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Tyren Frazier, Vice-Chair  
Robert Vilchez, Secretary  
David R. Hines  
Scott Kizner  
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## COMMONWEALTH of VIRGINIA

### *Department of Juvenile Justice*

# MEETING MINUTES

November 13, 2019

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

**Board Members Present:** Tyren Frazier, Scott Kizner, Greg Underwood, Robert “Tito” Vilchez, and Jennifer Woolard

**Board Members Absent:** David Hines, Robyn McDougale, Quwanisha Roman, Dana Schrad

**Department of Juvenile Justice (Department) Staff Present:** Ken Bailey, Melinda Boone, Valerie Boykin, Ken Davis, Mike Favale, Stephanie Garrison, Stephanie Green, Joyce Holmon, Linda McWilliams, Mark Murphy, Margaret O’Shea (Attorney General’s Office), Shaun Parker, Jamie Patten, Kristen Peterson, Jessica Schneider, Beth Stinnett, James Towey, and Angela Valentine

**Guests Present:** Marilyn Brown (Chesterfield County Juvenile Detention Center), Kerry Chilton (disAbility Law Center of Virginia), Erin Madden (Office of the Lieutenant Governor), Erika Rains (New River Juvenile Detention Center), Cathy Roessler (Blue Ridge Juvenile Detention Center), Amy Woolard (Legal Aid Justice Center), and Joseph Young (New River Juvenile Detention Center)

### CALL TO ORDER

Chairperson Jennifer Woolard called the meeting to order at 9:43 a.m.

### INTRODUCTIONS

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

### APPROVAL of June 19, 2019, MINUTES

The minutes of the June 19, 2019, Board meeting were provided for approval. On motion duly made by Tyren Frazier and seconded by Jennifer Woolard, the Board approved the minutes as presented.

### PUBLIC COMMENT PERIOD

There was no public comment.

## **DIRECTOR'S CERTIFICATION ACTIONS**

Ken Bailey, Certification Manager, Department

Included in the Board packet were the individual audit reports and a summary of the Director's certification actions completed for July and October 2019.

The Fairfax Boys Probation House requested to repurpose by renovating and moving into an old shelter care facility and to change their age capacity. The Certification Team performed their audit on the new location, and it met all the physical plant requirements. The Department Director approved the relocation and the age range. The Fairfax Boys Probation House will have their current certification continue and remain in effect until July 2020.

The Shenandoah Valley Juvenile Center was certified for three years and received a congratulatory letter for 100% compliance.

Summit Transitional Living Program is a new facility that has challenges but is showing improvement. The Department Director reviewed the audit report, and requested a status report in December. The Summit Transitional Living Program will continue its current certification.

Some court service units are having difficulty complying with the new implementation requirements for the reentry program causing the audit team to find documentation issues. The audit for the 16<sup>th</sup> Court Service Unit found six deficiencies. A follow-up review on August 19 found all but one deficiency, a failure to properly document, had been corrected. The DJJ Director certified the 16<sup>th</sup> Court Service Unit until September 13, 2022, with a status report from the Regional Program Manager due in June 2020.

The audit for the 26<sup>th</sup> Court Service Unit found seven deficiencies. The Certification Team conducted a status follow-up on August 5 and found the unit 100% compliant. The DJJ Director certified the 26<sup>th</sup> Court Service Unit until July 19, 2022.

The audit for the Chesterfield Juvenile Detention Center and Post-Dispositional Program found two minor deficiencies, which were corrected prior to the Certification Team's status follow-up. The DJJ Director certified the facility until October 28, 2022.

Board Member Greg Underwood asked what jurisdictions encompass the 16<sup>th</sup> and 26<sup>th</sup> Court Service Units. Regional Program Manager Stephanie Garrison responded that the 16<sup>th</sup> unit includes Albemarle, Charlottesville, Culpeper, Fluvanna, Goochland, Greene, Louisa, Madison, and Orange. Director Valerie Boykin said the 26<sup>th</sup> unit includes Winchester, Harrisonburg, and surrounding counties.

## **BOARD OF JUVENILE JUSTICE ELECTIONS**

The bylaws for the Board of Juvenile Justice authorize the election of a Chairperson, Vice-Chairperson, and Secretary from its membership. Each officer must be elected by the Board at its first regular meeting of the fiscal year. Officers serve for a term of one year and are eligible for re-election.

Chairperson Woolard asked for nominations from the Board members for the three positions.

On motion duly made by Scott Kizner and seconded by Tyren Frazier, the Board of Juvenile Justice approved the nomination of Jennifer Woolard as Chairperson.

On motion duly made by Jennifer Woolard and seconded by Tito Vilchez, the Board of Juvenile Justice approved the nomination of Tyren Frazier as Vice-Chairperson.

On motion duly made by Tyren Frazier and seconded by Jennifer Woolard, the Board of Juvenile Justice approved the nomination of Tito Vilchez as Secretary.

### **NEW RIVER VALLEY JUVENILE DETENTION CENTER VARIANCE EXTENSION**

Kristen Peterson, Regulatory and Policy Coordinator, Department

New River Valley Juvenile Detention Center (New River Valley) is seeking an extension to the variance originally approved by the Board in January 2014. This variance is to the regulatory requirement set out in 6VAC35-101-520, which requires juvenile detention centers to have a control room that integrates the internal and external communication networks and the security functions of the facility. The control center must be staffed 24 hours a day and secure from juvenile access. New River Valley has never had a control center since they began operating in 1974, and they are seeking an extension of the 2014 variance.

The Board has the authority to issue variances and establish a duration for that variance. New River Valley requested that the Board grant the variance on a permanent basis. New River Valley has never had a control center and must continuously seek variance extensions from the Board every few years. The Board may issue a variance on a permanent basis.

The Regulation Governing Juvenile Secure Detention Centers is moving through the regulatory process. The workgroup looked at this provision specifically and questioned whether the regulation should be amended to accommodate New River Valley's nonexistent control room. The workgroup recommended retaining this provision because New River Valley currently is the only facility not able to comply with the regulation.

Ms. Peterson introduced the New River Valley Juvenile Detention Center Superintendent, Joe Young.

Chairperson Jennifer Woolard asked Mr. Young to describe how things work at New River Valley without a control room.

New River Valley is located in Christiansburg and was built in 1974. New River Valley has always operated without a control center and, according to Mr. Young, has done well. In January, the facility was deemed 100% compliant on their certification audit. The facility averages ten youth and is licensed for 24. There are cameras throughout the facility with no blind spots. The facility's receptionist, the superintendent, the deputy director, the school principal, and the shift supervisor on duty monitor the cameras. Staff have two-way radio and intercom communications in every room a youth can access. Mr. Young noted that through

the years, New River Valley has learned to adapt and meet the spirit of the regulation. New River Valley asked for a permanent variance or an extension of the existing variance until the facility is renovated. Renovation plans have been put on hold, but if approved to move forward, a control room will be added to fully comply with the regulation.

Board Member Tyren Frazier asked Mr. Young to talk about the renovation or update plans.

New River Valley started the study in 1999. They went through the process of renovation up until the drawing of plans when the detention population dropped, which caused a decrease in funding. Mr. Young's Board is evaluating how to fund the renovation, which is currently estimated at \$7 million to bring everything up to code. New River would still like to pursue the renovation and are in contact with architects.

Board Member Tyren Frazier wanted to verify that bringing the renovation "up to code", means including a space for the control room. Mr. Young responded affirmatively.

Director Valerie Boykin raised the concern that a permanent variance might hurt New River Valley's opportunity to secure funding for the renovations. Mr. Young confirmed this was a concern.

Board Member Tyren Frazier asked if the Board could make the extension longer than normal but not permanent.

Chairperson Jennifer Woolard said the variance period could be as long as the Board deemed necessary. Chairperson Woolard noted her understanding that a permanent variance, if granted, might give the impression that renovations are not needed. Currently, New River Valley is creative with their control room circumstance, and ideally, will move forward with renovation at some point. Chairperson Woolard expressed her comfort with continuing the five-year variance as done in the past.

Board Member Tyren Frazier said he might be inclined to grant a ten-year variance, noting that this might be a stretch considering other variances issued by the Board. Board Member Scott Kizner agreed with the five-year period.

On motion duly made by Scott Kizner and seconded by Tito Vilchez, pursuant to 6VAC35-20-92, the Board of Juvenile Justice approved an extension of the variance that exempts New River Valley Juvenile Detention Center from the regulatory requirement provided in 6VAC35-101-520. The regulation requires secure juvenile detention centers to have a control center, secured from residents' access and staffed 24 hours per day that integrates all external and internal security functions and communication networks. This variance shall remain in effect for five years or until New River Valley Juvenile Detention center undergoes renovations, whichever occurs first.

## **FISCAL YEAR 2019 HUMAN RESEARCH REPORT**

Jessica Schneider, Research Manager, Department

The Research Unit is responsible for external human research studies that vary in complexity and agency involvement. During FY2019, the Department's Research Unit approved five new studies and have 24 active studies.

Historically, the Research Unit has experienced problems with researchers involved in ongoing studies dropping communication. In the past year, the unit focused on contacting delinquent researchers in order to receive their progress or final reports. The unit tracked down several final reports and closed them out. It is important the agency learn the study outcomes in order to benefit from the results. For instance, after the conclusion of a successful photography program in a court service unit, the youth provided positive feedback. This evaluation showed that the program did what it intended, had a good outcome, and the agency learned the program did well.

Researchers are, at times, unaware of the regulations. They reach out directly to Department staff to ask them to participate in a study that has not been approved by the Research Unit. Department staff have learned the correct process and provide the information to the Research Unit. It is a challenge to prevent external researchers from reaching out directly.

There has been one potential violation of the regulation committed by Westat, which conducted a study addressing the Prison Rape Elimination Act by asking a series of questions to the residents at Bon Air. Data collection was completed, and Westat included protocols and forms for Spanish speaking youth that were not approved in advance by the Department, even after prompting. The Research Unit has struggled with getting a proper response from Westat to ensure the residents' rights as study participants were not violated. It is challenging to get external researchers to comply with the Department's process.

Chairperson Woolard has collaborated with Westat and offered her help with contacting them. Ms. Schneider accepted.

Ms. Schneider indicated that researchers are sometimes surprised by the Department's in-depth and detailed process for research studies, and struggle with why the Department's process is important. They are accustomed to getting quick and easy approvals from their universities or organizations. The Research Unit continues to communicate with researchers to explain the regulation.

Chairperson Woolard inquired about the general timeframe for processing an application.

Ms. Schneider responded that many factors influence the timeframe. The Research Unit receives a proposal and can usually ascertain whether the university or organization has a strict and rigorous Institutional Review Board (IRB) based on the quality of the proposal. It may require a few conversations about what the Research Unit needs and how operations will impact their study. The Research Unit receives the proposal, the Committee convenes to review, and a decision is made, which takes a minimum of two months. Frequently, it takes longer because the submitted proposal lacks detail or contains assumptions that are not feasible. The process involves coaching, communicating, and revising. The Research Unit tries for a quick turnaround, but it can take a year to complete.

Chairperson Woolard asked if the Research Unit provides resources to help researchers with the process.

The Department has a page on its website specifically dedicated to research studies. It includes a flow chart to help the researcher determine whether they should seek aggregate data, case specific data, or conduct a human research study. The procedure is also available on the website, as well as a consent form that the unit borrowed from VCU's website; however, most universities and organizations use their own consent form.

Board Member Scott Kizner asked if most requests were from graduate students.

Ms. Schneider responded that there tends to be a mix. The Research Unit receives many requests from students and the unit ensures their advisors or professors are involved in all communications because sometimes students are confused by the process. There are also requests from professors at universities, researchers with research organizations such as Urban Institute, Child Trends, or Westat. Organizations receive grants to help with their research and collaborate with the Department.

#### **REGULATORY UPDATE**

Kristen Peterson, Regulatory and Policy Coordinator, Department

The regulatory update is on page 129 of the Board packet. The Governor's Office has approved amendments to the Regulation Governing Juvenile Correctional Centers at the proposed stage of the process and it is currently undergoing public comment. The public comment period is 60 days and expires on November 29, 2019, after which time the Department will have 180 days to make additional changes to the regulation to address the public comments received. The regulation will then be presented to the Board for consideration.

The Department neglected to incorporate language from 2012 legislation into its Public Participation Guidelines. The amended language ensures interested parties are afforded the opportunity to be represented by counsel, if needed, when the Board considers regulatory actions. The 2012 language has been added to the regulation, and the regulation took effect on October 31, 2019.

The Department introduced a change to the Regulation Governing Juvenile Secure Detention Centers regarding contracts entered into with separate entities. When juvenile detention centers contract to house residents under the custody of a separate entity, a provision should be included in the contract that gives the Department the same access to the juveniles in those programs as they currently have with all other juveniles at that detention center. The provision took effect on August 22, 2019.

#### **REGULATION GOVERNING MINIMUM STANDARDS FOR RESEARCH INVOLVING HUMAN SUBJECTS OR RECORDS OF THE DEPARTMENT OF JUVENILE JUSTICE; REQUESTS SUBMITTED THROUGH THE VIRGINIA LONGITUDINAL DATA SYSTEM**

Kristen Peterson, Regulatory and Policy Coordinator, Department

Ms. Peterson reminded the Board that proposed amendments to the regulation governing human research were discussed at the June Board meeting. Several recommendations made in June sought to address

confusion generated by changes to the regulation in 2016. The Board voted to approve those amendments but, unfortunately, failed to address external case specific data requests submitted through the Virginia Longitudinal Data System (VLDS). Since October 2017, the Department has been a part of VLDS, which allows data researchers and external parties access to research from multiple agencies. A number of agencies are current participants in the VLDS, including the Department of Social Services and Department of Education. A researcher can submit a data research request through the VLDS and gain access to certain data across multiple agencies. This helps inform their policy based on the information obtained from the VLDS.

External case specific data requests are made from outside the Department for data on individuals who have touched the juvenile justice system. External case-specific data requests must undergo certain requirements in order to be approved. The Department's Coordinator of External Research reviews data requests and ensures all regulatory requirements are met, and an internal committee reviews the requests and determines if the scope should be narrowed. The Department Director has final approval authority.

One proposed amendment would allow the Chair of the Human Research Review Committee (HRRC) to approve data requests submitted through the VLDS, which would expedite the process. The expectation is for VLDS requests to be completed quicker than the Department's current drawn-out process. In order to align with the VLDS process, the proposal removes the Department Director from the review process, and gives the Chair of the HRRC some authority to approve these data requests. The Chair will not have full authority to make this determination; requirements are set out in Subsection C on page 102 of the Board packet.

The other change the Department is recommending is to add a new Section 69 to address amending data requests that have gone through the process set out in Section 65. There is a process in place for minor amendments to human research proposals but no comparable process for data requests. The Department seeks to have the Chair of the HRRC approve the minor amendments to data requests that have already gone through the lengthy process.

The Department also proposes a minor change to Section 140. There is a process in place for expediting minor amendments to human research proposals. Under Subsection B, the HRRC is given authority to conduct expedited reviews if the proposal was reviewed and approved by another agency's HRRC, or the review involves only minor changes to a research project. The proposal adds language to clarify that if the proposal undergoes expedited review under subdivision B.2, the Chair of the HRRC would need to provide approval in writing.

These amendments are necessary to help research proposals and data research requests move more efficiently through the process and to allow the Department Director to concentrate on more significant human research proposals and data requests.

Chairperson Jennifer Woolard asked whether VLDS is essentially another portal for individuals to submit their requests. Ms. Peterson responded affirmatively. Chairperson Woolard followed up by asking if the Department was acknowledging the VLDS process in addition to the Department's process.

Ms. Schneider responded it would not be in addition to the Department's process, it would be in place of the Department's process. If a case specific request comes through the normal process, then the Department's internal committee would review and the Department Director would approve. Logistically, that does not work well through the VLDS portal because not all reviewers and approvers can have log-in access to the portal. The submissions would come through the VLDS portal, at which time the chair of the HRRC would review and approve it within the portal, bypassing the other steps in the process.

On motion by Jennifer Woolard, seconded by Tyren Frazier, the Board of Juvenile Justice approved the additional proposed amendments to 6VAC35-170, Regulation Governing Minimum Standards for Research Involving Human Subjects or Records of the Department of Juvenile Justice, as established on November 13, 2019. The Board grants the Department of Juvenile Justice permission to incorporate these additional amendments into the fast-track regulatory package for 6VAC35-170, approved by the Board on June 6, 2019.

#### **JUVENILE CORRECTIONAL CENTER VARIANCE EXTENSION AND CORRESPONDING WAIVER**

Kristen Peterson, Regulatory and Policy Coordinator, Department

In November 2014, the Department sought a variance to the regulatory requirement contained in 6VAC35-71-160, which is the regulation that governs minimum initial training requirements for juvenile correctional center staff. Section 160 currently provides that direct care staff and staff who are responsible for the direct supervision of residents receive at least 120 hours of training before they assume their direct supervision responsibilities. This provision is specific to direct care staff and direct supervision staff. Direct care staff are responsible for maintaining the security of the facility, the well-being of residents in the facility, and the implementation of the Department's behavior management program. Other staff are responsible for the direct supervision of residents, for maintaining the well-being and safety of residents, and for providing specific services to residents. For example, teachers, recreation staff, and mental health counselors are personnel considered direct supervision staff under the Department's current procedures.

In November 2014, the Department sought a variance to the regulatory requirement specifically applicable to direct supervision staff. The variance was intended to address the logistical challenges associated with providing training for the direct supervision staff, which are different from the direct care staff. Direct care staff typically are hired *en masse* and take their training together. Direct supervision staff have different attrition rates and rolling hire dates. The development and scheduling of the training often are logistically challenging for the Department's Training Unit. It may take several weeks or longer to schedule a three-week training course with enough individuals to participate.

The variance allows for direct supervision staff to break up the training hours. Personnel can receive the first 40 hours of required training in the topics listed in Subsection B of the regulation before assuming direct supervision responsibilities. Direct supervision staff must then receive the remaining 80 hours of training before the end of their first year of employment. This allows direct supervision staff to receive the necessary training to be able to successfully and safely interact with residents and then receive the remaining 80 hours of training after they assume their direct supervision responsibilities.



A number of compelling reasons support extending the variance. The first 40 hours of training provides direct supervision staff their essential instruction. Secondly, the Department is exceeding national standards, which require staff to receive 120 hours of training in their first year of employment. Third, the proposed amendments to the Regulations Governing Juvenile Correctional Centers require direct supervision staff to receive 80 hours of training initially and then 40 hours of training before assuming direct supervision responsibilities. Currently, direct supervision staff are receiving those 80 hours and are already complying with the proposed amendments to the regulation. Also, the variance has been in place for five years with no issues.

Board Member Scott Kizner referenced page 109 of the Board packet, which will require direct supervision staff to receive training in subdivisions B(1) through B(16) during the first forty hours, and asked what training direct supervision staff receive in the next 80 hours.

Director of Training and Operations Patrick Bridge explained how the Training Academy implemented the 2014 variance. The training staff worked with Deputy Director of Residential Services Joyce Holmon on a training plan to include 80 hours of initial training at the academy for two weeks. Those initial 80 hours addressed most of the 16 topics in Subsection B. There is one hard-to-define topic dealing with other responsibilities specific to a role that covers the remaining 40 hours of training. Each of those direct supervision roles has an on-the-job training curriculum checklist specific to that role managed at the facility.

Board Member Scott Kizner asked if direct supervision staff receive 40 hours or 80 hours of initial training before they start work with residents.

Mr. Bridge responded that although the variance requires 40 hours of initial training, direct supervision staff currently receive 80 hours of initial training, and the pending regulation will solidify what the training academy does in practice.

Ms. Peterson explained that the Department is seeking to extend the variance for an additional three years or until the proposed amendments to the juvenile correctional center regulation take effect.

Board Member Kizner asked if the Department receives feedback from staff on the training.

Mr. Bridge answered that every training provides the opportunity for feedback. The training academy reviews the input and makes amendments.

Board Member Scott Kizner asked if the Department knew the retention rate of the direct supervision staff.

Deputy Director Joyce Holmon replied that the Department's Human Resources Office does keep track of attrition rates and that the information can be provided. Director Valerie Boykin acknowledged retention can be a challenge in the residential facilities and court service units. The Department provides a lot of training, and it is unfortunate when staff move on to other opportunities.

Chairperson Jennifer Woolard asked for confirmation that the variance will continue to authorize the initial 40 hours of training and that the 80 hours of training is completed towards the end of their first year of employment, but that functionally, personnel are receiving the 80 hours before heading to the field. Ms. Peterson noted that was correct.

On motion duly made by Tyren Frazier and seconded by Scott Kizner, pursuant to 6VAC35-20-92, the Board of Juvenile Justice approved an extension of the variance to the regulatory requirement provided in subsection B of 6VAC35-71-160 that requires “direct supervision staff” in juvenile correctional centers to complete at least 120 hours of initial training, inclusive of the topics specified therein, before being responsible for the direct supervision of a resident. The variance shall continue to authorize direct supervision staff to complete an initial 40 hours of training before assuming direct supervision responsibilities and the remaining 80 hours before the end of their first year of employment. This variance shall remain in effect until 6VAC35-71 is amended or for three years, whichever occurs first.

**CONSIDERATION OF REQUEST TO SUBMIT NOTICE OF INTENDED REGULATORY ACTION (NOIRA) FOR REGULATION GOVERNING STATE REIMBUREMENT OF LOCAL JUVENILE RESIDENTIAL FACILITY COSTS AND FOR THE REGULATION GOVERNING MENTAL HEALTH SERVICES TRANSITION PLANS FOR INCARCERATED JUVENILES**

Kristen Peterson, Regulatory and Policy Coordinator, Department

In late 2018 and the beginning of 2019, the Department began embarking on a process to bring the agency into compliance with the statutory requirement that directs state agencies and boards to review their regulations every four years. Unfortunately, the Department has fallen behind in complying with the periodic review requirement. The Department’s process involves publishing an announcement in the Virginia Regulatory Town Hall, reviewing public comment, and using that information to develop a report to recommend either amending, retaining, or appealing the various regulatory chapters. Two regulatory chapters are before the Board. The Department is asking the Board to approve the filing of a NOIRA to start the process for amending these separate regulatory chapters: (i) the Regulation Governing State Reimbursement of Local Juvenile Residential Facilities; and (ii) the Regulation Governing Mental Health Services Transition Plans.

The state reimbursement regulation is currently in place to effectuate the statutory provision in 16.1-309.5, which requires states to provide 50% reimbursement of the costs associated with renovating, enlarging, or constructing local juvenile facilities. Although that statutory provision is in place, there is a moratorium on reimbursement funding that has been in effect for several years. However, the statutory provision still requires the Board to promulgate regulations to establish the criteria for evaluating reimbursement requests. Thus, these regulations need to be maintained. Although reimbursement funding is frozen, and has been for some time, the General Assembly typically adds a provision to the Appropriation Act that allows reimbursement funding for emergency maintenance projects. There is also a requirement that authorizes localities to pursue legislative enactment to receive reimbursement funding. In light of the moratorium on funding, the Department would like to simplify these regulatory provisions.

The Department does not have proposed language as the NOIRA is the first stage of the regulatory process. The purpose of the NOIRA is to put the public on notice that the Department is planning to review these regulations and make amendments.

The current regulations require localities engaged in these projects to comply with these regulatory requirements regardless of whether they are actually seeking reimbursement. The Department is contemplating simplifying the process for localities that do not intend to seek reimbursement. In addition, the current regulation contains a complicated funding formula that localities must follow when determining construction costs for reimbursement. The Department has discussed the possibility of simplifying or removing the funding formula.

If the Board approves the request to initiate the NOIRA, the Department would follow this process: the NOIRA would be submitted to the Virginia Regulatory Town Hall, the Department of Planning and Budget (DPB) would review, the Cabinet Secretary may or may not review depending on the DPB's recommendation, and then the Governor's Office would review and approve.

The Mental Health Transition Plans regulations seek to establish a process for providing post-release services to residents in post-dispositional programs and juvenile correctional centers as they transition out of commitment or detainment. The regulations specifically target residents identified as having a mental health treatment or substance abuse need. The Department would like to review current requirements; remove indefinite or vague terms; simplify language; clarify roles; change requirements related to the current memorandum of understanding with court service units, post-dispositional programs, and local community providers; and narrow the category of youth for whom mental health services transition plans are required. The Department is convening a workgroup to review both regulations.

Chairperson Jennifer Woolard recapped that the Department would like to announce they are beginning to review and potentially propose changes to these two regulations. Ms. Peterson affirmed. Chairperson Woolard asked for clarification on the process. Ms. Peterson explained that while the NOIRA is moving through the regulatory process, the workgroup will be drafting proposed amendments to the regulation. The Department hopes to have those proposed amendments ready for the Board's consideration at the March meeting. Chairperson Woolard noted that today's request is to start the process. Ms. Peterson said that was correct.

On motion by Jennifer Woolard and seconded by Tyren Frazier, the Board of Juvenile Justice granted the Department of Juvenile Justice authorization to proceed with the filing of a Notice of Intended Regulatory Action (NOIRA) pursuant to § 2.2-4007.01 of the Code of Virginia. The NOIRA shall initiate the process for amending 6VAC35-30, Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs.

On motion by Jennifer Woolard and seconded by Tito Vilchez, the Board of Juvenile Justice granted the Department of Juvenile Justice authorization to proceed with the filing of a Notice of Intended Regulatory Action (NOIRA) pursuant to §2.2-4007.01 of the Code of Virginia. The NOIRA shall initiate the process for

amending 6VAC35-180, Regulation Governing Mental Health Services Transition Plans for Incarcerated Juveniles.

## REVIEW OF BYLAWS

James Towey, Legislative and Regulatory Affairs Manager, Department

Pursuant to the bylaws, the Board has the authority to amend the bylaws at any regular meeting as long as there is proper notice. In addition, in accordance with Section 7.01 of the bylaws, the Board is required to perform an annual review of the bylaws to ensure compliance with any amendments that may have been made to the applicable sections of the *Code of Virginia* during the last session.

At the Board's June meeting, the Department briefed the Board on the passage of legislation regarding training standards for resident specialists. The Department sponsored legislation (HB 2438) during the 2019 General Assembly session to transfer the power and duty of establishing training standards for juvenile correctional officers, (known as resident specialists) from the Department of Criminal Justice Services (DCJS) back to the Board. The Board had this responsibility prior to 2012. In 2012, those training standards for juvenile correctional officers were in § 9.1-102, a DCJS section specific to jail officers, local and regional jails, and correctional officers from the Department of Corrections. In 2012, juvenile correctional officers had more things in common with how facilities were operated by jail officers and correctional officers. In 2014, with transformation and implementation of the community treatment model, things started to change. While the resident specialist positions continue to have a security component, they now take more of a therapeutic rehabilitative approach. The training standards were not being updated to fit the new approach. The Department discussed moving this role and responsibility back to the Board from DCJS; the Secretary of Public Safety and Homeland Security and the Governor's Policy Team approved, and legislation was successful.

Pursuant to *Code of Virginia* language, the Board is required to have expertise in juvenile justice in addition to having at least two members with experience in education. The Department believes the Board is the better body to approve training standards because they are familiar with the juvenile justice system. The Department has little in common anymore with jail officers and correctional officers. The Department is in the process of developing training standards that are properly suited to resident specialists. A workgroup was formed, has met twice, and has two meetings set for future dates. The Department anticipates presenting these training standards for the Board's consideration at the March meeting.

The Department is asking the Board to amend the bylaws to reflect this addition to the Board's powers and duties. Article 3, Section 3.01 of the bylaws lists the powers and duties of the Board, so in order to conform with the statutory change, language needs to be added to mirror the statutory language. In addition, a housekeeping measure in Section 2.07 under Quorum makes a technical change to insert the word "with".

On motion duly made by Tyren Frazier and seconded by Tito Vilchez, the Board of Juvenile Justice approved the amendment to the Board of Juvenile Justice Bylaws, Article III, Section 3.01, to conform to the amendments made to the *Code of Virginia* §§ 9.1-102(9) and 66-10 by the 2019 session of the General Assembly of Virginia, to add to the Board's powers and duties that of establishing compulsory minimum

entry-level, in service, and advanced training standards, as well as the time required for completion of such training for persons employed as juvenile correctional officers at a juvenile correctional facility as defined in § 66-25.3. The Board also approved the addition of the word “with” in Article II, 2.07 of said Bylaws.

## **VIRGINIA’S STANDARDIZED DISPOSITION MATRIX (SDM)**

Stephanie Garrison, Regional Program Manager, Department

The Department introduced its first risk assessment tool in 2003 called the Detention Alternative Instrument (DAI). It starts with the youth’s arrest for an offense in the community. Police officers collaborate with intake officers to make a decision as to whether the youth is eligible for placement in a detention center.

The second assessment tool the Department introduced in 2007 was the YASI (Youth Assessment Screening Instrument). The YASI is an assessment of the youth’s risk for reoffending after being placed in the juvenile justice system. YASI also has a case plan component, which guides probation, direct care, and parole services.

The Department now has a risk assessment at adjudication and the hearing stage called the Standardized Disposition Matrix (SDM), which is designed to measure risk, public safety, and offense severity. The tool is intended to guide probation officers’ disposition recommendations to the court.

The summary below follows the presentation, which is on page 131 of the Board packet.

### **Slide Two:**

For the SDM, the Department underwent an entire system assessment initially conducted by the Annie E. Casey Foundation. They identified some inequities at the point of disposition and invited the National Council on Crime and Delinquency (NCCD) to perform a deeper dive into the Department’s disposition data. Disposition data is loaded into BADGE, the Department’s main database, and can also pull data from the Supreme Court. That data was analyzed with a sample size of 1,600 cases, and the NCCD identified issues in the Department’s system. The issues included decisions made in court recommendations given by probation officers, collaborations between attorneys, and the final decision by the judge. There were inconsistencies in dispositions based on geography, on race, and by court service unit. These were subjective decisions. The SDM tool is creating a process of consistency where probation officers are required to perform an assessment by using the SDM. The SDM is a tool in BADGE that probation officers are required to run information through and the system generates a range of disposition options.

### **Slide Three and Four:**

The purpose of the SDM is to bring consistency, reliability, and equity. The YASI coincides with the SDM to make risk assessment recommendations and communicate with the SDM.

The design is about objective decision-making and recommending appropriate supervision levels, whether it be no supervision or tiers of supervision. The SDM is about informed decision-making based on an objective tool.

Juveniles with a similar legal history who are before the court for the same exact misdemeanor or felony should be treated the same, no matter where in the Commonwealth they are. Court recommendations should be fair and objective. The Department wants to evaluate internal disposition recommendation practices, be transparent as to the recommendations, improve upon those recommendations, and be fair.

The SDM also provides probation officers and attorneys (defense or Commonwealth's Attorney) an opportunity to collaborate outside court and discuss recommendations regarding the youth's life. The Department encourages probation officers to interface with attorneys. Whether through plea bargains or providing risk level recommendations, the Department wants to ensure that there is an opportunity for discussion. The SDM is not intended to replace the probation officers who are experts on the YASI and case planning.

**Slide Five:**

The slide shows a matrix of how the SDM looks on paper. This matrix was taken from data collected in 2017 and was placed in the matrix by the NCCD. The Department established a workgroup of 32 professionals including the judges from the five regions of the Department, individuals from the community, attorneys, and Department staff, and participated in facilitated discussions.

The cross section of this matrix is set up with the blue side representing YASI levels with low, moderate, and high-risk determinations. Across the top of the matrix in red are the types of offenses. The workgroup discussed the cross sections regarding the level of ranges, and whether they should be changed, added, or deleted. Looking at "Low" in the blue column and "Misdemeanor I" in the red column, the cross-section would be the lowest level of supervision, "Level 1", which is zero. This would be a simple referral. If you looked at "High" in the blue column and "Felony" in the red row, the cross section would indicate "Level 3", which ranges from probation to commitment. The severity changes according to the risk level. The workgroup debated moving ranges.

**Slide Six:**

The slide shows categories of offenses and exclusions in the SDM.

- The Department is excluding status offenders because they have not committed a crime.
- Sex Offenses are excluded because they are a special population on whom, if a risk assessment is completed, generally, their risk would be low, which is a contradiction to the crime. The Department also wants to ensure a clinical assessment is submitted to the court, which drives the disposition and the SDM is not designed for that process.
- The Department has a current procedure in the Community Division that supports the graduated process of addressing non-compliant youth and wanted to ensure the probation officers continue to follow that procedure. Therefore, Technical Violations were excluded.
- Summoned Traffic Offenses are excluded; the probation officers have no contact with that summons. The Department did not want to include offenses that did not involve them directly, and most such offenses do not reach the level of Class 1 misdemeanors.

- Summoned Gaming, Fishing, Wildlife Offenses such as cow tipping, which is an animal cruelty charge. If a petition is filed against a youth for cow tipping, the Department will address it, but for youth who cow tip and get summoned, the Department will not be involved. Violation of local ordinances, curfews, and cases that are transferred to Circuit Court are not addressed in the SDM process.

**Slide Seven:**

Probation officers carry the SDM process from beginning to end.

**Slide Eight:**

The Department's technology unit built the SDM. It generates information from the database to come up with the disposition range.

**Slide Nine:**

If the court did not order a social history, a report can be generated from the SDM, and that recommendation can be given without a social history to the court. For cases where the social history is ordered, this disposition level will be placed in the recommendation section of the social history.

**Slide Ten:**

There are hearings in juvenile courts with adjudications where there is a continuation and disposition. This is the easiest process included in the SDM. Once a youth has been adjudicated, and an order issued for a social history, then the disposition recommendation is written. The courts will decide whether to follow the written recommendation.

**Slide Eleven:**

A more complicated process is the combined hearing. The Department wants to protect the rights of the juvenile and would like this process to take place before adjudication. The process allows a parent and child to volunteer to participate in an assessment interview. The Attorney General's Office has recommended that probation officers inform attorneys that the Department has discussed the assessment interview with the parent and youth before the interview proceeds. The Department drafted a letter that states the interview is voluntary, the Department will not abuse their rights, their attorney has been advised, and the youth is not required to participate. The Department hopes the youth participates because of the benefits of having this interview prior to court. The Attorney General approved both the letter and consent form.

Director Boykin noted this applies only in cases where there is a combined hearing. Some courts adjudicate followed immediately by disposition. Combined hearings are more challenging to ensure youth's rights are protected. It is valuable to have the information available to the court for the disposition.

Richmond juvenile court expedites next-day hearings, which is a combined adjudication and disposition.

The Department paid to customize YASI, which currently has two assessment screens. The Department designed a post-adjudication screen, which removed questions relevant to the current pre-adjudication process. It does not address the offense. With the YASI, historical information is collected (legal history,

family domain) and loaded into the software to develop a risk assessment. The goal is to protect the Sixth Amendment rights of the youth. The SDM was piloted in five court service units, and 85% of parents and youth consented to interviews prior to adjudication. Once the hearing is set, the Department completes the interview, and a report can be generated and filed with the clerk's office. In some instances, attorneys want that report, and the procedure allows for that report to be shared. At the adjudication disposition process, that recommendation is considered.

Board Member Tito Vilchez asked if the SDM replaces the pre-sentence investigation.

Ms. Garrison answered that no, the pre-sentence investigation (social history) will be included in the process, and the wording for the supervision level will be placed in the recommendation section.

Director Boykin followed up by stating that the SDM is an additional tool for sites that do not ask for a social history.

**Slide Twelve:**

There are five supervision levels. Level 1 is no supervision, and includes referrals and reporting of outcomes. Level 1 are youth who commit low-level offenses, are low risk, and need to do community service or anger management. Level 1 has no supervision provided, and no case plans.

**Slide Thirteen:**

Level 2 is a new level for some court service units that include post-disposition case management, which is not supervised probation. At this case management level, the probation officer has monthly contact with the youth and parent that may include community based services and crisis intervention. The YASI identifies areas of need that the probation officer should focus on. Level 2 has no community or risk-based supervision and no rules or case plans. This is an important level.

Chairperson Woolard asked if the lack of violations in this level is because there is no supervision or case plan. This is a connection to services level.

Ms. Garrison responded that at this level, the Department is asking the court to order case management. There can be a noncompliance with case management.

Director Boykin added that probation used to be the default for youth. These are youth who, based on the severity of their charge, do not necessarily need probation but do need services. Hopefully, there will be few situations where a violation is sought and ordered by the court, but that would be the only violation available.

**Slide Fourteen:**

Level 3 is code-driven supervised probation and requires face-to-face contact with the parent and the youth. The frequency of contact is based on the YASI risk level. It includes supervision rules, risk assessment, social history, and a case plan.



**Slide Fifteen:**

Level 4, out-of-home placement, is unique. Probation officers provide case management probation services for youth who are court-ordered to be placed outside of their home in any placement the Department determines to be best. A youth can be sentenced up to 30 days in detention. Youth in post-dispositional programs live in a detention center. There are also local and state funded placements through the Virginia Juvenile Community Crime Control Act (VJCCCA) or the Children Services Act (CSA) and other funding sources. Some parents have private insurance to use for youth placed outside of the home. Probation officers or case managers are required to secure funding. In case management, the manager can be a foster care worker or a probation officer because the Department has youth in both systems. If a youth is placed outside the home, that funding requirement has to be secured before disposition.

**Slide Sixteen:**

Level 5 is commitment. The probation officer is collaborating with direct care staff, and after the youth is released, provides parole supervision. Current placements are at Bon Air Juvenile Correctional Center, Community Placement Programs, and the Department's continuum of residential or group home placements.

**Slide Seventeen:**

The SDM has been in development for four years, and requires stakeholder trust and buy-in. The Department has important information that may help in making a decision about the placement of youth. The SDM matrix gives the Department an opportunity to discuss the appropriate placement with the court service unit.

The Department coordinated a six-month pilot for the SDM in five court service units in the five different regions. Three were rural regions, one region was suburban, and one was an urban court. Out of that pilot, the Department made changes to the SDM procedure and the tool. In June, the Department trained 518 court service unit staff, including probation officers, supervisors, and directors on the draft procedure. In August, the Department began implementation, a phased-in process that will end on December 31. The procedure will become final and begin for all court service units on January 1, 2020.

The "phase in" approach included the five Regional Program Managers providing technical assistance to the 34 court service units, and the requirement was for each court service unit Director to arrange stakeholder meetings to answer questions. Once that meeting is completed, the unit will set an implementation date. Currently, 11 of the 34 court service units have fully implemented the SDM.

Director Boykin noted that the Department had stakeholder representation in the development of the SDM that included judges, prosecutors, defense attorneys, and Department staff, in addition to the assistance of the National Council on Crime and Delinquency and the Annie E. Casey Foundation. The Department also tried to speak to other stakeholder groups to educate them on the SDM. The Department had an opportunity to provide a workshop at the spring judicial conference but could not get on their agenda for the summer conference. The Department talked to its Judicial Liaison Committee, Commonwealth's Attorneys' group, and may be invited to talk with the Commonwealth's Attorneys' Council in December. The Department

continues to have conversations and ensure that individuals and organizations understand the goals of the SDM.

Director Boykin noted that a lot of work went into the creation of the SDM and thanked Ms. Garrison and the team for their hard work. Over time the matrix may change based on what the Department has learned and what works for the young people.

Ms. Garrison said there has been hesitation from the judges because they associate this process with sentencing guidelines. The Department is trying to reassure them of its goal to examine its process and the fairness of the recommendations.

Chairperson Woolard asked if the mechanism for the recommendation ever deviates from the SDM.

Ms. Garrison responded that once the system generates the recommendation, the probation officer clicks a button that sends an email to the supervisor, who will then bring the probation officer into a case staffing meeting. They will discuss the appropriateness of the levels generated. This will allow the probation officer to stay within the range to mitigate down based on the information collected through the YASI and can also aggravate up based on the youth and family.

Chairperson Woolard asked if the research team will be evaluating the SDM as it continues.

Ms. Garrison responded that the research team has set up a database to collect the data from the pilots and has developed queries to put quality assurance measures into the database and in the future performance measures. The Department replicated Florida's performance measures. The evaluation will take place in two or three years.

## **DIRECTOR'S COMMENTS**

Valerie P. Boykin, Director, Department

Director Boykin welcomed Mr. Underwood to the Board and indicated that she looks forward to his guidance and support. Director Boykin thanked Ms. Schrad and Dr. Woolard for accepting the invitation to return to the Board.

The Department continues to work on its strategic framework to reduce, reform, replace, and sustain. An area of focus to continue to build is the continuum of services. There are a number of new programs. In July, the Department was able to add more functional family therapy (FFT) to the far western part of the state. The Department currently has multi-systemic therapy (MST) and FFT available in 129 of 133 counties/cities. The other major focus area is trying to reduce our footprint, and our desire to have smaller facilities closer to home. The Department continues to struggle with siting facilities, but still wants to have facilities closer to home and smaller in size. This will allow the Department to focus on high-risk young people who penetrate the system to the deep end that need more therapeutic work. The other major area of focus is to sustain. The Department continues to work on supporting staff by teaching them new skills and helping them develop proficiency.

During the summer, the Department welcomed two new team members. Dr. Lisa Floyd left in July and Dr. Melinda Boone stepped in as the Interim Superintendent of schools in August. School still opened on time. Dr. Boone is a former superintendent of Norfolk City schools and the former superintendent of Worchester, Massachusetts. In September, Linda McWilliams, a long-term DJJ employee who left and went to Maryland to be a Deputy Secretary for community programs and residential services, returned to DJJ to oversee community programs.

The Department hosted a Reentry Conference in September combined with Prison Rape Elimination Act (PREA) training. The Department is required to have PREA training annually, so it made sense to combine efforts. The conference drew over 400 people to Williamsburg for two days of intense and informative training. The Department, along with Virginia State University, DCJS, DOC, and the Petersburg Office of the Community Crime Control Act, sponsored a Racial Ethnic Disparities (RED) conference in early November. That event drew over 200 people in Petersburg. The Department is embracing RED, and the only way to learn and do better is to meet it head on by looking at the data and the practices. One of those practices the Department believes will help is SDM.

In 2010, the Department had over 800 youth committed to state care; currently, we have approximately 350 youth, and of those 350, approximately 200 are at Bon Air, and another 150 are in alternative placements. Part of the overall transformation is to look at alternatives to secure incarceration and find other avenues where youth's needs can be met closer to home. The Department's newest partnership is with Northern Virginia Juvenile Detention Center in Alexandria, which now houses the remainder of the female population. Girls are either housed at Northern Virginia or Merrimac. There are no girls in a juvenile correctional center in Virginia. The population of girls is around 10 in secure care.

The Residential Services Division and the Division of Education hosted a Back to School Family Day in September with over 400 family members in attendance.

The Division of Education introduced the welding and forklift simulators. Currently, seven youths have passed certification in the forklift simulator. The youth learn on a simulator, and leave campus to complete the certification test on a real forklift machine.

The Department sent a team to the Juvenile Detention Alternative Initiative conference in Seattle, and continue to learn about great work happening through the Casey Foundation.

The Department is testing a new positive youth development curriculum. The Department received a training grant and the staff of the 15<sup>th</sup> Court Service Unit are involved in testing that curriculum. Director Boykin will update the Board on this project at later meetings.

Director Boykin and Statewide Programs Coordinator Beth Stinnett participated in a series of webinars as part of the Casey webinar initiative. The webinar focused on the Department's reinvestment of funds. The General Assembly has allowed the Department to maintain \$40 million from the closures of the Reception and Diagnostic Center and Beaumont Juvenile Correctional Center. The Department reinvested that money

to rebuild its continuum of services. This national webinar was a great opportunity for the Department to share that good news. Stephanie Garrison is partnering with Justice System Partners, who provide leadership development to Department staff, and they are also participating in a webinar. The Department has worked with leadership development starting with supervisors. Supervisors touch every staff member who touches every youth/family. The Department's Juvenile Transformation Institute is in class number seven, and has trained 180 staff. In the current cohort, there are 30 employees registered who complete four months of leadership development training and a Capstone related to their work at their home site. The Department will conduct one more cohort, and use a train-the-trainer model for future sessions. This will also be built into the Department's overall training curriculum at the training academy. Reentry Manager Ashaki McNeil will participate in a webinar about reentry conducted by Georgetown University.

#### **BOARD COMMENTS**

There were no Board comments.

#### **NEXT MEETING**

The next Board meeting is scheduled for March 11, at Main Street Centre, 600 East Main Street, Richmond.

#### **ADJOURNMENT**

Chairperson Woolard adjourned the meeting at 12:04 p.m.