

Dana Schrad, Chair
Robert Vilchez, Vice Chair
Anita James Price, Secretary
Eric English
Tyren Frazier
William Johnson
Scott Kizner
David Mick
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COMMONWEALTH of VIRGINIA
Board of Juvenile Justice

Meeting Minutes

November 9, 2022

Virginia Public Safety Training Center, Knox Hall, 7093 Broad Neck Road, Hanover, VA 23069

Board Members Present: Eric English, William (Will) Johnson, David Mick, Dana Schrad, and Robert (Tito) Vilchez

Board Members Absent: Tyren Frazier, Anita James Price, Scott Kizner, and Synethia White

Department of Juvenile Justice (Department) Staff: Ken Davis, Mike Favale, Amy Floriano, Wendy Hoffman, Dale Holden, Joyce Holmon, Melodie Martin, Ashaki McNeil, Linda McWilliams, Margaret O'Shea (Office of the Attorney General), Kristen Peterson, Rachel Wentworth, and Rebecca Westfall

Guests: Dana Hawes (Rise for Youth), Chuck Kehoe (Former Department Director), Megan O'Brien (Office of the Attorney General), and Valerie Slater (Rise for Youth)

CALL TO ORDER AND INTRODUCTIONS

Chairperson Dana Schrad called the meeting to order at 9:35 a.m. Chairperson Schrad welcomed those present and asked for introductions.

PUBLIC COMMENT

There was no public comment.

CONSIDERATION OF REVISIONS TO THE LENGTH OF STAY GUIDELINES

Amy M. Floriano, Director

Director Floriano welcomed the Board's newest member, David Mick, who is currently in the Office of the Attorney General and formerly served as a Deputy Commonwealth's Attorney and public defender. David has many years of experience in juvenile court and working with the Department.

Director Floriano thanked the Board members for attending this specially called meeting on the Guidelines for Determining the Length of Stay (LOS) for Juveniles Indeterminately Committed to the Department (LOS Guidelines). Director Floriano gave a PowerPoint presentation (embedded in the meeting notes), and the following was a summary of her discussion.

Length of Stay (LOS)

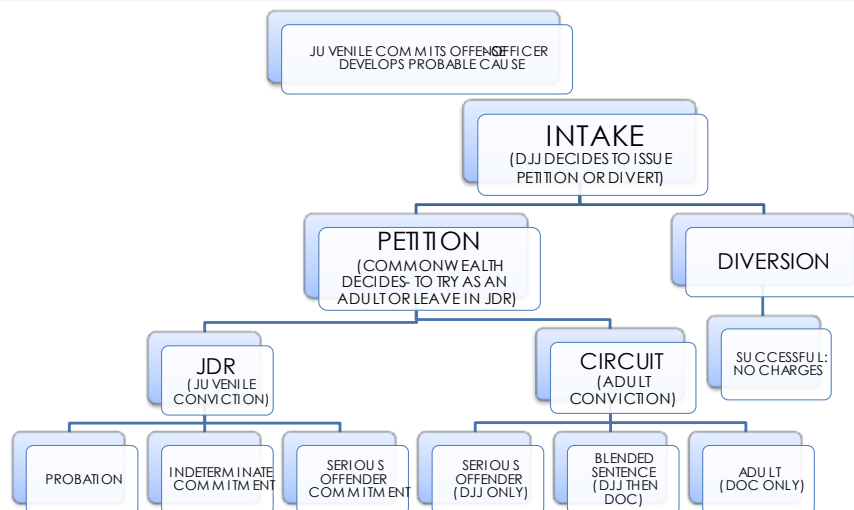


- 16.1-285
 - “The Department shall have the authority to discharge any juvenile or person from its custody, including releasing a juvenile or person to parole supervision, in accordance with policies and procedures established by the State Board and with other provisions of law.”
 - For all commitments that are not “serious offender commitments” under 16.1 -285.1.
 - 36 months OR 21 years of age

1

In the juvenile justice system, there are two types of commitments: serious offender commitments (§ 16.1-285) and indeterminate commitments. A serious offender commitment requires the court to make the release determination and is only available for certain offenses. Unless the youth meet these criteria or the circuit court does a waiver, the youth will be placed into direct care as an indeterminate commitment.

System Overview



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Director Floriano provided an overview of the system. A juvenile commits an offense, law enforcement investigates, and probable cause is developed. The juvenile reports to intake where the decision-making process begins for either diversion or a petition is issued (like an arrest warrant for adults). The Commonwealth reviews the petition, the offense, and the evidence, and makes the first decision to continue to proceed in juvenile court or try the youth as an adult. A felony can be **transferred** for juveniles 14 years old and up with certain factors considered by the court or **certified** for violent juvenile offenders at 16 years

old and up. If the Commonwealth elects for the case to be heard in circuit court, the judge decides on a transfer decision, but a certification decision lies 100% within the determination of the Commonwealth upon filing a review of a transfer report. A transfer decision is when the court decides in looking at the nature of the offense and the background of the individual, whether that child should remain in juvenile court or go to circuit court. This is an important decision in the process.

The differences can be seen in the sentencing options. If the child remains in juvenile court versus- circuit court, there is an opportunity for juvenile probation. The juvenile court does not have the authority, currently, to override a serious offender commitment criterion. The circuit court oversees the serious offender commitment when the youth enters the Department's care and receives what is referred to as a blended sentence. A blended sentence involves an individual being placed with the Department and then an adult facility (Department of Corrections (DOC)) or the individual receiving only adult time. On mild offenses, there is a statute that limits the sentencing options.

Direct Care Admissions Average Ages, FY 2021



- First Behavior Problems: 11.3
- First Community Intervention: 12.6
- First Adjudication: 13.8
- Direct Care Admission: 17.0
- AVERAGE OF 3 YEARS, 4 MONTHS BETWEEN FIRST CONVICTION AND JUDGE COMMITTING TO DJJ.

3

Indeterminate commitments or serious offender commitments go to direct care. The above numbers demonstrate that typically before youth are committed to the Department, the judge and community have tried all other interventions, and now it is up to the Department.

2001 LOS Guidelines



- Referred to the youth as “wards”.
- Combined the instant offense PLUS the past offense, for a two numbered tiered system.
- Broke the offenses down by classification of the offense in the statute (class 1, class 4, 5, 6; class 3; etc.).
- Adjusted up for “chronic behavior”.
- Increased for new commitments for ENTIRE new LOS.
- Included clear guidelines for release considerations.
- Automatic increase for institutional infractions, 3 to 6 months.

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Director Floriano provided historical information on the LOS Guidelines, describing their punishment-driven approach in 2001. At that time, if the youth was committed and subsequently recommitted to the Department, the entire LOS was increased. If the LOS was nine months, and the youth was recommitted for another offense with an LOS of nine months, then the LOS was stacked consecutively instead of concurrently.

2001 LOS Breakdown



TABLE 2 - INITIAL LOS STEPS AND ADJUSTMENTS TO DETERMINE FINAL LOS RANGE

Offense Severity determines the initial LOS Step, followed by adjustments (*) for chronic offense behavior and aggravating or mitigating circumstances:	RELEASE DATES Early - Late
1-1	Exceptional LOS of 3 - 6 months
1-2, 1-3, 2-1, 2-2 *	6 months - 12 months
*	9 months - 15 months
1-4, 2-3, 2-4, 3-1, 3-2, 3-3 *	12 months - 18 months
*	15 months - 21 months
*	18 months - 24 months
3-4, 4-1, 4-2, 4-3, 4-4	18 months - 36 months
*	21 months - 36 months
*	24 months - 36 months

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2008 LOS Amendments



- Started using the terminology “residents”.
- Adjusted the time for the subsequent commitments to run concurrently as opposed to consecutively.
- Adjusted the matrix for “unclassified felonies”.
- Left the treatment ranges consistent with 2001.
- Specified increases for “chronicity”.
- Adjusted requirements for release dates.
- Allowed for administrative adjustments to LOS.

6

The LOS Guidelines were revised every seven years in 2001, 2008, 2015, and 2022. The amendments to the 2008 LOS Guidelines reflected trends in juvenile law and an understanding that the Department was dealing with a different subset of youth. The Department began calling juveniles, “residents” rather than “criminals” or “offenders.”

The treatment range increased an additional three or six months depending on the youth’s criminal history.

2015 LOS Guidelines Changes



- Consulting firm assisted with a system overhaul.
- Introduced a risk vs. offense matrix, assigning tiers, as opposed to using previous offense history.
- Subsequent commitments adjusted by facility review team.
- Removed requirements for release eligibility.
- 12-month release, 15-month cap for most indeterminate commitments (Tier Four: Murder, Aggravation Malicious Wounding)
- Violations of parole treated as Tier One.

7

With respect to the 2015 Guidelines, the Director illustrated a concern regarding parole violations, describing a scenario where a youth was sentenced to the Department, released from direct care, put on supervision, and then violated their parole and was recommitted. Regardless of their offense or their original sentence, the parole violation was treated as a Tier One offense, the lowest tier. This was not sensible.

Problems With 2015 LOS



- Developed by outside consultants, unfamiliar with the system.
- Tiers were not properly sorted.
- Treatment requirements did not match up with LOS (30 days before low date).
- No identifiable release guidelines to guide objective release decisions and benchmarks.

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Director Floriano highlighted various other problems with the 2015 LOS Guidelines, including the fact that they were developed by outside consultants who did not have knowledge of how the agency and law worked. Additionally, the tiers were not properly sorted. The highest tier for the individuals with the highest risk levels only included murder and malicious wounding. By statute, if a youth has committed murder or aggravated malicious wounding and is over the specified age, the youth automatically gets certified to circuit court. That highest tier was not applicable to most of these offenses. Also, malicious wounding and unlawful wounding were in the same tier and were being treated the same. Malicious wounding means to hurt someone with the intent to maliciously maim, disfigure, or kill another person. Unlawful wounding is reactive, where someone may be provoked to cause injury". These are two different intent levels and require two different treatment levels.

Outcomes of 2015 LOS Changes



- Kids were released unprepared, with no change to their skillset, and increasingly without their treatment needs being met, or change in their life or family arrangements before commitment.
- DJJ lost the faith of our community partners, police, Commonwealth Attorneys, Judges. Even those in our agency.
- High, violent recidivism, resulting in more juveniles entering the adult system.

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Direct Care Admissions Family Experiences, FY 2021

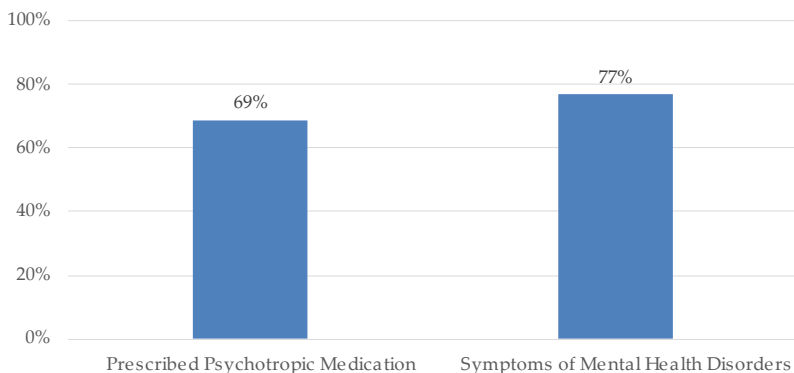


- 59% - parent incarceration
- 66% - parent criminal violence
- 48% - parent substance abuse
- 6% - parent abandonment
- 18% - parent death
- 24% - family domestic violence
 - 77% reported at least one of the above
 - 44% reported 3 or more of the above

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Director Floriano explained the importance of understanding where youth entering the Department are coming from and what experiences they have had and noted the department's good work in keeping only those youth who should be in custody by building up diversion and becoming fluent in recognizing which children are more violent.

Direct Care Admissions Other Mental Health, FY 2021



- The majority of youth had a history of psychotropic medication use and/or appeared to have significant symptoms of a mental health disorder (other than those displayed on the previous slide).

* Data include youth who appear to have significant symptoms of a mental health disorder, according to diagnostic criteria in DSM, excluding ADHD, conduct disorder, oppositional defiant disorder, and substance use disorder.

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The Director also explained significant mental health issues for DJJ youth that require proper treatment.

TOO SHORT FOR TREATMENT TIMES



- Lower proportions of aggression management and substance use treatment completion following the 2015 changes in LOS Guidelines.
- Under the previous Guidelines
 - Aggression management treatment 83.4% completed.
 - Substance use treatment needs 82.8% completed.
- Under the 2015 Guidelines
 - Aggression management treatment 70% completed.
 - Substance use treatment needs only 68.8% under the current LOS Guidelines completed.

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The Director next explained a slide detailing the Department's significant drop in base treatment interventions. The Department is unable to address trauma and treatment without having the time to implement proper care. This is fundamental. The Department is failing to address the trauma which leaves the child helpless to overcome.

Losing Our Kids



- Carjacking: committed 8 months 2 days, within 4 months absconded and carjacked a woman. Guidelines: 17 years to 26 years, mid 23.
- Armed Robbery: committed 8 months, released, charged 3 separate times for firearm offenses, day after released to bond, shot a young man twice in the back. Guidelines: 15 years to 35 years, mid 29

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Director Floriano provided the above two anecdotes and noted that both youth will spend the rest of their lives in an adult facility. The Department fundamentally serves its purpose in the criminal justice system by being the last stop for the courts after they have tried all other alternatives. The Director cautioned that youth will continue to end up in prison unless the Department fundamentally changes its approach.

The Director noted that the Department sent out an anonymous survey on the current LOS Guidelines and received the feedback listed on the next few slides.

DJJ Feedback



- Short LOS timeframes (6 months) are difficult for the youth to complete necessary programs as part of their commitment.
- The current LOS lacks credibility with the Judges (Juvenile and Domestic Relations Court (JDRC) and Circuit Court) resulting in serious offender commitments from both JDRC and Circuit Court, including blended sentence (DJJ/DOC). It should be noted that the CSU has spent years cultivating meaningful and impactful relationship with the courts, Commonwealth Attorneys, Judges, law enforcement, and our community, especially when it comes to serving youth and families across the Commonwealth. The current LOS has impacted those relationships.
- Current LOS have increased parole caseloads with serious offender commitments to DJJ.

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DJJ Feedback



- Many youth who are committed in Newport News have had the benefit of the Post Dispositional Program (Post-D), some more than once. Since this program is a 6-month program in detention, many times the current LOS at Community Placement Programs (CPPs) is mimicking the Post-D Program which has been unsuccessful in the youth's past.
- As a result of the LOS Guidelines, our Commonwealth Attorney's Office has certified more youth to Circuit Court and requested more youth be committed as serious offenders or with blended sentences to ensure they remain incarcerated for longer periods of time.
- Judges and Commonwealth Attorneys are concerned about alternative placements like CPPs (as they look like our Post D Program locally) and short timeframes, so they will attempt to utilize serious offender commitments to place the juvenile at Bon Air.
- Per our Judges, the current LOS lacks accountability for more serious offenses, i.e., Robbery, Malicious Wounding, Carjacking, etc. as the youth returns to the community within 8-9 months.

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Post-dispositional detention (Post-D) is a program developed within a detention center and lasts about six months. The youth receive some treatment with family involvement, and usually there is a suspended commitment to the Department. It is a step before coming into direct care.

DJJ Feedback



- Rushing youth through treatment services to be released at the early LOS. The youth does not get the full benefit of treatment because it is presented in a hasty fashion.
- Rushing youth to complete, or mostly complete their education. Targeting the early LOS, Merrimac was rushing my client to get through classes to be released in May 2022. We had them pump the breaks because targeting the early LOS wasn't agreed upon by all of the treatment team members, nor the mother. In the end, the youth earned her diploma in June because she had gotten behind in one of her classes by being rushed to complete assignments.

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DJJ Feedback



When it was proposed, Probation Officers stated to "the powers that be", that the Commonwealth would seek adult sentences, and that returning the youth early to the community would not give them enough time to truly rehabilitate. The majority of youth committed with shortened LOSs returned to the community and immediately resumed their criminal activities. They had no technical training or life skills, and many had not even completed their education. **It seems to be a system for failure.**

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DJJ's youth are not getting what they need, and the system is reacting. The current system is set up for failure. Director Floriano noted that everyone in the agency cares about changing the lives of these youth and dedicate themselves to these underpaid jobs. Staff look out for the best interest of the youth and have repeatedly said this system is not working. This is important because they are the experts who have invested their time and energy, not outside consultants being paid to evaluate the system and push a numbers game.

System Impact Since 2015



- The use of indeterminate commitments has proportionally decreased (82.7% of commitment orders in FY 2014 compared to 69.2% in FY 2022).
- The use of determinate commitments has proportionally increased over time (14.2% of commitment orders in FY 2014 compared to 25.8% in FY 2022).
- INCREASE IN YOUTHFUL OFFENDER AND DOC COMMITMENTS.

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The Director explained this slide, which demonstrates that the use of indeterminate commitments has gone down, and the use of determinate commitments has gone up since FY 2014.

LOS Impact on Court Decision Points



- Certification (CWA) and transfer decisions (CWA and JDR Judges)
- As a sampling, five major certification offenses would not be eligible in JDR for serious offender commitment
 - Maiming by mob in violation of § 18.2-41;
 - Malicious wounding in violation of § 18.2-51;
 - Felonious poisoning in violation of § 18.2-54.1;
 - Adulteration of products in violation of § 18.2-54.2;
 - Robbery in violation of sub. B 2 of § 18.2-58

All start at a MINIMUM of 2 and 3 years in DOC, with high recommendation of five years 10 months, and a midpoint of 4 years. MINIMUM

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The Director next discussed several offenses where the most severe sentence a judge could give is an indeterminate commitment. The Director explained that the judge may believe the LOS needs to be longer than what is currently assigned for that offense and thus, may decide to try the juvenile as an adult.

As an example, if a youth charged with armed robbery has no previous juvenile history except for a diversion, the most serious sentence the juvenile judge could issue is an indeterminate commitment; however, if the youth goes to circuit court the sentencing starts at a minimum of two or three years in DOC, depending on

whether a firearm was involved; with a high end of five years, 10 months and midpoint of four years. The midpoint is assumed by looking at the judges' decisions across the state for the same charge for a person with the same background. Typically, the sentence will start at a midpoint and then go up or down depending on mitigating factors. The midpoint number is the important number when considering whether to transfer the juvenile to be tried as an adult.

Case Example



- Facts: 15-year-old gang member gets together with three of his friends and decides to attack the 7-year-old brother of a rival gang member. The three of them overpower the 7-year-old, restrain him, and proceed to beat him over the course of three hours, taking breaks to smoke weed. After three hours of beating the 7-year-old, they urinate on him, and leave him bleeding profusely, tied up in the shed. Four hours later, the 7-year-old is found. He spends two nights in the Children's Hospital, with internal injuries, but heals with no external.
- 15-year-old is charged with Maiming by Mob, Abduction, and Gang Participation.
- JDR: Not serious offender eligible. Tier Three, moderate risk, estimated LOS 7-10 months, by procedure six months to release.
- Circuit: Violent offense serious offender three sentence options per statute. **Guidelines:** 2 years, 4 months to 6 years, 1 month, mid of 4 years, 5 months. Eligible for serious offender commitment

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DOC Numbers Increased



State Responsible New Court Commitments by Age at Offense and Age at Sentencing* (FY2011-FY2021)

New Commit Date	Sentenced <18yo		Sentenced >=18yo		Total		Total
	Offenses Committed		Offenses Committed		Offenses Committed		
	<18yo Only	& >=18yo	<18yo Only	& >=18yo	<18yo Only	& >=18yo	
FY2011	9	15	0	33	9	48	57
FY2012	4	10	0	30	4	40	44
FY2013	6	8	0	27	6	35	41
FY2014	6	17	0	35	6	52	58
FY2015	8	10	0	35	8	45	53
FY2016	7	14	2	32	9	46	55
FY2017	11	19	0	34	11	53	64
FY2018	15	31	2	58	17	89	106
FY2019	18	42	1	53	19	95	114
FY2020	9	37	0	45	9	82	91
FY2021	8	34	0	55	8	89	97
Total	101	237	5	437	106	674	780

*Age at sentencing is inmate's age on the date the inmate was sentenced to a term of State Responsible (SR) incarceration.
SOURCE: VADOC Research Unit, March 14, 2022

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There has been an increase in committed offenses for youth under the age of 18. This is crucial because such youth should be in the purview of the juvenile court. The youth should have been committed to the Department, but instead are in DOC. The LOS Guidelines took effect at the end of October 2015, youth started to be committed in late 2015, released in early 2016, and then recidivated. In 2017, the system caught on and . In the table, we see an increase until 2020 when the courts shut down due to COVID-19, followed by a steady increase in 2021 with 97 youth that committed offenses under the age of 18, were sentenced at or under the age of 18 or sentenced at 18 being placed in DOC. The day the Director took office in January, there were 106 youth in direct care and just as many juveniles in DOC. This means the courts were losing faith in what the Department was offering.

Youthful Offender



State Responsible New Court Commitments Sentenced Under Youthful Offender Statute (§19.2-311) by Age at Offense (FY2011-FY2021)

New Commit Date	Offenses Committed		Total
	Offenses Committed <18yo Only	Offenses Committed Both <18yo & >=18yo	
FY2011	0	0	0
FY2012	0	0	0
FY2013	0	0	0
FY2014	0	0	0
FY2015	0	0	0
FY2016	0	0	0
FY2017	1	0	1
FY2018	1	0	1
FY2019	5	1	6
FY2020	5	0	5
FY2021	6	0	6
Total	18	1	19

SOURCE: VADOC Research Unit, March 14, 2022

DOC's Youthful Offender Program is designed for kids between the ages of 18 and 21, and the youth are placed into the program with no option for a blended sentence. There is a direct correlation noted in the table: a total of 18 youth placed in Sussex II, a DOC facility instead of the Department. This number is small but steadily increasing, and every one of those youth matter. They should be with the Department, and viable sentencing options should have been offered.



JLARC Concerns

- **RECOMMENDATION 24:** The Department of Juvenile Justice should establish a process to ensure indeterminately committed youths' treatment needs and progress are adequately and fully considered before youth are released.

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The Joint Legislation Audit and Review Commission (JLARC) saw some of the numbers and the system failures and decided to complete a study. According to the study, JLARC believes the agency was releasing youth without fully meeting their needs.

Goals For 2022 LOS Guidelines



- Match treatment and programming needs with appropriate range.
- Fix and resort the charge tiers to align with intent and severity.
- Provide transparent release guidelines and ranges to the youth, family, and courts.
- Provide programming, services, and intervention methods aimed towards success and self-sufficiency upon release.
- Involve the youth in the process of his/her commitment outcomes, creating a path and clear goals from the beginning of commitment time period, preparing for successful reentry.

REDUCE THE NUMBER OF KIDS BEING SENT TO DOC

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Director Floriano addressed the workgroup that met every two weeks to discuss details of the Guidelines. The workgroup looked at how to make the system better, how to stop youth from going to DOC, and how to ensure youth have the skillset to succeed and be functioning members of society. One objective is to give youth control over what is happening to them.

2022: What We Changed



- Looked at what worked and what didn't work and adjusted accordingly.
- Continue to prioritize risk assessment in programming needs.
- Re-organized the tiers of offenses to match treatment needs and severity.
- Re-aligned times to match treatment and programming needs.
- Clear release goals for objective determinations.
- **Focus on acquiring vocational skills for successful self-reliance and identity development.**
- Built in process for early release, instead of adding on time due to past history (incentivizing instead of punishing).

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Instead of reminding youth of their past discretions, the Department wants to incentivize them. Once they complete their release requirements, no matter what they have done in their life, these youth can petition for early release because their rehabilitation is complete. The minute the youth enters the Department, they are told what is expected of them, and when that has been accomplished their treatment team can help with petitioning for early release.

Focus On Vocation and Future Success



- Allan and Steffensmeier (1989) found that **employment, like education, significantly reduces recidivism among juveniles** .
- Bernburg and Krohn (2003) found that employment in early adulthood significantly reduces crime after adolescent criminal involvement.
- Sampson and Laub (1993) found that **employment significantly decreased criminal behavior** . Further, after adolescent crime and delinquency, job stability from ages 17 to 25 significantly decreased crime during those years, as well as from ages 25 to 32. Thus, the effect of job stability on crime continued well beyond the period of employment.
- Mulvey et al. (2004), **found that programs focusing on adolescent "human capital development (jobs and job skills)" are more effective than punitive interventions** (See, for example, Andrews et al., 1990; Lipsey & Wilson, 1998; Aos, Phipps, Barnoski & Leib, 1999).

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The director discussed various studies supporting vocational programs. These studies found a positive correlation between employment and success and decreasing criminal behavior. The Director noted the Department's goal of youth development and success, not punishment.

2022 LOS Guidelines



- Four Tiers, match risk and offense level under tiers that reflect the intent and severity of the offense and associated treatment needs.
- Clear Guidelines for release (complete mental health treatment, vocational programming, no serious behavioral infractions for a specific period).
- Built in **option for early release**, to incentivize internalization of pro-social behaviors.
- Stronger re-entry provisions to include step-down, work release, and furloughs to gradually re-entry the community with complete continuity of care.

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Wrap Around Services In Place To Support



- Workforce Development Center
- Workforce Development Coordinator
- Request for Proposal (RFP) for workforce development community partnerships.
- Statement of needs and memorandum of agreement (MOA) revisions for the CPPS, work release, furloughs.
- Revision of education plans to offer vocational as elective.
- Counseling, mentors, and vocational supports for financial needs.

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In terms of implementation, the Director estimated that vocational training, including electrical, HVAC, and plumbing, would be operational in the facility by January 1st. These are skills that youth can use to make a good living. The agency's Workforce Development Coordinator will go to areas finding jobs for youth and matching them with a mentor.

Keeping Kids Out of DOC

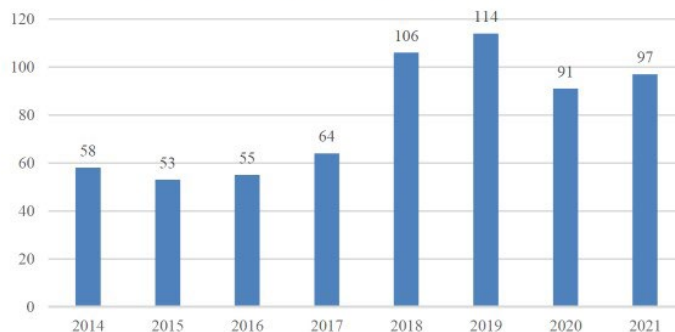


- The real need for these changes to happen.
- Commonwealth Attorneys and Judges vocally lost faith in DJJ as a sentencing option. The numbers directly increased for kids being sent to DOC instead of DJJ.
- From FY 2014 to FY 2019, the number of youth committed to DOC increased from 58 to 114 and then decreased to 97 in FY 2021.

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VADOC State Responsible New Court Commitments for Offenses Committed As A Minor (FY 2014-2021)



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Finally, the Director reemphasized the Department’s main objective of keeping youth out of DOC. She started with the 2015 marker point when the LOS Guidelines were put into effect. Youth committed at the end of 2015 were often released in 2016 and started recidivating in 2016/2017. The table shows that the system started to catch on. The number of juveniles in Sussex II has doubled because of the loss of faith from the courts and the Department not meeting the treatment needs of its youth. Director Floriano stressed that she does not want another child to go to DOC that does not need to be there and wants the youth to be in a rehabilitated environment, focused on their treatment needs. There is no rehabilitation in Sussex II. These juveniles committed offenses as minors that should have put them within the juvenile court jurisdiction, but because of the 2015 LOS Guidelines, this is what happened and what the Department is seeking to stop.

Plan Moving Forward



- We are asking for the guidelines today to be adopted by the Board.
- The next step is implementation of services to the kids immediately, and full implementation of the new Guidelines as soon as possible, July 1, 2023.
- Director will start an education campaign to rebuild trust with the Commonwealth Attorneys and Judges, send the kids to DJJ, NOT DOC.

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Director Floriano ended her presentation and asked for questions.

Board Member Eric English asked if a prior offense is calculated in the LOS for a juvenile if they commit a subsequent offense. Director Floriano highlighted section 7.1 of the guidelines, which deals with subsequent commitments. A youth is committed on one offense and then committed on a second offense. The initial LOS will be readjusted for the subsequent offense by a minimum of three months, and a facility level review will be completed.

Director Floriano noted the opportunities for earlier release addressed in Section 8.6. For example, if a youth with an LOS of 9 to 12 months, has completed his vocational program at 7 or 8 months, had no disciplinary issues like fighting at the facility in a specified period, and has completed his mental health treatment, his treatment team will initiate the review process for release at that time instead of waiting the additional two months. The juvenile will go through the initial facility level review and the full Central Classification Review Committee (CCRC) review for eligibility for release. The CCRC members were adjusted to include a member of the agency's investigative unit, a victim advocate, and members of the residential division and behavioral services unit, all of whom will determine if the youth has met all treatment needs and can be released back to the community.

In the past, the initial LOS calculations looked at the youth's current and previous offenses. Now, the agency combines risk level with the Youth Assessment and Screening Instrument (YASI). The YASI considers some of the youth's previous history and the risk assessment. YASI gives a risk score which calculates the youth's history, but it is not the pure focus.

Board Member English asked what success looks like for DJJ with the revised guidelines and new focus. Director Floriano answered that success includes more productive, employed youth and a decrease in the number of youth going straight to DOC. The Department anticipates the average daily population will increase, but also expects a decrease in the number of youth in DOC. Success is completing the program and not returning to the Department, a reduction over time in recidivism, giving the youth the opportunity and focus to understand their potential, reducing crime, and giving individuals the ability to be self-sufficient and to take care of themselves. These youth have serious needs and are going to need support to succeed.

Board Member English asked, regarding statistical data, whether there is a timeframe for evaluating success with the new LOS guidelines. Director Floriano responded that the Department is constantly reviewing the data to see where the agency should pivot and react. The strengths and weaknesses are noted, and this is a constant review process.

Board Member Tito Vilchez asked about slide 10 regarding family experiences and how the Department plans to address the needs of the parents when their child returns home. Director Floriano answered that reentry advocates will be present and available. If the Department believes it would not be beneficial for the child to return home, there are independent living options. The Director explained that the time in independent living has increased from 6 months to 9 months with an additional 6 weeks. Additionally, a workgroup has been developed within the court service units and CPPs to work with local community mental health providers on having mental health treatment options for the youth and to engage the family.

Chairperson Schrad noted that while some say the worst home is better than the best prison or detention center, she does not agree. These kids are in horrible situations, and when released do not have the skillset to stand on their own, and so they will come back to the Department or to DOC. Chairperson Schrad expressed her appreciation of the hard work that went into developing the guidelines and her perspective that the updates appear balanced. Chairperson Schrad reminded the group that when she served on the Board in 2015, there was no consensus on the 2015 guidelines and several Board members had concerns. Chairperson Schrad was in the position of having to support the 2015 LOS Guidelines to police chiefs who had many questions. In subsequent years, the Board has tried to balance the pendulum to make sure it did not go too far one way or the other. Chairperson Schrad commented that she is much more comfortable with this new set of LOS Guidelines and applauded the agency for preparing youth to go back into society successfully. Chairperson Schrad believes it is important for the youth to be able to participate in their own decisions and take control of what happens. These youth have grown up in situations out of their control, and have been pulled into gang activity or neglected. The youth now have the decision for how long they stay at DJJ, and when released, have marketable skills to succeed. Chairperson Schrad conveyed her hope that the agency can expand on some of the vocational programming, and asked what will prevent a kid from gaming the system?

Director Floriano responded that the agency will require the youth to earn certifications by passing the test and therefore, they cannot game the system. The Director reiterated her belief that youth in the facility are smart and are more capable than what may be expected of them. Chairperson Schrad concluded that she sees potential in these youth to set a positive future for themselves.

Board Member Will Johnson, who did not serve on the Board in 2015, said that when he first received the LOS Guidelines, he initially thought the modifications were just an excuse to hold kids longer. It was heartening to hear the discussion around the opportunity to increase the level of care and to minimize youth going to the adult correctional centers, as well as the comments from the court service units. Board Member Johnson asked if there has been any dissenting comments or concerns about going too far in the other direction with the guidelines. Director Floriano responded that she had not heard any concerns. She and Chief Deputy Director Holden have completed nine listening events in the court service units and conducted the anonymous survey, and there were no dissenting comments.

Board Member David Mick said the revised LOS Guidelines are still substantially lower than what an unsuccessful youth gets when tried as an adult. If a youth receives an eight-month sentence and because they were not given the right resources, the youth does something similar once back in their own environment, they may get as much as 17 months. That would be a failure from a DJJ standpoint. Kids go through the motions of going to counseling, that is how they game the system and how they reoffend. The

benchmarks the Department has set make the youth show up and succeed before released. We want youth to go out and be successful.

Chairperson Schrad closed by saying that 2015 was a different time in terms of the Department's resources, and the main objective was getting the youth their GED or some college classes. Many of these kids will do better with vocational training that will move them into a career with good pay quicker. Obtaining a GED or bachelor's degree does not guarantee \$35 hour as a plumber. In 2015, when the Board saw the decrease in DJJ commitments, the focus was on closing facilities, and the board did not have that broader vision to realize the kids were going to DOC and not the Department. There was a philosophy that the less time spent in a DJJ facility, the better it would be for them personally. In this current environment, that is not true. There are so many youth involved in gun crime now, and if nothing is done to give them an opportunity while in the Department and to prevent them from going to DOC, then we are not going to be able to stem the tide. Chairperson Schrad noted that these were her personal opinions and were not made on behalf of the Association of Chiefs of Police.

On motion duly made by Robert Vilchez and seconded by David Mick, the Board of Juvenile Justice approved the draft amendments to the Guidelines for Determining the Length of Stay for Juveniles Indeterminately Committed to the Department of Juvenile Justice as agreed upon at the November 9, 2022, meeting for submission as a guidance document in accordance with section 2.2-4002.1 of the Code of Virginia. All Board members present declared "aye," and the motion carried.

Director Floriano noted that these guidelines will take effect on July 1, 2023, or before.

DIRECTOR AND BOARD COMMENTS

Director Floriano thanked Chuck Kehoe for attending the meeting. He is a former director of the Department and has been a great support.

Director Floriano updated the Board on the Northern Virginia Juvenile Detention Center and explained that the facility was not required to close. The facility constructed an alternate fence that ensured facility security but was less institutional in appearance.

Director Floriano provided the Board with an update on the Commission on Youth (COY) study. The COY was initially performing a study on potentially closing detention centers. They ultimately ended up voting to organize a workgroup to look at repurposing the empty space at detention centers for other needs, such as therapeutic needs for trafficked youth. The Department will participate in the workgroup and will help develop a timeline for several localities to repurpose their facilities for other options. The timeline is due by July 1, 2023. Reviews are underway on which localities are interested. The Director reminded the Board that detention centers are operated by localities.

Chairperson Schrad asked if the Department has sufficient capacity in the current centers when the guidelines are implemented. Director Floriano answered that the Department is adjusting and looking at funding.

NEXT MEETING

The next meeting of the Board will be December 7 at Hanover.

ADJOURNMENT

Chairperson Schrad adjourned the meeting at 11 a.m.