risk to the human subjects and:

1. The proposal has been reviewed and approved by another agency's ~~human research review committee~~HRRC; or
2. The review involves only minor changes to a research project that was previously approved.

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

In reviewing the human research proposal, the ~~committee will~~ HRRC shall consider the potential benefits and risks to the human subjects, and shall recommend approval only when ~~the benefits outweigh the risks. In addition, the committee 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 (HRRC review of informed consent provisions);

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 regulation and in applicable department policies and procedures chapter.

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

A. ~~The committee~~ 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 ~~committee~~ HRRC finds and documents that:

1. ~~Research~~ 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 ~~practicably~~ practicably 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 committee~~ HRRC may waive the requirement that the researcher get written informed consent for some or all subjects 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 committee~~ 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 ~~shall be asked~~ 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 Human Research Review Committee~~ HRRC shall make a recommendation to the director to deny, approve, or conditionally approve the proposed human research.

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

C. The research agreement shall become effective only after all reviews required by this regulation and ~~department procedures~~ are completed and the director signs the agreement on behalf of the department. The coordinator of external research ~~must~~ shall send a copy of the signed research 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 human research review committee~~ HRRC shall review all human research activities at least annually to ensure that they are ~~being~~ conducted in conformance with the proposals as approved by the director.

**6VAC35-170-185. Researcher noncompliance.**

A. The researcher shall report noncompliance with the approved research proposal to the ~~Human Research Review Committee~~ HRRC and the institutional review board.

B. ~~Research~~ If the HRRC determines that the research activities identified by the department or the Human Research Review Committee as failing ~~fail~~ fail to comply with the approved proposal or ~~in violation of~~ violate the Code of Virginia or the Virginia Administrative Code, ~~the department may~~ result in the department restricting (i) restrict or terminating ~~terminate~~ further research; ~~and the department may~~ (ii) prohibit the researcher from presenting or publishing the research results; or (iii) bar researchers from conducting future studies.

**6VAC35-170-190. Committee reports required.**

A. In accordance with § 66-10.1 of the Code of Virginia, the ~~Human Research Review Committee~~ HRRC shall submit to the Governor, the General Assembly, and the director at least annually a report on human research projects approved by the ~~committee~~ HRRC and the status of such research, including any significant deviation from the proposals as approved.

B. The ~~Human Research Review Committee~~ HRRC also shall ~~also annually~~ submit annually to the Board of Juvenile Justice the same report as required by subsection A of this section.

C. The HRRC shall ensure that an overview of the report required in subsection A 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.

**6VAC35-170-200. Progress reports.**

A. The department may require periodic reports on the progress of any research project. The principal researcher shall be responsible for providing such reports, and any supplementary information 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.

**6VAC35-170-220. Final report.**

A. The department shall require ~~that the principal researcher to submit~~ a formal final report ~~be submitted~~ to the coordinator of external research and may require up to 10 copies of the report.

B. The report shall contain, unless waived by the director or designee, ~~contain~~ 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."

**6VAC35-170-230. Written procedures.**

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 (proposal for external research).

B. The department may establish written procedures that outline additional requirements for the submission, approval, and review of research projects and data requests authorized in this chapter. The written procedures also may identify additional data elements that the department deems to be sensitive data.

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