

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



Post Office Box 1110
Richmond, VA 23218-1110
804.588.3903

COMMONWEALTH of VIRGINIA
Board of Juvenile Justice

Meeting Minutes

December 13, 2023

In accordance with Virginia Code § 2.2-3708.3, this meeting was conducted as an all-virtual public meeting due to convenience.

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

Board Members Absent: David Mick and Laura O'Quinn

Department of Juvenile Justice (Department) Staff: Ken Bailey, Lisa Coates, Lauren Cole, Ken Davis, Katherine Farmer, Mike Favale, Amy Floriano, Wendy Hoffman, Nikia Jones, Melodie Martin, Andrea McMahon, Ashaki McNeil, Linda McWilliams, Guillermo Novo, Margaret O'Shea (Office of the Attorney General), Kristen Peterson, Lara Todd, James Towey, Carmen Williams, and Joe Wright

Guests: None recorded.

CALL TO ORDER AND INTRODUCTIONS

Chairperson Tito Vilchez called the meeting to order at 9:38 a.m. Chairperson Vilchez noted he was not able to attend the last meeting and thanked the Board for voting him as Chairperson of the Board. Chairperson Vilchez welcomed those present and asked for introductions. Department Director Amy Floriano welcomed the newly appointed Board member, Ms. Lisa Cason, to her first meeting and communicated the Department's excitement to be working with her.

Chairperson Vilchez introduced Mr. James Towey, Legislative and Regulatory Affairs Manager for the Department, to make a short announcement on the status of the all-virtual public meeting. Mr. Towey stated that today's Board meeting is being held as an all-virtual public meeting via Microsoft Teams in accordance with *Code of Virginia* § 2.2-3708.3 and the all-virtual public meeting policy adopted by the Board at the November meeting. The Department has ensured the requirements for an all-virtual public meeting have been met. Public access is provided by electronic communication means to allow the public to hear and see the Board members and to provide public comment. A phone number (804-584-8112) and email (info@djj.virginia.gov) were provided on the website in case any electronic transmissions of the meeting fail for the public, and if that happens, the Board will take a recess until public access is restored. One of the requirements for an all-virtual meeting is that no two Board members are together in one physical location for the meeting. Mr. Towey confirmed this requirement. There were no questions from the Board.

CONSIDERATION OF BOARD MINUTES

The minutes of the November 15, 2023, Board meeting were offered for approval. On a motion duly made by Tyren Frazier and seconded by Synethia White, the Board approved the minutes as presented. All Board members present declared “aye,” and the motion carried.

PUBLIC COMMENT

There was no public comment.

NEW BUSINESS

Presentation on Board Oversight

Lara Todd, Compliance and Legal Support Director, Department and Margaret O’Shea, Office of the Attorney General

Ms. Todd began by explaining the intent of the presentation to provide the Board with historical context on Board policies and answer any concerns or questions the Board may have on altering such policies. In 2012, there was a significant change to the Board’s authority and scope resulting from legislation that removed a fair amount of significant oversight the Board had over the Department, namely and most significantly, budget oversight and appropriations input. This took the Board from a supervisory role to a policy role. The Board is no longer looking at or approving appropriation requests and other similar requests. Ms. Todd noted that she was in the Office of the Attorney General and served as counsel to the Department at the time.

Ms. O’Shea explained that there are some Board policies in need of review and revision considering the changing dynamic between the Board and the Department. The Board’s specific regulatory powers are listed in the *Code of Virginia* § 66-10. The Virginia Administrative Code describes exactly what the Board is authorized by statute to perform and shows the difference between the Department, which is responsible for the daily operations of the facilities, and the Board, which is more policy oriented. Ms. O’Shea said she and Ms. Todd wanted to review this distinction and be available for questions the Board may have on the suggestions advanced by the Department.

Ms. Todd pointed the Board to the definitions distinguishing the types of boards within the executive branch in *Code of Virginia* § 2.2-2100, which gives specific definitions of advisory, policy, and supervisory boards.

Board Member Scott Kizner noted that at the last meeting, there was no discussion about budget oversight, or the Board getting involved with the budget. Board Member Kizner asked for the link that Ms. O’Shea referenced in her presentation. The link (<https://law.lis.virginia.gov/admincode/title6/agency35/preface/>) will be sent to the Board.

The Board members clarified that they had asked to be made aware of certain circumstances and were not seeking involvement in day-to-day operations of the agency.

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

Katherine Farmer, VJCCCA Supervisor, Department

Ms. Farmer provided a brief history of the Virginia Community Crime Control Act, also known as VJCCCA. The Act was passed in 1995 with the intent for localities to develop and implement programs and services to prevent and address juvenile offending. Seventy-six of the 133 localities had plans developed that were either individual locality plans or combined plans. Combined plans allowed the localities to partner and pool their money to develop a combined plan. The emphasis of the funding was on alternatives to detention, diversion, and early intervention programming. This is how the funding was utilized until 2020 when the General Assembly passed House Bill 1771 adding prevention services. Prevention services funding is used to provide

services to youth in the community to prevent them from being charged and going to intake. Every year the Department sees an increase in communities adding prevention services. No extra money comes into play.

All localities have developed their biennium plans and are in the second year of the current biennium. Localities look at the state and local data on current offenses from the previous year as well as information on overrides and risk assessments and use that information with their stakeholders to create their locally driven plans. The Department's VJCCA staff provide technical assistance to help them create plans that will meet the needs of their communities.

The funding is a unique pot of money primarily used for those front-end youth that may not be able to receive funding through other sources. The VJCCA staff try to emphasize that the money may be used for diversion and prevention, although it can also be used for youth before the court.

A summary of the VJCCA budgets broken down by locality is on page 8 of the Board packet. Because this is a grant, most localities must match the grant funding to receive a state allocation. This is called a maintenance of effort and is formula driven. Pages 8, 9, 10 and 11 in the Board packet list all the localities and their maintenance of effort for fiscal year 2023 and current fiscal year 2024.

Some localities contribute an additional amount of funding to the plan that increases the amount of money to be used. The current budget, including the locality's additional funds and the maintenance of effort is about \$16 million. Page 12 of the Board packet contains a snapshot of the aggregate data for all services provided throughout the state. For example, in fiscal year 2023, there were 598 youth served, and the budget was \$259,937, which localities allocated to provide anger management services. Localities can choose to revise their plans based on the locality's need. In fiscal year 2024, localities showed there was more of a need for anger management and increased the number of youth they planned to serve, which ultimately increased their budget.

Pages 13 through 21 of the Board packet list the allowable services that can be used and reflect back on the previous data document on page 12. Localities can develop their own plans based on their needs using VJCCA guidance and the allowable services list. The list is broken down into different categories.

The first category is the administrator category. If the plan is overseen by the locality instead of the Department, they can put an administrator position in the plan that can be paid through VJCCA.

The second category is public safety, broken down into predispositional and postdispositional detention alternatives effective for fiscal year 2023. Prior to fiscal year 2023, detention alternatives combined predispositional and postdispositional options. In fiscal year 2023, they were separated because the Department wanted to see the separate data for those youth being served predispositionally and postdispositionally. Those services include detention outreach, electronic monitoring, shelter care, and structured day and evening services.

The next category is accountability, which has a variety of services from community service to restorative justice. These services hold youth accountable and teach them empathy in order to give back to the community.

The next category is competency development, such as anger management. Assaults are one of the highest offenses throughout the state. Looking at the data, many of the plans provide anger management services to meet the needs of that offense, but most of the competency development services listed are skill building. These services teach youth skills to help them think differently, behave differently, and to prevent them from participating in any future crimes.

Programs under composite development include intervention, which serve court-involved juveniles, as well as prevention programs.

The last category is group homes.

Ms. Farmer concluded her presentation, and after verifying that the Board had no questions, introduced the motions. She explained that in June 2023, three localities (Amelia, Nottoway, and Powhatan) had not completed their fiscal year 2024 revised plan; therefore, their fiscal year 2023 plan was carried over to fiscal year 2024. They have since completed their fiscal year 2024 plans, which were approved by the VJCCCA team. Ms. Farmer requested the Board approve the fiscal year 2024 plan for the second half of the biennium for Amelia, Nottoway, and Powhatan.

On motion duly made by Will Johnson and seconded by Eric English, the Board of Juvenile Justice approved the VJCCCA plans for Amelia, Nottoway, and Powhatan for fiscal year 2024. All Board members present declared “aye,” and the motion carried.

Ms. Farmer continued with her second motion request. A locality may choose to revise their plan at any time throughout the year, and if they add a new program or service, then the locality needs to come before the Board for approval. The King William Combined Plan that includes Charles City, King and Queen, Middlesex, and New Kent added truancy prevention to their plan, and Rappahannock added a category for specialized program services. This is like an umbrella of services that the locality can tap into as long as it is part of the approved allowable services and provide a unique service to a youth that is not already part of their VJCCCA plan.

Ms. Farmer asked the Board to approve the King William Combined and the Rappahannock revised fiscal year 2024 plan for the second part of the biennium.

On motion duly made by Synethia White and seconded by Scott Kizner, the Board of Juvenile Justice approved the King William Combined Plan (including Charles City, King and Queen, Middlesex, and New Kent) and the Rappahannock plan. All Board members present declared “aye”, and the motion carried.

Consideration of Notice of Intended Regulatory Action to Amend Regulation Governing Juvenile Data Requests and Research Involving Human Subjects (6VAC35-170)

Kristen Peterson, Regulatory Affairs Coordinator, Department

Ms. Peterson began by respectfully asking the Board to approve the request to initiate the first stage of the standard regulatory process called the Notice of Intended Regulatory Action (NOIRA) for the regulation that governs juvenile data requests and research involving human subjects.

Ms. Peterson identified various statutory provisions in place that currently give the Board the authority to promulgate the regulations the Department is looking to amend. Section 66.-10.1 of the Code directs the Board to promulgate regulations for human research that will be conducted or authorized by the Department in accordance with Title 32.1 of the Code. § 66.10 of the Code gives the Board broad discretion to establish regulations that may be necessary to carry out the provisions of Title 66 of the Code. There are several other statutory provisions that address the Virginia Juvenile Justice Information System, the infrastructure that preserves, collects, and disseminates all juvenile record information that the Department and various Board-regulated facilities and programs use. Together, these statutory provisions provide support for Chapter 170. That chapter has been in place for a few years, and the Department has conducted several reviews and modifications. The chapter establishes the regulatory requirements for research on human subjects who are

under the care and supervision of the Department. It also establishes a process for those individuals who are seeking to gather data from the Department.

As noted in previous meetings, state agencies have been directed to reduce their regulatory requirements by at least 25%, which is part of the impetus behind this request. The Department identified several regulatory chapters to accomplish this regulatory reduction requirement, and this is one of those chapters.

Pursuant to § 2.2-4007.1 of the Code, there is also language that imposes a requirement upon all state agencies to review their regulations at least once every four years to determine whether those regulations need to be amended, repealed, or retained as they currently exist.

The Department last modified this chapter and conducted a comprehensive review in 2020; however, the formalized periodic review process was not utilized. The regulation was modified through a fast-track process because the Department wanted those provisions to be adopted more quickly. A formalized periodic review of these regulations was last conducted in 2016, which puts them past due for the periodic review.

Ms. Peterson described the standard regulatory process, which involves three separate stages. The first is the NOIRA, which is the stage the Department is requesting the Board approve today. Typically, there is no proposed text associated with the NOIRA stage. The Department has convened a workgroup, which has conducted a review of the regulation and identified the framework around the amendments the Department anticipates moving forward.

The workgroup recommended changes to the definitions. There are a couple of terms that are obsolete or will be obsolete once the modifications are made to the regulation. There are a few terms that the workgroup wanted to simplify to make them easier for the regulated community to understand. The workgroup also wanted to delete some extraneous language in the terminology.

The Department continues to receive questions about this regulation, in large part due to a process that allows individuals to request juvenile records if authorized by statute to inspect such records. There is sometimes confusion as to whether people should be looking at this regulation when making requests for data, or whether they should look at the regulation that addresses juvenile records. The workgroup wanted to provide clarity.

The workgroup wanted to cut several duplicative provisions in the regulation and address areas containing erroneous citations to federal or state statutory provisions. In addition, a few provisions in the current regulation require certain committees to meet and set specific time frames for their meetings. The Department anticipates making some changes to either extend the timelines or, in some cases, eliminate them to allow for more flexibility with these meetings.

Various forms must be submitted when individuals seek to request data from the Department or seek to engage in research projects, and these forms are attached to and become a part of the regulation. There are provisions in the regulation that specify the content that needs to be part of the forms, but if the forms are already attached to the regulation, there should be no need for those content requirements.

The regulation contains several provisions that duplicate what is already set out in statute. The Department anticipates removing those provisions that repeat the statute, and instead referencing the statute.

A couple of provisions in the regulation are more operational or instructional. The workgroup would like to remove these provisions.

The workgroup also wanted to address what data is deemed sensitive and when certain information might require redaction before being provided to individuals seeking the data. The workgroup wanted to try to provide some additional clarity around confidentiality and sensitive data.

The workgroup wanted to establish the process for various requests made through databases. For example, recent legislation created various data trusts that the Department entered into through memoranda of agreement. With these data trusts, certain processes are required, and the workgroup wanted to set out those processes in the regulation.

There is a guidance document that supplements the existing regulation. The Department hopes to take the provisions in the guidance document that were historically enforced and put them into the regulation so that the Department can continue to enforce the provisions. The Department received guidance from the Office of Regulatory Management that indicates if provisions are in a guidance document, and an agency wishes to enforce them, the agency needs to make them a part of the regulation.

Ms. Peterson reiterated that this is the first stage of the standard regulatory process. The bottom of page 25 of the Board packet sets out the time frames for this first stage. Assuming the Board adopts the Department's recommendation, the Department would then submit this NOIRA to the Regulatory Town Hall, and that would initiate Executive Branch Review, which begins with the Department of Planning and Budget and moves through to the Secretary of Public Safety and the Office of Regulatory Management. Each of those entities has 14-days to review the regulatory action and then advance it to the next stage of Executive Branch Review. The Governor's Office does not have a deadline to conduct its review, but once that occurs, the action would be published in the Virginia Register of Regulations, and that would trigger a 30-day public comment period.

Ms. Peterson concluded her presentation and asked for any questions.

On motion duly made by Tyren Frazier and seconded by Tito Vilchez, the Board of Juvenile Justice authorized the Department of Juvenile Justice to proceed with the filing of a Notice of Intended Regulatory Action pursuant to § 2.2-4007.01 of the *Code of Virginia* to initiate the process for reviewing and amending 6VAC35-170, Regulation Governing Juvenile Data Requests and Research Involving Human Subjects. All Board members present declared "aye", and the motion carried.

Consideration of Amendment of Board Policy 02-004 (Communication of Serious Incidents)

Kristen Peterson, Regulatory Affairs Coordinator, Department

Ms. Peterson reminded the Board that the Department presented this policy at its November meeting with a recommendation to amend. The Board policy addresses the communication of serious incidents. The Department initially raised concerns with the language in the policy, specifically the language found at the bottom of page 27 of the Board packet, which provides, "incidents affecting the health and safety of citizens, persons under the Department's supervision, and staff must be reported by the operational unit involved with such incidents to the highest appropriate organizational level of the Department and the Board." The Department believed the language was too broad and would potentially result in an unmanageable volume of information being communicated to the Board and wanted to try to manage that information so the Board would not be inundated with serious incident reports.

The Board's prominent concern at the November meeting was what would constitute an appropriate serious incident requiring Board notification. At the November meeting, several recommendations and suggestions

were made to identify the types of incidents the Board thought were sufficiently serious to warrant Board notification.

The amended policy on page 28 of the Board packet reflects the suggestions made by both the Board and the Department regarding what incidents would be sufficiently serious to warrant notification. The second paragraph identifies five new categories: escapes; suicides; outbreaks of communicable diseases; resident or staff injuries or sickness requiring prolonged hospitalization or resulting in death; and natural disasters, fires, or other emergencies resulting in significant harm or damage. These are incidents that might involve Board-regulated facilities and incidents that the Department believes are serious enough for the Board to be made aware of them. This list reflects the Board's suggestions at the last meeting. A sixth category, somewhat reflective of the existing policy includes "all other incidents resulting in actual or probable litigation against the Department or Board-regulated facility or program that might require the Board to act." The hope is that if any other incidents that are not identified could potentially result in litigation against the Department or a Board-regulated facility and would require the Board to act, the Department would need to provide that serious incident information to the Board, as well.

Another concern raised at the last meeting was that the existing policy required serious incidents be communicated to the Board at its next regularly scheduled meeting, which was simply too long a time. The Board is required to have four meetings a year, so it could potentially be two or three months before the Board received information based on the existing language in the policy. The workgroup modified the language by changing it to require that information be communicated within 72 hours of the occurrence of the event.

The workgroup also added language in the last paragraph with the hopes of ensuring any information communicated because of this policy remains confidential and that the Board observes and honors all statutory and regulatory limitations on disclosure.

Ms. Peterson concluded her presentation and asked for questions.

Board Member Kizner stated he appreciated the Department taking their concerns and updating the policy. Board Member Kizner is more comfortable with the policy now.

Board Member Frazier thanked Ms. Peterson for her hard work and noted that the revisions reflect what the Board wanted during the last meeting discussion. Board Member Frazier asked Director Floriano how many incidents she has received that fit these criteria over the last month to give the Board an idea of the number of notifications.

Director Floriano noted that the Board will need to comply with confidentiality requirements for the youth in the Department's care. The Board might need to complete paperwork to ensure the Department is covered on releasing this information. Director Floriano believes she has received nine serious incident reports as of this morning. The Department is trying to give the Board only the major issues in case it impacts them or prompts media questions.

Board Member Frazier asked what the communication mode would be to send this type of information. Director Floriano answered that the actual process is being established, but the information will be encrypted due to confidentiality requirements.

On motion duly made by Scott Kizner and seconded by Synethia White, the Board of Juvenile Justice approved the amendment of Board Policy 02-004 (Communication of Serious Incidents), as proposed at the November

15, 2023, meeting to take effect immediately. All Board members present declared “aye”, and the motion carried.

Consideration to Proceed with the Periodic Review Report for 6VAC35-11, Public Participation Guidelines
Ken Davis, Regulatory Affairs Coordinator, Department

The Administrative Process Act requires the Department to conduct a periodic review of its regulations every four years. The Department has brought forward the periodic review for 6VAC35-11, which are the public participation guidelines and asks the Board’s authorization to submit the report based on that periodic review. The Department’s recommendation is to retain the public participation guidelines as written.

As part of the regulatory review, agencies need to consider the continued need for the regulation, the nature of any complaints or public comments that the Department received, and the length of time since the agency last evaluated the regulation. There are some additional considerations noted on page 30 of the Board packet.

This regulation was last reviewed in 2019, which falls in compliance with the four-year requirement to conduct the periodic review. The Department submitted the periodic review for this chapter on September 15th, and the review was published in the Virginia Register on October 9th. The public comment period ended on October 30th and yielded no public comments.

This regulation provides specific rules the Department must follow to ensure public involvement in the regulatory process. It sets out methods for identifying, notifying, and seeking input from interested parties, along with rules for using standing or ad hoc advisory panels, as well as the procedures for consulting with groups who wish to be part of the process. It is important to note that these regulations are mandatory in accordance with the Administrative Process Act. All nonexempt agencies are required to promulgate public participation guidelines.

This regulation is required by Code, and it leaves the Board two options to either retain as written or amend. Since 2019, when the regulation was last reviewed, there have not been any statutory changes or any other changes that would require amendment to the regulation. In addition, the text of the regulation very closely mirrors the model public participation guidelines issued in 2016 by the Department of Planning and Budget. Taking those things into account, the Department recommended the Board retain the regulation with no changes. The Department respectfully requests that the Board authorize the submission of the required report for the periodic review, including the recommendation that the Board retain the regulation as written.

On motion duly made by Will Johnson and seconded by Eric English, the Board of Juvenile Justice approved the Department’s recommendation to retain 6VAC35-11 (Public Participation Guidelines) in its current form and authorized the Department to submit the required Periodic Review Report containing that recommendation. All Board members present declared “aye”, and the motion carried.

Consideration of Notice of Intended Regulatory Action for Community Placement Program Regulations
Ken Davis, Regulatory Affairs Coordinator, Department

Mr. Davis presented the Department’s request for authorization to initiate a NOIRA to add Community Placement Program (CPP) provisions to 6VAC35-101, the Regulation Governing Juvenile Secure Detention Centers. The information pertaining to this request begins on page 32 of the Board packet.

In 2014, the Department partnered with several juvenile detention centers (JDCs) specifically Blue Ridge, Chesapeake, Rappahannock, and Virginia Beach to establish the first CPPs as alternative placements for

committed youth. Currently, Blue Ridge, Chesterfield, Prince William, Shenandoah Valley, and Virginia Beach JDCs continue to operate CPPs or have developed CPPs. Newport News is establishing a CPP this fiscal year. CPPs are structured, residential programs that place Departmental youth in smaller settings in their home communities closer to their families to increase family engagement and make transition after release back to the community smoother. CPPs focus on positive youth development and increasing competency in areas such as education, vocational preparation, employability skills, and anger management. CPP youth are housed in units that are separate from the rest of the JDC population and receive services and treatment very similar to what they would otherwise receive at the juvenile correctional center at Bon Air.

Because the CPPs are serving committed youth in JDC settings, the programs are not explicitly regulated by either the JCC or JDC regulations. This has created a gray area for the Department in terms of regulations. The CPPs are not audited by the Department's Certification Unit. Instead, agreements between the Department and the participating JDCs have been used to govern the programs and are assessed by the Department's Quality Assurance Unit. This means the CPPs and their youth are treated differently from other residential programs, including the postdispositional programs at JDCs. The Department concluded it would be in the best interest of those youth to establish regulations to govern these programs and to handle them more like other residential programs. The Department formed a workgroup to begin developing these regulations. The workgroup began meeting in July of this year, and among its first decisions, agreed to establish a new section within the JDC regulation. This would provide clarity for the JDC because it keeps this new provision with the rest of the JDC regulation. It also helps the Department keep the regulatory portfolio streamlined.

The Administration has asked state agencies to reduce regulations by 25%. This new action will add regulatory provisions instead of reducing them. The Department can limit how much is added by keeping these provisions within the JDC regulation, and not adding an extra chapter so as to eliminate some of the issues that might occur by creating duplicative provisions across chapters.

Additionally, the workgroup chose to model the new provisions on the existing postdispositional sections of the JDC regulation to help with consistency and in a format familiar to the JDCs.

At the NOIRA stage, the proposed language is not presented to the Board. The proposed text is well under development and noted in the memo located in the Board packet. The Department expects the regulation to do the following:

- Establish a regulatory definition for CPP, which has not existed before.
- Establish criteria for the JDCs and alternative providers to accept placements in CPPs, including documentation on the JDCs department-issued certificate. For the foreseeable future, the Department is only intending to use CPPs in the JDCs but did want to include language in the provisions in the event CPPs are added to areas other than the JDCs.
- Establish basic eligibility criteria for the youth participating in the CPPs. The CPPs should have written program descriptions and establish minimum requirements for those descriptions.
- Address behavioral modification programs and documentation, case management services, and individual service plans within the CPPs.
- Establish requirements for progress reporting in the CPPs and for release from the CPPs.

In addition, the Department wants the programs and services currently governed by contractual agreements to continue to be governed primarily by those agreements to allow maximum flexibility for the Department and for the JDCs that have CPPs. However, the Department does want the regulation to require programs to operate only after those agreements are in place (in writing) and that the minimum requirements for those agreements be established. This will give more oversight in exactly what those agreements will entail.

The text is under development and on the way to being completed. The Department believes that the structure and framework will give a sound foundation for this regulation.

Mr. Davis completed his presentation and requested that the Board approve this approach and authorize the filing of the NOIRA to begin the standard regulatory process for the CPP regulation.

Board Member White asked about the representation on this workgroup. Mr. Davis responded that the workgroup members included Mr. Bailey from the Certification Unit, Deputy Director of Placement and Program Implementation, and several representatives from the JDCs that currently operate the CPPs.

Board Member White voiced her concern with the representation and the absence of feedback from the young people and their families. Board Member White said it should be the desire to have young people closer to home for successful family reunification and reducing recidivism and asked what type of feedback the agency has received about their experiences, such as process improvement opportunities. She also questioned how the agency can start implementing a process for including input from youth and families moving forward.

Mr. Davis responded that while the workgroup did not have that type of representation, public comment periods are established as part of the process. Public comment periods are required during the proposed stage and the final stage when the regulatory text is available for the public to review. This provides an opportunity for families and anyone else to offer feedback. The Department will have an opportunity, after the proposed stage, to review any public suggestions or concerns and take them into consideration to make any necessary changes to the text.

Board Member White expressed concerns about how the families who have no one advocating for them will know about the opportunity to provide feedback and stated her belief that the onus is on the Department to make sure that opportunity is abundantly clear and that this can be an opportunity for engagement. Board Member White continued by saying that she raised this point last year and has not seen any movement. She expressed her discomfort with the fact that those most impacted are not extended an extra opportunity to provide feedback.

Director Floriano responded that she appreciates the concern and explained that the Department has begun to develop a process to ensure equal treatment of its youth in the CPPs and to standardize the programs across the different locations. Through the Department's treatment teams and reentry advocates, the Department would be willing to spread information and get additional feedback from families.

The Board continued their discussion before voting on the motion. Director Floriano noted that the Department's Quality Assurance Unit regularly interviews families who want to be involved in treatment teams of the youth in the Department's care and will try to involve them in the process as the regulations are developed. Director Floriano reminded the Board that the motion put forward has identified a need to enact a regulation to ensure that CPPs are functioning at the level needed in order to provide solid rehabilitative care to youth.

The Board agreed to complete the motion and then asked for more information on the Department's family engagement.

On motion duly made by Tyren Frazier and seconded by Tito Vilchez, the Board of Juvenile Justice authorized the Department of Juvenile Justice to proceed with the filing of a Notice of Intended Regulatory Action pursuant to §2.2-4007.01 of the Code of Virginia to initiate the process for amending 6VAC35-101, Regulation

Governing Juvenile Secure Detention Centers, to add provisions related to community placement programs. All Board members present declared “aye”, and the motion carried.

Board Member Frazier asked Board Member White if she wanted to make a recommendation regarding the inclusivity of workgroups and putting a process in place. Board Member White responded that she believes there needs to be intentional engagement of young people and their families no matter where they are in the particular spectrum of the adjudication process. There needs to be some diversity and representation, and the ability to get their feedback.

Director Floriano agreed and suggested the Department establish a process to ensure feedback from the families on what would be helpful and for them to voice their concerns.

Board Member Frazier asked the Director if the Department could develop written guidance on youth and family engagement and share at an appropriate time at the next few Board meetings. Director Floriano answered that the Department can share the workgroup makeup and the plan for the workgroup engagement with families at an upcoming meeting. The Department can set guidelines on how this will work and how engagement will take place outside of the Department’s normal regular engagement. The Department will work through the process of what information can be revealed, assessed, and included.

Board Member Frazier remarked that the Board does not need to know the makeup of the workgroup for every single regulation, rather, the process or procedure the Department will establish to add inclusivity and gain the youth and family voice. Director Floriano voiced her understanding.

DIRECTOR’S CERTIFICATION ACTIONS

Ken Bailey, Certification Manager, Department

Mr. Bailey directed the Board to the packet, which contained the individual audit reports and a summary of the Director’s certification actions completed up to November 20, 2023.

The audit for the 20th District Court Service Unit in Loudoun found two deficiencies. Both deficiencies were corrected after presenting a corrective action plan, and the Director certified the 20th District Court Service Unit until October 27, 2026. There were a few significant events in the 20th Court Service Unit since the last audit. The 20th District consisted of two units, with 20W covering Warrenton and 20L covering Loudoun. On June 20, 2021, the two units combined into one court service unit with the main office in Loudoun. Another unique situation developed in June 2020 when Loudoun County Juvenile Detention Center was moved under the purview of the Department of Family Services.

The audit for the 24th District Court Service unit in Lynchburg received 100% compliance with a letter of congratulations. The Director certified the program until January 20, 2027.

The audit for the Highlands Juvenile Detention Center and Postdisposition Detention Program is a locally operated detention center in Bristol and received its second consecutive 100% compliance rating. The Director certified the program until January 13, 2027, and provided a letter of congratulations.

The audit for the James River Juvenile Detention Center and Postdisposition Detention Program found one deficiency on required documentation on room checks for residents in confinement. The follow up reviewed seven of seven confinement forms, and all had adequate documentation to show that checks were being conducted. The Director certified the facility until November 17, 2026.

The audit for the Norfolk Juvenile Detention Center and Postdisposition Detention Program was originally conducted on December 8, 2022 and was initially presented to the Director, who took action on August 2nd, to continue the current certification status until November 1, 2023, with documentation from Norfolk showing compliance with confinement room checks. In the initial follow-up for the audit report, the facility remained noncompliant in its documentation of required room checks. The follow-up review conducted on November 6 found that six of six room checks reviewed were conducted every 30 minutes. The facility's corrective action plan helped with their issues with documentation. The Director certified the program until January 14, 2026.

DIRECTOR'S COMMENTS

Amy M. Floriano, Director, Department

The Department has posted two positions for live interpreters within the facility, looking for individuals who are interested in working with youth in the facility for whom English is not their personal language. The Department is priming the interpreter to allow for variances in dialect. Some youth may have problems understanding the dialect and need a way to talk through things with staff and ensure they are fully aware of what is going on around them. These wage positions are the fastest way to bring on employees.

The Winter Intervention Program at Bon Air Juvenile Correctional Center will be conducted by Dr. Johnson from the Violence Intervention Unit. Eight female and 16 male residents have been identified to participate in this two-week, intensive intervention program. This program was conducted last summer between school sessions, and the youth enjoyed it and had a positive experience. Dr. Johnson has offered to provide an update on the program at the next Board meeting if the Board desires.

BOARD COMMENTS

Chairperson Vilchez thanked the Board members for a wonderful year, and for attending meetings, asking great questions, and providing good comments. Chairperson Vilchez also thanked Department staff, especially Ms. Peterson and Mr. Davis for their wonderful work.

Chairperson Vilchez concluded the meeting by wishing those present and their families a wonderful holiday.

NEXT MEETING

The 2024 meeting schedule will be issued shortly.

ADJOURNMENT

Chairperson Vilchez adjourned the meeting at 11:13 a.m.