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Robert Vilchez, Vice Chair
Dana G. Schrad, Secretary
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COMMONWEALTH of VIRGINIA
Board of Juvenile Justice

BOARD MEETING

April 20, 2022 – Human Resources Building (Cedar Lodge, Bon Air Campus)

A G E N D A

9:30 a.m. Board Meeting

1. **CALL TO ORDER and INTRODUCTIONS**
2. **CONSIDERATION of the September 1, 2021 and January 11, 2022 MINUTES** (Pages 2-24)
3. **PUBLIC COMMENT**
4. **DIRECTOR'S CERTIFICATION ACTIONS** (Pages 25-37)
Ken Bailey, Certifications Manager, Department of Juvenile Justice
5. **OTHER BUSINESS**
 - 2022 Legislative Update – James Towey, Legislation and Regulatory Affairs Manager, Department of Juvenile Justice
 - Regulatory Update - Ken Davis, Regulatory Affairs Coordinator, Department of Juvenile Justice (Pages 38-40)
 - Consideration of 6VAC35-101 Regulation Governing Juvenile Secure Detention Centers to the Final Stage of the Regulatory Process – Ken Davis, Regulatory Affairs Coordinator, Department of Juvenile Justice (Pages 41-80)
 - Consideration of Rescission of three obsolete Board policies: 1) 02-006 (Applications for Federal Funds); 2) 18-005 (Chemical Agents); and 3) 20-301 (Employment of Residents in Community Residential Facilities) – Kristen Peterson, Regulatory and Policy Coordinator, Department of Juvenile Justice (Pages 81-84)
6. **DIRECTOR REMARKS and BOARD COMMENTS**
7. **NEXT MEETING DATE:** June 29, 2022, Virginia Public Safety Training Center
8. **ADJOURNMENT**

Tyren Frazier, Chair
Robert Vilchez, Vice Chair
Dana G. Schrad, Secretary
Scott Kizner
Anita James Price
Gregory D. Underwood



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COMMONWEALTH of VIRGINIA
BOARD OF JUVENILE JUSTICE

DRAFT MEETING MINUTES

September 1, 2021

Virginia Public Safety Training Center (Hanover)

Board Members Present: An in-person quorum of Tyren Frazier, Scott Kizner, Dana Schrad, and Gregory (Greg) Underwood was present at the Virginia Public Safety Training Center. Robert Vilchez and Anita James Price attended by virtual means based on §2.2-3708.2, Meetings held through electronic communication means (<https://law.lis.virginia.gov/vacode/title2.2/chapter37/section2.2-3708.2/>).

Board Members Absent: None

Department of Juvenile Justice (Department) Staff Present: Ken Bailey, Melinda Boone (virtual), Valerie Boykin, Ken Davis, Jenna Easton, Mike Favale, Wendy Hoffman, Joyce Holmon, Linda McWilliams, Margaret O'Shea (Attorney General's Office), Beth Stinnett, James Towey, and Angela Valentine

Guests Present: Kara Brooks (Evidence Based Associates) and Korah Skuce (AMIkids)

CALL TO ORDER and INTRODUCTIONS

Chairperson Tyren Frazier called the meeting to order at 9:38 a.m. Chairperson Frazier welcomed those present and asked for introductions.

BOARD ELECTIONS

James Towey, Legislative and Regulatory Affairs Manager, Department of Juvenile Justice

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

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

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

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

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

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

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

CONSIDERATION OF MINUTES FOR June 16, 2021

The minutes of the June 16, 2021, Board meeting were provided for approval. On motion duly made by Tyren Frazier and seconded by Dana Schrad, the Board approved the minutes as presented by roll call vote as follows: Greg Underwood – Aye, Anita James Price – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Tyren Frazier - Aye. The motion was carried.

PUBLIC COMMENT

There was no public comment.

DIRECTOR’S CERTIFICATION ACTIONS

Ken Bailey, Certifications Manager, Department of Juvenile Justice

Included in the Board packet were the individual audit reports, and a summary of the Director’s certification actions taken on June 30, 2021.

The Highlands Juvenile Detention Center and Post-disposition Program received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until January 13, 2024.

The audit for the James River Juvenile Detention Center and Post-disposition Program found one minor deficiency regarding the submission of serious incident reports. The follow-up visit showed no further incidents of noncompliance, and the program was certified until November 17, 2023.

The Piedmont Regional Juvenile Detention Center received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until April 28, 2024. This is the program’s third consecutive audit with no deficiencies.

The W.W. Moore, Jr. Juvenile Detention Center and Post-disposition Detention Program received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until October 14, 2023. This is the program's second consecutive audit with no deficiencies.

The 2A District Court Service Unit received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until July 16, 2024. This was the program's fourth consecutive audit with no deficiencies.

The audit for the 5th District Court Service Unit found one minor deficiency which was immediately corrected, and the program was certified until June 12, 2024.

The audit for the 17th District Court Service Unit found several areas for which compliance could not be determined. Those areas were referred to the regional program manager for follow up. The program was certified until December 16, 2023.

The audit for the 18th District Court Service Unit found one minor deficiency for which compliance could not be determined: that there were no commitment cases to review. The audit deficiency was referred to the regional program manager to monitor when commitment cases become available for review. The program was certified until January 21, 2024. Chairperson Tyren Frazier asked for confirmation that the 18th unit had no commitments, and Mr. Bailey replied that was correct, there were no commitments during the audit period.

CONSIDERATION OF VIRGINIA JUVENILE COMMUNITY CRIME CONTROL ACT (VJCCCA) PLAN APPROVALS

Jenna Easton, Program Manager, Department of Juvenile Justice

The Board approved a three-month extension for approval of the Frederick, Lynchburg, and Richmond plans for Fiscal Year (FY) 2022 at their June meeting. Since that time, the Community Diversion Unit worked closely with those localities on improvements to their VJCCCA plans, and these were now presented to the Board for their approval.

On motion duly made by Dana Schrad and seconded by Greg Underwood, the Board of Juvenile Justice approved the Frederick Combined, the City of Lynchburg, and the City of Richmond VJCCCA Plans for FY 2022 by roll call vote as follows: Greg Underwood – Aye, Anita James Price – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Tyren Frazier - Aye. The motion was carried.

The Board previously approved the York Combined Plan for FY 2022; however, those localities have requested to add a prevention program to the remainder of the plan. The Community Diversion Unit had reviewed and approved the plan before bringing it to the Board.

Board Member Kizner asked for a clarification of what was being requested. Ms. Easton referred the Board to page 40 of the Board packet. The entry for the York Combined Plan included group home and shelter care program types; however, both facilities have closed, and the budget increased for intensive supervision. It was now proposed that the York Combined Plan add the Prevention Check and Connect program noted on page 41, for the remainder of FY 2022.

Board Member Schrad asked if the Prevention Check and Connect is a post-release program. Ms. Easton answered that the Prevention Check and Connect now includes non-Department of Juvenile Justice (DJJ) youth. It is a truancy intervention program to prevent youth coming to the court for formal court intervention. The Community Diversion Unit endorsed approval of this plan addition.

On motion duly made by Greg Underwood and seconded by Robert Vilchez, the Board approved the York Combined VJCCCA Plan for FY 2022 by roll call vote as follows: Greg Underwood – Aye, Anita James Price – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Tyren Frazier - Aye. The motion was carried.

Loudoun County requested a reduction in its Maintenance of Effort (MOE) funding by \$185,002 to match the state allocation. Sometimes referred to as a local match, MOE funding is money a locality is required to spend in order to receive state allocation. Currently, the MOE for Loudoun County is \$330,708 and the state allocation is \$145,706.

On motion duly made by Dana Schrad and seconded by Tyren Frazier, the Board approved the reduction of the required Maintenance of Effort for Loudoun County to match the state allocation for Fiscal Year 2022 by roll call vote as follows: Greg Underwood – Aye, Anita James Price – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Tyren Frazier - Aye. The motion was carried.

Loudoun County requested the Board approve their updated plan to reflect the new budget for the remainder of FY 2022.

On motion duly made by Tyren Frazier and seconded by Scott Kizner, the Board approved the Loudoun County VJCCCA Plan for fiscal year 2022 by roll call vote as follows: Greg Underwood – Aye, Anita James Price – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Tyren Frazier - Aye. The motion was carried.

CONSIDERATION OF STATE BOARD OF JUVENILE JUSTICE BYLAWS

James Towey, Legislative and Regulatory Affairs Manager, Department of Juvenile Justice

The Board is required to review the bylaws annually to ensure compliance with any amendments passed during the prior General Assembly session. The Board approved one change last year to the bylaws; however, this year there were no changes that necessitated any amendments. DJJ requested the Board approve the bylaws as not amended.

On motion duly made by Scott Kizner and seconded by Dana Schrad, the Board approved the Board's bylaws as last updated on September 16, 2020, by roll call vote as follows: Greg Underwood – Aye, Anita James Price – Aye, Scott Kizner – Aye, Dana Schrad – Aye, Robert Vilchez – Aye, and Tyren Frazier - Aye. The motion was carried.

Mr. Towey reminded the members that the Board, at any regular or special meeting, can amend the bylaws by a majority vote. The only requirement is that the proposed amendment to the bylaws be included in the meeting notice; this means the Board must let the Department know ahead of time if they are considering a change.

Board Member Schrad asked if the Board needed to acknowledge compliance with Governor's executive orders that might impact the Board or whether that was implied within the bylaws. Mr. Towey responded the bylaws are prescribed by a certain section of the *Code of Virginia*; the Board could amend them to reflect executive orders. Board Member Schrad clarified that she did not believe it was necessary but wanted to raise the concern, and the Board could come back later to amend the bylaws as needed.

REGULATORY UPDATE

Ken Davis, Assistant Regulatory and Procedure Coordinator, Department of Juvenile Justice

Mr. Davis referred to pages 50-52 of the Board packet as he updated the Board on the current status of the Department's regulations.

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

The Board approved the Guidance Document on April 7, 2021, and the document was published in the *Virginia Register of Regulations* on May 24, 2021. The 30-day public comment period ended on June 23, 2021, with no comments, and the document took effect on June 24, 2021.

6VAC35-30 Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs; and 6VAC35-35 Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities

The Board approved the proposed amendments on April 7, 2021, for advancement to the proposed stage of the standard regulatory process. The Department is preparing to advance the approved amendments for Executive Branch review.

6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses

This action was submitted through the proposed stage on April 17, 2020. It has undergone Executive Branch review, and was published in the *Virginia Register of Regulations* on May 24, 2021. The 60-day public comment period ended on July 23, 2021, with no public comments.

The reconvened workgroup held its first meeting on June 25, 2021, to prepare for advancement to the final stage and a subsequent meeting is scheduled.

6VAC35-101 Regulation Governing Juvenile Secure Detention Centers

The action was submitted through the proposed stage on September 3, 2019, has completed Executive Branch review, and was published in the *Virginia Register of Regulations* on May 24, 2021. The 60-day public comment period ended on July 23, 2021, and resulted in two public comments.

The reconvened workgroup held its first meeting on June 24, 2021, to prepare for advancement to the final stage. The second meeting of the workgroup was scheduled for later this month.

6VAC35-150-335 Regulation for Nonresidential Services, Diversion

The action seeks to remove the 90-day deadline for completing truancy diversions, consistent with Chapter 753 of the 2020 Acts of Assembly. The Board approved the fast-track action on September 16, 2020. The action completed Executive Branch review with the Governor's approval on July 22, 2021, and was published in the *Virginia Register of Regulations* on August 16, 2021. The 30-day public comment period was underway.

If no objections were raised during the public comment period, this regulation would take effect on October 1, 2021.

6VAC35-200 Regulations Governing Youth Detained Pursuant to Federal Contracts

This was new and arose out of Senate Bill 20 which became Chapter 599 of the 2020 Acts of Assembly. The NOIRA action has undergone Department of Planning and Budget, Secretary of Public Safety and Homeland Security, and Governor's Office review and was published in the *Virginia Register of Regulations* on March 1, 2021. The public comment period ended on March 31, 2021 and yielded no public comment.

The workgroup continued to meet regularly to develop the proposed language, which will be presented to the Board for advancement to the proposed stage of the process.

6VAC35-210 Compulsory Minimum Training Standards for Direct Care Employees

This remained under review at the Office of the Attorney General.

6VAC35-71 Regulation Governing Juvenile Correctional Centers

The proposed action was published in the *Virginia Register of Regulations* on September 30, 2019, and the 60-day public comment period ended on November 29, 2019.

In the intervening time there had been a large volume of changes, which had required this regulation to go through a revised proposed stage. The revised proposal had been submitted to the Office of the Attorney General.

6VAC35-180 Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles

Currently under review in the Governor's office.

Board Member Schrad asked what the procedure was to address the public comments received on 6VAC35-101. Mr. Davis responded that the public comments were directed at issues the Board had previously discussed, specifically the restraint chair, spit guards, and room restrictions. The Board had thoroughly discussed these issues, and the Department had not felt any need to bring additional information before the Board.

UPDATE ON DJJ'S REGIONAL SERVICE COORDINATION MODEL AND STATEWIDE CONTINUUM

Beth Stinnett, Statewide Program Manager, Department of Juvenile Justice

Korah Skuce, AMI Regional Director (VA, NC, and AL)

Kara Brooks, Evidence Based Associates (EBA) Virginia Project Director

Ms. Stinnett began her presentation, using material beginning on page 53 of the Board packet.

The Regional Service Coordination (RSC) model includes a number of government-to-government partnerships such as public mental health agencies, community service boards, detention homes, and local government entities. The briefing highlighted the accomplishments of the past five years, in particular, the expansion of the network, efficiencies built into the process, and regional differences. There also was a discussion on the evolution of the work, covering evidence-based programs, evidence-informed programs, and continuing quality improvement.

The service continuum buildout was part of a broader transformation undertaken by the Department. There were many system-wide assessments that indicated a variance statewide in supervision practices, service availability, and service quality. That was the impetus of the service continuum. Simultaneously, the Department worked to reduce its residential and correctional footprint. There were a number of successful efforts underway to safely reduce the number of young people entering direct care. As a result, the Department was able to close Beaumont Juvenile Correctional Center and use the reinvestment funds for community-based alternatives. The Department had always had services in place for young people; however, most funding and services were for young people on parole. There was limited funding for youth on probation. This was an opportunity to be impactful and eliminate the need for secure confinement and direct care. By using the savings from Beaumont as an opportunity to reinvest in the community and have a broader array of services statewide for young people on probation, the Department launched the RSC model.

Chief among the RSC model adopted goals was a continued effort to safely reduce reliance on restricted placements and more community-based alternatives. The Department wanted to ensure those services and placements addressed risk and need. This was something the agency was not sure was always happening, leading to undesired outcomes.

Another goal was to provide services at multiple stages of the system. There was a deficit of front-end services with youth on probation and parole. Other goals included increasing the array and availability of services statewide and creating geographic equity. There were concerns with parts of the state having pockets of service gaps, especially in rural areas. The focus was to eliminate areas where access to services is purely by ZIP Code, which is called “justice by geography”.

The Department wanted to ensure services were based on evidence, which was limited in Virginia. The Department was proud of the Functional Family Therapy (FFT) / Multi-Systemic Therapy (MST) programs. In the beginning of the RSC program, these two therapies only existed in two of 133 cities and counties statewide.

The Department needed to adopt performance measures and to increase capacity to monitor the effectiveness of services. The Department was under-resourced in this area; there was some monitoring, but it was more compliance monitoring, with a limited number of individuals trained to look at effectiveness. The Department moved from compliance monitoring to monitoring for quality and to coaching providers.

The Department improved efficiencies and established a centralized referral and billing process. These two areas, if not done efficiently, would limit the time available for more important issues.

Five years ago, in October 2016, the Department hired two companies to serve as lead RSCs: AMIkids and Evidence Based Associates (EBA). Ms. Stinnett introduced Korah Skuce from AMIkids who serves as the RSC for the eastern and southern regions of the state and Kara Brooks from EBA who serves the northern, central, and western regions.

Ms. Brooks from EBA began her presentation.

The work of EBA is focused on centralized referrals for providers and for court service units across the regions. EBA sends a referral through the process, including the DJJ assessment that indicates a need for the requested services. EBA handles the billing for providers and distributes the billing packets to the court service units for approval. In addition, EBA monitors each program for quality assurance.

EBA started the program with 78 providers and currently has 140 unduplicated providers across the state to serve youth and families connected with both the court service unit and direct care placement. It started with a formal Request For Proposal (RFP) process to identify providers and has since moved to a rolling enrollment, which brings on providers that can meet a specific or identified need. There have been a few instances where a specific program was needed, and EBA used the RFP process to identify a provider or program in that area.

EBA vets providers to ensure that quality standards are met and that an understanding exists of the unique needs of DJJ youth. Regional service organizers are familiar with their area and are able to process referrals specific to that area. EBA performs case staffings and meets with the probation officers of the court service unit to review cases. In addition to reviewing the DJJ information, such as the Youth Assessment and Screening Instrument (YASI) and the case plan, EBA monitors programs specifically for that referral. For example, if there is a need for a court order for a psychological or psychosexual evaluation, the referral form captures case-specific information which EBA is able to translate and provide to the service provider.

EBA has an array of assessments, from substance abuse evaluations to sexualized behavior evaluations. This is called service matching; not every youth needs the same type of assessment. While there are levels of

assessment that do not take into consideration the location of the youth,. EBA tries to align provision with specific need.

EBA has high fidelity wraparound services that include case management, GPS monitoring for post-release parole youth, clinical services, individual or family counseling, and some home-based services. EBA can send the provider to a youth/family home rather than have the family come to the provider. Residential services range from residential treatment centers, substance abuse programs, specialty programs to treat youth with sexualized behavioral needs, and group home and independent living for step down youth. Residential services are used for direct care placements or for youth being released. There are different and unique needs, whether its transportation, language, or other barriers. For example, a provider needed a four-wheel-drive vehicle to get to a family home. That was not a typical request, but the unique needs of the referral were identified, and EBA responded to the barrier.

In terms of geography, the same model exists across both regions; however, the regions are unique. The western region and certain pockets in the central region are rural and have different barriers, whereas the northern region has a high population of youth who are not English-speaking. EBA has a high concentration of providers able to communicate in the native language.

There is no one big provider serving an entire region, but many smaller providers in rural communities who are familiar with the populations they serve.

Ms. Skuce from AMIkids began her briefing.

AMIkids handles the eastern and southern regions of the state. AMIkids has service enhancements such as transportation and mileage for providers traveling to rural areas outside their catchment areas. Every region has pockets of difficulty, and AMIkids offers incentives or offsets the cost the provider might incur to serve youth and families in those areas. For instance, 2A District Court Service Unit is rural and hard to reach; however, AMIkids has offset costs as well as offering some reimbursement of travel.

AMIkids places a greater focus on starting services prior to youth returning home. The eastern region has the highest level of committed youth, high risk youth, and older youth, as well as a higher number of parolees. Services start prior to the youth returning home, potentially about two weeks before, when the youth is still at Bon Air Juvenile Correctional Center or the Community Placement Program (CPP).

The community-based services offered by AMIkids are an expansion of evidence-based programs and evidence-based models. Some of these programs are not available in all parts of the state or through the RSC model. Expansion services include FFT/MST, trauma-focused cognitive behavioral therapy (CBT), seven challenges, high fidelity wraparound intensive care coordination, and an adolescent community reinforcement approach. The trauma-focused CBT and high fidelity wraparound were initially launched under the leadership of the Department of Behavioral Health and Developmental Services (DBHDS) and the Office of Children's Services (CSA). Both are now available through the RSC model and the availability of trauma-focused CBT and high fidelity wraparound are now available in over 70% of localities statewide.

FFT/MST teams were launched in 2018, and are evidence-based models that are the highest tier of effectively working with the juvenile justice population. Both programs are family-based interventions that work with not only the youth and the family, but also the community supports that surround the youth.

In 2018, AMIkids launched an initial cohort of ten FFT/MST teams that joined the two existing MST teams in Henrico and Richmond. AMIkids launched two more FFT/MST services to help in rural areas across the state (Abingdon). AMIkids now ensures services are available in 129 out of Virginia's 133 cities and counties.

Additional FFT/MST teams have started with the launch of DSS-funded initiatives Title 4E, the CSA, and Medicaid expansion.

AMIkids now has access to 47 additional non-JCC options as part of the direct care continuum. Nineteen are detention reentry, CPPs, and government partnerships not contracted through the RSCs. AMIkids and EBA offer 28 additional options through the continuum for group homes and residential treatment centers. The average number of youth in non-JCC alternative placement increased from about 7% of the total direct care population in 2014 to more than 50% in fiscal year 2020. Of the 3,201 youth released from direct care in 2020, 53% did not enter a JCC. They were served in community residential treatment centers closer to their home.

AMIkids has a large array of residential services options, from low intensity to the highest intensity. Independent living programs are used for youth on parole status returning to the community. Youth live by themselves in a single apartment, shared apartment, or an independent living program offering more community style living with additional supervision based on the youth's needs. AMIkids also has a variety of group home and residential treatment center placements. Residential treatment centers offer specialty services for treatment of youth with sexualized behaviors or substance abuse, or youth in the system with a history of trauma. The residential treatment center might be a campus setting or a locked, secure setting.

AMIkids expanded in 2018 to launch a new type of program for the RSC model, called the transitional living program. Intercept Health in Chesterfield was awarded a contract to provide an eight-bed facility, called the Summit, to serve 18- to 20-year-olds. One of the many success stories included a youth who completed the program having been a member of the Bon Air Quilting Program, and during the mask shortage of March 2020, he put his sewing skills to work and made masks from donated cloth materials. Another graduate of the Summit started college at Virginia State University. The team gathered donations for a new laptop, and his mother continued to be involved throughout his stay at the transitional living program and helped move him to school for his freshman year.

Ms. Brooks recounted a further success story. One of EBA's first placements was at a Mom and Me program. A young lady was able to reunite with her child in a group home setting while under commitment status with the Department. The youth was placed at the Youth for Tomorrow, Mom and Me program, and was able to deliver her baby and continue to learn skills for when she transitions back to the community.

Ms. Skuce continued her presentation and highlighted service utilization. When AMIkids started in 2017, they served 558 unduplicated youth and in 2020, they served 1,666 unduplicated youth. Most of these youth received multiple services. For 1,666 unduplicated youth, there were 3,398 services authorized. Many times youth need an evaluation or assessment, and are referred to a family-based service or individual substance abuse service. In addition to treatment programs, there are other programs offered, such as workforce development or GPS electronic monitoring. In 2020, AMIkids saw a slight decrease in the number of youth served from 2019 due to the pandemic and fewer youth entering the system. The most commonly utilized categories of services are assessment and evaluation, FFT/MMT, life skills coaching, which is primarily for youth on parole, and treatment of youth with sexualized behaviors.

In 2017, AMIkids worked on standardized service descriptions, an increased provider network, a rollout of evidence-based models, and increased utilization of services. AMIkids is now improving quality assurance and quality improvement. AMIkids works closely with the Department's Quality Assurance Unit to ensure the quality of services is the same throughout the state. AMIkids provided different levels of monitoring depending on each provider. If the provider is utilized, AMIkids will complete higher additional monitoring, compliance, and quality assurance tasks. Onsite monitoring is done by reviewing youth and employee files.

Every single provider contracted with AMIkids and EBA received some sort of monitoring or compliance and quality assurance.

Ms. Stinnett discussed the impact of the pandemic on the service continuum, particularly in the early stages of court shutdowns and slowdowns, which resulted in a downward trend of young people placed on probation. Courts reopened with a slight dip in services in the first year of the pandemic. While there was a service interruption, for the most part, services continued in an adaptive form with providers rising to the occasion. The Department worked closely with them and some continued face-to-face contact services with young people using adaptations and social distancing. With other providers, the Department helped move to tele-health. The silver lining is that rigid catchment areas and boundary lines for services before the pandemic are now blurred. The Department can use a provider, such as a bi-lingual therapist, in another part of the state, as long as the youth and family have Internet for tele-health services. Tele-health has been helpful with transportation; families do not need to leave work for a longer period of time to account for travel. Some families prefer this new medium.

There was a tremendous amount of cross-training with providers and staff, and in addition, agency collaboration at the state level. The Department proudly serves on a number of cross-agency workgroups, and the success stories served as a catalyst for broader reform in the state. There are now companion reform efforts with DBHDS, CSA, Department of Social Services (DSS), and Department Medical Assistance Services. The services presented at this meeting, particularly FFT / MST, are now part of their transformation as well. Services can be funded through Title 4E through DSS and Medicaid expansion, so young people can receive services earlier and without entering the juvenile justice system. Collaboration has fostered research interest in the academic community as well. Such partnerships will serve the Department well going forward. Ms. Stinnett referred to a news article in the Board packet about Child Trends and how partnering with them will improve the RSC model. The Department and Child Trends also are developing an interactive map pinpointing service delivery for the website, which will help staff, youth, and families.

Board Member Schrad thanked the presenters, and said the Board appreciated the good news and excitement surrounding the success of this program. There are many organizations that could benefit from the way the Department networked and developed creative responses to address the needs of young people. Board Member Schrad said her group was seeing at the community level a lack of mental health and psychiatric resources. Board Member Schrad asked if that had impacted DJJ programs.

Ms. Stinnett responded that thus far the Department had not seen a lack of availability. At times, the Department had to offer incentives to push youth to the front of the line for services, but it is unlikely it was due to a lack of availability. The Department and the providers are concerned about the workforce shortage. Providers are experiencing recruitment problems in filling vacancies, but other providers have stepped in to help.

Board Member Schrad asked if there were other community partners the Department would like involved in the continuum of services as a way to help improve the span of services provided.

Ms. Stinnett responded that this is absolutely the case. The Department believes smaller providers, such as “mom and pop shops” that are community-based organizations should be part of the continuum. The Department is interested in growing the continuum, helping providers remove barriers by helping with business proposal writing, or funding a level of liability insurance required to get a contract. The Department would like providers with lived experience to be part of the continuum.

Board Member Kizner asked if there was a service that was discontinued because the evidence base was not there.

Ms. Stinnett answered that not all services provided are evidence-based. Those services that are evidence-based, need to go through a number of clearing houses (Blueprints) and official processes. The top shelf programs, like FFT / MST, have been through clinical trials and researched for many years with sustained results.

Ms. Brooks said EBA previously only worked with evidence-based associates in Washington, D.C., and only with evidenced top-tier programs. In Virginia, EBA is matching the needs of youth with the right service. Sometimes that top tier is needed, but sometimes it is not. The partnership with EBA and AMIkids is strong because AMIkids has a long history with residential programs and EBA brings the FFT / MST programs. EBA can establish those “mom and pop shops” by simply using a format for trauma-informed principles of culture and diversity. An exciting partnership among state agencies deals with crossover youth. Director Boykin is on the Commission on Youth workgroup for crossover youth. The most recent referral form for EBA was modified to track youth referred to the system as crossover youth, such as foster care involvement. This would allow a particular funding stream to be used to connect services for that youth. Ms. Brooks said she looks forward to the findings of the Commission on Youth study with crossover youth, especially how it could impact the deeper end services for youth.

Ms. Brooks continued her comments by saying the credible messenger program is undergoing fidelity tracking to ensure that the model is delivered consistently. Ms. Brooks provided a comparison of Chick-fil-A using one coleslaw recipe for all its restaurants. The credible messenger program takes an individual with lived experience from the community who can identify with the youth and share their story. They may or may not have had prior justice involvement. EBA does have one credible messenger program in Charlottesville, and is looking to duplicate the program for smaller communities. A youth’s behavior might not change just through hearing a hard story, but might change through hearing about the skills used to become a success; that would be a worthy program.

Board Member Underwood asked what an unduplicated youth was. Ms. Skuce answered that some youth received multiple services, but the youth was counted by their ID number, and not by the number of services they required.

Board Member Vilchez asked what happens if a family is unable to secure transportation to travel to their referral.

Ms. Skuce answered that services can be provided in the youth’s home or in their community. A therapist or identified professional can travel to the youth’s home.

Ms. Stinnett noted that the Department has a transportation program as part of the Reentry Unit. Transportation assistance is being explored with other programs as part of the continuum. Transportation problems could be mitigated by having home-based services for youth. The Department has paid travel reimbursement for providers. For example, the Eastern Shore can be a service desert, and it might be prohibitively expensive for families to travel to Norfolk to get services. Instead, if the provider were able to drive to the Eastern Shore, the Department could reimburse their travel. The Department does not want the youth and family to be burdened with this cost.

Director Boykin said the Department provided reentry service transportation to all residential programs to which youth had been committed, including a bus service to Bon Air. Unfortunately, due to the pandemic, transportation services were suspended. The Department also provided services using Uber and taxis. The Department’s Reentry Unit Manager, Ashaki McNeil, and her team funded the transportation initiative; it did

not go through the RSC. Many of the programs, such as visitation, have been halted and restarted many times during the pandemic. The Department has shifted many resources online.

Ms. Brooks added that EBA had a few youth in the pre-release program with specific family needs, and EBA was able to drive them to their clinical sessions prior to their release.

Chairperson Frazier noted that the discussion had not included youth voices. Is there an opportunity for youth to be heard and provide their input?

Ms. Brooks answered that is a key component, and it is essential to have a youth- and family-driven service plan for their providers. This is part of their quality assurance. What if a family is unable to meet at 5 o'clock or what if the family wants to meet on the weekend? EBA providers are willing to work on the weekends, and do sessions after-hours. The Department has been supportive of this effort.

Chairperson Frazier asked how many youth are served by DJJ. Director Boykin answered 3,000 or maybe a little less.¹

Chairperson Frazier said the RSC serves about half of the DJJ population, and there is an opportunity and desire to grow that number. The pre-pandemic number was closer to 2,000, so it seems this program is doing very well. Chairperson Frazier was interested in hearing more on the service gaps, staff shortages, collaborations, and the mom and pop smaller organizations available to serve young people in remote communities. Chairperson Frazier said the RSC reminded him of groups such as Boys and Girls clubs, church organizations, Boy Scouts, and also gang prevention programs deployed to hot spots around the state. Chairperson Frazier thanked the presenters.

DIRECTOR'S COMMENTS

Valerie P. Boykin, Director, Department of Juvenile Justice

Director Valerie Boykin thanked the Board members for traveling to the meeting, given that bad weather had been forecast.

¹ As follow-up, Director Boykin sent the below email to Board members on September 2 notifying them of additional information.

"I wanted to provide some additional information to a question posed by Board Chair Frazier regarding the total number of youth served by DJJ. Our Research Manager has reported the average daily counts for FY20 (below). This count does not include youth involved in diversion programs or youth monitored in detention so my guesstimate of 3000 total youth served might be close to the actual number. Please note that we typically use other resources for diverted youth and not the continuum of services managed by the Regional Service Coordinators. If my math is correct, it looks like the RSC Model served 1666 of 2050 of youth receiving DJJ supervision along with detention eligible youth receiving detention alternatives for FY20. Some youth also receive services through the Office of Children's Services, formerly CSA.

The average daily populations (ADP) for FY20:

- Probation 1596
- Direct 235
- Parole 219
- Total 2050"

Director Boykin explained she was the Deputy for Community Programs when the Department launched this new service delivery program, and she was pleased and proud of the work being done collectively and collaboratively to expand the continuum of services. Director Boykin thought it important to have EBA and AMIkids present at the meeting because their contracts expire in two months. Director Boykin wanted to salute Ms. Brooks and Ms. Skuce publically on all their hard work and partnership.

The Department started transformation work in 2016, when it had about 600 youth in state care. Today, the Department has fewer than 200 committed youth. The number had been under 200 for the past two weeks. The Department is proud of the work done, and will continue to expand resources in the community so young people can be treated closer to home and in the least restrictive environment.

The day of the meeting was the first day of the implementation of Governor's Executive Directive 18, which mandated all state employees and boards and commissions to declare their vaccine status and/or be subject to testing. This will involve weekly testing for staff if they have not received both vaccine shots or the Johnson and Johnson one-shot vaccine. Over the course of the last 18 months, the Department reported 203 staff positive with COVID-19. The agency had only had one staff person's death attributed to COVID-19. Most staff had recovered with little illness, and a few had been out of work for short periods of time. An unfortunate trend seen across the Commonwealth and nation had seen vaccinated individuals contracting COVID-19. In the past two weeks, the agency had seen at least three fully vaccinated staff diagnosed with COVID-19. Due to close contact, the Department's first youth since December 5, 2020, had come down with COVID-19 at Bon Air. That youth was asymptomatic and had been placed in the central infirmary. He had since been released and had fully recovered. This brought to 38 the number of young people at Bon Air who had recovered from COVID-19. The 203 infected staff were mostly from court service units. The agency estimated its vaccination rate at 65%. Director Boykin continued to encourage those staff who were medically able, to be vaccinated so the spread could be stopped and the work could continue.

Yvonne B. Miller High School opened on August 2 with a year-around school model. The school has new offerings this year, such as a partnership with J. Sargeant Reynolds Community College for students who will embark on a small business entrepreneurship career studies certificate program. The school also is working with Community College Workforce Alliance on several courses in OSHA; and this fall VCU is beginning an intro to audio production and digital music production.

Board Member Kizner asked whether staff will receive sick day relief if they need to quarantine. Director Boykin responded that the state initiated a program known as Public Health Emergency Leave (PHEL) for the pandemic. It had expired June 30, but the state had reinstated the program that day. If qualified, staff are able to claim 80 hours of PHEL to quarantine or recover from COVID-19.

The Department is ready for the upcoming General Assembly session, and received additional funding to help support COVID-19 operations. The Department is concerned with staffing needs in residential services and in court service units.

BOARD COMMENTS

Chairperson Frazier expressed the Board's appreciation of the team coming together at the meeting. There were a few Board vacancies that should be filled shortly.

NEXT MEETING DATE

December 1, 2021, at 9:30 a.m., Virginia Public Safety Training Center

ADJOURNMENT

Chairperson Frazier adjourned the meeting at 10:25 a.m.

Tyren Frazier, Chair
Robert Vilchez, Vice Chair
Dana G. Schrad, Secretary
Eric English
William Johnson
Scott Kizner
Anita James Price
Gregory D. Underwood
Synethia White



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COMMONWEALTH of VIRGINIA BOARD OF JUVENILE JUSTICE

DRAFT MEETING MINUTES January 11, 2022

As the purpose of this meeting was informational and not to discuss or transact public business, it was held electronically, in accordance with Virginia Code § 2.2-3607.

Board Members Present: Eric English, Tyren Frazier, William "Will" Johnson, Scott Kizner, Anita James Price, Gregory "Greg" Underwood, Robert "Tito" Vilchez, and Synethia White

Board Members Absent: Dana Schrad

Department of Juvenile Justice (Department) Staff Present: Dhara Amin, Ken Bailey, Melinda Boone, Valerie Boykin, Ken Davis, Jenna Easton, Mike Favale, Robert Foster, Stephanie Garrison, Regina Harris, Wendy Hoffman, Joyce Holmon, Dee Kirk, Andrea McMahon, Ashaki McNeil, Linda McWilliams, Michael Morton, Guillermo Novo, Margaret O'Shea (Attorney General's Office), Jamie Patten, Beth Stinnett, James Towey, and Angela Valentine

Guests Present: Kerry Chilton (disAbility Law Center of Virginia), Will Egen (Virginia Commission on Youth), Greg Hopkins (Department of Criminal Justice Services), and Shelesha Taylor (disAbility Law Center of Virginia)

CALL TO ORDER AND INTRODUCTIONS

Chairperson Tyren Frazier called the meeting to order at 9:31 a.m. Chairperson Frazier welcomed those present and asked for introductions from Board members. Director Valerie Boykin asked for staff introductions. Due to limitations with the media platform used for the meeting, guests were not able to introduce themselves.

PUBLIC COMMENT

There was no public comment.

DIRECTOR'S CERTIFICATION ACTIONS

Ken Bailey, Certifications Manager, Department

Individual audit reports were included in the Board packet, together with a summary of the Director's certification actions taken on August 26, 2021, and December 6, 2021.

The Henrico Juvenile Detention Home received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until August 25, 2024.

The audit for the Lynchburg Regional Juvenile Detention Center and Post-dispositional Detention Program found one deficiency. The program's previous audit in 2017 found five areas of non-compliance, with four being critical requirements. They have shown significant improvement.

The Chaplin Youth Center in Fredericksburg received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until June 10, 2024.

Mr. Bailey commented that, despite all the challenges, the Department's court service units continue to demonstrate exceptional compliance during the pandemic.

The 6th District Court Service Unit received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until March 18, 2024.

The 19th District Court Service Unit received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until March 18, 2024.

The 31st District Court Service Unit received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until April 20, 2024.

Mr. Bailey reviewed the certification actions taken by the Director on December 6, 2021.

Anchor House Group Home in Martinsville cares for youth in post-dispositional and pre-dispositional shelter care status. The audit found two deficiencies for non-compliance related to the grievance procedure and emergency evacuation procedures. A follow-up review was conducted on November 1, 2021, by which time the two deficiencies had been corrected, and the program was certified until October 14, 2024.

Andrew B. Ferrari Argus House operates a group home for boys in Arlington that includes services for transitional independent living for the placement care of older youth. The home received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until October 1, 2023. In their audit of 2017, they had seven areas of non-compliance, and have shown great improvement.

The audit for Fairfax Juvenile Detention Center and Post-dispositional Detention Program found one deficiency for missing a tuberculosis screening, which was a critical requirement. The follow-up review indicated the issue was corrected, and the program was certified until January 14, 2024.

Foundations Group Home is a group home for girls located in Fairfax. The audit found two documentation issues. The follow-up review indicated the two issues were resolved, and the program was certified until March 15, 2024.

The audit for Loudoun County Juvenile Detention Center and Post-dispositional Detention Program in Leesburg found one deficiency, which the Center took immediate action to correct. The program was certified until September 8, 2024.

The Lynchburg Group Home was certified until September 8, 2024. This was a significant result as the program's audit in 2018 found 11 deficiencies, with five being critical. The most recent audit found only two deficiencies, both minor and immediately corrected. The Department is proud of the hard work done by the Home, which is a pre-dispositional program.

Judge Patrick D. Molinari Juvenile Shelter is an emergency shelter program in Manassas. Their 2017 audit found five areas of deficiencies, and the most recent audit found only one missed area, which was immediately corrected.

The Virginia Beach Juvenile Detention Center and Post-dispositional Detention Program received 100% compliance on their audit and a letter of congratulations for their performance level. The program was certified until April 18, 2024.

Chairperson Frazier informed the new Board members that these actions are reviewed every meeting. Mr. Bailey outlined the certification process. The regulations promulgated by the Board require the Department's Certification Unit to assess compliance for all programs certified by the Board (including court service units, group homes, detention homes, and correctional centers). The Certification Unit is responsible for making sure these programs work within the required regulations. Mr. Bailey has a staff of four that conduct audits either virtually or in a combination of onsite and virtual formats to assess compliance with as many as 356 standards for a residential program. It is a time consuming process that requires a large amount of documentation that facilities must maintain.

HUMAN RESEARCH AND DE-IDENTIFIED CASE-SPECIFIC DATA REQUEST ANNUAL REPORT FY 2021

Dhara Amin, Senior Research Associate, Department

6 VAC 35-170, *Minimum Standards for Research Involving Human Subjects or Records of the Department of Juvenile Justice* is the regulation for human research and case-specific data requests for research purposes. The standards are to protect youth, their sensitive information, and their rights according to federal requirements, the Virginia Administrative Code, and the Department's guidance document outlining what is and is not allowed. The Human Research Review Committee, chaired by Dr. Amin, is responsible for the review of all submitted proposals, for voting on approval or not, and for proposal revisions. The committee provides a recommendation to the agency Director for final approval.

The annual report summarized the submitted and active projects in FY 2021. The report reflected some new regulation requirements implemented in June 2021 in the Administrative Code.

COVID-19 was the biggest challenge from the past few years, as all human research had been temporarily halted by federal guideline. Unfortunately, no clear cutoff date had been provided at the start, and many states' institutional review boards had little flexibility given their own COVID-19 trends and positivity rates. Overall, the Department saw a great decrease in the number of proposals received; however, the Department did receive more data requests requiring operational planning than in previous years.

This past year, there were 15 active cases or studies; nine were closed and six provided executive summaries found in Appendix A of the Board packet. The Research Unit is extremely proud of the number of cases and studies closed, and made an effort to wrap up long-term projects that took more time to complete than originally anticipated.

Board Member Anita James Price thanked Dr. Amin for her presentation, and noted it was a comprehensive report. Board Member Price asked if trauma-informed resilience training was considered. Dr. Amin referred to the executive summary in Appendix A on Vision 21 Linking System of Care for Children and Youth. This trauma assessment tool and victimization survey has been studied and piloted to use statewide for youth and families who overlap by the Department and other state stakeholders. Instead of repeatedly asking the youth the same questions, the tool compiled the questions in a centralized way so agencies can share data for case planning purposes.

REGULATORY UPDATE

Ken Davis, Regulatory Affairs Coordinator, Department

6VAC35-71 Regulation Governing Juvenile Correctional Centers

This regulation became effective on January 1, 2014, and work began with the publication of the Notice of Intended Regulatory Action (NOIRA) in October 2016. Some Board members may recall the significant changes made to the proposed text after public comment ended on November 29, 2019, with the text being advanced through a revised Proposed Stage submitted in August 2021. Executive branch review of the revised Proposed Stage included the Governor's approval on January 4, 2022, and the Department is now preparing to submit the action to the Registrar's Office for publication in the *Virginia Register*, and a 60-day public comment period will follow. Based on the Register publication schedule, Mr. Davis anticipated this will get published in the February 14, 2022, of the Register.

6VAC35-101 Regulation Governing Juvenile Secure Detention Centers

This regulation became effective on January 1, 2014, and was under a comprehensive review. Public comment period for the proposed stage ended July 2021, and resulted in two public comments. Those comments concerned issues of room restriction and restraints that the Board discussed and voted on prior to advancing to the Proposed Stage. The comments did not raise any new concerns. The reconvened workgroup began meeting in June 2021 and concluded its session on December 6, 2021. The workgroup recommended a number of minor changes, and the Department is currently preparing the necessary documents for advancement to the final stage. The Department anticipates bringing the amended proposed language before the Board at their next regularly scheduled meeting.

In their recent report, the Joint Legislative Audit and Review Committee (JLARC) recommended regulatory action regarding training at juvenile detention centers. The Department's plan is to move forward with the current regulatory action to avoid any further delays. The Department will work with the Board to advance separately any additional changes that might be necessary as a result of JLARC's recommendations.

6VAC35-150-335 Regulation for Nonresidential Services, Diversion

The action sought to remove the 90-day deadline for completing truancy diversions, consistent with Chapter 753 of the 2020 Acts of Assembly. The Department advanced this action through the fast-track process, with executive branch review concluding with the Governor's approval on July 22, 2021. Public comment ended on September 15, 2021 and, as there were no objections, the regulatory change took effect on October 1, 2021.

6VAC35-180 Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles

This regulation is no longer pending, as the Governor's approval was received on January 4, 2022, and it is being prepared for publication in the *Virginia Register*. As with 6VAC35-71, Mr. Davis anticipated publication in the February 14 issue, followed by the required public comment period.

6VAC35-200 Regulations Governing Youth Detained Pursuant to Federal Contracts (*New)

This action seeks to establish new regulations applicable to youth detained in juvenile correctional facilities in programs pursuant to contracts with the federal government. The action carries out the legislative mandate in Chapter 599 of the 2020 Acts of Assembly. There was no public comment during the NOIRA stage. The workgroup completed its first series of meetings, and work continues on the proposed language. The workgroup will give the proposed text a final review before presenting to the Board for advancement to the Proposed Stage.

6VAC35-210 Compulsory Minimum Training Standards for Direct Care Employees

On track to be the next action to become effective, this is also a fast-track action that was submitted for Attorney General review on June 22, 2021. The Attorney General certified the action on September 14, 2021. The rest of the executive branch review proceeded quickly, with the Department of Planning and Budget and Secretary of Public Safety and Homeland Security giving approval in late November 2021, and the Governor signing off on December 29, 2021. The Department submitted this regulation and its associated guidance document, outlining performance outcomes, for publication in the *Virginia Register* on January 31, 2022. A 30-day public comment period will follow publication. If no objections are raised, the regulation and the guidance document will become effective on March 18, 2022.

ACTIONS PENDING

- 1. 6VAC35-30 Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs**
- 2. 6VAC35-35 Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (*New)**
- 3. 6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses**

The work continues on all three pending regulations. There have been no status changes since the Board last met.

SCREENING FOR EXPERIENCES AND STRENGTHS (SEAS): NEW TRAUMA SCREENING TOOL

Linda McWilliams, Deputy Director for Community Programs, Department

The current tool used in the Department for trauma is called Adverse Childhood Experiences (ACE). The ACE was a good initial screen for trauma, but concerns have been raised that it has not fully captured all experiences of the youth such as exposure to violence. The agency's Research Unit was asked to review national tools used by other states and the level of expertise needed to administer those tools. Those results led to the work of the Department of Social Services (DSS) project known as Virginia HEALS (formerly Vision 21 and, later, Linking Systems of Care) and the SEAS trauma tool. This was a seven-year federally funded project that included training and assistance by the National Council of Juvenile and Family Court Judges. Child trauma experts served on the national steering committee. The SEAS tool was piloted over a period of three and a half years, and the Department served as a pilot site during that evaluation period.

Ms. McWilliams introduced the next speakers from the Department. Regina Harris, the Regional Program Manager for the southern region and Jenna Easton, the Diversion Program Manager, were tasked to co-facilitate a workgroup to develop steps to implement the SEAS tool, to include a plan and procedures.

Ms. Regina Harris continued the briefing. The SEAS was developed in Virginia through a grant project originally called Vision 21 that brought together child serving agencies from across the state. The PowerPoint in the Board packet lists a link to their website to learn more information on the project as well as webinars on the SEAS and other trauma topics.

The SEAS tool is just one component of the Virginia HEALS trauma-informed model of service delivery for children, youth, and families. The Department has been an active partner since it began in 2015. The SEAS is a free screening tool that identifies trauma, victimization experiences, exposure to violence, and symptoms in youth. It is a comprehensive screen that encompasses the unique forms of trauma experienced and witnessed by youth. It gathers information on six different types of victimization, including physical and sexual abuse, trafficking, bullying, community violence, and domestic violence, along with identifying whether the perpetrator was a family member and the approximate date the trauma occurred.

The SEAS tool was finalized and made available to the Department for use with youth in 2020. As part of the development of the tool there were three separate rounds of a six-month pilot completed over the course of three and a half years. Multiple court service units and numerous child-serving entities such as schools

and community outreach programs in five localities volunteered as pilot sites. The data collected from these pilots was used to fine-tune the tool and screening process along with the accompanying trainings.

One notable piece of data that was collected on the pilot project was the length of time it took to administer the SEAS. It was determined to take an average of fifteen to thirty minutes depending upon the youth's responsiveness to questions. It may take agency staff a little longer to administer the tool in the beginning, while they are learning and becoming familiar with it. The SEAS must be conducted through an interview process, as the tool was not designed to be self-administered. Prior to administering the SEAS, frontline service workers are required to complete training which will be provided by the Department.

The SEAS is comprised of a series of 34 questions and is available in three age groups. The Department will be implementing two of those versions: the versions for 7 to 12 year olds and for ages 13-21. The language employed in each version varies slightly to reflect phrases that are age and developmentally appropriate. The overall structure and content is the same across the three versions with the three primary domain SEAS being defining victimization, possible reaction to trauma, and protective factors. A key point of this tool (and an important part of the SEAS suite more broadly) is identifying protective factors, so that the response can be targeted to utilize and build upon the youth's identified strengths and existing support.

In addition to developing a procedure that guides implementation and administration of the SEAS by staff, the Department has worked with Virginia HEALS and other subject matter experts to create a referral and response protocol that goes along with the procedure to provide clear and specific guidance to agency staff on how to respond to individual results from the SEAS. The ACE served a valuable purpose by providing the Department with an introduction to trauma, but the Department looks to move beyond being a trauma-informed agency to a trauma-responsive one. The agency needs to ensure that it recognizes and responds to all forms of trauma, so that appropriate services and interventions to promote healing are provided in an effort to prevent youth from further system involvement as a result of their trauma exposure.

Ms. Jenna Easton continued the briefing. The workgroup is currently finalizing the procedure and has incorporated the impact statements provided by the court service unit directors, as well as recommendations made through the equity assessment tool review. The procedure has been vetted by many, and the Department is excited to see this come to fruition.

Over the past few months, the agency has been introducing the tool to the staff and partner stakeholders. In addition to the information shared with staff during community listening sessions in October, an overview of the SEAS tool has also been presented at the Judicial Liaison Committee and the Commonwealth's Attorneys Liaison Committee.

A separate workgroup designed the training for SEAS. The training plan takes a triage approach; the priority is to train staff who will use the tool and then share the training with other staff who need to be informed, such as the Virginia Juvenile Community Crime Control Act (VJCCCA) service providers and the regional service coordinators. They can take this journey along with the Department to becoming more than trauma-informed to trauma-responsive. The Department's goal is to begin training, as well as release a new social history template and procedure, later this month.

The ACE results have been provided in the social history report, and the SEAS results will be provided also in such reports. This will require changes to the social history. The procedure has been vetted and taken through due process. The social history report is typically a pre-dispositional report shared with the court on information about the young person, their background, and their family. It covers a wide variety of information from their school, community, peers, and family. The social history gives a clear picture to the

court about that young person standing in front of it, so when dispositional decisions are made by the court they have that information.

The Department plans to move forward with full implementation of the SEAS tool in April. This means that agency staff will be trained and the SEAS adopted as the Department's official trauma screening tool.

Director Boykin explained that the ACE has been used by the Department for seven years and was a valuable tool, but was originally designed many decades ago for adult women who experienced weight issues. The Department believed that by sharing the SEAS tool with other child-serving agencies, all will speak the same language and look at the same issues and concerns. The data show that at least 95% of all committed youth have at least one ACE trauma issue and at least 65% have at least three issues of trauma they have experienced prior to coming into the Department's care.

Board Member Anita Price was excited about this program and values the potential collaboration with others in addressing trauma in young people. Board Member Price was encouraged by the Department becoming a trauma-responsive agency. It is important to use the same language and implement these types of tools to help heal the youth.

Board Member Tito Vilchez applauded the Department and is excited to learn more about this trauma training tool. Board Member Vilchez was happy to hear the Department is exploring and seeking tools to assist youth and providing appropriate services.

Board Member Will Johnson asked if there was an additional cost to the Department to implement SEAS and expressed the hope that funding will be there to sustain the program and move it forward. Ms. Harris answered that the tool was free. The only cost that will be incurred is the training, which is being provided by Department staff. There is no external cost. Deputy Director McWilliams said that SEAS was developed in Virginia through a grant to support child-serving agencies.

Board Member Synethia White asked how the new program was being communicated to the community and the agency's external stakeholders. Many families and organizations have been vocal about the impact of trauma not being addressed. This trauma tool is progressive, thoughtful, and has taken a great deal of work, and in Ms. White's opinion should be communicated to a wider audience. Ms. McWilliams replied that the agency partnered with DSS, who were involved in the initial work to develop the tool and have communicated this program out to other DSS departments. The Department has been sharing SEAS with their partners such as the Judicial and Commonwealth's Attorneys liaison groups. The court service unit directors will be asked to share SEAS locally with all of their departments to include community service boards and other stakeholders. Director Boykin remarked that the agency has been invited to present the SEAS at the upcoming judicial conference this spring. Internal and system stakeholders have been notified about the program as well. One of the areas in the Department's draft strategic plan is to have broader communication and engagement with the community by sharing progress with the general public and other constituents. Director Boykin remarked that the agency does have a community engagement strategy going forward, but not all has been figured out. Director Boykin asked for the Board's experience to help with communication.

Board Member White said most of the "tators"--the agitators, the commentators, and the spectators—and the smaller, grass-roots organizations, have been more vocal about dysfunction in the systems and have an opportunity to be the checks and balances for these systems. Board Member White expressed her appreciation and assistance and is glad to see trauma addressed at assessment. Board Member White would like to see this information out in the community, especially those impacted by young people involved in the juvenile justice system.

Board Member Scott Kizner asked about implementation, and how many youth will actually be screened. Ms. Easton answered any youth placed on probation, where a social history report is ordered, will receive the SEAS. Trauma and victimization may happen while on supervision; just because youth are screened at the beginning, when the social history was ordered, does not mean something could not happen subsequently that could impact their stay. The procedure will allow the agency to rescreen for experiences not disclosed at the original screening. Ms. Easton said she is unable to provide an exact number of youth who will be screened. It will only be youth under supervision, not those who come through intake or are diverted out of the system. Director Boykin said that the Department has about 3,000 youth on some type of supervision at any time. That number is far less than it used to be, but youth will receive a screening going forward.

Board Member Kizner believed it is important to have the resources to train personnel in order to provide the youth with the services needed. As a former school psychologist, Board Member Kizner expressed his frustration at completing an intense evaluation, coming to a conclusion of what the child needed, and then finding that service was not available. Ms. Easton responded that through the vast range of services provided by the Department's regional service coordinators, the VJCCCA service providers, and the other resources in the communities (whether public or private providers), those needs will be met. The agency anticipated collecting data in terms of what services were provided and whether the family took advantage of those services or not.

Chairperson Frazier thanked the presenters for sharing this information and for moving in the right direction for the state's most vulnerable youth. This is important work. Chairperson Frazier agreed with Ms. White's comments on sharing the program with the public. There seems to be a lot of communication happening within and between governmental agencies, but it would be helpful to share this good news with the public and other organizations through press releases or social media.

Ms. McWilliams stated that part of the plan is for the Department to share data with DSS as they continue to monitor the tool. Ms. Harris said that while the Department is sharing the overall data with DSS, that particular data set will not have identifying information on the youth; however, if the youth is involved with DSS, the Department is able to share the SEAS information. Any person the Department would normally share the social history report with would also receive the result of the SEAS. It will be part of the social history. Also, as part of the Department's referral response protocol, if a youth involved with the Department reports any allegation of abuse and it meets the criteria, a report will be made to DSS/Child Protective Services. Any child-serving agency in Virginia will have access to SEAS and can use it as long as they reach out to Virginia HEALS. Multiple child-serving agencies throughout the state are part of this project and aware of this tool. The hope is that they would all opt to adopt this tool so all child-serving agencies can speak the same language and screen the same way.

Director Boykin informed the Board about a study ordered by the Commission on Youth to look at crossover youth (young people involved with DSS, the juvenile justice system, and the mental health system). There is a possibility of legislation coming out of that study, that would allow for greater sharing across those agencies. Protocols are being reviewed and will require memoranda of understanding at the local level about how the sharing of information can occur. The Department recommended use of a longitudinal database to see the number of crossover youth, to learn from their backgrounds, and see what services are provided across systems.

Chairperson Frazier noted that trauma happens at different points and times, and youth should not be poked and prodded with the same questions over and over again, but agencies should build off what is already learned. Chairperson Frazier recommended the Department not leave out the schools. Schools are the biggest holder of youth in the state, and it is important to include them in the conversation.

Board Member White thanked Chairperson Frazier for mentioning schools and their role. There should also be an effort to make connection to local offices of violence prevention so they can develop their plans for prevention, intervention, or early intervention to support the successes of the young people and their families.

Director Boykin said the Commission on Youth will be completing a second study on the school issue because schools were not in the original resolution for the crossover study. The Department is a recipient of a grant from the Office of Juvenile Justice and Delinquency Prevention to look at the front end of juvenile justice in Virginia. The Department will work with stakeholders, community-based groups, law enforcement, and others to take a comprehensive look at the front-end systems and, in particular, look at the diversion capacity and opportunities to grow in the prevention and diversion areas. The grant is for \$1 million, and Chairman Frazier had provided a letter of support for the application.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE: REPORT ON VIRGINIA'S JUVENILE JUSTICE SYSTEM

Valerie Boykin, Director, Department

The Joint Legislative Audit and Review Committee (JLARC) was asked to review Virginia's Juvenile Justice System in November 2020. The lengthy report is located in the Board packet. The report and the presentation included a large amount of information. Director Boykin provided a detailed PowerPoint presentation and reviewed the report's findings and recommendations. The presentation can be found on the Department's website.

Board Member Price thanked Director Boykin for a thorough presentation but noted that the good news of fewer youth in the system seemed to be overshadowed with what is wrong with our young people and the system. For instance, there are, unfortunately, proportionally more black youth in the juvenile justice system. It is a reminder of the barriers these young people face. There is a lot to digest in this report. Board Member Price is concerned that Virginia does not expunge the records of some of the youth offenders. What could be done, possibly lobbying the general assembly to take a look at these kinds of issues? Board Member Price asked Director Boykin what the Board could do to help.

Director Boykin said the Board could continue to help educate the public about the agency and its areas of responsibility. Director Boykin reaffirmed that the Department still wants to work on responsive programming that makes a difference. When the Department started transformation in 2014, there were 600 youth in state care, today there are fewer than 200. Those 200 youth have serious charges and great needs and have experienced trauma, so finding the right programs to address their needs is difficult. It is not just a problem in Virginia, but a national problem. The report did not highlight how public safety has been improved because of fewer young people getting into trouble.

Before the pandemic, the Department was planning regional meetings to hear from the community on their needs and to address issues. Director Boykin noted that the Department would like to continue with that dialogue.

Chief Deputy Director Angela Valentine said that the agency is not able to lobby for any of the recommendations made by JLARC. In order to adopt a recommendation, it would need to come from a legislator who wanted to take up a cause or from the general assembly at large. The Department staff are limited in what they can and cannot do with regard to General Assembly recommendations.

Chairperson Frazier noted that even though staff cannot lobby or advocate does not mean Board members are not able to talk with local or state elected officials to make requests.

Board Member Vilchez said that the JLARC report calls for more accountability in the juvenile justice system and at local and state facilities. Board Member Vilchez noted the challenges of the Northern Virginia Juvenile Detention Home located near him, and expressed the hope that those matters can be revisited in the near future. Board Member Vilchez is glad the Department is giving the JLARC study careful consideration.

Chairman Frazier thanked Director Boykin for the summary and expressed appreciation for the study. Chairman Frazier thinks these types of studies are important for improvement, not only for the Department but as Board members, how members are perceived, and what actions members need to take to improve the system. This is a study of the juvenile justice system, and the Department plays a single part in that system, but are influential and do mighty work for the young people across the state. It was interesting to note that the Board does not have much oversight over juvenile detention centers (JDCs), and it should possibly take a look at that in the future, with a view to improving uniformity so youth are receiving similar care, services, and programs as they would at a state facility.

Chairman Frazier and the Board discussed an opportunity to communicate to JLARC the Board's views on the Department's transformation, support of the youth in the juvenile justice system, and their wish to collaborate on adjustments needed based on recommendations. After discussion, the Board members agreed and supported a letter from Chairman Frazier to JLARC.

DIRECTOR'S COMMENTS

Valerie P. Boykin, Director, Department

Director Boykin welcomed the new Board members, Chief Eric English, Synethia White, and Will Johnson.

The latest COVID-19 surge has impacted the Department like the rest of the Commonwealth and the nation. The Department experienced staffing issues across most of its divisions, with more than fifty vacancies in the court service units and forty at the Bon Air Juvenile Correctional Center. Thankfully, only a few staff have been significantly ill. A few residents tested positive, and all but one has cleared treatment protocols with no major illnesses or hospitalization.

Governor-elect Youngkin selected Sheriff Bob Mosier from Fauquier County as the next Secretary of Public Safety and Homeland Security.

BOARD COMMENTS

There were no Board comments.

NEXT MEETING DATE

The next meeting of the Board is scheduled to be in person at a location to be determined on April 20, 2022, at 9:30 a.m.

ADJOURNMENT

Chairperson Frazier adjourned the meeting at 12:15 p.m.

DIRECTOR'S CERTIFICATION ACTIONS
March 15, 2022

Certified Virginia Beach Crisis Intervention Home to May 12, 2024, 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.

Certified Bon Air Juvenile Correctional Center to April 12, 2024.

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.

Certified Blue Ridge Juvenile Detention Center and Post-dispositional Program to February 11, 2025, 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.

Certified Tidewater Youth Services Apartment Living Program to January 20, 2025, 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.

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

PROGRAM AUDITED:

Virginia Beach Crisis Intervention Home
811 13th Street
Virginia Beach, Virginia 23451
(757) 422-4521
Thomasine Norfleet, Director
tnorfleet@tyscommision.org

AUDIT DATES:

December 20, 2021

CERTIFICATION ANALYST:

Learna R. Harris

CURRENT TERM OF CERTIFICATION:

May 13, 2018 – May 12, 2021

REGULATIONS AUDITED:

6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses

PREVIOUS AUDIT FINDINGS December 5, 2017

97.560% Compliance Rating

6VAC35-41-50 (A). Age of residents

6VAC35-41-110 (A). Grievance procedure.

6VAC35-41-460 (A). Maintenance of the buildings and grounds

6VAC35-41-490 (I). Emergency and evacuation procedures. CRITICAL

6VAC35-41-1250 (A). Residents' health records CRITICAL

6VAC35-41-1280 (F). Medication

***6VAC35-41-1280 (H). Medication CRITICAL**

CURRENT AUDIT FINDINGS – December 20, 2021

100% Compliance Rating

DIRECTOR'S CERTIFICATION ACTION March 15, 2022: Certified Virginia Beach Crisis Intervention Home to May 12, 2024, with a letter of congratulations for 100% compliance. *Pursuant to 6VAC35-20-100C.1, if the certification audit finds the program or facility in 100% compliance with all regulatory requirements, the director or designee shall certify the facility for three years.*

TEAM MEMBERS:

Learna Harris, Central Office
Shelia Hinton, Central Office
Wanda Parris-Flanagan, Central Office
John Adams, Central Office
Nikeshia Roberts, Central Office

POPULATION SERVED:

The Crisis Intervention Home (CIH) provides 24-hour intake for up to 12 males and females, between the ages of 13-17, from referrals made by Court Service Units and Social Service agencies. CIH opened under the aegis of the Tidewater Regional Group Home Commission (TRGHC) in 1975 at its first location at 317 20th Street, Virginia Beach. In the winter of 1986, the facility moved to 811 13th Street, Virginia Beach. The current building was built in 1985. In 1988,

an extension was added to the building to include a director's office, conference room, and staff bathroom. It is a one-story facility constructed of a brick exterior with wood trim. In 2009, the Commission changed its name to the Tidewater Youth Services Commission.

The following rooms are in the building: secretary's office, schoolroom, front/staff office, assistant director's office, counselor workstation area, laundry room, utility closet, storage closet, 6 bedrooms, 4 resident bathrooms, 2 staff bathrooms, kitchen, pantry, resident common/ living area, dining area, director's office, and a conference room. There are also two detached storage sheds.

The CIH is situated in a residential area, eight blocks from the Oceanfront. It is fenced on three sides, and is approximately sixty feet from the road on 13th street. A parking lot accommodates twelve automobiles, one of which is a handicapped space.

PROGRAMS AND SERVICES PROVIDED:

The Crisis Intervention Home (CIH) offers an intensive, short-term crisis intervention program designed to stabilize youth and their families and help them clarify and resolve crisis situations. CIH also offers long term programming (3-6 months) for females referred and accepted into the post-dispositional program. The goal is to prevent further involvement with the court system and to offer an alternative to detention for youth in crisis. The staff assists each youth in recognizing his/her own life goals and establish steps to achieve them. An Initial Objectives and Strategies Plan are developed for each youth within 72 hours of their placement. An Individual Service Plan/ Behavior Support Plan are created for residents who are in the program for 30 days or longer. This Plan is created with the resident and involves the referring agency and parent/legal guardian to present a level of accountability for the resident. It also allows staff to understand what triggers a resident's negative behavior and what interventions work and do not work with a particular resident. The staff works with referring agencies to help prepare youth without family involvement for future placements. Residents accepted into the post-dispositional program are also required to receive Family Counseling and Aggression Replacement Training during their placement. Home visits are another component of the post-dispositional program that is designed to help the child transition back into their family environment

SERVICES PROVIDED:

- Direct:
 - Individual counseling
 - Aggression Replacement Training
 - Periodic Life Skills and Adolescent Groups
 - Recreational activities
 - Assessment of client needs
 - Family counseling upon a request from the referring agency/worker

- Community
 - Academic and vocational education in Virginia Beach School system
 - Medical, dental and psychological services
 - Star of the Sea Catholic Church, The Virginia Beach Rotary, The Bayshore Circle of the Kings Daughters, Cape Henry Rotary, Open Door Community Chapel, and various other organizations and individuals – provide monetary gifts and service donations to the facility youth for needs such as prescription medication refills, clothing, school supplies, projects for the Crisis Intervention Home, and recreational outings.

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

PROGRAM AUDITED:

Bon Air Juvenile Correctional Center
1900 Chatsworth Avenue
Richmond, Virginia 23235
(804) 323-2550
Russell Jennings, Jr., Superintendent
russell.jennings@djj.virginia.gov

AUDIT DATES:

September 27-29, 2021

CERTIFICATION ANALYST:

Shelia L. Hinton

CURRENT TERM OF CERTIFICATION:

April 12, 2018 – April 11, 2021

REGULATIONS AUDITED:

6VAC35-71 Regulation Governing Juvenile Correctional Centers

PREVIOUS AUDIT FINDINGS – November 1, 2017:

99.7% Compliance Rating
6VAC35-71-110(B) Organizational communications

CURRENT AUDIT FINDINGS – September 30, 2021:

99.38% Compliance Rating
No repeat deficiencies from previous audit.
6VAC35-71-960 (C). Medical examinations. CRITICAL
6VAC35-71-1070 (H). Medication. CRITICAL

DIRECTOR'S CERTIFICATION ACTION March 15, 2022: Certified Bon Air Juvenile Correctional Center to April 12, 2024.

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:

Shelia Hinton, Team Leader
John Adams, Central Office
Learna Harris, Central Office
Deborah Hayes, Central Office
Wanda Parris-Flanagan, Central Office
Nikeshia Roberts, Central Office
Guillermo Novo, DJJ Training Unit
Jack Scott, Crater Juvenile Detention Center
Spring Johnson, Piedmont Juvenile Detention Center
Jered Grimes, Newport News Juvenile Detention Center
John Dowdy, Prince William Juvenile Detention Center
Michelle Johnson, W. W. Moore, Jr. Juvenile Detention Center
Michelle Nave, Blue Ridge Juvenile Detention Center
Kiersten Ridge, Lynchburg Juvenile Detention Center
Leah Nelson, Central Office

POPULATION SERVED:

Bon Air Juvenile Correctional Center is a secure custody facility operated by the Commonwealth of Virginia. The facility serves a coed population, males and females ages 11-20, who have been committed by the juvenile court. Residents placed at the facility have been convicted of crimes ranging from misdemeanors to felonies. Lengths of commitment may range from a minimum of 3-6 months to a maximum of 7 years or until the day before the resident's 21st birthday. The licensed capacity is 270.

Bon Air Juvenile Correctional Center was established in 1910 and has been state owned and operated since that time. The facility is located on 75 acres of property four miles southwest of Richmond in Chesterfield County. The property adjoins the former Carroll R. Minor Reception and Diagnostic Center (closed) and Oak Ridge Juvenile Correctional Center (closed) and is located in a densely populated residential and business area. Bon Air is classified as a medium security facility.

The physical plant at Bon Air includes two distinctly different housing designs on a campus surrounded by single fencing with razor wire. The older section of the facility is constructed in an open campus style with individual housing units. The housing units contain a combination of dorm-style and single bedrooms with updated cameras and generators. The open campus also contains the Central Infirmary for the Bon Air Complex, a school, administrative offices, and a recreation yard. The expanded campus, constructed in 1997, is a self-contained single story building with electronically controlled access to all areas and camera monitoring. The building contains administrative offices, educational space, a dining hall, infirmary, and two housing units.

PROGRAMS AND SERVICES PROVIDED:

Residents placed in Bon Air Juvenile Correctional Center receive educational, vocational, mental health and rehabilitative counseling services. Specialized treatment programs include substance abuse, aggression management, sex offender, and intensive therapeutic programming. Academic and vocational training are provided on campus. Residents are able to earn a high school diploma, GED, and college credits through J. Sergeant Reynolds Community College and the Russian Literature Program.

The previous behavior management program used at Bon Air involves the concepts of responsibility, empowerment, achievement, change, and hope (REACH). The program provides juveniles with the knowledge, skills, and abilities necessary for rehabilitation, positive growth, and behavioral change by focusing on reinforcing desired behaviors, tracking inappropriate behaviors, providing feedback, and using a system of phases through which juveniles can advance.

Beginning in May 2015, Bon Air began implementing a new Community Treatment Model to promote juvenile rehabilitation while decreasing inappropriate behaviors during commitment. The main tenets of the model include highly structured, meaningful, therapeutic activities; consistent staffing in each housing unit; and consistent residents in each housing unit. Residents and staff have check-in meetings three times per day and can call additional 'circle-up meetings' as needed in order to address concerns or accomplishments of the unit. In doing so, the residents and staff can foster meaningful relationships and provide each other with mutual support and motivation.

In this new model, security staff positions were changed from correctional model titles and roles (e.g., Major, Sergeant, JCO) to community treatment model titles and roles (e.g., community manager, resident specialist) to reflect the change in responsibilities. The new resident specialists

switched from a dress uniform with a badge to a more informal look incorporating cargo pants and polo shirt. Staff teams have received intensive training before starting the Community Treatment Model team in their housing unit; as one unit is trained at a time to ensure fidelity to the program guidelines. The complete transformation of both JCCs is estimated to take approximately two years. As security staff transition to their new units, their work shifts are 12 hours per day working 14 days per month.

Currently, all units at Bon Air JCC have transformed and are operating under the Bon Air Community Treatment Model.

The Department of Juvenile Justice (DJJ) partnered with the Annie E. Casey Foundation acquiring financial support for trainers from the Missouri Youth Services Institute to both train and coach each new team that will lead a converted unit in the new community model. DJJ also acquired other funds to support the new Dialogue Training efforts for administrators.

In addition to all mandated services, Bon Air Juvenile Correctional Center interacts with the community in obtaining such services as:

- DJJ partnered with Community College Workforce Alliance (CCWA) to provide workforce certification opportunities such as OSHA and Serve Safe to the residents at Bon Air Juvenile Correctional Center.

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

FACILITY/PROGRAM: Bon Air Juvenile Correctional Center

SUBMITTED BY: Russell Jennings, Superintendent

CERTIFICATION AUDIT DATES: September 29, 2021

CERTIFICATION ANALYST: Shelia L. Hinton

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.

6VAC35-71-960 (C). Medical examinations. CRITICAL

C. Each resident shall have an annual physical examination by or under the direction of a licensed physician.

Audit Finding:

One of eight medical files reviewed did not document an annual physical examination by the direction of a licensed physician. The initial physical occurred August 23, 2018. The first annual physical occurred August 26, 2019. The second annual physical occurred December 28, 2020 which is approximately three months late.

Program Response

Cause:

Significant staff shortages, and use of handwritten tracking system, and the lack of effective checks and balances.

Effect on Program:

A youth's annual physical being delayed.

Planned Corrective Action:

The tracking process for annual physicals will be modified. The Office Services Specialist (OSS) will utilize a sortable Excel spreadsheet to identify residents in need of annual physicals in addition to a hard copy of the population report. The OSS will continue to generate the annual dental and medical lists on separate days and will routinely reconcile the two lists to ensure accuracy. Medical staff will be trained to submit medical incident reports according to the new process in the event there is a late annual physical discovered.

Completion Date:

November 10, 2021

Person Responsible:

Health Services Administrator and Nursing Staff

Current Status on January 18, 2022: Compliant

Six of six medical files reviewed documented an annual physical examination by the direction of a licensed physician.

6VAC35-71-1070 (H). Medication. CRITICAL

H. In the event of a medication incident or an adverse drug reaction, first aid shall be administered if indicated. As addressed in the physician's standing orders, staff shall promptly contact a physician, nurse, pharmacist, or poison control center and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented. A medical incident shall mean an error made in administering a medication to a resident including the following: (i) a resident is given incorrect medication; (ii) medication is administered to the incorrect resident; (iii) an incorrect dosage is administered; (iv) medication is administered at a wrong time or not at all; and (v) the medication is administered through an improper method. A medication incident does not include a resident's refusal of appropriately offered medication.

Audit Finding:

Two of six applicable medication incidents reviewed had no documentation that the attending physician was notified as soon as possible. On September 12, 2020, the resident did not receive Aleve 200 mg, two tablets and on September 17, 2020, the resident did not receive Bacitracin TAO as prescribed by the doctor. On the medication incident form documentation was as follows: Date/Time of Error- September 12, 2020 and September 17, 2020; Date/Time Reported: October 22, 2020 (date medication incident form completed); Christopher Moon, MD was notified on September 26, 2021 and Mark Murphy, Ph.D., was notified on September 26, 2021, one day before the scheduled audit on September 27, 2021.

Program Response

Cause:

Significant staff shortages, lack of direction resulting in a high volume of notifications needed.

Effect on Program:

The effects on the program were minimal. There were no adverse drug reaction due to the Chief Physician not being notified timely.

Planned Corrective Action:

All medication incidents reports will be submitted to the Chief Nurse or Nurse Manager for review. The Chief Nurse or Nurse Manager will review incidents reports for accuracy. Medication incident reports will be appropriately filed in the youth's medical record in a centralized binder. Nurses will conduct a comprehensive file audit at the time of each annual physical. Supervisors will conduct a random audit of at least one annual audit per month and provide feedback to the nurse auditors. The Chief Physician has composed a standing order to address what action shall be taken when a missed medication has not been properly documented. The standing order has been disseminated and all current nursing staff has been advised and has signed an acknowledgment of understanding. The standing order will be reviewed with new nursing staff as a part of on boarding and on the job training. Nursing staff are expected to fully comply with this and all other physician's standing orders.

Completion Date:

November 10, 2021

Person Responsible:

Health Services Administrator, Chief Physician and Nursing Staff.

Current Status on January 18, 2022: Compliant

Five of five applicable medication incidents reviewed had documentation that the attending physician was notified as soon as possible.

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

PROGRAM AUDITED:

Blue Ridge Juvenile Detention Center
195 Peregrory Lane
Charlottesville, Virginia 22902
(434) 951-9340
James Boland, Director
bolandja@brjd.org

AUDIT DATE:

February 23, 2022

CERTIFICATION ANALYST:

Wanda Parris-Flanagan

CURRENT TERM OF CERTIFICATION:

February 11, 2019-February 10, 2022

REGULATIONS AUDITED:

6VAC35-101 Regulation Governing Juvenile Secure Detention Centers

PREVIOUS AUDIT FINDINGS – September 11, 2018:

100% Compliance Rating

CURRENT AUDIT FINDINGS – February 23, 2022:

100% Compliance Rating

DIRECTOR'S CERTIFICATION ACTION March 15, 2022: Certified Blue Ridge Juvenile Detention Center and Post-dispositional Program to February 11, 2025, 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:

Wanda Parris-Flanagan, Team Leader
Shelia Hinton, Central Office
Nikeshia Roberts, Central Office
Michael Sayles, Central Office
Leah Nelson, Central Office
John Adams, Central Office

POPULATION SERVED:

Blue Ridge Juvenile Detention Center (BRJDC) is a 40-bed, single room secure custody facility operated by the Blue Ridge Juvenile Detention Commission. Service areas include the City of Charlottesville and the Counties of Albemarle, Culpeper, Fluvanna and Greene. BRJDC provides services to a pre-dispositional detention population of male and female residents, ages 10-17.

PROGRAMS AND SERVICES PROVIDED:

- **Facility:** (Services offered by facility and staff) Ensure public safety by direct care monitoring, observation, management, record keeping/documentation of facility residents in daily activities ensuring security and safety by providing sight and direct supervision, coordinating and overseeing movement, and observing behavior and interaction with other residents to ensure that facility and program procedures are appropriately upheld and followed.

Blue Ridge Juvenile Detention is a 40-bed, single room facility comprising 27,000 square feet of space. There are four living units with 10 rooms per unit including one handicap accessible room in each unit. Two showers within each unit provide for daily hygiene needs. The units have seating areas with game tables in a television viewing area. There is also an interview room and storage area contained within each living unit. There is a full-service kitchen and an adjacent 40- seat dining room. There are three classrooms, a library and gymnasium as well as an outdoor recreation area. The facility is controlled by touch screen and roller ball mouse control systems within a Master Control Center and four auxiliary touch screen living unit control stations. There are designated areas for intake of detainees to include two holding cells, personal property storage, intake shower area, medical exam room and interview room. An administrative area houses an Office Services Assistant, Director, Deputy Director, Chief of Security and Business Office Manager.

- **Post-Disposition Program:**

BRJD's Post-Disposition Program (Post-D) is a dispositional/commitment alternative for certain juvenile offenders who may benefit from local short-term treatment while in a controlled setting. The Post-D 90 Program is 90 days in length and is for juveniles who are not eligible for commitment* to the Virginia Department of Juvenile Justice (DJJ). The Post-D 180 Program is 180 days in length and is for juveniles who are eligible for commitment to DJJ. Both programs serve juveniles who likely have not experienced success in community-based services or other types of residential settings. BRJD's Post-D program is intended for youth that appear to be amenable to treatment and to improving maladaptive thinking and behaviors and ultimately improve and contribute to their community while incarcerated and shortly after release. They may earn privileges to work, participate in community service and volunteer assignments as well as leave the facility for educational activities and home visits. These services and privileges are intended to increase family and community involvement, thus increasing the youth's chances for a successful transition back into his or her community. Residents participate in the development of their individualized service plan, which addresses and strives to strengthen the areas of family, education, mental health, community, social, emotional, and physical well-being. The Post-D Program is designed to encourage and support residents in their interpersonal/intrapersonal development, as well as increase a resident's competence in life skills, empathy, problem solving, and conflict resolution. This is accomplished through creating experiential opportunities for residents to increase their sense of efficacy in these areas. Programming includes but is not limited to character education, substance abuse education and/or counseling, reproductive health/personal safety education, and individual and/or family counseling. Services available may include those provided at BRJD, within the community, or a combination of both. Post-D residents participate in BRJD's academic program that is designed to increase their level of knowledge and academic success. Career options and vocational abilities are explored. The program works closely with treatment/programs staff as collaborative intervention efforts facilitate a successful re-entry of the youth to their community.

- **Community Placement Program:** A closed unit program for males ages 14-20 who have

been committed to the Department of Juvenile Justice. This program addresses many of the areas listed above with an emphasis on increasing educational competencies, increasing employment readiness, and reducing criminal thinking by helping residents improve in the areas of self-control, decision making and problem solving.

- **Central Admissions and Placement:** Residents who have been committed to DJJ may remain at or be transferred to BRJD in order to participate in the intake, orientation, and evaluation process.
- **Detention Re-Entry:** DJJ residents who are 30 to 120 days from release may be transferred from BAJCC or a CPP to a local detention facility in close proximity to their home community in order to aid in a successful transition by beginning services that would previously not begin until after released from incarceration.

Services and programs utilized by the facility include but are not limited to:

- Habitat for Humanity,
- Rivanna Trails Foundation,
- Front Porch Music,
- Region Ten Community Services Board,
- PVCC,
- Charlottesville, Albemarle, Fluvanna, Culpeper and Greene Department of Social Services,
- Juvenile Justice Advisory Committee,
- Community Attention,
- Music Resource Center,
- Lighthouse Film Studio,
- Planned Parenthood,
- Sexual Assault Resource Agency,
- Habitat Store,
- University of Virginia,
- Virginia Commonwealth University,
- Big Brothers/Big Sisters,
- MIMA Music Program,
- Visible Records,
- Second Language Pilot Program and
- Virginia Gang Investigators.
- One DBHDS funded position- a full-time mental health clinician/case manager who is an employee of Region Ten Community Services Board but housed at BRJD.

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

PROGRAM AUDITED:

Tidewater Youth Services Apartment Living Program
714 20th Street
Virginia Beach, Virginia 23451
(757) 965-4551
William Wimbish, Director
Wwimbish@tyscommission.org

AUDIT DATES:

February 24, 2022

CERTIFICATION ANALYST:

Learna R. Harris

CURRENT TERM OF CERTIFICATION:

July 20, 2019 – January 21, 2022

REGULATIONS AUDITED:

6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses

PREVIOUS AUDIT FINDINGS – August 6, 2018:

99.637% Compliance Rating
6VAC35-41-1210 (A). Tuberculosis screening. CRITICAL

CURRENT AUDIT FINDINGS – February 24, 2022:

100% Compliance Rating

DIRECTOR'S CERTIFICATION ACTION March 15, 2022: Certified Tidewater Youth Services Apartment Living Program to January 20, 2025, with a letter of congratulations for 100% compliance.

Pursuant to 6VAC35-20-100C.1, if the certification audit finds the program or facility in 100% compliance with all regulatory requirements, the director or designee shall certify the facility for three years.

TEAM MEMBERS:

Learna Harris, Team Leader
John Adams, Central Office
Nikeshia Roberts, Central Office

POPULATION SERVED:

The Apartment Living Program is an eight-bed facility for males being released from direct care placement or who are on parole supervision between the ages of 17.5 and 21. The program provides a supervised apartment setting 24 hours a day, individualized case planning, vocational training, a complete array of independent living training/experiences, support with educational opportunities, employment opportunities and family engagement.

The Apartment Living Program consists of five two-bedroom apartments at South Beach Villa Apartments located on 714 20th Street, Apt# 101(Staff Office), 712 20th Street, Apt #101, 102, 201, 202, VA Beach VA, 23451. Each apartment has two bedrooms, a living area, a dining area, and a kitchen and bathroom. Each apartment is fully furnished. Security cameras are located in

hallways of the building as well as in the front and back of the building. The apartments are located in close proximity to public transportation, schools, libraries, police department, hospitals, etc.

PROGRAMS AND SERVICES PROVIDED:

The Apartment Living Program provides the following services to the residents:

Direct:

- Individual Counseling
- Individualized Service Plans
- Assessments
- Independent Living Workshop Groups
- Educational Placement Support
- Vocational/Employment Placement Support
- Money Management
- 24-hour Supervision/Case Management
- Aggression Replacement Training (ART)
- Recreational Opportunities
- Family Engagement/Involvement Groups (if applicable)
- Comprehensive Discharge Planning

The Apartment Living Program provides the following services in the community:

- Virginia Employment Commission
 - Workforce Development Sites (One-Stop)
 - Narcotic Anonymous/Alcoholic Anonymous Locations
 - Local Libraries
 - City Recreational Centers
 - Community Service Board (CSB)
 - Human Services
 - Virginia Beach Health Clinic
 - Adult Learning Center
-

**DEPARTMENT OF JUVENILE JUSTICE
REGULATORY AND GUIDANCE DOCUMENT UPDATE**

April 20, 2022

ACTIONS WITH RECENT UPDATES:

6VAC35-30 Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs

6VAC35-35 Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (*New)

Stage: NOIRA (Standard Regulatory Process)

Status: This action involves a comprehensive overhaul of the process localities follow to obtain state reimbursement for local facility construction and renovation projects and proposes a new process for localities that have no plans to seek reimbursement for such projects. The NOIRA has completed Executive Branch review, and was published in the *Virginia Register* on February 1, 2021. The 30-day public comment period generated no comments.

Next step: The board approved the proposed amendments on April 7, 2021, for advancement to the Proposed Stage of the standard regulatory process. The department continues its preparations to advance the approved amendments for Executive Branch review.

6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses

Stage: Proposed (Standard Regulatory Process)

Status: This regulation was last amended effective January 1, 2014. This action involves a comprehensive review of the regulatory requirements. The NOIRA was published in the *Virginia Register* on October 31, 2016; we received no public comments. The action was submitted through the Proposed Stage on April 17, 2020, has undergone Executive Branch review, and was published in the *Virginia Register* on May 24, 2021. The 60-day public comment period ended on July 23, 2021, with no public comments.

Next step: The reconvened workgroup has resumed meetings to prepare this regulation for advancement to the Final Stage of the standard regulatory process.

6VAC35-71 Regulation Governing Juvenile Correctional Centers

Stage: Revised Proposed (Standard Regulatory Process).

Status: This regulation became effective on January 1, 2014. This action involves a comprehensive review of the regulatory requirements. The NOIRA was published in the *Virginia Register* on October 3, 2016. At the NOIRA stage, no public comments were submitted. The Proposed action was certified by the Office of the Attorney General; approved by DPB, the SPSHS, and the Governor's Office; and subsequently published in the *Virginia Register* on September 30, 2019. The 60-day public comment period

ended on November 29, 2019. Significant changes were made after the Proposed Stage, so the action was advanced through a Revised Proposed Stage, which was submitted on August 31, 2021. The Revised Proposed Stage completed Executive Branch review on January 4, 2022. It was published in the *Virginia Register* on February 14, 2022, and a 30-day public comment period followed, ending on March 16, 2022. There were no public comments.

Next step: The department is now preparing the regulation for the Board's approval to advance to the Final Stage of the standard regulatory process.

6VAC35-101 Regulation Governing Juvenile Secure Detention 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 NOIRA was published in the *Virginia Register* on October 17, 2016, and yielded no public comments. The action was submitted through the Proposed Stage on September 3, 2019, completed Executive Branch review, and was published in the *Virginia Register of Regulations* on May 24, 2021. The 60-day public comment period ended on July 23, 2021, and resulted in two public comments. The reconvened workgroup held its last meeting on December 6, 2021.

Next step: At its April 20, 2022, meeting the Board will consider the action for advancement to the Final Stage of the regulatory process.

6VAC35-180 Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles

Stage: NOIRA (Standard Regulatory Process)

Status: This regulation became effective January 1, 2008, and has never been amended. This action involves a comprehensive overhaul of the regulatory requirements to ensure the continued provision of post-release services for incarcerated juveniles with a substance abuse, mental health, or other therapeutic need. The NOIRA completed Executive Branch review on January 4, 2022, and subsequently was published in the *Virginia Register* on February 14, 2022. The required 30-day public comment period ended on March 16, 2022, and yielded no comments.

Next step: The department has convened a workgroup to prepare the text for the Proposed Stage of the standard regulatory process.

6VAC35-200 Regulations Governing Youth Detained Pursuant to Federal Contracts (*New)

Stage: NOIRA (Standard Regulatory Process)

Status: This action seeks to establish new regulations applicable to programs for youth detained in juvenile correctional facilities pursuant to contracts with the federal government. The action is intended to carry out the legislative directive in Chapter 599 of the 2020 Acts of Assembly. The NOIRA action has undergone DPB, SPSHS, and

Governor's Office review, was published in the *Virginia Register* on March 1, 2021, and the public comment period ending on March 31, 2021, yielded no public comment.

Next step: The workgroup has completed its first series of meetings. The department continues its work to draft the proposed language, which will receive a final review by the workgroup before being presented to the board for advancement to the Proposed Stage.

6VAC35-210 Compulsory Minimum Training Standards for Direct Care Employees

Process: (Fast-track Regulatory Process)

Status: This action sought to create a new set of regulatory provisions that establish compulsory training requirements for direct care and security employees in juvenile correctional centers operated by the department. The new regulatory provisions satisfy Chapters 366 and 526 of the 2019 and 2020 Acts of Assembly, respectively. This action was approved by the Board at its December 2020 meeting. It completed Executive Branch review on December 29, 2021, and was published in the *Virginia Register* on January 31, 2022. The required 30-day public comment period ended on March 2, 2022, and yielded no comments. The regulation took effect on March 18, 2022.



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TO: State Board of Juvenile Justice
FROM: Virginia Department of Juvenile Justice
SUBJECT: Request Authorization to Submit Amendments to the Regulation Governing Juvenile Secure Detention Centers (6VAC35-101) to the Final Stage of the Regulatory Process
DATE: April 20, 2022

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully requests the State Board of Juvenile Justice (the board) to authorize amendments to the Regulation Governing Juvenile Secure Detention Centers (6VAC35-101) for advancement to the Final Stage of the regulatory process, pursuant to the Administrative Process Act set forth in § 2.2-4000 *et seq.* of the Code of Virginia. The proposed amendments are intended to apply to the state's 24 secure juvenile detention centers, as well as any juvenile detention centers that may be constructed in the Commonwealth in the future. These include detention centers serving predispositional (pre-D) residents only, as well as those offering programs for both pre-D and postdispositional (post-D) youth.

II. BACKGROUND

Pursuant to § 66-10 of the Code of Virginia, the board has the authority to promulgate regulations "necessary to carry out the provisions of this title and other laws of the Commonwealth." This includes the authority to adopt regulations governing the operation of secure juvenile detention centers. The department assists the board by facilitating the review of existing regulations and submitting them to the board for evaluation and approval.

In June 2016, the board authorized the submission of a Notice of Intended Regulatory Action (NOIRA) to initiate the regulatory process for a comprehensive review of this regulation. The NOIRA completed Executive Branch review in September 2016, and the notification was published in the *Virginia Register* on October 17, 2016. The public comment period, which ended on November 16, 2016, yielded no public comments.

To complete the comprehensive review and revisions to this regulation, the department convened a workgroup consisting of representatives from the Virginia Juvenile Detention Association and the department's Policy and Planning Unit. The workgroup conducted an extensive review of the regulation and proposed amendments to streamline the regulation, clarify ambiguous provisions, and impose new requirements aimed at enhancing safety and security and improving the level of services available to juveniles detained in secure juvenile detention facilities.

Following discussion at multiple meetings, the board approved amendments to the regulation and authorized the department to submit the regulation to the Proposed Stage of the process, which it did on September 3, 2019. The Proposed Stage completed Executive Branch review on April 21, 2021, and was published in the *Virginia Register* on May 24, 2021. The 60-day public comment period concluded on July 23, 2021, and yielded two comments from the Legal Aid Justice Center and disAbility Law Center of Virginia. The department reviewed the comments and determined they raised no new issues for discussion by the board.

The workgroup reconvened in June 2021 for a final review of the proposed language. Following a series of meetings that concluded in December 2021, the workgroup proposed several additional amendments to clarify the text, streamline the regulation, and adjust requirements to enhance safety and security and improve the level of services available to juveniles detained in secure juvenile detention facilities. Where possible, the workgroup also recommended changes to bring certain provisions of this regulation into better alignment with the proposed JCC regulation.

A copy of the pertinent sections of the proposed regulatory text has been included in your meeting packet. Changes from the Proposed Stage text are highlighted in yellow.

III. DEFINITION CHANGES

The workgroup recommended the following changes to Section 10 of the regulation, which defines terms used frequently throughout the chapter:

- Remove the term *qualified mental health professional* and replace it with *mental health clinician*, defined as “a clinician licensed to provide assessment, diagnosis, treatment planning, treatment implementation, and similar clinical or counseling services, or a license-eligible clinician providing services under supervision of a licensed mental health clinician.” As part of this change, all relevant language in the text of the regulation has been updated accordingly. This recommendation is the result of a legislative change that broadened the definition of the term *qualified mental health professional* and is intended to ensure that the providers offering mandated services to juvenile detention centers have the appropriate qualifications. The department consulted with community services board (CSB) representatives for feedback, and they indicated they do not believe this change will create a significant burden for the CSBs providing services to the JDCs.
- Update the definition of *room restriction* to clarify that it does not include structured programming requirements (e.g., during shift changes, showers, resident movement, or other activities necessary for safety and security during daily operations), or medical isolation.

IV. SUMMARY OF SUBSTANTIVE RECOMMENDATIONS – HIGH IMPACT

- *Serious incident reports – Section 80*: The workgroup added the use of the mechanical restraint chair by facility staff, regardless of purpose or duration, to the list of incidents that must be reported within 24 hours to the applicable court service unit, the parent or legal guardian, and the director of the department. This conforms Section 80 to Section 1153 pertaining to the use of the mechanical restraint chair.

- Searches of residents – Section 560: The workgroup recommended several changes to Section 560 to align more closely with language the board previously approved for the JCC regulation. Among these changes, the workgroup recommended:
 - Removing the requirement that patdown and full searches be conducted by a staff member of the same sex as the resident. This requirement risked conflicting with the Prison Rape Elimination Act (PREA), which prohibits cross-gender searches in juvenile facilities except in exigent circumstances. Under the updated language, searches of residents may be conducted only by staff who are authorized to conduct such searches and only for the purposes of maintaining facility security and controlling contraband. This change ensures that the board’s regulations do not conflict with PREA or create confusion in how searches should be conducted.
 - Adding a requirement that a staff witness be present for full searches.
 - Adding a requirement that a witness be present for manual and instrumental searches of the anal or vaginal areas, not including medical examinations.
- Room restriction – Section 1100: The workgroup recommended amending subsection I of Section 1100 to require that the facility administrator or the facility administrator’s designee make daily personal contact with each resident placed in room restriction, including those placed in disciplinary room restriction, to ensure that residents are restricted only for the minimum amount of time necessary to address the resident’s negative behavior or threat. The workgroup determined that language in the previous version that provided an exception for residents placed in disciplinary room restriction was in error.

V. SUMMARY OF SUBSTANTIVE RECOMMENDATIONS – MODERATE IMPACT

- Face sheet – Section 340: This section delineates the resident information to be included at the time of admission. The workgroup recommended amending it to include gender identity and primary and preferred languages. This information can be important in assessing resident needs and ensuring appropriate service delivery.
- Smoking prohibition – Section 460: The workgroup recommended updating this section to use the same language as the Code of Virginia. This is almost identical to a similar provision approved by the board in the JCC regulation.
- Fundraising – Section 790: The workgroup recommended updating this section to require that resident consent to participate in fundraising efforts be made in writing.
- Monitoring residents placed in mechanical restraints – Section 1140: The workgroup recommended updating subsections A and B to provide an exception for residents who are being transported offsite. This brings these provisions in the JDC regulation into alignment with the language already approved by the board for the JCC regulation.

VI. SUMMARY OF SUBSTANTIVE RECOMMENDATIONS – LOW IMPACT

- Relationship with the department – Section 60: The workgroup recommended clarifying that the required timeframes for reporting information to the director are in business days.

- Reporting criminal activity – Section 95: The workgroup recommended adding a requirement that staff self-report any arrests or criminal charges to the facility administrator.
- Sleeping rooms – Section 430: The workgroup recommended deleting subsection A of this section pertaining to sleeping rooms. This item required that males and females have separate sleeping rooms. Currently, all JDCs have only single-occupancy rooms based upon the requirements elsewhere in this section, and any JDCs constructed in the future would reasonably be expected to have the same. Additionally, Section 830 requires that sleeping room assignments be made according to a written plan taking into consideration a number of factors including a resident’s individual characteristics and the results of the vulnerability assessment required by Section 665. The workgroup determined that these requirements provide the necessary parameters for room assignments and made the language in subsection A unnecessary.

VI. CLARIFICATIONS AND TECHNICAL AMENDMENTS

- The word *facility* was used in numerous provisions in this chapter as a vague, non-specific subject. For example, “The facility shall develop and implement written safety rules for the use and maintenance of power equipment.” The workgroup recommended changing the language throughout the chapter to use either *the facility administrator or the facility administrator’s designee* or *facility staff*, as appropriate. The workgroup concluded that this clarifies the accountability in these provisions.
- The workgroup recommended replacing the word *sanction* with *consequence* throughout the text. This was suggested by the JDC administrators on the workgroup and aligns with the terminology currently in use at several of the JDCs.
- The draft text includes numerous other changes to correct Code and regulatory citations, conform the language to the Regulatory Style Manual, and make various other grammar and stylistic improvements.

Project 4832 - Final

Department (Board) Of Juvenile Justice

Periodic Review of Regulation Governing Juvenile Secure Detention Centers

6VAC35-101-10. Definitions.

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

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

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

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

"Board" means the Board of Juvenile Justice.

"Case record" or "~~record~~" means written or ~~electronic~~ information ~~relating to one~~ regarding a resident and the resident's family, if applicable. This information includes, ~~but is not limited to,~~ social, medical, psychiatric, and psychological records; reports; demographic information; agreements; all correspondence relating to care of the resident; individual service plans with periodic revisions; aftercare plans and ~~discharge~~ release summary; and any other information related to the resident.

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

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

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

"Department" means the Department of Juvenile Justice.

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

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

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

"Director" means the ~~Director~~ director of the ~~Department of Juvenile Justice~~ department.

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

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

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

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

"Health care record" means the complete record of medical screening and examination information and ongoing records of medical and ancillary service delivery including, ~~but not limited to,~~ all findings, diagnoses, treatments, dispositions, and prescriptions and their administration.

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

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

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

"Individual service plan" or "service plan" means a written plan of action developed, revised as necessary, and reviewed at specified intervals to meet the needs of a resident. The individual service plan specifies (i) measurable short-term and long-term goals; (ii) the objectives, strategies, and time frames for reaching the goals; and (iii) the individuals responsible for carrying out the plan.

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

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

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

"Mechanical restraint" means an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual's body as a

means of controlling the individual's physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this chapter, mechanical restraints shall include flex cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, waist chains, and anti-mutilation gloves. For purposes of this chapter, mechanical restraints shall not include mechanical restraint chairs.

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

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

"Mental health clinician" means [a person with a master's degree or higher in psychology, counseling, or social work with an emphasis on mental health treatment who is employed in the practice of treating mental disorders a clinician licensed to provide assessment, diagnosis, treatment planning, treatment implementation, and similar clinical or counseling services, or a license-eligible clinician providing services under the supervision of a licensed mental health clinician] .

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

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

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

"Postdispositional detention program" means a program in a detention center serving residents who are subject to a sentence or dispositional order for placement in the detention center for a period exceeding 30 days pursuant to subdivision A 16 of § 16.1-278.8 and subsection B of § 16.1.284.1 of the Code of Virginia.

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

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

["Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children.]

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

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

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

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

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

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

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

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

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

6VAC35-101-20. Applicability.

Parts I (6VAC35-101-10 et seq.) through VIII (6VAC35-101-1070 et seq.) of this chapter apply to juvenile detention centers ~~for both that operate predispositional and or~~ postdispositional programs [; or postdispositional detention without programs] unless specifically excluded. Part IX (6VAC35-101-1160 et seq.) of this chapter ~~only~~ applies solely to detention centers operating postdispositional detention programs ~~for residents sentenced for a period exceeding 30 days pursuant to subdivision A 16 of § 16.1-278.8 and subsection B of § 16.1-284.1 of the Code of Virginia.~~

6VAC35-101-60. Relationship with the department.

A. The director or the director's designee shall be notified within five [working business] days of any significant change in administrative structure or newly hired facility administrator.

B. Any of the following that may be related to the health, safety, or human rights of residents shall be reported to the director or the director's designee within 10 [business] days: (i) lawsuits against the detention center or its governing authority and (ii) settlements with the detention center or its governing authority.

6VAC35-101-80. Serious incident reports.

A. 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 the director's designee:

1. Any A serious incident, accident, illness, or injury to the resident;
2. The death of a resident;
3. Any A 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 A disaster, fire, emergency, or other condition that may jeopardize the health, safety, and welfare of residents; [and]

5. Any A resident's absence from the detention center without permission [; and

6. The use of the mechanical restraint chair by facility staff, regardless of the purpose or duration of use.]

B. The detention center shall notify the director or the director's designee within 24 hours of ~~any events detailed in subsection A of this section and all~~ any other situations event required by the regulatory authority of which the facility has been notified.

C. If an incident involving the death of a resident occurs at the facility, the facility [administrator or the facility administrator's designee] shall notify the parents or legal guardians, as appropriate and applicable, of all residents in the facility provided such notice does not violate any confidentiality requirements or jeopardize any law-enforcement or child protective services investigation or the prosecution of any criminal cases related to the incident.

D. The facility [administrator or the facility administrator's designee] 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 the director's 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, the director, and to either the parent or legal guardian, as appropriate and applicable, and the date and time on which the report was made; 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.

~~E. The resident's record shall contain a written reference (i) that an incident occurred and (ii) of all applicable reporting.~~

F. In addition to the requirements of this section, ~~any serious incident~~ incidents involving an allegation of child abuse or neglect at the detention center, at a detention center-sponsored event, or involving detention center staff shall be governed by 6VAC35-101-90 (~~suspected child abuse or neglect~~).

6VAC35-101-95. Reporting criminal activity.

A. Written procedures shall require staff to [report all known criminal activity suspected to have been committed by residents or staff to the facility administrator notify the facility administrator of all criminal activity suspected to have been committed by residents or staff, provided the reporting staff knows the activity is criminal], ~~including but not limited to any physical abuse, sexual abuse, or sexual harassment and the offenses listed in §§ 53.1-203 (felonies by prisoners); 18.2-55 (bodily injuries caused by prisoners); 18.2-48.1 (abduction by prisoners); 18.2-64.1 (carnal knowledge of certain minors); 18.2-64.2 (carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender); and 18.2-477.1 (escapes from juvenile facility) of the Code of Virginia.~~ [The procedures also shall require staff to self-report to the facility administrator any arrests or criminal charges.]

B. The facility administrator, in accordance with written procedures, shall notify the appropriate persons or agencies, including law enforcement, child protective services if applicable and appropriate, and the department, ~~if applicable and appropriate~~, of suspected criminal violations by residents or staff. ~~Suspected criminal violations relating to the health and safety or human rights of residents shall be reported to the director or designee.~~

C. The detention center shall assist and cooperate with the investigation of any such complaints and allegations ~~as necessary,~~ subject to restrictions in federal or state law.

6VAC35-101-140. Job descriptions.

A. [There shall be a written job description for each position that, at a minimum, includes Each position shall have a written job description that includes, at a minimum,] the:

1. Job title or position;
2. Duties and responsibilities of the incumbent;
3. Job title or identification of the immediate supervisor; and
4. Minimum education, experience, knowledge, skills, and abilities required for entry-level performance of the job.

B. A copy of the job description shall be given to each person assigned to a position ~~prior to~~ before assuming that position's duties.

6VAC35-101-180. Required initial orientation for employees.

A. Initial orientation shall be provided to all full-time ~~and,~~ part-time staff, and relief staff, ~~and contractors who provide services to residents on a regular basis,~~ in accordance with each position's job description.

B. Before the expiration of the individual's seventh work day at the facility, each employee shall ~~be provided with~~ receive a basic orientation on the following:

1. The facility;
2. The population served;
3. The basic objectives of the program;
4. The facility's organizational structure;
5. Security, population control, emergency preparedness, and evacuation procedures as ~~provided for~~ in accordance with 6VAC35-101-510 (~~emergency and evacuation procedures~~);
6. The practices of confidentiality;
7. The residents' rights, including the prohibited actions provided for in 6VAC35-101-650;
8. The basic requirements of and competencies necessary to perform [in his the] ~~positions~~ position;
9. The facility's program philosophy and services;
10. The facility's behavior management program as provided for in 6VAC35-101-1070 (~~behavior management~~);
11. The facility's behavior intervention procedures and techniques, including the use of least restrictive interventions and physical restraint;
12. The residents' rules of conduct and responsibilities;
13. The residents' disciplinary process as provided for in 6VAC35-101-1080 (~~disciplinary process~~);
14. The residents' grievance procedures as provided for in 6VAC35-101-100 (~~grievance procedure~~);
15. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (~~serious incident reports~~) and 6VAC35-101-90 (~~suspected child abuse or neglect~~);
16. Standard precautions as provided for in 6VAC35-101-1010 (~~infectious or communicable diseases~~); and
17. Documentation requirements as applicable to the position's duties.

~~C. Volunteers shall be oriented in accordance with 6VAC35-101-300 (volunteer and intern orientation and training).~~

Article 4

Training and Retraining

6VAC35-101-190. Required initial training for employees.

A. ~~Each full-time~~ Full-time and part-time ~~employee~~ employees and relief staff shall complete initial, comprehensive training that is specific to ~~the individual's~~ their occupational class, is based on the needs of the population served, and ensures that ~~the individual has~~ they have the competencies to perform the position's duties. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.

~~1. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.~~

~~2. Contractors shall receive training required to perform their position responsibilities in a detention center.~~

B. Within 30 days following the employee's start date at the facility or before the employee is responsible for the direct care or direct supervision of a resident, all direct care staff and staff who provide direct supervision of the residents shall complete training in the following areas:

1. Emergency preparedness and response as provided for in 6VAC35-101-510 (~~emergency and evacuation procedures~~);

2. The facility's behavior management program as provided for in 6VAC35-101-1070 (~~behavior management~~);

3. The residents' rules of conduct and the rationale for the rules;

4. The facility's behavior intervention procedures, with including [the utilization of] physical and mechanical [restraint training and protective device training restraint and protective devices], required as applicable to their duties and as required by subsection ~~D C~~ of this section, and room restriction and disciplinary room restriction, as provided for in 6VAC35-101-1100 and 6VAC35-101-1105;

5. Child abuse and neglect and mandatory reporting, as provided for in 6VAC35-101-80 (~~serious incident reports~~) and 6VAC35-101-90 (~~suspected child abuse or neglect~~);

6. Maintaining appropriate professional boundaries and relationships;

7. ~~Interaction~~ Appropriate interaction among staff and residents;

8. Suicide prevention as provided for in 6VAC35-101-1020 (~~suicide prevention~~);

9. Residents' rights, including ~~but not limited to~~ prohibited actions provided for in 6VAC35-101-650 (~~prohibited actions~~);

10. Standard precautions as provided for in 6VAC35-101-1010 (~~infectious or communicable diseases~~); and

11. Procedures applicable to the ~~employees'~~ employee's position and consistent with ~~their~~ the employee's work ~~profiles~~ profile.

C. Employees who are authorized by the facility administrator to restrain a resident, as provided for in [~~6VAC35-101-1090~~ 6VAC35-101-1115] (~~physical restraint~~) and, 6VAC35-101-1130 (~~mechanical restraints~~), and 6VAC35-101-1153 shall be trained in the [use of the] facility's approved restraint techniques within 90 days of such authorization and ~~prior to~~ before applying any restraint techniques.

D. Employees who administer medication shall, [prior to before] such administration, as provided for in 6VAC35-101-1060 (~~medication~~), and in accordance with the provisions of § 54.1-

3408 of the Code of Virginia, either (i) have successfully completed a medication management training program approved by the Board of Nursing or (ii) be licensed [certified licensed] by the Commonwealth of Virginia to administer medication.

~~E. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

~~F. Volunteers and interns shall be trained in accordance with 6VAC35-101-300 (volunteer and intern orientation and training).~~

~~G. E.~~ Employees who perform the duties required in 6VAC35-101-800 (~~admission and orientation~~) shall be trained in the requirements contained therein [before performing these duties].

6VAC35-101-200. Retraining requirements for employees.

A. Each full-time and part-time employee and relief staff shall complete retraining that is specific to the individual's occupational class, the position's job description, and that addresses any professional development needs.

B. All full-time and part-time employees and relief staff shall complete an annual training refresher on the facility's emergency preparedness and response plan and procedures as provided for in ~~6VAC35-101-480 (emergency and evacuation procedures)~~ 6VAC35-101-510.

C. All direct care staff shall receive at least 40 hours of training annually that shall include training on the following:

1. Suicide prevention as provided for in 6VAC35-101-1020 (~~suicide prevention~~);
2. Standard precautions as provided for in 6VAC35-101-1010 (~~infectious or communicable diseases~~);
3. Maintaining appropriate professional relationships;
4. ~~Interaction~~ Appropriate interaction among staff and residents;
5. Residents' rights, including ~~but not limited to~~ the prohibited actions provided for in 6VAC35-101-650 (~~prohibited actions~~);
6. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (~~serious incident reports~~) and 6VAC35-101-90 (~~suspected child abuse or neglect~~); and
7. Behavior intervention procedures, including room restriction and disciplinary room restriction, as provided in 6VAC35-101-1100 and 6VAC35-101-1105.

D. All staff approved to apply physical restraints, as provided for in [6VAC35-101-1090 6VAC35-101-1115] (~~physical restraint~~) shall be trained as needed to maintain the applicable current certification.

E. All staff approved to apply mechanical restraints, protective devices, or the mechanical restraint chair shall be retrained annually as required by 6VAC35-101-1130 (~~mechanical restraints~~) and 6VAC35-101-1153.

F. Employees who administer medication, as provided for in 6VAC35-101-1060 (~~medication~~), shall complete an annual refresher training, which shall [at a minimum,] include [at a minimum,] a review of the components required in 6VAC35-101-1060.

~~G. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

H. ~~G.~~ Staff who have not timely completed required retraining shall not be allowed to have direct care responsibilities pending completion of the required retraining requirements.

6VAC35-101-260. Physical or mental health of personnel.

When an individual poses a ~~direct threat~~ significant risk of substantial harm to the health and safety of [that individual,] a resident, others at the facility, or [or] the public [, or the individual's self] or is unable to perform essential job-related functions, that individual shall be removed immediately from all duties involved in the direct care or direct supervision of residents. The facility [administrator or the facility administrator's designee] may require a medical or mental health evaluation to determine the individual's fitness for duty ~~prior to~~ before returning to duties involving the direct care or direct supervision of residents. The results of any medical information or documentation of any disability-related inquiries shall be maintained separately from the employee's personnel records maintained in accordance with 6VAC35-101-310 (~~personnel records~~). ~~For the purpose of this section a direct threat means a significant risk of substantial harm.~~

6VAC35-101-310. Personnel records.

A. Separate, up-to-date written ~~or automated~~ personnel records shall be maintained on each (i) employee and (ii) volunteer or intern on whom a background check is required.

B. The personnel records of each employee shall include:

1. A completed employment application form or other written material providing the individual's name, address, [phone telephone] number, and social security number or other unique identifier;
2. Educational background and employment history;
3. Documentation of required reference check;
- ~~4. Annual performance evaluations;~~
5. 4. Date of employment for each position held and separation date;
6. 5. Documentation of compliance with requirements of Virginia law regarding child protective services and criminal history background investigations;
7. 6. Documentation of the verification of any educational requirements and of professional certification or licensure, if required by the position;
8. 7. Documentation of all training required by this chapter and any other training received by individual staff; and
9. 8. A current job description.

C. If applicable, health care records, including reports of any required health examinations, shall be maintained separately from the other records required by this section.

D. Personnel records on ~~contract service providers and~~ contractors, volunteers, and interns may be limited to ~~the verification of the completion of any required~~ verifying that the applicable background checks have been completed as required by 6VAC35-101-170 (~~employee and volunteer background checks~~).

6VAC35-101-340. Face sheet.

A. At the time of admission, each resident's record shall include, at a minimum, a completed face sheet that contains the following:

1. The resident's full name, last known residence, birth date, birthplace, sex, [gender identity,] race, [primary and preferred languages,] unique numerical identifier, religious preference, and admission date; and
2. Names, addresses, and telephone numbers of ~~the applicable court service unit,~~ emergency contacts, and parents or legal guardians, as appropriate and applicable; and
3. The name and telephone number of the applicable court service unit.

B. Information shall be updated when changes occur.

C. Upon discharge, the (i) date of discharge and (ii) name of the person to whom the resident was discharged, if applicable, shall be added to the face sheet.

6VAC35-101-360. Equipment and systems inspections and maintenance.

A. ~~All safety~~ Safety, emergency, and communications equipment and systems, as identified by the facility administrator, shall be inspected, tested, and maintained by designated staff in accordance with the manufacturer's recommendations or instruction manuals or, absent such requirements, in accordance with a schedule that is approved by the facility administrator. Testing of such equipment and systems shall ~~[, at a minimum,]~~ be conducted quarterly ~~[, at a minimum]~~ . The facility administrator shall develop written procedures for the development, maintenance, and review of safety, emergency, and communications equipment and systems that the facility administrator identifies as critical, as well as the testing intervals for such equipment and systems.

B. Whenever safety, emergency, ~~and or~~ communications equipment or a system is found to be systems are determined to be defective, immediate steps shall be taken to rectify the situation and to repair, remove, or replace the defective equipment or systems.

6VAC35-101-420. Toilet facilities.

A. There shall be one toilet facilities and one hand basin available for resident use in all sleeping rooms for each detention facilities center building constructed or structurally modified after January 1, 1998.

B. There shall be at least ~~one toilet, one hand basin, and~~ one shower or bathtub for every eight residents for detention ~~centers~~ center buildings constructed on or before December 27, 2007. There shall be ~~one toilet, one hand basin, and~~ at least one shower or tub for every ~~four~~ five residents in any building constructed or structurally modified on or after December 28, 2007.

C. There shall be at least one bathtub in each facility.

~~[D. The maximum number of staff members on duty in the living unit shall be counted in determining the required number of toilets and hand basins when a separate bathroom is not provided for staff.]~~

6VAC35-101-430. Sleeping areas rooms.

~~[A. Males and females shall have separate sleeping rooms.]~~

~~[B A]~~ . Beds shall be at least three feet apart at the head, foot, and sides; and double-decker beds shall be at least five feet apart at the head, foot, and sides.

~~[C B]~~ . Sleeping quarters rooms established, constructed, or structurally modified after July 1, 1981, shall have:

1. At least 80 square feet of floor area in a bedroom accommodating one person;
2. At least 60 square feet of floor area per person in rooms accommodating two or more persons; and
3. Ceilings with a primary height of at least 7-1/2 feet ~~in height~~, exclusive of protrusions, duct work, or dormers.

~~[D C]~~ . Mattresses shall be fire retardant as evidenced by documentation from the manufacturer except in buildings equipped with an automated sprinkler system as required by the Virginia Uniform Statewide Building Code (13VAC5-63).

~~[E D]~~ . ~~The environment of sleeping areas~~ During sleeping hours, living units and sleeping rooms shall be, ~~during sleeping hours~~, maintained in a manner that is conducive to sleep and rest.

6VAC35-101-460. Smoking prohibition.

~~[Residents shall be prohibited from using, possessing, purchasing, or distributing tobacco products or nicotine vapor products. Tobacco products, including cigarettes, cigars, pipes, and smokeless tobacco, such as chewing tobacco or snuff, pipe tobacco, bidis, and wrappings and~~

vapor products, such as electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, or similar products or devices shall not be used by staff, contractors, volunteers, interns, or visitors in any areas of the facility or its premises where residents may see or smell the tobacco product. Residents shall be prohibited from using, possessing, purchasing, or distributing (i) tobacco products, nicotine vapor products, or alternative nicotine products as defined in § 18.2-371.2 of the Code; (ii) cannabidiol oil or THC-A as defined in §54.1-3408.3 of the Code, or (iii) any substance prohibited by state or federal law. These products may not be used on the premises by staff, contractors, interns, or visitors except in areas designated by the facility administrator where residents may not see or smell the product.]

6VAC35-101-470. Space utilization.

A. Each detention center shall provide for the following:

1. Indoor and outdoor recreation areas;
2. Kitchen facilities and equipment for the preparation and service of meals;
3. Space and equipment for laundry, if laundry is done at the detention center;
4. A designated visiting area that permits informal communication between residents and visitors, including opportunity for physical contact in accordance with written procedures;
5. Storage space for items such as first aid equipment, household supplies, recreational equipment, and other materials;
6. Space for administrative activities including, as appropriate to the program, confidential conversations and the storage of records and materials; and
7. A central medical room area with medical examination facilities rooms or other spaces developed and equipped in consultation with the health authority.

B. If a school programs program is operated at the facility, school classrooms shall be designed in consultation with appropriate education authorities to comply with applicable state and local requirements.

C. Spaces or areas may be interchangeably [utilized interchangeably used for multiple purposes] but shall be in functional condition for the designated purposes purpose.

6VAC35-101-510. Emergency and evacuation procedures.

A. A detention center shall develop a written emergency preparedness and response plan ~~shall be developed. The plan which~~ shall address:

1. Documentation of contact with the local emergency coordinator to determine (i) local disaster risks; (ii) communitywide plans to address different disasters and emergency situations; and (iii) assistance, if any, that the local emergency management office will provide to the detention center in an emergency;
2. Analysis of the detention center's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, work-place [work-place workplace] violence or terrorism, missing persons, severe injuries, or other emergencies that would disrupt the normal course of service delivery;
3. Written emergency management procedures outlining specific responsibilities for provision of administrative direction and management of response activities; coordination of logistics during the emergency; communications; life safety of employees, contractors, interns, volunteers, visitors, and residents; property protection; fire protection service; community outreach; and recovery and restoration;
4. Written emergency response procedures for assessing the situation; protecting residents, employees, contractors, interns, volunteers, and visitors; equipment and vital records; and restoring services. Emergency procedures shall address:

- a. Communicating with employees, contractors, and community responders;
- b. Warning and ~~notification of~~ notifying residents;
- c. Providing emergency access to secure areas and opening locked doors;
- d. Conducting evacuations to emergency shelters or alternative sites and accounting for all residents;
- e. Relocating residents, if necessary;
- f. Notifying parents and legal guardians, as applicable and appropriate;
- g. Alerting emergency personnel and sounding alarms;
- h. Locating and shutting off utilities when necessary; and
- i. Providing for a planned, personalized means of effective egress evacuation for residents individuals with disabilities who use wheelchairs, crutches, canes, or other mechanical devices for assistance in walking require special accommodations, such as deaf, blind, and nonambulatory individuals.

5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated ~~escape~~ evacuation routes, and ~~list lists~~ of major resources such as local emergency shelters; and
6. Schedule for testing the implementation of the plan and conducting emergency preparedness drills.

B. Emergency preparedness and response training shall be developed and required for all employees to ensure they are prepared to implement the emergency preparedness plan in the event of an emergency. Such training shall be conducted in accordance with 6VAC35-101-180 (~~required initial orientation~~) through 6VAC35-101-200 (~~retraining~~) and include shall outline the employees' responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures, including evacuation of residents individuals with special needs (i.e., disabilities who require special accommodations, such as deaf, blind, nonambulatory) and nonambulatory individuals;
3. Using, maintaining, and operating emergency equipment;
4. Accessing emergency information for residents including medical information; and
5. Utilizing community support services.

C. Contractors and, volunteers, and interns shall be oriented in their responsibilities in implementing the evacuation plan in the event of an emergency. ~~Such~~ The orientation shall be in accordance with the requirements of ~~6VAC35-101-180 (required initial orientation)~~ 6VAC35-101-185 and ~~6VAC35-101-300 (volunteer and intern orientation and training)~~ 6VAC35-101-187.

D. ~~The~~ An annual review of the emergency preparedness plan shall be conducted and documented, and revisions shall be made as deemed necessary. Such revisions shall be communicated to employees, contractors, interns, and volunteers and incorporated into training for employees, contractors, interns and volunteers, and orientation of residents to services.

E. [In the event of If] a disaster, fire, emergency, or any other condition [occurs] that may jeopardize the health, safety, and welfare of residents, the detention center shall take appropriate actions ~~shall be taken~~ to protect the health, safety, and welfare of the residents and to remedy the conditions as soon as possible.

F. [In the event of If] a disaster, fire, emergency, or any other condition [occurs] that may jeopardize the health, safety, and welfare of residents, the detention center first ~~should~~ shall respond and stabilize the disaster or emergency. After Once the disaster or emergency is stabilized, [the detention center shall report detention center staff shall report] the disaster or

~~emergency shall be reported to the legal guardian and parents or legal guardians, the applicable court service unit units and the director no later than 24 hours after the incident occurs in accordance with 6VAC35-101-80. Additionally, the detention center shall report within 24 hours of the incident the conditions at the detention center and the disaster or emergency shall be reported to the director or the director's designee as soon as possible, but no later than 24 hours after the incident occurs and in accordance with 6VAC35-101-80 (serious incident reports).~~

G. Floor plans showing primary and secondary ~~means of~~ emergency ~~exiting~~ exits shall be posted on each floor in locations where they ~~can be seen easily by~~ are clearly visible to staff and residents.

H. ~~The responsibilities of the residents in implementing~~ resident's responsibility to implement the emergency and evacuation procedures shall be communicated to all residents within seven days following admission or a substantive change in the procedures.

I. ~~At The detention center shall conduct at least one evacuation drill (the simulation of the detention center's emergency procedures) shall be conducted in which its emergency procedures are simulated~~ each month in each building occupied by residents. During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

J. Evacuation drills shall include, at a minimum:

1. Sounding of emergency alarms;
2. Practice in evacuating buildings;
3. Practice in alerting emergency authorities;
4. Simulated use of emergency equipment; and
5. Practice in accessing resident emergency information.

K. A record shall be maintained for each evacuation drill and shall include the following:

1. ~~Buildings~~ The building in which the drill was conducted;
2. ~~Date~~ The date and time of the drill;
3. ~~Amount~~ The amount of time taken to evacuate the buildings;
4. ~~Specific~~ The specific problems encountered, if applicable;
5. ~~Staff~~ The staff tasks completed, including head counts and practice in notifying emergency authorities:
 - a. ~~Head count,~~ and
 - b. ~~Practice in notifying emergency authorities;~~ and
6. The name of the staff members responsible for conducting and documenting the drill and preparing the record.

L. One staff member shall be assigned to who shall ensure that all requirements regarding the emergency preparedness and response plan and the evacuation drill program are met.

6VAC35-101-560. Searches of residents.

~~[A. Written procedures shall govern searches of residents, including patdown and frisk searches, strip full searches, and body cavity searches, and shall include the following:~~

1. ~~Searches of residents' persons shall be conducted only for the purposes of maintaining facility security and controlling contraband while protecting the dignity of the resident.~~
2. ~~Searches are shall be conducted only by personnel who are authorized to conduct such searches.~~
3. ~~The resident shall not be touched any more than is necessary to conduct the search.~~

~~B. Patdown and frisk searches shall be conducted by employees of the same sex as the resident being searched, except in emergencies.~~

C. Strip Full searches and visual inspections of the vagina and anal cavity areas shall be subject to the following:

1. The search shall be performed by personnel of the same sex as the resident being searched;
2. The search shall be conducted in an area that ensures privacy; and
3. Any witness to the search shall be of the same sex as the resident.

D. Manual and instrumental searches of the anal cavity or vagina, not including medical examinations or procedures conducted by medical personnel for medical purposes, shall be:

1. Performed only with the written authorization of the facility administrator or by a pursuant to court order or upon occurrence of an exigent circumstance requiring medical attention;
2. Conducted by a qualified medical professional;
3. Witnessed by personnel of the same sex as the resident; and
4. Fully documented in the resident's medical file.

A. Written procedures shall govern searches of residents, including patdown and frisk searches, full searches, and body cavity searches.

B. Facility staff shall adhere to the following requirements when conducting patdown searches, frisk searches, full searches, and body cavity searches:

1. Searches shall be conducted only by personnel who are authorized to conduct such searches;
2. Searches of residents' persons shall be conducted only for the purposes of maintaining facility security and controlling contraband, while protecting the resident's dignity to the greatest extent possible; and
3. The resident shall not be touched any more than is necessary to conduct the search.

C. Full searches shall be conducted in an area that ensures the resident's privacy.

D. Manual and instrumental searches of the anal cavity or vagina, not including medical examinations or procedures conducted by medical personnel for medical purposes, shall be:

1. Performed only pursuant to court order or in exigent circumstances requiring medical attention;
2. Conducted by a qualified medical professional; and
3. Fully documented in the resident's medical file.]

6VAC35-101-620. Power equipment.

Written The facility [administrator or the facility administrator's designee] shall develop and implement written safety rules ~~shall be developed and implemented~~ for the use and maintenance of power equipment.

6VAC35-101-630. Transportation of residents.

A. Except as otherwise provided in 6VAC35-101-635, a detention center shall follow the requirements of this section if a resident requires transportation.

B. Each detention center shall have transportation available or make the necessary arrangements for routine facility-approved and emergency transportation of residents.

1. Pursuant to § 16.1-254 of the Code of Virginia, each detention center shall be responsible for transporting juvenile residents in their custody to all local medical and dental appointments and all local psychological and psychiatric evaluations.
2. Unless otherwise provided by agreement, the detention center shall not be required to transport youth to appointments that are outside of the geographical boundaries of the Commonwealth or that are more than 25 miles from the facility in one direction.

3. A detention center may assign its own staff to transport a detained juvenile or may enter into an agreement or contract with a public or private agency to provide the transportation services for the juvenile.

~~B. There shall be written safety rules for transportation of residents and for the use of vehicles.~~

C. Written safety and security procedures shall be implemented governing the use of vehicles and the transportation of residents outside the detention center and from one jurisdiction to another. The written procedures shall be in accordance with § 16.1-254 of the Code of Virginia and [shall], at a minimum, [shall] provide the following:

1. No juvenile shall be transported with an adult suspected of or charged with a criminal act.

2. If a person or entity other than the detention center assumes custody of the resident for purposes of transportation, the detention center shall:

a. Provide the person or entity, except the resident's parent or guardian, with a written document that identifies any pertinent information known to the detention center concerning the juvenile's immediate medical needs or mental health condition that reasonably could be considered necessary for the juvenile's safe transportation and supervision, including the resident's recent suicidal ideations or suicide attempts. Any such information shall remain confidential, in accordance with § 16.1-300 of the Code of Virginia and applicable rules and regulations regarding confidentiality of juvenile records.

b. Provide the individual transporting the resident with any medication the resident may be required to take during transport or while absent from the facility.

3. The frequency and manner of searches of residents, the manner by which communications will be accomplished during transit, the ratio of staff to residents, and the parameters for use of mechanical restraints shall be in accordance, respectively, with 6VAC35-101-560, 6VAC35-101-580, [6VAC35-101-890 6VAC35-101-900] , and 6VAC35-101-1130, and shall accord with written procedures.

4. If the vehicle transporting the resident becomes inoperable, is involved in an accident, or encounters a similar emergency, the individual transporting the resident shall notify the individual's agency immediately and contact local law enforcement for assistance, if necessary. Detention center staff transporting residents shall observe the required staffing ratios and shall never leave a resident unattended.

5. If a juvenile absconds during transport, the detention center staff conducting the transport shall report the incident immediately in accordance with 6VAC35-101-80.

6. If a juvenile requires a meal during transit, the detention center shall provide a bagged lunch, if feasible.

G. D. Written procedure shall provide for the verification of appropriate licensure for staff whose duties involve transporting residents.

E. The detention center shall observe the following if a resident requires transport to a local medical or dental appointment:

1. If detention center staff transport the detained juvenile [to a local medical or dental appointment] as authorized in subdivision B 3 of this section, the detention center shall not be obligated to pay for any costs associated with the appointment, unless [otherwise] provided for [otherwise] by agreement.

2. The detention center may require notice of the date and time of the local medical appointment, dental appointment, or psychological and psychiatric evaluation at least 72 hours in advance.

F. When the medical staff of a detention center have made a written determination that a resident's medical condition can be treated without transporting the resident to a routine or previously scheduled appointment, the detention center is not required to transport the resident unless ordered by a court.

G. A juvenile who was confined in a juvenile detention center immediately prior to a court hearing may not be transported to a juvenile correctional center's intake unit directly from court upon commitment. Instead, the juvenile shall be returned to the detention center until the department completes the commitment packet and arranges transportation for the resident.

6VAC35-101-635. Transportation of violent or disruptive youth or youth traveling to specified destinations.

A. Only juvenile detention center staff or law-enforcement personnel, excluding the Department of ~~the~~ State Police, may transport violent and disruptive juveniles.

B. The court service unit responsible for supervising the juvenile [] or the agency or parent seeking placement [] shall be responsible for transporting a detained juvenile to a residential placement pursuant to § 16.1-294 of the Code of Virginia, unless otherwise ordered by the court.

C. The chief judge of the juvenile and domestic relations district court shall designate an appropriate agency to transport detained juveniles who do not meet the requirements of subsection A of this section and are traveling to any one of the following destinations: (i) destinations across jurisdictional boundaries or that are more than 25 miles from the detention home in one direction when there is not a standing administrative agreement or commission charter governing transportation of detained residents; (ii) destinations in other states; (iii) other secure detention facilities, such as detention centers or jails, when there is not a standing administrative agreement governing transportation of residents; (iv) a law-enforcement agency for interrogation; (v) funerals, death bed visits, and other extreme circumstances; (vi) other destinations as determined by the court; and (vii) any other destination that is not (a) designated in 6VAC35-101-630 B 1 or (b) a special placement made pursuant to § 16.1-286 of the Code of Virginia. Appropriate agencies may include the detention center, the court service unit, a local law-enforcement agency, or a public or private agency but may not include the Department of State Police.

D. The transportation of a juvenile detained in a postdispositional detention program to any destination listed in subsection C of this section must be at the designation of the court by individual court order, by standing order, or by court approval of the plan for treating postdispositionally detained juveniles required in 6VAC35-101-1180.

E. Consistent with the requirements in § ~~37.1-67.01~~ 16.1-345 of the Code of Virginia, when a court commits a juvenile to a mental hospital or training center for observation, the committing court shall designate the appropriate law-enforcement agency, other than the Department of State Police, to transport the juvenile.

6VAC35-101-655. Vulnerable population.

A. The facility [administrator or the facility administrator's designee] shall implement a procedure for assessing whether a resident is a member of a vulnerable population. Factors including the resident's height and size, English proficiency, sexual orientation, history of being bullied, or history of self-injurious behavior may be considered in determining whether a resident is a member of a vulnerable population. The resident's own views with respect to the resident's safety shall be taken into consideration.

B. If the assessment determines a resident is a member of a vulnerable population, the facility shall implement any identified additional precautions such as heightened need for supervision, additional safety precautions, or separation from certain other residents. The facility [administrator or the facility administrator's designee] shall consider on a case-by-case basis

whether a placement would ensure the resident's health and safety and whether the placement would present management or security problems.

~~C. For the purposes of this section, vulnerable population means a resident or group of residents who have been assessed to be reasonably likely to be exposed to the possibility of being attacked or harmed, either physically or emotionally (e.g., very young residents; residents who are small in stature; residents who have limited English proficiency; residents who are gay, lesbian, bi-sexual, transgender, or intersex; residents with a history of being bullied or of self-injurious behavior).~~

6VAC35-101-660. Residents' mail.

A. A resident's incoming or outgoing mail may be delayed or withheld only in accordance with this section, as permitted by other applicable regulations, or by order of a court.

B. Staff may open and inspect residents' incoming and outgoing nonlegal mail for contraband. When based on legitimate interests of the facility's order and security, nonlegal mail may be read, censored, or rejected in accordance with written procedures. The resident shall be notified when incoming or outgoing letters are withheld ~~in part or in full~~ or redacted, as appropriate.

C. In the presence of the resident recipient and in accordance with written procedures, staff may open legal mail to inspect for contraband, but shall not read ~~legal mail it~~. Legal mail shall mean any written material that is sent to or received from a designated class of correspondents, as defined in procedures, which shall include any court, legal counsel, or administrators of the grievance system, the governing authority, the department, or the regulatory authority.

D. Staff shall not read outgoing mail addressed to parents, immediate family members, legal guardians, ~~guardian ad litem~~ guardians ad litem, counsel, courts, officials of the committing authority, public officials, or grievance administrators unless permission has been obtained from a court or the facility administrator or his the facility administrator's designee has determined that there is a reasonable belief that the security of the facility is threatened. When so authorized, staff may read such mail in accordance with written procedures.

E. Except as otherwise provided, incoming and outgoing letters shall be held for no more than 24 hours and packages for no more than 48 hours, excluding weekends and holidays.

F. If requested by the resident, postage and writing materials shall be provided for unlimited outgoing legal ~~correspondence~~ mail and at least two other letters per week.

G. First-class letters and packages received for residents who have been transferred or released shall be forwarded to the resident's last known address or forwarding address or returned to sender.

H. Written procedure governing resident correspondence ~~of residents~~ shall be made available to all staff and residents ~~and shall be reviewed annually and updated as needed.~~

6VAC35-101-690. Contact with attorneys, courts, and law enforcement.

A. Residents shall have uncensored, confidential contact with their legal representative in writing, as required by 6VAC35-101-660 (~~residents' mail~~), by telephone ~~(---)~~ or in person. Reasonable limits may be placed on such contacts as necessary to protect the security and order of the facility. ~~For the purpose of this section a legal representative is defined as (i) a court appointed or retained attorney or a paralegal, investigator, or other representative from that attorney's office or (ii) an attorney visiting for the purpose of a consultation if requested by the resident.~~

B. Residents shall not be denied access to the courts.

C. Residents shall not be required to submit to questioning by law enforcement, although they may do so voluntarily.

1. Residents' consent shall be obtained ~~prior to~~ before any contact with law enforcement.

2. No employee may coerce a resident's decision to consent to have contact with law enforcement.

3. Each facility shall have written procedures for establishing a resident's consent to any such contact and for documenting the resident's decision. The procedures may ~~provide for~~ require (i) notification of the parent or legal guardian, as appropriate and applicable, ~~prior to~~ before the commencement of questioning; and (ii) opportunity, at the resident's request, to confer with an attorney, parent or legal guardian, or other person in ~~making the decision~~ deciding whether to consent to questioning.

6VAC35-101-710. Showers.

Residents shall have the opportunity to shower daily except as provided in written procedures for the purpose of maintaining facility security or for the special management of maladaptive behavior if approved by the facility administrator, the facility administrator's designee, or a [qualified mental health professional mental health clinician].

6VAC35-101-740. Nutrition.

A. Each resident, except as provided in subsection B of this section, shall be provided a daily diet that (i) consists of at least three nutritionally balanced meals and an evening snack, (ii) includes an adequate variety and quantity of food for the age of the resident, and (iii) meets minimum applicable federal nutritional requirements.

B. Special diets or alternative dietary schedules, as applicable, shall be provided (i) when prescribed by a ~~physician~~ licensed health care professional or (ii) when necessary to observe the established religious dietary practices of the resident. In such circumstances, the meals shall meet the minimum applicable federal nutritional requirements. Special diets may be provided to a resident who has used food or culinary equipment inappropriately, resulting in a threat to facility security, provided the facility administrator, the facility administrator's designee, or a [qualified mental health professional mental health clinician] provides written approval.

C. Menus of actual meals served shall be kept on file for at least six months.

D. Staff who eat in the presence of the residents shall be served the same meals as the residents unless a special diet has been prescribed by a physician for the staff or residents or the staff or residents are observing established religious dietary practices.

E. There shall not be more than 15 hours between the evening meal and breakfast the following day, except when the facility administrator approves an extension of time between meals on weekends and holidays. When an extension is granted on a weekend or holiday, there shall never be more than 17 hours between the evening meal and breakfast.

F. ~~Food shall be made~~ Each detention center shall ensure that food is available to residents who, for documented medical or religious reasons, need to eat breakfast before the 15 hours have expired.

6VAC35-101-780. Residents' funds.

A. The facility [administrator or the facility administrator's designee] shall develop and implement written procedures for safekeeping and for recordkeeping of any money that belongs to residents.

B. Residents' personal funds shall be used only (i) for ~~their~~ the resident's benefit; (ii) for payment of any fines, restitution, costs, or support ordered by a court; or (iii) to pay restitution for damaged property or personal injury as determined by the disciplinary process.

6VAC35-101-790. Fundraising.

Residents shall not be used in fundraising activities without the written permission of the parent or legal guardian, as applicable, and the [written] consent of the [residents resident] .

6VAC35-101-800. Admission and orientation.

A. Written procedure governing the admission and orientation of residents shall provide for:

1. Verification of legal authority for placement;
2. Search of the resident and the resident's possessions, including inventory and storage or disposition of property, as appropriate and required by ~~6VAC35-101-800 (admission and orientation)~~ this section and 6VAC35-101-810 (~~residents' personal possessions~~);
3. A general assessment of the resident's physical condition by staff. The facility administrator or the facility administrator's designee shall not admit for custody an individual who is (i) visibly under the influence of alcohol or drugs and deemed to require medical attention; or (ii) in need of immediate emergency medical attention, until the individual has received written medical clearance from a physician or [qualified mental health professional mental health clinician] in an outside medical setting.
4. Health screening of the resident as required by 6VAC35-101-980 (~~health screening at admission~~);
4. ~~5.~~ Mental health screening of the resident as required by 6VAC35-101-820 (~~mental health screening~~);
5. ~~Notification of~~ 6. Notice to the parent or legal guardian of admission, during which facility staff shall include an inquiry regarding ask whether the resident has any immediate medical concerns or conditions;
6. ~~7.~~ Provision to the parent or legal guardian of information on (i) visitation, (ii) how to request information, and (iii) how to register concerns and complaints with the facility;
7. ~~8.~~ Interview with the resident to answer questions and obtain information; and
8. ~~9.~~ Explanation to the resident of program services and schedules.

B. The resident shall receive an orientation to the following:

1. The behavior management program as required by 6VAC35-101-1070 (~~behavior management~~);
 - a. During the orientation, residents shall be given written information describing rules of conduct, the sanctions for rule violations, and the disciplinary process. These shall be explained to the resident and documented by the dated signature of the resident and staff.
 - b. ~~Where~~ If a language or literacy problem exists that can lead to a resident misunderstanding the rules of conduct and related regulations, staff or a qualified person under the supervision of staff shall assist the resident.
2. The grievance procedure as required by 6VAC35-101-100 (~~grievance procedure~~);
3. The disciplinary process as required by 6VAC35-101-1080 (~~disciplinary process~~);
4. The resident's responsibilities in implementing the emergency procedures as required by 6VAC35-101-510 (~~emergency and evacuation procedures~~); and
5. The resident's rights, including ~~but not limited to~~ the prohibited actions provided for in 6VAC35-101-650 (~~prohibited actions~~).

~~C. Such orientation shall occur prior to assignment of the resident to a housing unit or room.~~

~~D. Staff performing admission and orientation requirements contained in this section shall be trained prior to performing such duties.~~

6VAC35-101-820. Mental health screening.

A. Each resident shall undergo a mental health screening; as required by § 16.1-248.2 of the Code of Virginia, administered by trained staff, to ascertain the resident's suicide risk level and need for a mental health assessment. ~~Such screening shall include the following:~~

- ~~1. A preliminary mental health screening, at the time of admission, consisting of a structured interview and observation as provided in facility procedures; and~~
- ~~2. The administration of an objective mental health screening instrument within 48 hours of admission.~~

B. The mental health screening shall include the following:

1. A preliminary mental health screening at the time of admission, consisting of a structured interview and observation, as provided in facility procedures; and
2. The administration of an objective, department-approved mental health screening instrument within 48 hours of admission. The facility [administrator or the facility administrator's designee] may supplement the screening instrument with additional questions or observations, as authorized in the facility's written procedures.

C. If the mental health screening indicates that a mental health assessment is needed, it the assessment shall take place be conducted within 24 hours of such the determination as required in pursuant to the requirements set out in § 16.1-248.2 of the Code of Virginia.

6VAC35-101-830. Classification plan.

~~Residents shall be assigned~~ Detention center staff shall assign residents to sleeping rooms and living units according to a written plan that takes into consideration the detention center center's design, staffing levels, and the behavior and characteristics of individual residents [including the results of the vulnerability assessment required by 6VAC35-101-655] .

6VAC35-101-860. Structured programming.

A. Each facility [administrator or facility administrator's designee] shall implement a comprehensive, planned, and structured daily routine, including appropriate supervision, designed to:

1. Meet the residents' physical, emotional, and educational needs;
2. Provide protection, guidance, and supervision;
3. Ensure the delivery of program services; and
4. Meet the objectives of any the resident's individual service plan, if applicable.

B. The structured daily routine shall be followed for all weekday and weekend programs and activities. Deviations from the schedule shall be documented.

6VAC35-101-890. Staff supervision of residents.

A. Staff shall provide 24-hour awake supervision seven days a week.

B. No member of the direct care staff shall be on duty and responsible for the direct care of residents for more than six consecutive days without a rest day, except in an emergency. ~~For the purpose of this section, rest day shall mean a period of not less than 24 consecutive hours during which a staff person has no responsibility to perform duties related to the operation of a detention center. Such duties shall include participation in any training that is required by (i) this chapter, (ii) the employee's job duties, or (iii) the employee's supervisor.~~

C. [Except where residents are placed in room restriction, direct care staff shall conduct visual checks of each resident once every 30 minutes and more often if indicated by the circumstances.

D.] Direct care staff shall ~~have an average~~ be scheduled an average of at least two rest days per week in any four-week period.

[D E] . Direct care staff shall not be on duty more than 16 consecutive hours except in an emergency.

[E F] . When both males and females are housed in the same living unit, at least one male and one female staff member shall be actively supervising at all times.

[F G] . Staff shall always be in plain view of another staff person when entering an area occupied by residents of the opposite sex.

[G H] . Staff shall regulate the movement of residents within the detention center in accordance with written procedures.

~~H. Written procedures shall be implemented governing the transportation of residents outside the detention center and from one jurisdiction to another.~~

6VAC35-101-900. Staffing pattern.

A. The facility [administrator or the facility administrator's designee] shall develop, implement, and document a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring to ensure the safe supervision of residents on the premises. The facility administrator shall review the staffing plan annually.

~~B.~~ 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~~ eight residents, or portion thereof, on the premises or ~~participating in attending~~ off-campus [~~detention center-sponsored~~] activities **[approved by the facility administrator]** .

~~B. C.~~ During the hours that residents are scheduled to sleep there shall be no ~~less~~ fewer than one direct care staff member on duty and responsible for the supervision of every 16 residents, or portion thereof, on the premises.

~~C. D.~~ There shall be at least one direct care staff member on duty and responsible for the supervision of residents in each building where residents are sleeping.

~~D. E.~~ At all times, there shall be no ~~less~~ fewer than one direct care staff member with current certifications in standard first aid and cardiopulmonary resuscitation on duty for every 16 residents, or portion thereof, being supervised by staff.

6VAC35-101-950. Health care procedures.

A. Written The facility [administrator or the facility administrator's designee] shall develop and implement written procedures shall be developed and implemented for:

1. Providing or arranging for the provision of medical and dental services for health problems identified at admission;
2. Providing or arranging for the provision of ~~en-going~~ ongoing and follow-up medical and dental services after admission;
3. Providing or arranging for the provision of dental services for residents who present with acute dental concerns;
4. Providing emergency services for each resident as provided by statute or by the agreement with the resident's legal guardian, as applicable;
5. Providing emergency services for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems; and
6. Ensuring that the required information in subsection B of this section is accessible and up to date.

B. The following written information concerning each resident shall be readily accessible to designated staff who may have need to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and dentist to be notified;
2. Name, address, and telephone number of a relative or other person to be notified; and
3. Information concerning:
 - a. Use of medication;
 - b. ~~All allergies~~ Allergies, including medication allergies;

- c. Substance abuse and use; and
- d. Significant past and present medical problems.

6VAC35-101-960. ~~Health-trained~~ Health-trained personnel.

A. ~~Health-trained~~ Health-trained personnel shall provide care as appropriate to their level of training and certification and shall not administer health care services for which they are not qualified or specifically trained.

B. The facility [administrator or the facility administrator's designee] shall retain documentation of the training received by ~~health-trained~~ health-trained personnel necessary to perform any designated health care services. Documentation of applicable, current licensure or certification shall constitute compliance with this section.

6VAC35-101-970. Consent to and refusal of health care services.

A. ~~Health~~ Consent to health care services, as defined in 6VAC35-101-10 (~~definitions~~), shall be provided in accordance with § 54.1-2969 of the Code of Virginia. ~~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 (informed consent) to health care shall be obtained from the resident or parent or legal custodian, as required by law.~~ [The juvenile detention center Detention center staff] shall obtain consent from the resident or parent or legal guardian, as required by law, before providing health care services to a resident. The consent shall be knowing and voluntary, without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion.

B. ~~The~~ An appropriately trained medical professional shall advise the resident and parent or legal guardian, as appropriate and applicable, ~~shall be advised by an appropriately trained medical professional~~ of (i) the material facts regarding the nature, consequences, and risks of the proposed treatment, examination, or procedure and (ii) the alternatives to it the proposed treatment, examination, or procedure.

C. Residents may refuse in writing medical treatment and care. Facilities shall have written procedures for:

1. Explaining the implications of ~~refusals~~ refusal; and
2. Documenting the reason for the refusal.

This subsection does not apply to medication refusals ~~that, which~~ are governed by 6VAC35-101-1060 (~~medication~~).

D. When health care is rendered against the resident's will, it shall be in accordance with applicable laws and regulations.

6VAC35-101-1010. Infectious or communicable diseases.

A. A resident with a confirmed communicable disease shall not be housed in the general population unless a licensed ~~physician~~ health care professional certifies that:

1. The facility is capable of providing care to the resident without jeopardizing residents and staff; and
2. The facility is aware of the required treatment for the resident and the procedures to protect residents and staff.

B. The facility [administrator or the facility administrator's designee] shall implement written procedures approved by a ~~medical~~ health care professional that:

1. Address staff (i) interactions with residents with infectious, communicable, or contagious medical conditions; and (ii) use of standard precautions;
2. Require staff training in standard precautions, initially and annually thereafter in accordance with 6VAC35-101-190 and 6VAC35-101-200; and

3. Require staff to follow procedures for dealing with residents who have infectious or communicable diseases.

6VAC35-101-1020. Suicide prevention.

Written procedure shall ~~provide for~~ require (i) a suicide prevention and intervention program developed in consultation with a qualified medical ~~[or mental health]~~ professional ~~[or mental health clinician]~~ and (ii) all direct care staff to be trained and retrained in the implementation of the program, in accordance with 6VAC35-101-190 and 6VAC35-101-200.

6VAC35-101-1040. First aid kits.

A. A well-stocked first aid kit shall be maintained; within the facility, as well as in facility vehicles used to transport residents. The first aid kit shall contain an inventory of contents, be stocked [with and] in accordance with [an the] inventory [of contents] , and be readily accessible for dealing with minor injuries and medical emergencies.

B. First aid kits ~~should~~ shall be monitored in accordance with ~~established facility written~~ procedures to ensure kits are maintained, stocked, and ready for use.

6VAC35-101-1050. Hospitalization and other outside medical treatment of residents.

A. When a resident needs hospital care or other medical treatment outside the detention center; a staff member or a law-enforcement officer, as appropriate, shall accompany the resident until appropriate security arrangements are made. This subdivision shall not apply to the transfer of residents under The Psychiatric Inpatient Treatment of Minors Act (§ [16.1-355 16.1-335] et seq. of the Code of Virginia)

~~1. The resident shall be transported safely; and~~

~~2. A staff member or a law-enforcement officer, as appropriate, shall accompany the resident until appropriate security arrangements are made. This subdivision shall not apply to the transfer of residents under The Psychiatric Inpatient Treatment of Minors Act (§ 16.1-355 et seq. of the Code of Virginia).~~

B. In accordance with applicable laws and regulations, the parent or legal guardian, as appropriate and applicable, shall be informed [as soon as is practicable] that the resident was taken outside the facility for medical attention [as seen as is practicable] .

6VAC35-101-1060. Medication.

A. All medication shall be properly labeled consistent with the requirements of the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia). Medication prescribed for individual use shall be so labeled.

B. ~~All medication shall be securely locked, except (i) as required by 6VAC35-101-1250 (delivery of medication in postdispositional programs) or (ii) if otherwise ordered by a physician on an individual basis for keep-on-person or equivalent use. [Except All medication shall be locked securely, except] as (i) authorized in written procedures pursuant to 6VAC35-101-1250 or (ii) otherwise ordered by a physician on an individual basis for keep-on-person or equivalent use [, all medication shall be locked securely] .~~

C. All staff responsible for medication administration who do not hold a license issued by the Virginia Department of Health Professions authorizing the administration of medications shall, in accordance with the provisions of § 54.1-3408 of the Code of Virginia, either (i) have successfully completed a medication training program approved by the Board of Nursing or (ii) be licensed by the Commonwealth of Virginia to administer medications before they ~~can~~ may administer medication as ~~stated~~ provided in 6VAC35-101-190 (~~required initial training~~). Such staff members shall undergo an annual refresher training as ~~stated~~ provided in 6VAC35-101-200 (~~retraining~~).

D. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

~~E. A program of medication, including procedures regarding the use of over-the-counter medication pursuant to written or verbal orders issued by personnel authorized by law to give such orders, shall be initiated for a resident only when prescribed in writing by a person authorized by law to prescribe medication.~~ A program of medication shall be initiated for a resident only when prescribed in writing by a person authorized by law to prescribe medication. This includes over-the-counter medication administered pursuant to a written or verbal order that is issued by personnel authorized by law to give such orders.

F. All medications shall be administered in accordance with the physician's or other prescriber's instructions and consistent with the requirements of ~~§ 54.2-2408~~ § 54.1-3408 of the Code of Virginia and the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

G. A medication administration record shall be maintained of that identifies all medicines received by each resident and ~~shall include that includes~~ the :

1. Date the medication was prescribed or most recently refilled;
2. Drug Medication name;
3. Schedule for administration;
4. Strength;
5. Route;
6. Identity of the individual who administered the medication; and
7. ~~Dates~~ Date the medication was discontinued or changed.

H. ~~In the event of~~ If a medication incident or an adverse drug reaction occurs, first aid shall be administered if indicated. Staff shall promptly contact a poison control center, hospital, 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.~~

I. Written procedures shall ~~provide for~~ require (i) the documentation of medication incidents, (ii) the review of medication incidents and reactions and ~~making any~~ implementation of necessary improvements, (iii) the storage of controlled substances, and (iv) the distribution of medication off campus. The procedures must be approved by a health care professional. Documentation of this approval shall be retained.

J. Medication refusals and the actions taken by staff shall be documented ~~including action taken by staff.~~ [The facility Facility staff] shall follow written procedures for managing such the refusals which shall address:

1. ~~Manner~~ The manner by which medication refusals are documented; and
2. Physician follow-up, as appropriate.

K. Disposal and storage of unused, expired, and discontinued medications and medical implements shall be in accordance with applicable laws and regulations.

L. The telephone number of a regional poison control center and other emergency numbers shall be posted on or next to each nonpay telephone that has access to an outside line in each building in which residents sleep or participate in programs.

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

Article 1

Behavior, Discipline, and Room Restriction

6VAC35-101-1070. Behavior management.

A. A behavior management program shall be implemented in each facility. ~~Behavior management shall mean those principles and methods employed to help a resident achieve positive behavior and to address and correct a resident's inappropriate behavior in a constructive and safe manner in accordance with written procedures governing program expectations and the residents' and employees' safety and security.~~

B. Written procedures governing this program shall provide the following:

1. A listing list of the rules of conduct and behavioral expectations for the resident;
2. [Orientation The orientation] of residents to the behavior management program as required by 6VAC35-101-800 ~~(admission and orientation)~~;
3. The definition and listing list of a ~~system of~~ privileges and sanctions consequences that ~~is used and are~~ are available for use. Sanctions, the specific behaviors or offenses that may result in the imposition of the listed privileges or consequences, and the maximum duration of the consequence for the delineated behavior or offense. Consequences (i) shall be listed in the order of their relative degree of restrictiveness; (ii) may include a ~~"cooling-off"~~ cooling-off period where a resident is placed in a room for no more than 60 minutes; and (iii) shall contain alternatives to ~~room confinement~~ disciplinary room restriction;
4. The specification of the staff members who may authorize the use of each privilege and [sanction consequence] ;
5. Documentation requirements when privileges are applied and ~~sanctions or consequences~~ are imposed;
6. The specification of the processes for implementing such procedures; and
7. [Means The means] of documenting and monitoring of the program's implementation, including, ~~but not limited to,~~ an ~~on-going~~ ongoing administrative review of the implementation to ensure conformity with the procedures.

C. A facility that allows for and utilizes a cooling-off period as part of its behavior management program shall develop and follow written procedures that:

1. Identify [the area in which a resident will areas where a resident may] serve a cooling-off period;
2. Require that any resident serving a cooling-off period shall have a means of communicating with staff either verbally or electronically;
3. Require that staff check the resident serving a cooling-off period visually at least once every 15 minutes and more often if indicated by the circumstances; and
4. Provide that each cooling-off period is documented in a manner that (i) identifies whether the cooling-off period is resident-selected or compulsory and (ii) ensures the information is accessible to staff and [is capable of being can be] reviewed in accordance with subsection E of this section.

C. D. When substantive revisions are made to the behavior management program, written information concerning the revisions shall be provided to the residents, and direct care staff shall be oriented on the changes ~~prior to~~ before implementation.

D. E. The facility administrator shall review collect information on the detention center's behavior intervention techniques and procedures at least, including the use of room restriction and cooling-off periods [,] and shall review the information annually or more frequently to inform the facility's practice and determine appropriateness for the population served.

6VAC35-101-1080. Disciplinary process.

A. ~~Procedures.~~ Written procedures shall govern the disciplinary process ~~that~~ and shall contain the following:

1. Graduated ~~sanctions~~ consequences and progressive discipline;
2. Training on the disciplinary process and rules of conduct; and
3. Documentation on the administration of privileges and ~~sanctions~~ consequences as provided in the behavior management program.

B. ~~Disciplinary report.~~ A disciplinary report shall be completed when it is alleged that a resident has violated a rule of conduct for which room ~~confinement~~ restriction, including a bedtime earlier than that provided on the daily schedule, may be imposed as a [sanction consequence] .

1. All disciplinary reports shall contain the following:

- a. A description of the alleged rule violation, including the date, time, and location;
- b. A listing list of any staff present at the time of the alleged rule violation;
- c. The signature of the resident and the staff who completed the report; and
- d. The ~~sanctions, if any,~~ consequences imposed, if any.

2. A disciplinary report shall not be required when a resident is placed in his restricted to a room or area for a ["cooling off" cooling off] period, as defined in 6VAC35-101-10 and in accordance with written procedures, ~~that does not exceed 60 minutes.~~

C. ~~Review of rule violation.~~ A review of the disciplinary report shall be conducted by an impartial person. After the resident receives notification of the alleged rule violation, the resident shall be provided with the opportunity to admit or deny the charge.

1. The resident may admit to the charge, in writing, and accept the [sanction consequence] (i) prescribed for the offense or (ii) as amended by the impartial person.

2. The resident may deny the charge, and the impartial person shall:

- a. Meet in person with the resident;
- b. Review the allegation with the resident;
- c. Provide the resident with the opportunity to present evidence, including witnesses;
- d. ~~Provide, upon the request of the resident,~~ Upon the resident's request, provide for an impartial staff member to assist the resident in ~~the conduct of~~ conducting the review;
- e. Render a decision and inform the resident of the decision and rationale supporting this decision;
- f. Complete the review within 12 hours of the time of the alleged rule violation, including weekends and holidays, ~~unless the time frame ends during~~ but excluding the resident's scheduled sleeping hours. ~~In such circumstances, the delay shall be documented and the review shall be conducted within the same time frame thereafter;~~
- g. Document the review, including any statement of the resident, evidence, witness testimony, the decision, and the rationale for the decision; and
- h. Advise the resident of the right to appeal the decision.

D. ~~Appeal.~~ The resident shall have the right to appeal the decision of the impartial person.

1. The resident's claim appeal shall be reviewed by the facility administrator or [the facility administrator's] designee and shall be decided within 24 hours of the alleged rule violation, including weekends and holidays, ~~unless the time frame ends during~~ the resident's scheduled sleeping hours. ~~In such circumstances, the delay shall be documented and the review shall be conducted within the same time frame thereafter.~~ The

~~review by the facility administrator may be conducted via electronic means but excluding the resident's scheduled sleeping hours.~~

2. ~~The resident shall be notified in writing of the results immediately thereafter, and the signature of the resident and the staff shall be documented, indicating that the resident was informed of the results of the appeal.~~

~~E. Report retention. If the resident is found guilty of the rule violation, a copy of the disciplinary report shall be placed in the case record. If a resident is found not guilty of the alleged rule violation, the disciplinary report shall be removed from the resident's case record and shall be maintained as required by 6VAC35-101-330 (maintenance of residents' records). Disciplinary reports shall be maintained in the resident's case record as required by 6VAC35-101-330.~~

6VAC35-101-1100. Room confinement and isolation restriction.

~~A. Written procedures shall govern how and when residents may be confined to a locked room for both segregation and isolation purposes. governing room restriction shall address the following:~~

~~1. The actions or behaviors that may result in room restriction;~~

~~2. The factors that should be considered before placing a resident in room restriction, such as age, developmental level, or disability;~~

~~3. The circumstances under which a debriefing with the resident should occur, the party that should conduct the debriefing, and the topics that should be discussed in the debriefing, including the cause and impact of the room restriction and the appropriate measures post-release to support positive resident outcomes; and~~

~~4. When and under what conditions staff must consult with a mental health professional and monitor the resident as directed by the mental health [professional clinician] if a resident placed in room restriction exhibits self-injurious behavior.~~

~~B. Whenever a resident is confined to a locked room, including but not limited to being placed in isolation room restriction, staff shall check the resident visually at least every 30 15 minutes and more often if indicated by the circumstances. Staff shall conduct a check at least every 15 minutes in accordance with approved procedures when the resident is on suicide watch.~~

~~C. Residents who are confined to a room, including but not limited to being placed in isolation, room restriction shall be afforded the opportunity for at least one hour of physical exercise, large muscle activity outside of the locked room, every calendar day unless the resident's behavior or other circumstances justify an exception. The reasons for any such exception shall be approved by the facility administrator or the facility administrator's designee and shall be documented.~~

~~D. Unless a resident is placed in disciplinary room restriction, as provided in 6VAC35-101-1105, the resident shall be afforded the same opportunities as any other resident in general population, including treatment, education, and as much time out of the resident's room as security considerations allow. Exceptions may be made in accordance with established procedures when justified by clear and substantiated evidence.~~

~~D. E. If a resident is confined to his placed in room restriction for any reason for more than 24 hours, the facility administrator or the facility administrator's designee shall be notified and shall provide written approval for the continued room restriction. The written approval shall include a rationale of why the continued room restriction is necessary.~~

~~E. F. If the confinement room restriction extends to more than 72 hours, the (i) confinement restriction and (ii) steps being taken or planned to resolve the situation shall be immediately reported immediately to the director or the [facility administrator's director's] 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. For room restriction anticipated to exceed 72 hours, the medical and mental health status of the resident shall be assessed by a qualified medical~~

health professional or [~~qualified mental health professional~~ mental health clinician] within the initial 72-hour room restriction period and on a daily basis after the 72-hour period has elapsed until the resident is released from room restriction.

F. ~~G.~~ Room confinement, including isolation or administrative confinement, restriction shall not exceed five consecutive days except when ordered by a medical provider or a [~~qualified mental health professional~~ mental health clinician].

G. ~~H.~~ When confined to a placed in room restriction, the resident shall have a means of communication with staff, either verbally or electronically.

H. ~~I.~~ The facility administrator or the facility administrator's designee shall make daily personal contact with each resident who is confined to a locked placed in room, including being placed in isolation, each day of confinement restriction in order to ensure that all such residents [~~, with the exception of those placed in disciplinary room restriction,~~] are restricted only for the minimum amount of time required to address the resident's negative behavior or threat. During the daily visit, the facility administrator shall assess and document (i) whether the resident is prepared to return to [~~the~~] general population, unless the resident is placed in disciplinary room restriction for a specified time period; and (ii) whether the resident requires a mental health evaluation.

~~I.~~ During isolation, the resident is not permitted to participate in activities with other residents and all activities are restricted, with the exception of (i) eating, (ii) sleeping, (iii) personal hygiene, (iv) reading, and (v) writing.

J. Residents who are placed in room restriction shall be housed no more than one to a room.

K. The provisions of this section shall apply to all forms of room restriction, including disciplinary room restriction, unless otherwise provided.

6VAC35-101-1105. Disciplinary room restriction.

A. Unless otherwise provided, when a resident is placed in disciplinary room restriction, the provisions of 6VAC35-101-1100 shall apply.

B. Written procedures governing disciplinary room restriction shall:

1. Specify that residents may be placed in room restriction only after application of the disciplinary process, as provided for in 6VAC35-101-1080; and
2. Comply with the behavior management requirements set out in 6VAC35-101-1070.

C. Residents placed in disciplinary room restriction generally shall not be permitted to participate in activities with other residents, and all activities are restricted unless an exception is issued by the facility administrator or [~~his~~ the facility administrator's] designee. The following activities, however, shall not be restricted: (i) eating, (ii) sleeping, (iii) personal hygiene, (iv) any legally required educational programming or special education services; and (v) large muscle activity, except as permitted in 6VAC35-101-1100 C. The facility administrator or the facility administrator's designee shall provide opportunities for residents placed in disciplinary room restriction to engage in reading or writing activities in accordance with the safety and security needs of the resident.

Article 2

Physical Restraint

6VAC35-101-1115. Physical restraint.

A. Physical restraint shall be used as a last resort only after less restrictive interventions have failed or to control residents whose behavior poses a risk to the safety of the resident, staff, or others.

1. Staff shall use the least force deemed reasonably necessary to eliminate the risk or to maintain security and order and shall never use physical restraint as punishment or with the intent to inflict injury.

2. Physical restraint may be implemented, monitored, and discontinued only by staff who have been trained in the proper and safe use of restraint in accordance with the requirements in 6VAC35-101-190 and 6VAC35-101-200.

B. Each detention center shall implement written procedures governing the use of physical restraint, which shall include:

1. The staff position that will write the report and [the] timeframe for completing the report;

2. The staff position that will review the report and [the] timeframe for completing the review;

3. [Methods The methods] to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior; and

4. An administrative review of the use of each physical restraint to ensure conformity with the procedures.

C. Each application of physical restraint shall be fully documented in the resident's case record. The document shall include [the] :

1. Date and time of the incident;

2. Staff involved;

3. Justification for the restraint;

4. Less restrictive behavior interventions that were [attempted] unsuccessfully [attempted] before using physical restraint;

5. Duration of the restraint;

6. Description of the method or methods of physical restraint techniques used;

7. Signature of the person completing the report and date; and

8. Reviewer's signature and date.

Article 3

Mechanical Restraints and Protective Devices

6VAC35-101-1130. Mechanical restraints and protective devices.

~~A. Written procedure shall govern the use of mechanical restraints. Such procedures shall be approved by the department and shall specify:~~

~~1. The conditions under which handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, and a mobile restraint chair may be used;~~

~~2. That the facility administrator or his designee shall be notified immediately upon using restraints in an emergency situation;~~

~~3. That restraints shall never be applied as punishment or a sanction;~~

~~4. That residents shall not be restrained to a fixed object or restrained in an unnatural position;~~

~~5. That each use of mechanical restraints, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case file or in a central log book; and~~

~~6. That a written record of routine and emergency distribution of restraint equipment be maintained.~~

~~B. Written procedure shall provide that (i) all staff who are authorized to use restraints shall receive training in such use, including how to check the resident's circulation and how to check for injuries and (ii) only trained staff shall use restraints.~~

A. Mechanical restraints and protective devices may be used for the following purposes subject to the restrictions enumerated in this section: (i) to control residents whose behavior poses an imminent risk to the safety of the resident, staff, or others; (ii) for purposes of controlled movement, either from one area of the facility to another or to a destination outside the facility; and (iii) to address [emergency situations emergencies] .

B. A detention center that uses mechanical restraints or protective devices shall observe the following general requirements:

1. Mechanical restraints and protective devices shall be used only for as long as necessary to address the purposes established in subsection A of this section. Once the imminent risk to safety has been abated, the resident has reached the resident's intended destination within the facility or has returned to the facility from a destination [off-site offsite] , or the emergency situation has been resolved, the mechanical restraint or protective device shall be removed;

2. The facility administrator or the facility administrator's designee shall be notified immediately upon using mechanical restraints or protective devices in an emergency situation;

3. [The facility shall Facility staff may] not use mechanical restraints or protective devices as a punishment or a sanction;

4. Residents [shall may] not be restrained to a fixed object or restrained in an unnatural position. For purposes of this section, securing a resident to a hospital bed or wheelchair may be permitted in an outside medical setting upon written approval by the facility administrator;

5. A mental health clinician [, qualified mental health professional,] or other qualifying licensed medical professional may order termination of a mechanical restraint or protective device at any time upon determining that the item poses a health risk;

6. Each use of a mechanical restraint or protective device, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case file or in a central log book;

7. A written system of accountability shall be in place to ensure routine and emergency distribution of mechanical restraints and protective devices; and

8. All staff who are authorized to use mechanical restraints or protective devices shall receive training in such use in accordance with 6VAC35-101-190 and 6VAC35-101-200, [as applicable,] and only trained staff shall use [restraint restraints] or protective devices.

C. A detention center that uses a mechanical restraint to control a resident whose behavior poses a safety risk in accordance with subdivision A 1 of this section shall notify a health care provider and a mental health clinician [or qualified mental health professional] before continuing to use the restraint and, if applicable, the accompanying protective device if the imminent risk [has been is] abated, but [the facility determines facility staff determine] that continued use of the mechanical restraint is necessary to maintain security due to the resident's ongoing credible threat [to injure the resident's self or of self-injury or injury to] others. This may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

D. A detention center may not use a protective device unless [such the] use is in connection with a restraint and shall remove the device when the resident is released from the restraint.

E. In addition to the requirements in subsections A through D of this section, if staff in a juvenile detention center use a spit guard to control resident behavior, they shall observe the following requirements:

1. Staff may not use a spit guard unless it possesses the following characteristics:

a. The spit guard's design may not inhibit the resident's ability to breathe;

b. The spit guard must be constructed to allow for visibility; and

c. The spit guard must be manufactured and sold specifically for the prevention of biting or spitting.

2. The spit guard may be used only on a resident who (i) previously has bitten or spit on a person at the facility or (ii) in the course of a current restraint, threatens or attempts to spit on or bite or actually spits on or bites a staff member.

3. The spit guard must be applied in a manner that will not inhibit the resident's ability to breathe.

4. While the spit guard remains in place, staff shall provide for the resident's reasonable comfort and ensure the resident's access to water and meals, as applicable.

5. Staff must employ constant supervision of the resident while the spit guard remains in place to observe whether the resident exhibits signs of respiratory distress. If any sign of respiratory distress is observed, staff shall take immediate action to prevent injury and to notify supervisory staff.

6. Staff may not use a spit guard on a resident who is unconscious, vomiting, or in obvious need of medical attention.

6VAC35-101-1140. Monitoring restrained residents placed in mechanical restraints.

A. Written [procedure procedures] shall provide that ~~when~~ if a resident is placed in mechanical restraints, [except when being transported offsite.] staff shall:

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and

2. Make a ~~direct personal face-to-face~~ face-to-face check on the resident at least every 15 minutes and more often if the resident's behavior warrants, ~~such checks shall include monitoring the resident's circulation in accordance with the procedure provided for in 6VAC35-101-1130~~

B. Staff shall attempt to engage verbally with the resident during each periodic check. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint or otherwise attempting to deescalate the resident. During each check, a health-trained staff member shall monitor the resident for signs of circulation and for injuries.

B. If a resident remains in a mechanical restraint for a period that exceeds one hour, [except when being transported offsite.] the resident shall be permitted to exercise [each limb all limbs] for a minimum of 10 minutes every two hours to prevent blood clots.

B. C. When a resident is placed in mechanical restraints for more than two hours cumulatively in a 24-hour period, with the exception of use in routine transportation of residents, staff shall immediately ~~shall~~ consult with a health care provider and a [qualified mental health professional ~~or~~] mental health clinician. This consultation shall be documented.

C. D. If the resident [-, after being placed in mechanical restraints,] exhibits self-injurious behavior [after being placed in mechanical restraints], staff shall (i) ~~staff shall immediately take appropriate action to ensure the threat or harm is stabilized;~~ (ii) consult with and document that they have consulted with a mental health clinician [or qualified mental health professional] immediately thereafter and (iii) monitor the resident shall be monitored in accordance with established protocols, including constant supervision, if

appropriate. Any such protocols shall be in compliance with the procedures required by 6VAC35-101-1150 (restraints for medical and mental health purposes).

Article 4

Mechanical Restraint Chairs

6VAC35-101-1153. Mechanical restraint chair; general provisions.

A detention center that utilizes a mechanical restraint chair shall observe the following requirements, regardless of whether the chair is used for purposes of controlled movement in accordance with 6VAC35-101-1154 or for other purposes in accordance with 6VAC35-101-1155:

1. The restraint chair shall never be applied as punishment or as a [sanction consequence]
2. All staff authorized to use the restraint chair shall receive training in such use in accordance with 6VAC35-101-190 and 6VAC35-101-200.
3. The facility administrator or the facility administrator's designee shall provide approval before a resident may be placed in the restraint chair.
4. Staff shall notify the health authority, designated in accordance with 6VAC35-101-930, immediately upon placing the resident in the restraint chair to assess the resident's medical and mental health condition, to ascertain whether the restraint is contraindicated based on the resident's physical condition or behavior or whether other accommodations are necessary, and to advise whether, on the basis of serious danger to self or others, the resident should be in a medical or mental health unit for emergency involuntary treatment. The requirements of this subdivision shall not apply when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a mental health clinician [or qualified mental health professional] in accordance with 6VAC35-101-1155 C.
5. If the resident [, after being placed in the mechanical restraint chair, exhibits self-injurious behavior exhibits self-injurious behavior after being placed in the chair] , staff shall (i) take appropriate action to ensure the threat or harm is stabilized; and (ii) consult a mental health clinician [or qualified mental health professional] immediately thereafter and obtain approval for continued use of the restraint chair.
6. The health authority, a mental health clinician [, a qualified mental health professional,] or other qualifying licensed medical professional may order termination of restraint chair use at any time upon determining that use of the chair poses a health risk.
7. Each use of the restraint chair shall constitute a serious incident, to which the provisions of 6VAC35-101-80 shall apply.
8. Each use of the restraint chair shall be documented in the resident's case file or in a central logbook. The documentation shall include:
 - a. [Date The date] and time of the incident;
 - b. [Staff The staff] involved in the incident;
 - c. [Justification The justification] for the restraint;
 - d. [Less The less] restrictive interventions that were attempted or an explanation of why the restraint chair is the least restrictive intervention available to ensure the resident's safe movement;
 - e. [Duration The duration] of the restraint;
 - f. [Signature The signature] of the person documenting the incident and date;

g. [Indication An indication] that all applicable approvals required in this article have been obtained; and

h. [Reviewer's The reviewer's] signature and date.

9. Staff shall conduct a debriefing of the restraint after releasing the resident from the chair.

6VAC35-101-1154. Mechanical restraint chair use for controlled movement; conditions.

A. A detention center shall be authorized to use a mechanical restraint chair for purposes of controlled movement of a resident from one area of the facility to another, provided the following conditions are satisfied:

1. The resident's refusal to move from one area of the facility to another poses a direct and immediate threat to the resident or others or interferes with required facility operations; and

2. Use of the restraint chair is the least restrictive intervention available to ensure the resident's safe movement.

B. When [the facility utilizes facility staff use] the restraint chair in accordance with this section, staff shall remove the resident from the chair immediately upon reaching the intended destination. If staff [determine] , upon reaching the intended destination, [determine] that continued restraint is necessary, staff shall consult with a mental health clinician for approval of the continued restraint.

6VAC35-101-1155. Mechanical restraint chair use for purposes other than controlled movement; conditions for use.

A. A detention center shall be authorized to use a mechanical restraint chair for purposes other than controlled movement provided the following conditions are satisfied:

1. The resident's behavior or actions present a direct and immediate threat to the resident or others;

2. Less restrictive alternatives were attempted but were unsuccessful in bringing the resident under control or abating the threat;

3. The resident remains in the restraint chair only for as long as necessary to abate the threat or help the resident gain self-control.

B. Once the direct threat is abated, if staff determines that continued restraint is necessary to maintain security due to the resident's ongoing credible threat [to injure resident self or of self-injury or injury to] others, staff shall consult a mental health clinician [or qualified mental health professional] for approval of the continued restraint. The ongoing threat may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

C. [The detention center Detention center staff] shall be excused from the requirements in subsections A and B of this section when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a [qualified mental health professional or] mental health clinician.

D. Whenever a resident is placed in a restraint chair for purposes other than controlled movement, staff shall observe the following monitoring requirements:

1. Employ constant, one-on-one supervision until the resident is released from the chair [];

2. Staff shall attempt Attempt] to engage verbally with the resident during the one-on-one supervision. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary [to be released for release] from the restraint or otherwise attempting to deescalate the resident;

[2. 3.] Ensure that a health-trained staff monitors the resident for signs of circulation and for injuries at least once every 15 minutes in accordance with written procedures; and

[3. 4.] Ensure that the resident is reasonably comfortable and has access to water, meals, and toilet.

6VAC35-101-1156. Monitoring residents placed in a mechanical restraint chair.

A. If a resident remains in the restraint chair for a period that exceeds one hour, the resident shall be permitted to exercise [each limb all limbs] for a minimum of 10 minutes every two hours to prevent blood clots.

B. [A detention center Detention center staff] shall ensure that a video record of the following is captured and retained for a minimum of three years in accordance with 6VAC35-101-40:

1. The placement of a resident in a restraint chair when a resident is restrained for purposes of controlled movement;

2. The entire restraint, from the time the resident is placed in the restraint chair until the resident's release when a resident is restrained in the chair for purposes other than controlled movement. The detention center may satisfy this requirement by positioning the restraint chair within direct view of an existing security camera.

6VAC35-101-1157. Department monitoring visits; annual reporting; board review.

A. If [a detention center uses staff in a detention center use] a mechanical restraint chair to restrain a resident, regardless of the purpose or duration of the use, the detention center shall be subject to a monitoring visit conducted by the department pursuant to the authority provided in 6VAC35-20-60. The purpose of the monitoring visit shall be to assess the detention center's compliance with the provisions of this article.

B. Upon [completion of completing] the monitoring visit, the department shall provide the detention center with a written report of its findings in accordance with 6VAC35-20-90. A detention center cited for noncompliance with a regulatory requirement pursuant to this monitoring visit may request a variance or appeal the finding of noncompliance in accordance with 6VAC35-20-90.

C. The department shall document each monitoring visit conducted pursuant to subsection A of this section and provide a written report to the board annually that details, at a minimum, the following information regarding each separate incident in which the restraint chair is used:

1. The facility in which the chair is used;

2. The date and time of the use;

3. A brief description of the restraint, including the purpose for which the restraint was applied, the duration of the restraint, and the circumstances surrounding the resident's release from the restraint;

4. The extent to which the detention center complied with the regulatory requirements related to mechanical restraint chair use, as set forth in 6VAC35-101-1153 through 6VAC35-101-1158; and

5. The plans identified to address findings of noncompliance, if applicable.

D. The annual report shall be placed on the agenda for the next regularly scheduled board meeting for the board's consideration and review.

6VAC35-101-1180. Placements in postdispositional detention programs.

A. A detention center that accepts placements in a postdispositional detention program shall have written procedure procedures ensuring reasonable utilization of the detention center for both predispositional detention and the postdispositional detention program. This procedure shall provide for a process to ensure that the postdispositional detention program does not cause the detention center to exceed its rated capacity.

B. When a court orders a resident detained in a postdispositional detention program, the detention center shall:

1. Obtain from the court service unit a copy of the court order, the resident's most recent social history, and any other written information considered by the court during the [sentencing dispositional] hearing; and
2. Develop a written plan with the court service unit within five business days to enable such residents to take part in one or more locally available treatment programs appropriate for their rehabilitation that may be provided in the community or at the detention center. The plan shall address how the resident will be transported and may authorize detention center staff, court service unit staff, or any other responsible adult approved by the detention center to carry out the transport.

C. When a detention center accepts placements in a postdispositional detention program, the detention center shall:

1. Provide programs or services for the residents in the postdispositional detention program that are not routinely available to predispositionally detained residents. This requirement shall not prohibit residents in the postdispositional detention program from participating in predispositional services or any other available programs; and
2. Establish a schedule clearly identifying the times and locations of programs and services available to residents in the postdispositional detention program.

D. Upon the receipt of (i) a referral of the probation officer of a potential resident who meets the prerequisite criteria for placement provided in § 16.1-284.1 of the Code of Virginia or (ii) an order of the court, the detention center shall conduct the statutorily required assessment as to whether a resident is an appropriate candidate for placement in a postdispositional detention program. The assessment shall assess determine the resident's need for services using a process that is outlined in writing, approved by the department, and agreed to by both the facility administrator and the director of the court service unit. Based on these identified needs, the assessment shall indicate the appropriateness of the postdispositional detention program for the resident's rehabilitation.

E. When programs or services are not available in the detention center, a resident in a postdispositional detention program may be considered for temporary release from the detention center to access such programs or services in the community.

1. ~~Prior to~~ Before any such temporary release, both the detention center and the court service unit shall agree in writing as to the suitability of the resident to be temporarily released for this purpose.
2. Residents who present a significant risk to themselves or others shall not be considered suitable candidates for participation in programs or services outside the detention center or for paid employment outside the detention center. Such residents may participate in programs or services within the detention center, as applicable, appropriate, and available.

6VAC35-101-1220. Case management services in postdispositional detention programs.

A. The facility [administrator] shall implement and follow written procedures governing case management services that shall address:

1. Helping the resident and the parents or legal guardian ~~to~~ understand the effects on the resident of separation from the family and the effect of group living;
2. Assisting the resident and the family ~~to maintain~~ in maintaining their relationships and ~~prepare~~ preparing for the resident's future care;
3. Utilizing appropriate community resources to provide services and maintain contacts with such resources;

4. Helping the resident strengthen his capacity to function productively in interpersonal relationships;
5. Conferring with the child care staff to help them understand the resident's needs in order to promote adjustment to group living; and
6. Working with the resident, the family, or any placing agency that may be involved in planning for the resident's future and in preparing the resident for the return home or to another family, for independent living, or for other residential care.

B. The provision of case management services shall be documented in the case record.

6VAC35-101-1270. Release from a postdispositional detention program.

In addition to the requirements in 6VAC35-101-840 (~~discharge~~), information concerning the resident's need for continuing therapeutic interventions, educational status, and other items important to the resident's continuing care shall be provided to the [parent,] legal guardian [,] or legally authorized representative, as appropriate, at the time of the resident's discharge release from the facility.



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TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Rescission of Three Policies:
02-006 (Application for Funds)
18-005 (Chemical Agents)
20-301 (Employment of Residents in Community Residential Facilities)

DATE: April 20, 2022

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully requests the State Board of Juvenile Justice (the board) to approve the rescission of three existing board policies pursuant to the authority established in *Code of Virginia* § 66-10.

II. BACKGROUND OF THE REQUEST

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

The Board shall have the following powers and duties:

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

Pursuant to this statutory authority, the board currently has 38 individual policies in place ranging in subject matter from overall administration of the department to operations within facilities and programs regulated by the department. Many of these policies were initially established in the early 1990s and were last reviewed or updated more than ten years ago.

Over the course of the next few years, the department hopes to comprehensively review each board policy and make a formal recommendation to the board to retain, amend, or rescind each one. The department will

recommend retaining or amending those policies that are mandated by statute or that provide additional guidance above and beyond what is mandated by regulation. Those policies that have been subsumed into regulation, that duplicate existing law, or that are obsolete will be recommended for rescission.

As a first step, the department has identified three board policies that are appropriate for rescission. The policies and summaries are contained in Part IV of this memorandum.

III. DIFFERENCES BETWEEN BOARD POLICIES AND BOARD REGULATIONS

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

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

IV. SUMMARY OF POLICIES IDENTIFIED FOR RESCISSION

<p>02-006 Applications for Federal Funds</p> <p>Code of Virginia § 66-10 gives the Board the power and the duty “3. To review and comment on all applications [by the Department] for federal funds.”</p> <p>It is the policy of the Board of Juvenile Justice to encourage the Department to coordinate funding from all sources, federal, state, and private, so as to gain the greatest possible benefit from the available resources.</p> <p>The Department shall inform the Board of all initial applications for federal funds, including grants (whether received directly from a federal agency or administered by another entity, or jointly applied for with other state agencies and payments from the federal government under such programs. When the timeframes in the application process permit, the Board shall be notified before the application is made, and the Board’s comments may be included in the application materials as appropriate. When the timeframes of the application process do not permit prior notification to the Board, the Department shall inform the Board as soon as practical of its application for federal funds, the purpose in seeking the funds, and the status of the application.</p>
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¹ 2011 Op. Va. Att’y Gen. 99, 102.

The Department shall report to the Board at least annually on its multi-year-grant-funded projects or applications for federal funds.

Effective Date: August 26, 1991

Most Recent Review: November 14, 2007

Recommendation: Rescind

Rationale for Recommendation: During the 2012 General Assembly Session, the General Assembly repealed the provision that forms the basis for this board policy (Chapter 164 of the 2012 Acts of Assembly). Pursuant to this legislative change, the board no longer has the authority and statutory duty to review and comment on the department's application for federal funds. Because the authority for this review and comment process has been removed, this policy is obsolete and should be rescinded.

18-005 **Chemical Agents**

Staff are prohibited from using chemical agents in facilities regulated by the Board.

Effective Date: October 1, 1995

Most Recent Review: November 12, 2008

Recommendation: Rescind

Rationale for Recommendation: The board's current residential regulations, set out in 6VAC35-41 (Regulation Governing Juvenile Group Homes and Halfway Houses), 6VAC35-71 (Regulation Governing Juvenile Correctional Centers), and 6VAC35-101 (Regulation Governing Juvenile Secure Detention Centers) prohibit department-regulated residential facilities from using chemical agents to manage resident behavior or institutional security. Each regulation has a separate provision with varying language imposing a specific prohibition, as well as broader language in the "prohibited actions" section that forbids the use of all aversive stimuli in such facilities. Aversive stimuli is defined consistently across all residential regulations as "any physical forces (e.g., sound, electricity, heat, cold, light, water, or noise) or substances (e.g., hot pepper, pepper sauce, or pepper spray) measurable in duration and intensity that when applied to a resident are noxious or painful to the individual. The current relevant regulatory provisions for each applicable residential facility are set out below:

Juvenile Correctional Centers

- 6VAC35-71-550 – *Residents shall not be subjected to the following actions...(10) Application of aversive stimuli, except as provided in this chapter or permitted pursuant to other applicable state regulations.*
- 6VAC35-71-1170 – *Chemical agents such as pepper spray, shall not be used by staff for behavior management or facility security purposes.*

Juvenile Detention Centers

- 6VAC35-101-650 – (A) *The following actions are prohibited...(10). Application of aversive stimuli, except as permitted pursuant to other applicable state regulations.*
- 6VAC35-101-1120 – *Staff are prohibited from using pepper spray and other chemical agents to manage resident behavior or maintain institutional security.*

Group Homes

- 6VAC35-41-560 – *The following actions are prohibited...(11). Application of aversive stimuli, except as permitted pursuant to other applicable state regulations.*
- 6VAC35-41-1330 – *Staff are prohibited from using pepper spray and other chemical agents to manage resident behavior.*

The board added specific provisions regarding chemical agents to each regulation as part of the last cycle of residential regulatory amendments in 2014. While none of the current regulations prohibits the use of chemical agents outright, the supporting documentation for the 2014 amendments evince a clear intent to adopt the board policy language contained in 18-005. The department is not aware of chemical agents being used in any regulated program since the updated regulations took effect in 2014. Because the policy has been subsumed into the regulation, the department recommends rescinding this policy.

20-301

Employment of Residents in Community Residential Facilities

The Department shall assist residents in community residential facilities operated by the Department find and maintain employment. The Department should work through collaborative partnerships with state and local agencies and programs, as well as with private sector resources and employers, to accomplish this goal.

Effective Date: February 1, 1993 Most Recent Review: June 10, 2009

Recommendation: Rescind

Rationale for Recommendation: This provision directs the department to help residents in department-operated community residential facilities find and maintain employment. Prior to 2014, the department operated two such community residential facilities, known as halfway houses. Initially, these facilities were established to serve committed juveniles on parole after release from direct care, but were modified subsequently to serve youth on direct care status as they transitioned to full release. Both halfway house facilities closed in 2014, and Bon Air Juvenile Correctional Center remains the only department-operated residential facility for direct care youth in the Commonwealth. Due to the closing of the two halfway houses, this policy has no current application and should be rescinded.

V. IMPACT AND EFFECTIVE DATE OF BOARD ACTION

If the board votes to approve the proposed rescission of the three policies referenced in this memorandum, the rescission will take effect immediately. For the reasons set forth above, rescinding these policies will have no additional impact on department operations, nor on the facilities the department regulates.