



**FINAL REPORT OF THE
VIRGINIA COMMISSION ON YOUTH**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**

**Study on Crossover Youth
Information Sharing**

REPORT DOCUMENT 594

**COMMONWEALTH OF VIRGINIA
RICHMOND
2021**



COMMONWEALTH of VIRGINIA

Commission on Youth

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November 1, 2021

TO: The Honorable Ralph S. Northam, Governor of Virginia

and

Members of the Virginia General Assembly

During the 2021 General Assembly Session, Senator George Barker introduced Senate Bill 1206. This bill through an enactment clause directed the Commission on Youth to make recommendations on best practices for crossover youth information sharing. After this bill was signed into law, at our May 3, 2021 meeting, the Commission on Youth approved a study plan to convene a work group and research the issues set forth in the legislation and to report findings and recommendations to the Governor and the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by November 1, 2021. At its October 19, 2021 meeting, the Commission approved the recommendations for this study. These recommendations are included in this report.

This report represents the work of many government and private agencies and individuals who provided input to the study. The Commission on Youth gratefully acknowledges their contributions to this effort.

Respectfully submitted,

A handwritten signature in blue ink that reads "Dave Marsden".

Dave W. Marsden

cc: The Honorable John S. Edwards, Chair, Senate Judiciary Committee
The Honorable Charniele L. Herring, Chair, House Courts of Justice Committee

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Senate of Virginia

David W. “Dave” Marsden, Chair
Barbara A. Favola
David R. Suetterlein

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Emily M. Brewer, Vice-Chair
Rob B. Bell
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I. Authority for Study

Section 30-174 of the *Code of Virginia* establishes the Commission on Youth and directs it to “study and provide recommendations addressing the needs of and services to the Commonwealth’s youth and their families.” This section also directs the Commission to “encourage the development of uniform policies and services to youth across the Commonwealth and provide a forum for continuing review and study of such services.” Section 30-175 of the *Code of Virginia* outlines the powers and duties of the Commission on Youth and directs it to “undertake studies and to gather information and data ... and to formulate and report its recommendations to the General Assembly and the Governor.”

During the 2021 General Assembly Session, the General Assembly and Governor approved Senate Bill 1206 on the confidentiality of the Department of Juvenile Justice department records. This bill provided that juvenile records may be open for inspection to the Department of Social Services or any local department of social services that is providing services or care for, or has accepted a referral for family assessment or investigation and the provision of services regarding, a juvenile, and these local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to such juveniles. In addition, this bill requested that the Commission on Youth convene a work group to review current data and record sharing provisions with regard to youth served by the juvenile justice and child welfare systems and make recommendations on best practices for the sharing, collection, and use of such data and records while respecting the privacy interests of youth and families.

The Commission adopted a study plan on crossover youth information sharing at its May 3, 2021, meeting. The mandate for the study stated as follows:

- The General Assembly and the Governor approved Senate Bill 1206 (Barker) introduced during the 2021 Session. This legislation’s second enactment clause directs:
 - The Virginia Commission on Youth shall convene a work group to include representatives from the Department of Juvenile Justice, the Department of Social Services, the Department of Behavioral Health and Developmental Services, the Department of Education, youth and families with lived experience in the juvenile justice and child welfare systems, representatives of Virginia juvenile justice advocacy groups, representatives of local public defender offices, and representatives from other relevant state or local entities. The work group shall review current data and record sharing provisions with regard to youth served by the juvenile justice and child welfare systems and make recommendations on best practices for the sharing, collection, and use of such data and records while respecting the privacy interests of youth and families. The work group shall report its findings and recommendations to the Governor and the Chairmen of the Senate

II. Members Appointed to Serve

The Commission on Youth is a standing legislative commission of the Virginia General Assembly. It is comprised of twelve members: three Senators, six Delegates, and three citizens appointed by the Governor.

2021 membership of the Virginia Commission on Youth is listed below.

Senator David W. “Dave” Marsden, Burke, Chair
Senator Barbara A. Favola, Arlington
Senator David R. Suetterlein, Roanoke County
Delegate Emily M. Brewer, Smithfield, Vice-Chair
Delegate Rob B. Bell, Albemarle
Delegate Joshua G. Cole, Fredericksburg
Delegate Karrie K. Delaney, Fairfax
Delegate Elizabeth R. Guzman, Woodbridge
Delegate Jerrauld C. “Jay” Jones, Norfolk
Deirdre S. “Dede” Goldsmith, Abingdon
Avi D. Hopkins, Chesterfield
Christian “Chris” Rehak, Radford

III. Executive Summary

During the 2021 General Assembly Session, the General Assembly and Governor approved Senate Bill 1206 on the confidentiality of the Department of Juvenile Justice department records. This bill provided that juvenile records may be open for inspection to the Department of Social Services or any local department of social services that is providing services or care for, or has accepted a referral for family assessment or investigation and the provision of services regarding, a juvenile, and these local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to such juveniles. In addition, this bill requested that the Commission on Youth convene a work group to review current data and record sharing provisions with regard to youth served by the juvenile justice and child welfare systems and make recommendations on best practices for the sharing, collection, and use of such data and records while respecting the privacy interests of youth and families.

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The Commission on Youth commenced its study and conducted two work group meetings with relevant stakeholders during the spring and summer on the following dates: May 19, and June 21, 2021.

Draft study findings and recommendations were presented at the Commission's September 20, 2021, meeting. The Commission received written public comment through October 14, 2021. After receiving public comment at the October 19, 2021, meeting, the Commission on Youth approved the following recommendations:

Recommendation 1

Request the Department of Juvenile Justice, Department of Social Services, and the Department of Behavioral Health and Developmental Services, respectively, to create or update guidance on youth information sharing for use at the state level and for dissemination and use at the courts service units, local departments of social services, and community services boards.

This guidance on information sharing should focus on, but not be limited to, detailing what information is to be collected and maintained by the department and local agencies, clarifying permissible reasons to share information, reasons to request information, the process for how information is to be shared, steps in place to protect information, procedures for obtaining informed consent, the statutory requirements from the federal as well as state government that controls the dissemination of information in the Department's possession, and steps to ensure staff is properly trained on information sharing protocols.

Guidance shall be open for comment on the Virginia Regulatory Town Hall public comment forum and once implemented at the state department and local level be made available to the public on their websites.

Recommendation 2

Amend the *Code of Virginia*, sections 63.2-104/63.2-105 to indicate that the immediate identification of and sharing of crossover youth status between local departments and court service units and community services boards is to be done in accordance with established agreements between the local agencies. Any court service unit or community services board to which such records are disclosed in accordance with an agreement shall not further disclose any information received unless such further disclosure is expressly required by law. The Chief Judge or designee, who oversees the jurisdiction where an agreement by local agencies is being made to share information, must review the agreement before it goes into effect.

Direct the Department of Social Services to create guidelines or best practices on what these agreements should entail.

Recommendation 3

Amend the *Code of Virginia* to direct the Department of Juvenile Justice to develop and biennially update a model memorandum of understanding setting forth the respective roles and responsibilities of court service units, local departments of social services, and community services boards regarding the information sharing of youth records.

This model memorandum of understanding may include topics on, who has access to youth information, a listing of the information that will be shared, reasons for use of shared information, privacy policies and any individual or parent/guardian notification requirements, and steps to be used to keep the information secure. This model memorandum of understanding shall be disseminated to local agencies for their adaptation and use.

In developing the model memorandum of understanding the Department of Juvenile Justice shall collaborate with the Department of Social Services, Department of Behavioral Health and Developmental Services, the Office of Children’s Services, Department of Criminal Justice Services, court service units, local departments of social services, community services boards, youth and family representatives, a nationally recognized expert on cross agency youth best practices, and any other interested stakeholders that it deems appropriate to biennially update the model memorandum of understanding.

The Department of Juvenile Justice or locally-operated court services units, local departments of social services, and community services boards in each local area serving youth shall enter into a memorandum of understanding that sets forth the responsibilities of each local agency regarding the information sharing of youth records. The provisions of such memorandum of

understanding shall be based on the model memorandum of understanding developed by the Department of Juvenile Justice, which may be modified by the parties in accordance with their particular needs.

Each adopted memorandum of understanding shall include agreements on the following, (i) the manner in which a multi-agency youth is identified and shared between agencies, including when at the point of court service unit intake, probable cause determination, and validated referral at a local department of social services, for older children, (ii) the manner in which past (non-ongoing) youth agency involvement is identified and shared, with the informed consent of the youth and guardian, and (iii) who at each local department is responsible for identifying potential crossover youth.

Each such court service unit, local department of social services, and community services board shall conduct at least yearly recurring cross-agency training on information sharing as a way to learn about other agency's protocols and to revisit and discuss the shared memorandum of understanding. Local agencies shall also review and amend or affirm such memorandum of understanding at least once every two years or at any time upon the request of either party.

Recommendation 4

Request the Department of Social Services, Department of Juvenile Justice, and Department of Behavioral Health and Developmental Services provide initial employee and ongoing training on youth information sharing for their local agencies, local departments of social services, court service units, and community services boards, respectively. Topics should include, but are not limited to, state and federal confidentiality laws, protocols for safe guarding data, and procedures on informed consent to release information.

Recommendation 5

Request the Office of Data Governance and Analytics to work with the Department of Juvenile Justice, Department of Social Services, Department of Behavioral Health and Developmental Services and other applicable stakeholders to create a plan to use the Commonwealth Data Trust to enable local departments to identify and share crossover youth status at the youth's initial contact point with an agency for purposes of service delivery.

This plan should identify what systems, and the records or information therein, that must be made available to the Data Trust to identify and share crossover youth status at initial point of contact with the respective agencies, what consents need to be obtained from the youth and guardians, what agreements need to be made between the relevant agencies as well as with the Office of Data Governance and Analytics, and what legislative or funding changes if any will be necessary to implement this practice. As part of this request, the Office of Data Governance and Analytics should also build a proof of concept to enable the Department of Juvenile Justice to work with local agencies to share de-identified data on multi-system involved youth between

each other, with the goal of local system improvement and trend monitoring. The Office of Data Governance and Analytics shall report back its findings and recommendations to the Commission on Youth by November 1, 2022.

Recommendation 6

Request the Department of Juvenile Justice (DJJ) to conduct a study using Virginia Longitudinal Data Systems (VLDS) data to analyze the crossover youth population in Virginia. The Department of Juvenile Justice shall work with the Department of Social Services and other relevant VLDS member state agencies on this study.

The Department of Juvenile Justice shall identify and interpret demographic data and available and relevant outcomes data on the crossover youth population. Additionally, DJJ shall make recommendations on how to improve the collection, sharing, and analysis of de-identified data based on this study. The Department of Juvenile Justice shall report back its findings and recommendations to the Virginia Commission on Youth by November 1, 2022.

Recommendation 7

Request the Commission on Youth to conduct a study in 2022 to look at how youth who are being provided services in the school, including mental health services, can be better supported as they transition to adulthood. This study should look at ways that the Community Services Boards can work with the transitioning student and family and the local education agency.

IV. Study Goals and Objectives

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STUDY ACTIVITIES

In its approved study plan the Commission on Youth listed the study activities to be committed throughout the year. They are as follows:

- Review and analyze laws, policies, and procedures related to the following:
 - Virginia Statutory Provisions on Confidentiality of Juvenile Records
 - Federal Educational Rights and Privacy Act (FERPA)
 - State and Federal Freedom of Information Act
 - Health Insurance Portability and Accountability Act (HIPAA)
 - Confidentiality of Substance Use Disorder Patient Records, 42 C.F.R. Part 2
- Conduct background and literature reviews:
 - Crossover youth information sharing laws and regulations in other states
 - Center for Juvenile Justice Reform – Crossover Youth Practice Model
 - Other available literature on information sharing
- Convene a work group of impacted stakeholders:
 - Commonwealth’s Attorneys
 - Community Services Boards
 - Court Service Units
 - Division of Legislative Services
 - Family and Youth Representatives
 - Legal Aid Justice Center

- Local Departments of Social Services
- Virginia Court Improvement Program – Supreme Court of Virginia
- Virginia Department of Behavioral Health and Developmental Services
- Virginia Department of Education
- Virginia Department of Juvenile Justice
- Virginia Department of Social Services
- Virginia League of Social Services Executives
- Virginia Poverty Law Center
- Public Defenders
- Present findings and recommendations to the Commission on Youth.
- Receive public comment.
- Prepare final report.

V. Methodology

The findings and recommendations of this study are based on a number of distinct activities conducted by the Commission on Youth.

A. WORK GROUP

In order to accomplish the work of this study, the Commission on Youth was directed to form a work group to make recommendations on best practices for the sharing, collection, and use of such data and records while respecting the privacy interests of youth and families. The work group was chaired by Senator Dave Marsden. The work group met on the following dates:

- May 19, 2021
- June 21, 2021

The work group consisted of representatives from the following organizations:

- Commonwealth’s Attorneys
- Community Services Boards
- Court Service Units
- Division of Legislative Services
- Family and Youth Representatives
- Legal Aid Justice Center
- Local Departments of Social Services
- Senate of Virginia
- Virginia Court Improvement Program – Supreme Court of Virginia
- Virginia Department of Behavioral Health and Developmental Services

- Virginia Department of Education
- Virginia Department of Juvenile Justice
- Virginia Department of Social Services
- Virginia House of Delegates
- Virginia Indigent Defense Commission
- Virginia League of Social Services Executives
- Virginia Poverty Law Center
- Virginia School Boards Association

A list of the work group members can be found under Appendix A at the end of this report. Due to the declared state of emergency related to the Covid-19 pandemic, this work group met electronically pursuant to Item 4-0.01 of the 2020 Appropriation Act. As such, all of these meetings remain accessible to the public in archive form on the Commission on Youth’s website.

The first work group meeting featured three presentations and included a roundtable discussion on the topic of information sharing. The second work group meeting focused on a roundtable discussion on draft recommendations on best practices for crossover youth information sharing. At the May 19, 2021, meeting the work group heard presentations from the Center for Juvenile Justice Reform at Georgetown University, the City of Alexandria’s Crossover Youth Practice Model team, and Maryland’s Department of Juvenile Justice. These presentations can be found in the appendices at the end of this report.

Staff also conducted a smaller legislative working group meeting, made up of work group members on July 26, 2021, to discuss potential legislative recommendations.

B. RESEARCH AND ANALYSIS

Commission on Youth staff reviewed literature related to crossover youth information sharing and the crossover youth practice model. Staff analyzed articles and publications from the Center for Juvenile Justice Reform, Robert F. Kennedy National Resource Center for Juvenile Justice, Models for Change, National Conference of State Legislatures, reports published pursuant to an Office of Juvenile Justice and Delinquency Prevention grant, and law review articles.

In order to get a Virginia specific understanding on these issues, staff reviewed the *Code of Virginia* and Virginia Administrative Code on the subject of confidentiality of information on youth. Staff mainly looked at the sections involving the Department of Social Services and the Department of Juvenile Justice. In addition, staff reviewed the Department of Social Services Child and Family Services Manual, including sections entitled *Confidentiality*, under the Child Protective Services chapter and *Opening and Maintaining the Case*, under the Foster Care chapter. Staff also did a thorough review of federal laws and regulations pertaining to confidentiality and privacy of youth records that Virginia must follow.

The direction of the work group also dictated a large focus on memorandums of understanding (MOUs) for dealing with crossover youth information sharing. To that end, staff received and used MOUs from the City of Alexandria, Center for Juvenile Justice Reform at Georgetown University, and other entities.

Finally, the Commission’s literature, law, and document research and review process was supported by interviews with national experts, public defenders, state and Local Department of Social Services employees, the Department of Juvenile Justice, community services board employees, a Court Service Unit director, and family and youth representatives. This input was crucial in putting together recommendations.

VI. Background and Analysis

A. BACKGROUND

Definition of Crossover Youth

The term “crossover youth” is broadly defined as a youth who has experienced maltreatment and also engaged in delinquency.¹ This is the broadest possible definition of a crossover youth. Understood sub-categories to this term are “dually-involved youth,” youth who are simultaneously receiving services, at any level, from both the child welfare and juvenile justice systems; and “dually-adjudicated youth,” encompassing only those youth who are concurrently adjudicated by both the child welfare and juvenile justice systems. Dually adjudicated youth is a subset term of dually involved youth.

When considering what gives a youth crossover status it is important to note that there are a number of pathways a youth can take that lead to being considered a crossover youth. One pathway is youth involved in the child welfare system and then the juvenile justice system. A second pathway is youth who have a history with the child welfare system but no current involvement at the point when they enter the juvenile justice system. The first two pathways are the most common ways for a youth to become a crossover youth. One study shows that 92% of crossover youth are first involved in the child welfare system.² Another pathway is youth who experience maltreatment but have no formal contact with the child welfare system and then enter the juvenile justice system. These youth are then in-turn referred to child welfare for services. The final pathway is youth who are involved in the juvenile justice system when they enter the child welfare system. The youth in this last group are those that leave state juvenile justice custody and do not have a home to go back to, so they enter into foster care.

¹ Herz, D. C., Ryan, J. P., & Bilchik, S. (2010). Challenges facing crossover youth: An examination of juvenile-justice decision making and recidivism. *Family Court Review*, 48(2), 305-321.

² Casey Family Programs. (2018, May 29). *Is there an effective practice model for serving crossover youth?* Retrieved October 20, 2021, from <https://www.casey.org/crossover-youth-resource-list/>.

That which is known about the demographics and patterns of the crossover youth population comes from studies compiled by national organizations that work on improving outcomes. Demographically speaking, 40% of crossover youth are female and 56% are African-American, which are both disproportionately high based on population.³ Additionally, 83% of crossover youth have documented challenges with mental health issues.

Also, a lot of the work in assisting this population focuses on the fact that maltreated youth are at a 47% greater risk for becoming involved in delinquency than youth from the general population.⁴ While it is not known what specific factors increase or decrease the risk of becoming a crossover youth once a youth experiences maltreatment, the studies that exist focus on placement, placement instability, and social bonds. What has been documented, however, is that crossover youth receive harsher processing outcomes compared to delinquent youth who have no prior or current connection to the child welfare system.

B. LAWS AND REGULATIONS ON PRIVACY AND CONFIDENTIALITY

Law and regulations that deal with the confidentiality or privacy of records for young people involved in the child welfare system or juvenile justice can be found at both the national and state level. Federal laws and regulations focus on either specific programs or goals that a federal law was designed to address or on a type of record, such as medical or educational. This section begins with an overview of the most relevant federal laws and regulations. Then this report turns to Virginia's laws and regulations used by the Department of Juvenile Justice and the Department of Social Services.

Federal Laws and Regulations

This section will review the Child Abuse Prevention and Treatment Act (CAPTA), Title IV-B and IV-E of the Social Security Act, the Juvenile Justice and Delinquency Prevention Act (JJDP), the Family Educational Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPAA) and substance use disorder patient records.

Child Abuse Prevention and Treatment Act (CAPTA)

In the context of social services many young people come to the attention of a state or local agency because of a report of child abuse and neglect. The Federal Child Abuse Prevention and Treatment Act (CAPTA) provides federal funds for states to improve child abuse and prevention efforts. This Act calls on states to submit a state plan and set certain standards for grant funds. Additionally,

³ Id.

⁴ Georgetown University Center for Juvenile Justice Reform & American Public Human Services Association. (2008). Bridging Two Worlds: Youth Involved in the Child Welfare and Juvenile Justice Systems: A Policy Guide for Improving Outcomes.

under this law, states are required to keep and record child abuse and neglect records to the federal government. In regards to confidentiality CAPTA states that:

The state has in effect and is operating a statewide program, relating to child abuse and neglect that includes— (viii) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child’s parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this subchapter and subchapter III shall only be made available to: ⁵

- (I) individuals who are the subject of the report;
- (II) Federal, State, or local government entities, or any agent of such entities, as described in clause (ix);
- (III) child abuse citizen review panels;
- (IV) child fatality review panels;
- (V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and
- (VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose.

Under CAPTA, states must keep child abuse and neglect reports confidential, except as allowed by federal law under certain exceptions. In situations where disclosure of confidential records is allowable, the authorized recipient of the information is bound by the same confidentiality rules as the releasing agency.

Title IV-B and IV-E of the Social Security Act

States also provide services to young people under Title IV-B and IV-E of the Social Security Act. In Virginia, the Department of Social Services is the Title IV-B and IV-E agency. IV-B funds go to support preventive intervention efforts so children are not removed from their homes. Additionally, IV-B funds support family support reunification efforts. Title IV-E funds are used by states for foster care, adoption assistance, and guardianship assistance programs. In 2018, the Family First Prevention Services Act expanded IV-E for certain services to prevent out-of-home placement for children.

According to Federal regulation, records maintained under Title IV-B and IV-E shall be safeguarded against improper disclosure.⁶ The regulation states that the use or disclosure of information concerning applicants and recipients of services is limited to certain purposes outlined in regulations. Similar to CAPTA, any disclosure of information “concerning individuals applying for or receiving financial assistance [under Title IV-E or IV-B] is restricted to persons or agency

⁵ Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5106a (2021).

⁶ 45 C.F.R. §205.50 (2020).

representatives who are subject to standards of confidentiality which are comparable to those of the agency administering the financial assistance programs.”

Juvenile Justice and Delinquency Prevention Act (JJDP)

The Juvenile Justice and Delinquency Prevention Act (JJDP) is another Federal law that includes rules about protecting client information. The targeted population of the JJDP are juveniles engaged or who have the potential to engage in delinquent behaviors. The JJDP provides grants to localities for programs, such as, interventions for status offenders and efforts to reduce ethnic disparities in the juvenile justice system.

According to the text of the JJDP, in order to protect the privacy of young persons who take part in grant funded programs, a state plan shall “provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan.”⁷ In Virginia the Department of Criminal Justice Services is the state’s JJDP agency.

Family Educational Rights and Privacy Act (FERPA)

The next three types of federal laws and regulations rather than being about a program or an issue, focus on the type of record being disclosed. Educational records are controlled by the Family Educational Rights and Privacy Act (FERPA) and health records are controlled by the Health Insurance Portability and Accountability Act (HIPAA). Finally, the Federal government’s disclosure rules on substance use disorder patient records are quite restrictive, so they require a separate overview. All three of these laws and regulations address records that are important in the context of crossover youth information sharing.

FERPA is commonly understood as the law “that affords parents the right to have access to their children’s education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records.”⁸

In general, FERPA provides that information in a child’s educational record may not be disclosed without the prior signed consent of the student’s parents.⁹ Some exceptions do exist, including other school officials, appropriate persons in connection with an emergency, officials of other schools when a student is transferring schools, and appropriate persons when the release of information is needed to comply with a judicial order or subpoena. In these situations FERPA prohibits further disclosure of records by the receiving entity unless signed consent is obtained.

⁷ Juvenile Justice and Delinquency Prevention Act, 34 U.S.C. §11133 (2021).

⁸ U.S. Department of Education. *What is FERPA?* Retrieved October 20, 2021, from <https://studentprivacy.ed.gov/faq/what-ferpa>.

⁹ Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (2011).

Additionally, FERPA was amended in 2013 by the *Uninterrupted Scholars Act* to allow disclosure of a student's education records, without parental consent, to a caseworker or other representative of a state or local child welfare agency authorized to access a student's case plan “when such agency or organization is legally responsible, in accordance with state or tribal law, for the care and protection of the student.” This applies to situations where a young person is in foster care.¹⁰

Health Insurance Portability and Accountability Act (HIPAA)

The Health Insurance Portability and Accountability Act (HIPAA) privacy rule protects all individually identifiable health information.¹¹ Under this rule, a covered entity may not disclose health information except as the privacy rules allows or by written consent of the person subject to the record.¹² Any written consent authorization, “must be in plain language, and contain specific information regarding the information to be disclosed or used, the person(s) disclosing and receiving the information, expiration, right to revoke in writing, and other data.”¹³ The situations where a covered entity may disclose protected health information without informed consent include the following:

- (1) To the Individual (unless required for access or accounting of disclosures);
- (2) Treatment, Payment, and Health Care Operations;
- (3) Opportunity to Agree or Object;
- (4) Incident to an otherwise permitted use and disclosure;
- (5) Public Interest and Benefit Activities; and
- (6) Limited Data Set for the purposes of research, public health or health care operations.

Substance Use Disorder Patient Records

The final type of record for discussion is substance use disorder patient records. Federal laws and regulations strictly limit the disclosure of diagnosis or treatment records from federally assisted programs.¹⁴ Release of information requires specific patient consent.

Allowable reasons for disclosure of substance use records without patient consent are extremely narrow. Substance use records may disclosed without patient consent only for medical emergencies, research, and audit and evaluations.¹⁵ Additionally, a court may authorize disclosure only if:

¹⁰ Id.

¹¹ 45 C.F.R. §164.502 (2020).

¹² U.S. Department of Health & Human Services Office for Civil Rights. (2003, May). Summary of the HIPAA Privacy Rule. <https://www.hhs.gov/sites/default/files/privacysummary.pdf>.

¹³ Id.

¹⁴ The Public Health and Welfare Act, 42 U.S.C. § 290dd-2 (2010).

¹⁵ 42 C.F.R. Part 2 (2020).

- (1) The disclosure is necessary to protect against an existing threat to life or of serious bodily injury, including circumstances which constitute suspected child abuse and neglect and verbal threats against third parties;
- (2) The disclosure is necessary in connection with investigation or prosecution of an extremely serious crime, such as one which directly threatens loss of life or serious bodily injury, including homicide, rape, kidnapping, armed robbery, assault with a deadly weapon, or child abuse and neglect; or
- (3) The disclosure is in connection with litigation or an administrative proceeding in which the patient offers testimony or other evidence pertaining to the content of the confidential communications.¹⁶

Because substance use records are so strictly protected, it is well understood that an individual patient's informed written consent is needed to share these types of records.

Virginia Laws and Regulations

Virginia's laws and regulations on record confidentiality address and follow federal laws where necessary. This section looks at how confidential information is handled by the Virginia Department of Juvenile Justice and the Department of Social Services in their *Code* and regulations sections.

Virginia Department of Juvenile Justice (DJJ)

The confidentiality of Virginia Department of Juvenile Justice records is controlled by §16.1-300 of the *Code of Virginia*. This section of the *Code* deals with the Department of Juvenile Justice records and states that “the social, medical, psychiatric, and psychological reports and records of children who are or have been (i) before the court, (ii) under supervision, (iii) referred to a court service unit, or (iv) receiving services from a court service unit or who are committed to the Department of Juvenile Justice shall be confidential and shall be open for inspection only to the following [enumerated persons or groups].”¹⁷ This *Code* section lists the persons who are allowed to inspect, including the judge, prosecuting attorney, probation officers, any public agency who is treating or providing services to the child pursuant to a contract with the Department of Juvenile Justice, the child's parent, any person who has reached the age of majority, et al.

Code of Virginia §16.1-300 was amended most recently in 2021 by Senate Bill 1206, to state that juvenile records may be open for inspection to the Department of Social Services or any local department of social services that is providing services or care for, or has accepted a referral for family assessment or investigation and the provision of services regarding, a juvenile, and these

¹⁶ Id.

¹⁷ *Code of Virginia* §16.1-300.

local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to such juveniles. This new subsection is written as follows:

The Department of Social Services or any local department of social services that is providing services or care for, or has accepted a referral for family assessment or investigation and the provision of services in accordance with subsection A of § 16.1-277.02 regarding, a juvenile who is the subject of the record and the Department of Behavioral Health and Developmental Services or any local community services board that is providing treatment, services, or care for a juvenile who is the subject of the record for a purpose relevant to the provision of the treatment, services, or care when these local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to juveniles who are the subject of the records. Prior to making any report or record open for inspection, the court service unit or Department of Juvenile Justice shall determine which reports or records are relevant to the treatment, services, or care of such juvenile and shall limit such inspection to such relevant reports or records. Any local department of social services or local community services board that inspects any social, medical, psychiatric, and psychological reports and records of juveniles in accordance with this subdivision shall not disseminate any information received from such inspection unless such dissemination is expressly required by law.¹⁸

This change was made to address the needs of crossover youth who are being served by the Department of Social Services or the Department of Behavioral Health and Developmental Services. Because this change in the law only recently went into effect on July 1, 2021, there is currently no available information on how it will be implemented. Senate Bill 1206, as passed, can be found at Appendix B at the end of this report.

In addition to detailing the persons or entities for whom the Department of Juvenile Justice records may be shared, the *Code of Virginia* also articulates penalties for improper disclosure or use of juvenile justice records. These include a class two or class three misdemeanor.¹⁹

The Department of Juvenile Justice also has extensive regulations governing juvenile information record keeping under 6 VAC 35-160, *Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System*. These regulations touch on a number of topics, including who is authorized to access records on a day-to-day basis, how records are to be kept safe, how to determine a requestor's eligibility to receive information, how to respond to a request for records, retention and expungement rules, and instructions for providing notice on the unauthorized disclosure of record information to recipients.

¹⁸ Id.

¹⁹ *Code of Virginia* §§16.1-225 and 16.1-309.

Virginia Department of Social Services (DSS)

The Virginia Department of Social Services laws on the use and disclosure of confidential records are found in two main *Code* sections, 63.2-104 and 63.2-105. Section 63.2-104 refers to all confidential records, except adoption records, held by the Department of Social Services, local departments and of all child-welfare agencies. This section categorizes “records, information and statistical registries” held by DSS as confidential and permits disclosure “to any person having a legitimate interest in accordance with state and federal law and regulation.”²⁰ The punishment for violating this law is a class one misdemeanor.

While § 63.2-104 is general, § 63.2-105 is specific to child protective services records and states:

The local department may disclose the contents of records and information learned during the course of a child-protective services investigation or during the provision of child-protective services to a family, without a court order and without the consent of the family, to a person having a legitimate interest when in the judgment of the local department such disclosure is in the best interest of the child who is the subject of the records.²¹

Section 63.2-105 also specifies several types of persons that have a legitimate interest in child-protective services records. All persons not specified must follow the rule as quoted above. Disclosure of information may occur without consent to (1) a person having a legitimate interest, (2) when in the judgment of the local department such disclosure is in the best interest of the child.

This rule is further expanded on by regulations. Section 22 VAC 40-705-160, *Releasing Information*, states:

The local department must consider the factors described in subdivisions 1, 2, and 3 of this subsection as some of the factors necessary to determine whether a person has a legitimate interest and the disclosure of information is in the best interest of the child:

1. The information will be used only for the purpose for which it is made available;
2. Such purpose shall be related to the goal of child protective or rehabilitative services; and
3. The confidential character of the information will be preserved to the greatest extent possible.²²

²⁰ *Code of Virginia* § 63.2-104.

²¹ *Code of Virginia* § 63.2-105.

²² 22 VAC 40-705-160. Additionally, for more information on DSS’ regulations, see 22 VAC 40-910-100. *Confidential client information pertaining to social services programs.*

As stated above, these factors are not exhaustive, and other factors can be considered by local departments. These factors, however, give local departments more direction when considering requests for disclosure of confidential information.

Because of Virginia's state supervised and locally administered social services system, interpretations vary from local department to department on what types of information disclosure without consent is allowable under the law. One issue raised by members of the crossover youth work group was on the ability of local departments to disclose a youth's current social services involvement with juvenile justice, when a youth is at juvenile intake. The stated reason for such a practice would be to divert cases and coordinate services. According to some work group members, not all local departments of social services would agree that such a disclosure is permissible under current law. As such, a suggestion was made to clarify in the *Code of Virginia* that disclosure for the early identification of a crossover youth is allowable under the law. Work group members also felt that agencies serving crossover youth should have agreements in place on how to identify crossover youth at initial system involvement.

C. BEST PRACTICES FOR INFORMATION SHARING

The work group on crossover youth information sharing discussed and articulated a number of best practice themes to improve information sharing while respecting the privacy interests of youth and families.

Guidance

The Department of Social Services (DSS) provides guidance on information sharing for Virginia's child protective services program as well as foster care.²³ This guidance is geared towards local workers in these areas. The Department of Social Services' guidance highlights what they describe as a two-step process for releasing information without consent when a disclosure is not mandated. The first step is determining whether disclosure is in the best interest of the child. The second step is determining whether the party requesting the information has a legitimate interest. The Department of Social Services' current guidance then goes on to identify individuals and organizations that are considered to have a legitimate interest.

The work group discussed the best practice of improving and updating guidance or creating guidance where it does not exist. The areas to focus on for guidance that were discussed by the work group include the following:

- What information does each department collect and maintain,
- Permissible reasons for requesting and sharing information,

²³ Virginia Department of Social Services. (2021, July). *Child and Family Services Manual: Child Protective Services: Confidentiality*. https://www.dss.virginia.gov/files/division/dfs/cps/intro_page/manuals/07-2021/Revised_section_9_confidentiality_July_2021.pdf.

- What the process is for how information is to be shared,
- Steps in place to protect information,
- Procedures for obtaining informed consent,
- What are the statutory requirements from the federal and state government that protect confidentiality, and
- What steps are in place to ensure staff is properly trained on information sharing protocols.

Encouraging the creation or the updating of guidance is a way to strengthen state or local practices and explain to the public how information sharing is to be handled. This sentiment is expressed in a report to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) on *Guidelines for Juvenile Information Sharing*. “Privacy and information sharing policies protect [juvenile information sharing] participating agencies and facilitate information sharing. These policies strengthen public confidence in ... participating agencies’ ability to handle information appropriately.”²⁴

The Department of Juvenile Justice and the Department of Behavioral Health and Developmental Services do not currently have guidance on confidentiality and record sharing and protection.

Training

Training was also brought up as an important information sharing best practice. The work group specifically raised two types of trainings. First, initial and on-going training. Initial training occurs after an employee is hired, within a given timeframe. On-going training happens on a recurring basis, as determined by the agency. Topics that were seen as worthy of incorporating in initial and on-going training include, but are not limited to, state and federal confidentiality laws, protocols for safe guarding data, and procedures on informed consent to release information.

The second type of training discussed was cross-agency training on information sharing. This type of training is a way for two or more agencies to come together to learn about each other’s protocols. Cross-agency training also provides a good opportunity to discuss any shared agreements or memorandums of understanding on information sharing practices.

These two types of trainings focus on different important areas in practicing quality and secure information sharing. Initial and on-going training focuses on the internal, and cross-agency training focuses on the external. The Center for Juvenile Justice Reform at Georgetown University in their work highlights the benefits of cross-agency training. One of the main goals of training is “to educate system partners on how each agency or entity functions on a daily basis, thus challenging long-standing assumptions that can create barriers to collaboration.”²⁵ Another reason

²⁴ Mankey, J., Baca, P., Rondenell, S., Webb, M., and McHugh, D. (2006). *Guidelines for Juvenile Information Sharing*. Office of Juvenile Justice and Delinquency Prevention. <https://www.ojp.gov/pdffiles1/ojjdp/215786.pdf>.

²⁵ The Center for Juvenile Justice Reform, Georgetown University. *The Role of Training in Crossover Youth Work*.

given during this study for implementing training standards is so workers understand the importance of safeguarding information and the potential negative consequences to a young person when information is improperly disclosed.

Memorandum of Understanding

The work group discussed the development of a model memorandum of understanding (MOU), as well as the adaptation and implementation by local agencies that serve crossover youth.

In assessing what is necessary for the development of a model MOU, staff and the work group looked at recommendations provided to the Office of Juvenile Justice and Delinquency Prevention, examples from Center for Juvenile Justice Reform, and a submission from the Alexandria Crossover Youth Practice Model Team. Certain themes kept coming up in all the examples explored, including, purpose or mission, general terms, such as effective time and renewals, access to and use of information, and cross-agency training.

The work group ended up focusing on an approach where first a model memorandum of understanding is developed using a collaborative stakeholder process. This model, would set forth the respective roles and responsibilities of court service units, local departments of social services, and community services boards on the information sharing of youth records. In creating a model, the work group highlighted a few areas that the stakeholders may want to address. These areas include, who has access to youth information, a listing of the information that will be shared, reasons for use of shared information, privacy policies and any individual or parent/guardian notification requirements, and steps to be used to keep the information secure.

Following the development of the model memorandum of understanding, the Department of Juvenile Justice or locally-operated court services units, local departments of social services, and community services boards in each local area serving youth shall enter into a MOU based on the model MOU. This approach was seen by the work group as a way for agencies who serve crossover youth to formalize a MOU that best fit their particular needs while still receiving direction from an expert developed model.

Additionally, in discussing the memorandum of understanding, a few important issues were raised that work group members thought should be included in every signed MOU. The first two issues were about identifying crossover youth at initial system involvement. First, was regarding the manner in which crossover youth with current system involvement should be identified at initial point of contact with a system. Second, was on how past (non-ongoing) youth agency involvement should be identified and shared, with informed consent. Work group members felt that past system involvement should continue to require informed consent before disclosure. Third, the work group thought it was important for every signed MOU to indicate who is responsible for identifying potential crossover youth at each agency that is a party to the MOU.

Gathering and Using Data and Information

During the work group process, information and data in regards to crossover youth information sharing policy needs was discussed as belonging to one of three areas. This point was explicitly made by Maryland's Department of Juvenile Services in their presentation to the work group.²⁶

These three areas are:

1. Individual case planning and decision making;
2. Data collection to inform law, policy and/or program development; and
3. Data (qualitative and quantitative) to evaluate program or process.

The first area, the use of an individual's records for case planning, was previously written about in this report in the context of identifying crossover youth at initial system involvement. Additionally, the other best practices, such as guidance, training, and a memorandum of understanding, that were discussed by the work group, would deal with the handling of individual case planning data. This area of data is typically the most sensitive, and the use of this type of data generally triggers confidentiality concerns.

In the second area, the work group learned about how the Department of Juvenile Justice is planning to work with the Virginia Longitudinal Data System (VLDS) to conduct long term research projects. The VLDS was funded through a federal grant in 2009 and it allows for the connection of data across state agencies. Using VLDS data, researchers are enabled to conduct policy research. Data sharing is done in a manner that respects privacy by double-deidentifying data that is shared by a participating agency.²⁷ Participating agencies currently include, the Virginia Department of Education (VDOE), the State Council of Higher Education for Virginia (SCHEV), the Virginia Employment Commission (VEC), the Virginia Department of Social Services (DSS), the Virginia Community College System (VCCS), the Virginia Department for Aging and Rehabilitative Services (DARS), and Virginia Department of Health Professions (DHP), Office of Children's Services (OCS), Department of Juvenile Justice, and the Department for the Blind and Vision Impaired (DBVI).

Since joining the VLDS in 2018, the Department of Juvenile Justice has provided over 19 years worth of data involving over 700,000 juveniles.²⁸ Currently, VLDS displays partner agency intersections on their website which shows some of the potential in harnessing this data. According

²⁶ Commission on Youth. (2021, May 19). Work Group: Crossover Youth Information Sharing. http://vcoy.virginia.gov/May_19,_2021_-_Commission_on_Youth_-_10_00_am.mp4.

²⁷ Virginia Longitudinal Data System. *About VLDS*. Retrieved October 20, 2021, from <https://vlvs.virginia.gov/about-vlds>.

²⁸ Virginia Department of Juvenile Justice. (2019) Data Resource Guide. http://www.djj.virginia.gov/documents/about-djj/DRG/FY19_DRG.pdf.

to this data, between the years 2010 and 2017, the number of juveniles involved with DJJ who matched to a VLDS partner agency ranged from 27,151 to 29,745.^{29 30}

The Department of Juvenile Justice has indicated that their research unit is prepared to use the VLDS to study the relationship between juveniles who are involved with DJJ and DSS. This research would examine the types of DJJ and DSS involvement and prevalence throughout Virginia. Data made available on VLDS agency intersections already indicates that for the juveniles involved with DJJ who matched to a VLDS partner agency, approximately 43% had concurrent involvement with DJJ and DSS each year between 2010 and 2015.³¹

Additionally, through VLDS, DJJ also has plans in the future to study cross-system involvement and examine topics such as positive youth outcomes, educational outcomes (including post-secondary education), and employment. This type of data collection to inform law, policy and/or program development was the second area discussed by the work group, and the efforts described above were supported by the work group.

The third type of data discussed by the work group was qualitative or quantitative data to evaluate program or process, particularly for local system improvement and trend monitoring. As pertaining to the crossover youth population, this type of data sharing is currently not capable of being done. One main reason, is that DJJ does not have the mechanism to share de-identified matched data. One promising possibility, however, is through the use of the Office of Data Governance and Analytics (ODGA) Data Trust to make this type of information sharing possible.

The Data Trust is “a safe, secure, and legally compliant information sharing environment that establishes consistent requirements for trust members through a standardized data sharing agreement process.”³² Commonwealth agencies and other agencies can join the Data Trust. The Department of Social Services and the Department of Behavioral Health and Developmental Services are already members of the Data Trust. The Department of Juvenile Justice is not a member of the Data Trust presently. The benefits of using data for local system improvement was raised by work group members and referred to as a best practice during discussion.

²⁹ Juveniles are matched based on the year of service delivery. Juveniles are matched if they had an intake, Virginia Juvenile Community Crime Control Act (VJCCCA) service, pre-D detainment, post-D detainment, or direct care admission and interacted with a VLDS partner agency during the same calendar year.

³⁰ State Council of Higher Education for Virginia. *VLDS Agency Intersection Report*. Retrieved October 20, 2021, from <https://dashboards.schev.edu/agency-intersections>.

³¹ Virginia Department of Juvenile Justice. (2019) Data Resource Guide. http://www.djj.virginia.gov/documents/about-djj/DRG/FY19_DRG.pdf.

³² Office of Data Governance and Analytics. Commonwealth Data Trust. Retrieved October 20, 2021, from <https://www.cdo.virginia.gov/resources/commonwealth-data-trust/>.

D. OTHER TOPICS RAISED BY THE WORK GROUP

The work group also heard and discussed topics on a few areas that either did not result in any recommendations or did not deal specifically with the crossover youth population. The discussions on these topics are summarized below.

Services for Students Exiting a School Setting

One particular issue raised during the work group process was the importance of maintaining and transferring the services that young people receive in the school setting as they reach adulthood. Young adults with emotional or intellectual disabilities are at risk of losing access to services when they leave high school. This can occur because parents are not provided access to records after their child reaches 18, the age of maturity. Further, the knowledge and use of available resources is often not made available to this parent population making it a confusing time for these parents to navigate.

This issue has been raised in a prior General Assembly Sessions. In 2015, Delegate Rob B. Bell patroned House Bill 2380. This bill would have required school divisions to designate staff to receive training about services provided by the local community services board or behavioral health authority that will be available to students with intellectual disability or emotional disturbance upon graduation from, aging out of, or otherwise leaving public education and to meet with students and, where appropriate, their parents to provide such information. The bill also would have required community services boards and behavioral health authorities to provide school divisions with information about available services and to ensure that at least one employee or representative of the board or authority is available, in person, to participate in meetings between local school division representatives and students and, where appropriate, their parents to discuss services that will be available to the student upon his graduating from, aging out of, or otherwise leaving public education. This bill was left in House Appropriations Committee. The work group felt that further study on this overall issue is needed.

Social History Reports

During the work group process, the idea of making it easier for courts to share social history reports was discussed. A social history is a court ordered pre-disposition report prepared in accordance with state law.³³ A social history is made up of “identifying and demographic information on the juvenile; Current offense and prior court involvement; Social, medical, psychological, and educational information about the juvenile; Information about the family; and Dispositional recommendations, if permitted by the court.” A social history is confidential according to *Code of Virginia*.³⁴ The social history report is open for inspection to the attorney for the youth or youth

³³ *Code of Virginia* §16.1-273.

³⁴ *Code of Virginia* §16.1-305.

prior to sentencing, but they are not permitted to keep a copy.³⁵ There was disagreement among work group members about whether there should be expanded access to this report for certain persons or agencies. One particular reason stated in opposition, was because of the amount of information in these reports, and as such, the requisite desire to keep these reports private. This view was not shared by everyone, however, as some members felt youth should be able to have access to a report that is written about them. No work group consensus was made on further access to this report by families or other agencies or departments for purposes of service delivery.

Crossover Youth Practice Model

A few members of the work group expressed interest in adopting the crossover youth practice model (CYPM) across Virginia. The CYPM is a highly regarded model for child serving agencies to work together to engage with the crossover youth population. The CYPM was presented at the first work group meeting, and the presentation on this model can be found at the end of this report at Appendix C. The CYPM was launched in 2010 by Georgetown University’s Center for Juvenile Justice Reform (CJJR), “to help jurisdictions strengthen systems of care that serve crossover youth in order to improve outcomes for youth, families, and communities.”³⁶ The CYPM has been implemented in over 120 counties in 23 states across the United States, and in 2018, the California Evidence-Based Clearinghouse for Child Welfare rated the CYPM as having “Promising Research Evidence.”³⁷

The CYPM has four overarching goals: “Reduction in the number of youth crossing over and becoming dually-involved; Reduction in the number of youth placed in out-of-home care; Reduction in the use of congregate care; and Reduction in the disproportionate representation of youth of color, particularly in the crossover population.”³⁸ These goals are addressed by working with jurisdictions to implement a three phase practice model that aligns with the most common pathway that a crossover youth takes. Members from the CYPM team at CJJR assist jurisdictions in shaping and improving practices in:

- Phase 1 – Arrest, Identification, and Detention & Decision-making Regarding Charges
- Phase 2 – Joint Assessment Process and Coordinated Case Planning
- Phase 3 – Coordinated Case Management and Ongoing Assessment & Planning for Youth Permanency, Transition, and Case Closure ³⁹

³⁵ 6 VAC 35-150-336.

³⁶ The Center for Juvenile Justice Reform, Georgetown University. *CYPM Background*. Retrieved October 20, 2021, from <https://cjjr.georgetown.edu/our-work/crossover-youth-practice-model/cypm-background/>.

³⁷ The Center for Juvenile Justice Reform, Georgetown University. *Crossover Youth Practice Model*. Retrieved October 20, 2021, from <https://cjjr.georgetown.edu/our-work/crossover-youth-practice-model/>.

³⁸ *Id.*

³⁹ The Center for Juvenile Justice Reform, Georgetown University. *Implementation of the Practice Model*. Retrieved October 20, 2021, from <https://cjjr.georgetown.edu/our-work/crossover-youth-practice-model/implementation-of-the-practice-model/>.

Additionally, the CJJR provides support by collecting data in order to evaluate outcomes prior to CYPM implementation and after. Research done on jurisdictions that have implemented the CYPM has shown reductions in youth recidivism, severity in new crimes, sustained juvenile petitions, and the use of pre-adjudication detention. Research on this model has also shown increases in crossover youth living at home, engagement in pro-social activities, and positive behavioral health outcomes.⁴⁰

In 2017, the City of Alexandria, Virginia began working with the CJJR under their Multi-System Collaboration Training and Technical Assistance program. The City of Alexandria has continued these efforts and started a CYPM in 2019. More information about the City of Alexandria's experience can be found at the end of this report at Appendix D.

⁴⁰ The Center for Juvenile Justice Reform, Georgetown University. *CYPM Outcomes*. Retrieved October 20, 2021, from <https://cjjr.georgetown.edu/our-work/crossover-youth-practice-model/cypm-outcomes/>.

VII. Findings and Recommendations

After presenting findings and recommendations at the Commission on Youth's October 19, 2021, meeting and receipt of public comment, the Commission approved the following recommendations:

Finding: *The creation or updating of guidance would benefit workers as well as the public in understanding Virginia's information sharing laws, regulations, and practices.*

Recommendation 1 – Request the Department of Juvenile Justice, Department of Social Services, and the Department of Behavioral Health and Developmental Services, respectively, to create or update guidance on youth information sharing for use at the state level and for dissemination and use at the courts service units, local departments of social services, and community services boards.

This guidance on information sharing should focus on, but not be limited to, detailing what information is to be collected and maintained by the department and local agencies, clarifying permissible reasons to share information, reasons to request information, the process for how information is to be shared, steps in place to protect information, procedures for obtaining informed consent, the statutory requirements from the federal as well as state government that controls the dissemination of information in the Department's possession, and steps to ensure staff is properly trained on information sharing protocols.

Guidance shall be open for comment on the Virginia Regulatory Town Hall public comment forum and once implemented at the state department and local level be made available to the public on their websites.

Finding: *Confusion exists about whether information can be shared under the social services confidentiality statutes in order to identify a crossover youth at initial system involvement. The establishment of agreements between agencies would end this confusion.*

Recommendation 2 – Amend the *Code of Virginia*, sections 63.2-104/63.2-105 to indicate that the immediate identification of and sharing of crossover youth status between local departments and court service units and community services boards is to be done in accordance with established agreements between the local agencies. Any court service unit or community services board to which such records are disclosed in accordance with an agreement shall not further disclose any information received unless such further disclosure is expressly required by law. The Chief Judge or designee, who oversees the jurisdiction where an agreement by local agencies is being made to share information, must review the agreement before it goes into effect.

Direct the Department of Social Services to create guidelines or best practices on what these agreements should entail.

***Finding:** Establishing a model memorandum of understanding in the Code of Virginia would provide a good starting place to localities and also allow for local flexibility.*

Recommendation 3 – Amend the *Code of Virginia* to direct the Department of Juvenile Justice to develop and biennially update a model memorandum of understanding setting forth the respective roles and responsibilities of court service units, local departments of social services, and community services boards regarding the information sharing of youth records.

This model memorandum of understanding may include topics on, who has access to youth information, a listing of the information that will be shared, reasons for use of shared information, privacy policies and any individual or parent/guardian notification requirements, and steps to be used to keep the information secure. This model memorandum of understanding shall be disseminated to local agencies for their adaptation and use.

In developing the model memorandum of understanding the Department of Juvenile Justice shall collaborate with the Department of Social Services, Department of Behavioral Health and Developmental Services, the Office of Children’s Services, Department of Criminal Justice Services, court service units, local departments of social services, community services boards, youth and family representatives, a nationally recognized expert on cross agency youth best practices, and any other interested stakeholders that it deems appropriate to biennially update the model memorandum of understanding.

The Department of Juvenile Justice or locally-operated court services units, local departments of social services, and community services boards in each local area serving youth shall enter into a memorandum of understanding that sets forth the responsibilities of each local agency regarding the information sharing of youth records. The provisions of such memorandum of understanding shall be based on the model memorandum of understanding developed by the Department of Juvenile Justice, which may be modified by the parties in accordance with their particular needs.

Each adopted memorandum of understanding shall include agreements on the following, (i) the manner in which a multi-agency youth is identified and shared between agencies, including when at the point of court service unit intake, probable cause determination, and validated referral at a local department of social services, for older children, (ii) the manner in which past (non-ongoing) youth agency involvement is identified and shared, with the informed consent of the youth and guardian, and (iii) who at each local department is responsible for identifying potential crossover youth.

Each such court service unit, local department of social services, and community services board shall conduct at least yearly recurring cross-agency training on information sharing as a way to learn about other agency's protocols and to revisit and discuss the shared memorandum of understanding. Local agencies shall also review and amend or affirm such memorandum of understanding at least once every two years or at any time upon the request of either party.

***Finding:** Effective initial and ongoing training on information sharing would ensure workers are up to date on using and safe guarding juveniles' data.*

Recommendation 4 – Request the Department of Social Services, Department of Juvenile Justice, and Department of Behavioral Health and Developmental Services provide initial employee and ongoing training on youth information sharing for their local agencies, local departments of social services, court service units, and community services boards, respectively. Topics should include, but are not limited to, state and federal confidentiality laws, protocols for safe guarding data, and procedures on informed consent to release information.

***Finding:** The Office of Data Governance and Analytics advises on the dissemination of data. They maintain the Data Trust, which could be used to identify crossover youth.*

Recommendation 5 – Request the Office of Data Governance and Analytics to work with the Department of Juvenile Justice, Department of Social Services, Department of Behavioral Health and Developmental Services and other applicable stakeholders to create a plan to use the Commonwealth Data Trust to enable local departments to identify and share crossover youth status at the youth's initial contact point with an agency for purposes of service delivery.

This plan should identify what systems, and the records or information therein, that must be made available to the Data Trust to identify and share crossover youth status at initial point of contact with the respective agencies, what consents need to be obtained from the youth and guardians, what agreements need to be made between the relevant agencies as well as with the Office of Data Governance and Analytics, and what legislative or funding changes if any will be necessary to implement this practice. As part of this request, the Office of Data Governance and Analytics should also build a proof of concept to enable the Department of Juvenile Justice to work with local agencies to share de-identified data on multi-system involved youth between each other, with the goal of local system improvement and trend monitoring. The Office of Data Governance and Analytics shall report back its findings and recommendations to the Commission on Youth by November 1, 2022.

***Finding:** The Department of Juvenile Justice has recently been formulating plans to use VLDS data to conduct research projects.*

Recommendation 6 – Request the Department of Juvenile Justice (DJJ) to conduct a study using Virginia Longitudinal Data Systems (VLDS) data to analyze the crossover youth population in Virginia. The Department of Juvenile Justice shall work with the Department of Social Services and other relevant VLDS member state agencies on this study.

The Department of Juvenile Justice shall identify and interpret demographic data and available and relevant outcomes data on the crossover youth population. Additionally, DJJ shall make recommendations on how to improve the collection, sharing, and analysis of de-identified data based on this study. The Department of Juvenile Justice shall report back its findings and recommendations to the Virginia Commission on Youth by November 1, 2022.

***Finding:** Young adults with emotional or intellectual disabilities often lose access to services when they leave high school. This can also be a confusing time for parents to navigate without supports.*

Recommendation 7 – Request the Commission on Youth to conduct a study in 2022 to look at how youth who are being provided services in the school, including mental health services, can be better supported as they transition to adulthood. This study should look at ways that the Community Services Boards can work with the transitioning student and family and the local education agency.

VIII. Acknowledgments

The Virginia Commission on Youth extends appreciation to the members of the work group and those who were interviewed for their assistance on this study.

Also, a special thank you to those who presented at a work group meeting.

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**Crossover Youth Information
Sharing**

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The Honorable Rob Bell, Delegate
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Tricia Bassing, Chief of Child & Family
Behavioral Health Services
Alexandria Department of Community and
Human Services

Gena Berger, Chief Deputy Commissioner
Virginia Department of Social Services

Bob Bermingham, CSU Director
Fairfax County Juvenile & Domestic Relations
District Court

Valerie Boykin, Director
Virginia Department of Juvenile Justice

Sonnja Brown, Parent Representative
Family Support Partner Alexandria Child &
Family Behavior Health Services

Gretchen Brown, Assistant Director
Henrico County Local Department of Social
Services

Laurie Cooper, Education Specialist
State Operated Programs,
Virginia Department of Education

Rachael Deane, Legal Director
Youth Justice Program, Legal Aid Justice Center

Noah Hamric,
Youth Representative

Barbara Kanninen,
Northeastern Regional Chair
Virginia School Boards Association
Vice Chair, Arlington County School Board

Valerie L’Herrou, Staff Attorney
Center for Family Advocacy, Virginia Poverty
Law Center

Mia McCoy, Adolescent & Young Adult
Substance Use Coordinator
Office of Children and Family Services,
Virginia Department of Behavioral Health and
Developmental Services

Olympia Perkins, CSU Director
Virginia Beach Juvenile & Domestic Relations
District Court

Alison Powers,
Training and Advocacy Attorney
Virginia Indigent Defense Commission

The Honorable Chris Rehak,
Commonwealth’s Attorney
City of Radford

Eric Reynolds, Staff Attorney
Court Improvement Program, Office of the
Executive Secretary, Supreme Court of Virginia

Commission on Youth Staff:
Amy Atkinson
Will Egen

Division of Legislative Services Staff:
Charles Quagliato

CHAPTER 466

An Act to amend and reenact § [16.1-300](#) of the Code of Virginia, relating to confidentiality of juvenile records; exceptions.

[S 1206]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That § [16.1-300](#) of the Code of Virginia is amended and reenacted as follows:

§ [16.1-300](#). Confidentiality of Department records.

A. The social, medical, psychiatric, and psychological reports and records of children who are or have been (i) before the court, (ii) under supervision, ~~or~~ (iii) *referred to a court service unit, or* (iv) receiving services from a court service unit or who are committed to the Department of Juvenile Justice shall be confidential and shall be open for inspection only to the following:

1. The judge, prosecuting attorney, probation officers and professional staff assigned to serve a court having the child currently before it in any proceeding;

2. Any public agency, child welfare agency, private organization, facility or person who is treating or providing services to the child pursuant to a contract with the Department or pursuant to the Virginia Juvenile Community Crime Control Act as set out in Article 12.1 (§ [16.1-309.2](#) et seq.);

3. The child's parent, guardian, legal custodian or other person standing in loco parentis and the child's attorney;

4. Any person who has reached the age of majority and requests access to his own records or reports;

5. Any state agency providing funds to the Department of Juvenile Justice and required by the federal government to monitor or audit the effectiveness of programs for the benefit of juveniles which are financed in whole or in part by federal funds;

6. *The Department of Social Services or any local department of social services that is providing services or care for, or has accepted a referral for family assessment or investigation and the provision of services in accordance with subsection A of § [16.1-277.02](#) regarding, a juvenile who is the subject of the record and the Department of Behavioral Health and Developmental Services or any local community services board that is providing treatment, services, or care for a juvenile who is the subject of the record for a purpose relevant to the provision of the treatment, services, or care when these local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to juveniles who are the subject of the records. Prior to making any report or record open for inspection, the court service unit or Department of Juvenile Justice shall determine which reports or records are relevant to the treatment, services, or care of such juvenile and shall limit such inspection to such relevant reports or records. Any local department of social services or local community services board that inspects any social, medical, psychiatric, and psychological reports and records of juveniles in accordance with this subdivision shall not disseminate any information received from such inspection unless such dissemination is expressly required by law;*

6-7. Any other person, agency or institution, including any law-enforcement agency, school administration, or probation office by order of the court, having a legitimate interest in the case, the juvenile, or in the work of the court;

7-8. Any person, agency, or institution, in any state, having a legitimate interest (i) when release of the confidential information is for the provision of treatment or rehabilitation services for the juvenile who is the subject of the information, (ii) when the requesting party has custody or is providing supervision for a juvenile and the release of the confidential information is in the interest of maintaining security in a secure facility, as defined by § [16.1-228](#) if the facility is located in Virginia, or as similarly defined by the law of the state in which such facility is located if it is not located in Virginia, or (iii) when release of the confidential information is for consideration of admission to any group home, residential facility, or postdispositional facility, and copies of the records in the custody of such home or facility shall be destroyed if the child is not admitted to the home or facility;

8-9. Any attorney for the Commonwealth, any pretrial services officer, local community-based probation officer and adult probation and parole officer for the purpose of preparing pretrial investigation, including risk assessment instruments, presentence reports, including those provided in § [19.2-299](#), discretionary sentencing guidelines worksheets, including related risk assessment instruments, as directed by the court pursuant to subsection C of § [19.2-298.01](#) or any court-ordered post-sentence investigation report;

9-10. Any person, agency, organization or institution outside the Department that, at the Department's request, is conducting research or evaluation on the work of the Department or any of its divisions; or any state criminal justice agency that is conducting research, provided that the agency agrees that all information received shall be kept confidential, or released or published only in aggregate form;

10-11. With the exception of medical, psychiatric, and psychological records and reports, any full-time or part-time employee of the Department of State Police or of a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth, is entitled to any information related to a criminal street gang, including that a person is a member of a criminal street gang as defined in § [18.2-46.1](#). Information shall be provided by the Department to law enforcement without their request to aid in initiating an investigation or assist in an ongoing investigation of a criminal street gang as defined in § [18.2-46.1](#). This information may also be disclosed, at the Department's discretion, to a gang task force, provided that the membership (i) consists of only representatives of state or local government or (ii) includes a law-enforcement officer who is present at the time of the disclosure of the information. The Department shall not release the identifying information of a juvenile not affiliated with or involved in a criminal street gang unless that information relates to a specific criminal act. No person who obtains information pursuant to this subdivision shall divulge such information except in connection with gang-activity intervention and prevention, a criminal investigation regarding a criminal street gang as defined in § [18.2-46.1](#) that is authorized by the Attorney General or by the attorney for the Commonwealth, or in connection with a prosecution or proceeding in court;

11-12. The Commonwealth's Attorneys' Services Council and any attorney for the Commonwealth, as permitted under subsection B of § [66-3.2](#);

12-13. Any state or local correctional facility as defined in § [53.1-1](#) when such facility has custody of or is providing supervision for a person convicted as an adult who is the subject of the reports and records. The reports and records shall remain confidential and shall be open for inspection only in accordance with this section; and

43-14. The Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

A designated individual treating or responsible for the treatment of a person may inspect such reports and records as are kept by the Department on such person or receive copies thereof, when the person who is the subject of the reports and records or his parent, guardian, legal custodian or other person standing in loco parentis if the person is under the age of 18, provides written authorization to the Department prior to the release of such reports and records for inspection or copying to the designated individual.

B. The Department may withhold from inspection by a child's parent, guardian, legal custodian or other person standing in loco parentis that portion of the records referred to in subsection A, when the staff of the Department determines, in its discretion, that disclosure of such information would be detrimental to the child or to a third party, provided that the juvenile and domestic relations district court (i) having jurisdiction over the facility where the child is currently placed or (ii) that last had jurisdiction over the child if such child is no longer in the custody or under the supervision of the Department shall concur in such determination.


If any person authorized under subsection A to inspect Department records requests to inspect the reports and records and if the Department withholds from inspection any portion of such record or report pursuant to the preceding provisions, the Department shall ~~(i)~~ (a) inform the individual making the request of the action taken to withhold any information and the reasons for such action; ~~(ii)~~ (b) provide such individual with as much information as is deemed appropriate under the circumstances; and ~~(iii)~~ (c) notify the individual in writing at the time of the request of his right to request judicial review of the Department's decision. The circuit court ~~(a)~~ (1) having jurisdiction over the facility where the child is currently placed or ~~(b)~~ (2) that had jurisdiction over the original proceeding or over an appeal of the juvenile and domestic relations district court final order of disposition concerning the child if such child is no longer in the custody or under the supervision of the Department shall have jurisdiction over petitions filed for review of the Department's decision to withhold reports or records as provided herein.


2. That the Virginia Commission on Youth shall convene a work group to include representatives from the Department of Juvenile Justice, the Department of Social Services, the Department of Behavioral Health and Developmental Services, the Department of Education, youth and families with lived experience in the juvenile justice and child welfare systems, representatives of Virginia juvenile justice advocacy groups, representatives of local public defender offices, and representatives from other relevant state or local entities. The work group shall review current data and record sharing provisions with regard to youth served by the juvenile justice and child welfare systems and make recommendations on best practices for the sharing, collection, and use of such data and records while respecting the privacy interests of youth and families. The work group shall report its findings and recommendations to the Governor and the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by November 1, 2021.

**Crossover Youth Practice Model:
Past, Present & Future**

May 19, 2021
Virginia Commission on Youth
Crossover Youth Workgroup Meeting

Presenters:
Shay Bilchik, Georgetown University
Alexandra Miller, Georgetown University
Macon Stewart, Georgetown University

 CENTER FOR JUVENILE JUSTICE REFORM
working across systems of care
georgetown university



Overview

- **Development** of the CYPM
- Implementation of the **CYPM**
- **Accomplishments** & Lessons Learned
- Moving **Forward**

 CENTER FOR JUVENILE JUSTICE REFORM
working across systems of care
georgetown university



Development of the CYPM

- Who we are at the Center for Juvenile Justice Reform



OUR MISSION

The Center for Juvenile Justice Reform supports leadership development and advances a balanced, multi-systems approach to reducing juvenile delinquency that promotes positive child and youth development, while also holding youth accountable.



For more information:
<http://cjr.georgetown.edu>



Development of the CYPM

- **Wingspread Conference 2008**
 - Policy Guidance for youth involved in the Child Welfare and Juvenile Justice Systems
 - Partnership with American Public Human Services Association & Casey Family Programs
- **Breakthrough Series Collaborative (BSC) 2009-2010**
 - Co-sponsored by Casey Family Programs
 - Engaged seven jurisdictions
- **Crossover Youth Practice Model (CYPM) 2010**
 - Created based on research and lessons learned from the BSC
 - Engaged 13 jurisdictions during the first year



Drivers Behind the Development of the CYPM

Prevention

- Youth crossing over based on systemic regulations
- Failure to identify needs and risk
- Adequate supports not being offered

Information Sharing

- Lack of clarity on what is allowable
- Various interpretations of the law
- Inadequate data systems and case management processes to promote sharing

Interagency Collaboration

- Inability to identify youth at the point of intake
- Overlapping assessment processes
- Lack of understanding regarding other systems



Phases of the CYPM

Phase I

- Arrest, Identification, and Detention
- Decision-Making Regarding Charges

Phase II

- Joint Assessment and Planning

Phase III

- Coordinated Case Management and Ongoing Assessment
- Planning for Youth Permanency, Transition, and Case Closure

Systemic processes that are enhanced or developed to support youth who move between the child welfare and juvenile justice systems



Implementation of the CYPM

- CYPM launched in 2010 in 13 jurisdictions
- To date, the CYPM has been introduced in:
 - 23 states
 - 123 jurisdictions
- State level initiatives:
 - Arizona
 - Florida
 - Idaho
 - Kansas
 - Maryland
 - Missouri
 - Nebraska



CYPM in the USA: 23 States, 123 Jurisdictions



Implementation of the CYPM

- CJJR provides technical assistance for an average of 18 mo.
- Jurisdiction teams are typically lead by Judicial, CW, and JJ leadership
 - Frontline staff, behavioral health, prosecution and defense attorneys, CASA, law enforcement, education personnel, individuals with lived experience, and others design and support the work
- Monthly full-team and workgroup meetings
 - Workgroups commonly focus on protocols, information sharing, court structure, prevention, training, and data collection/analysis
- Quarterly site visits



Accomplishments & Lessons Learned

Reductions In:

- Recidivism in justice system
- New sustained juvenile justice petitions
- Use of pre-adjudication detention
- Use of APPLA as a permanency goal

Increases In:

- Improved educational outcomes
- Pro-social activities
- Positive behavioral health outcomes
- Diversion/dismissal
- Home placement/reunification
- Social supports

Haight et al. (2016); Herz et al. (2018); Wright et al. (2017)



Accomplishments & Lessons Learned

National Institute of Justice (2020)

- CYPM received an evidence rating as promising
- Program Type identified as Diversion, Vocational/Job Training, Wraparound/Case Management, Children Exposed to Violence, Court Processing

California Evidence-Based Clearinghouse (2018)

- CYPM was designated as having “Promising Research Evidence” with a rating of 3 out of 5 based on external studies
- Relevance to Child and Family Well-Being was deemed High for CYPM



Lessons Learned

- Youth and Family Voice Matters
- Leadership Commitment and Engagement is Essential
- Accountability is Required
- Data is Necessary



Moving Forward

- Expand focus on upstream and downstream prevention in jurisdictions implementing the CYPM
- Encourage the use of data to further target efforts and assess short/long-term impact of the CYPM
- Introduce the CYPM to other regions of the U.S.
- Expand research and practical application of the CYPM on subpopulations of crossover youth that present greater vulnerabilities (i.e. tribal youth, victims of commercial sexual exploitation and youth that identify as LGBTQ-GNCT)
- Increase our study on girls and how the systems can enhance their supports for girls at risk of or who have crossed over



For more information, log onto:

<https://cjjr.georgetown.edu>

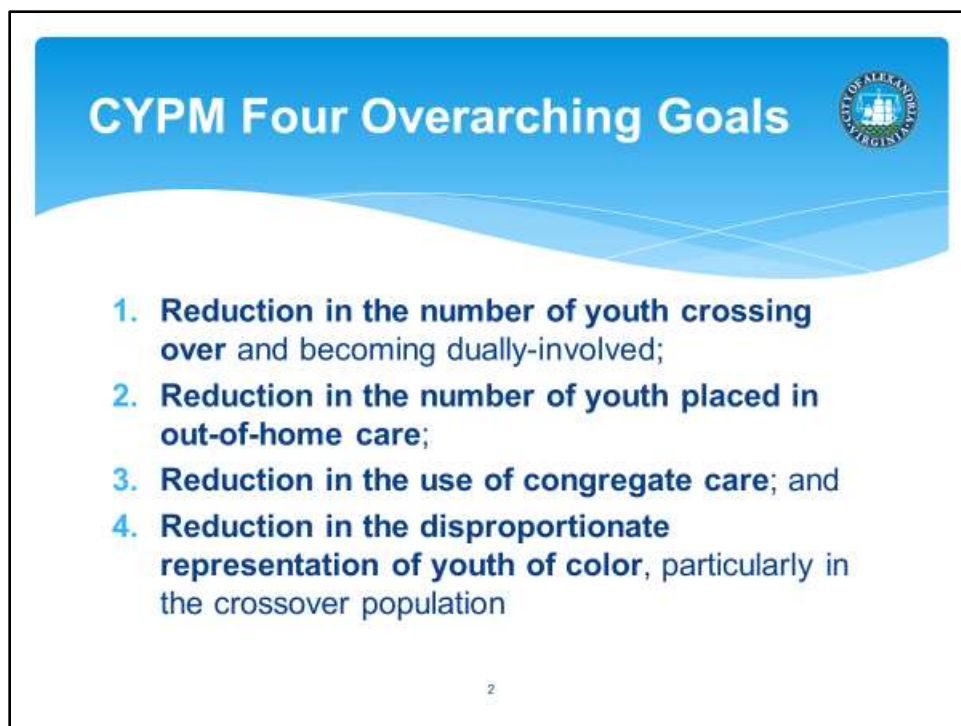
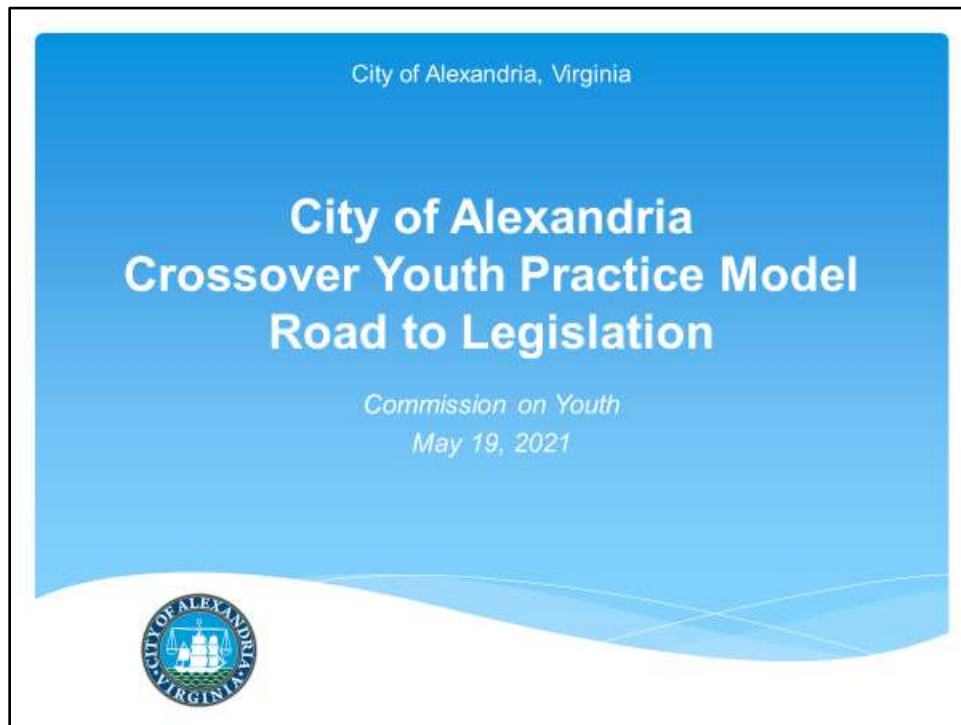
Contact:

Shay Bilchik at scb45@georgetown.edu

Alex Miller at am4020@georgetown.edu

Macon Stewart at macon.stewart@georgetown.edu





Alexandria Crossover Youth Practice Model (CYPM)



- In response to:
 - Uptick in use of congregate care
 - Increase in complexity of needs
 - Complexity of cross system practices
 - Changing demographics – more undocumented immigrants
 - Budget reductions
- Started with CJJR Multi-System Collaboration & Technical Assistance Program in 2017
- Alexandria CYPM began in January 2019

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Alexandria CYPM Partners



- Georgetown Center for Juvenile Justice Reform (CJJR)
- Leads:
 - Family Members
 - Child Welfare Services (DSS)
 - Court Service Unit
 - Child and Family Behavioral Health Services (CSB)
- Alexandria City Public Schools
- Office of the City Attorney
- Office of the Commonwealth Attorney
- Office of the Public Defender
- Alexandria Police Department
- Court Appointed Special Advocates
- Guardians ad Litem
- Juvenile and Domestic Relations Court Judge

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Six Beliefs & Values



1. Youth and families bring vital history, culture, perspective, and strengths to the collaboration that must be sought out and prioritized.
2. Each partner agency brings a unique and equally valued set of expertise, skills, and resources to the collaboration.
3. Direct and secondary trauma affect our families and each other, and require a trauma-informed approach to our work together.

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Six Beliefs & Values



4. We work in a system and community where racism and other inequities have traumatized families, historically informed decisions that bring them into our systems, and impeded their ability to access services and achieve their goals. We must address and correct these inequities.
5. Children live in the context of family and natural supports; we work to identify family and natural supports, and ensure assessment and services meet their needs.
6. Disagreement is part of the work; communication and decision-making with families and each other must be professional, transparent, and solution focused.

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Five Commitments



1. Develop and adhere to protocols to improve outcomes for multisystem involved families. These protocols will incorporate evidence-based and best practices to ensure the equitable, youth and family driven, trauma-informed, efficient, and effective practice model we envision.

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Five Commitments



2. Ensure case level sharing of information is done within applicable laws and agency policies, and in an efficient manner that limits redundancy and ensures informed consent and transparency for families when at all possible.

8

Five Commitments



3. Recognize trauma-informed treatment teams and other multidisciplinary meetings as the best means to ensure all family and agency voices are part of shared decision-making, and that service planning is done jointly among agencies and families to prevent unnecessary repetition.

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Five Commitments



4. Share and evaluate information and data to measure outcomes, identify and address service gaps, improve local practices, and advocate for systemic change.
5. Provide initial and ongoing training, and relationship-building opportunities, among all system partners in support of CYPM values and practices.

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Work Groups Developed After Gap Analysis



- Prevention and Diversion
- Information Sharing
- Protocol
- Inventory
- Data
- Training

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Information Sharing Work Group



- Family Reps
- Child Welfare (local DSS)
- Court Service Unit
- Behavioral Health (CSB)
- Schools
- City Attorney
- Consultation from State DJJ

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Information Sharing Work Group



- Revised and confirmed utilization of cross-system universal release form
- Reviewed existing state policies and statutes related to information sharing & developed agency-specific resource documents
- Determined how to share information on an aggregate level to understand the current population of crossover youth
- Explored case level information sharing in support of early and ongoing coordination; e.g., identifying crossover youth early and access to dispositional reports

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Family & Youth Challenges



- Children involved in both child welfare and juvenile justice are most vulnerable for:
 - Deeper involvement in both systems
 - Homelessness
 - Out of home placement (detention, residential treatment and foster/kinship care)
 - Chronic behavioral health challenges
- These outcomes exist because our systems are not sufficiently set up to address the layers of trauma families experience.

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Family & Youth Challenges



- Negative consequences of not knowing immediately when a youth has “crossed over” and not having the ability to easily share information during case assessment, planning, and management:
 - Redundancies
 - Lack of coordinated and streamlined services
 - An experience for families and youth that is confusing, inconsistent, and overwhelming

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Family & Youth Challenges



- Families and youth report that the lack of early coordination and differing information among our agencies is retraumatizing and sets them up for failure.
- Early collaboration improves the quality of assessment and care within all agencies while ensuring a coordinated, more streamlined and trauma informed system response.
- Families see us as all a part of the same system – which we really are.

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System Level Challenges



- Inability to share data in support of systemwide improvement, unable to:
 - Identify the characteristics of crossover youth
 - Understand trends in practice
 - Use data to inform the development of a coordinated case management model
 - Assess the impact the model is having on the targeted population

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Why Look to Legislation?



- DJJ partners identified way forward required legislative change
- Other jurisdictions within VA have the same issues and share our commitment to this work
- The state of MD took this on and made legislative change

*Group who crafted legislation: Family Rep, CWS, CSB,
City Attorney and City Legislative Director*

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Legislation Next Steps in Addition to COY Workgroup



- 6. *The Department of Social Services or any local department of social services that is providing services or care for, or has accepted a referral for family assessment or investigation and the provision of services in accordance with subsection A of § 16.1-277.02 regarding, a juvenile who is the subject of the record and the Department of Behavioral Health and Developmental Services or any local community services board that is providing treatment, services, or care for a juvenile who is the subject of the record for a purpose relevant to the provision of the treatment, services, or care when these local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to juveniles who are the subject of the records. [Prior to making any report or record open for inspection, the court service unit or Department of Juvenile Justice shall determine which reports or records are relevant to the treatment, services, or care of such juvenile and shall limit such inspection to such relevant reports or records.] Any local department of social services or local community services board that inspects any social, medical, psychiatric, and psychological reports and records of juveniles in accordance with this subdivision shall not disseminate any information received from such inspection unless such dissemination is expressly required by law;*

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Legislation Next Steps in Addition to COY Workgroup



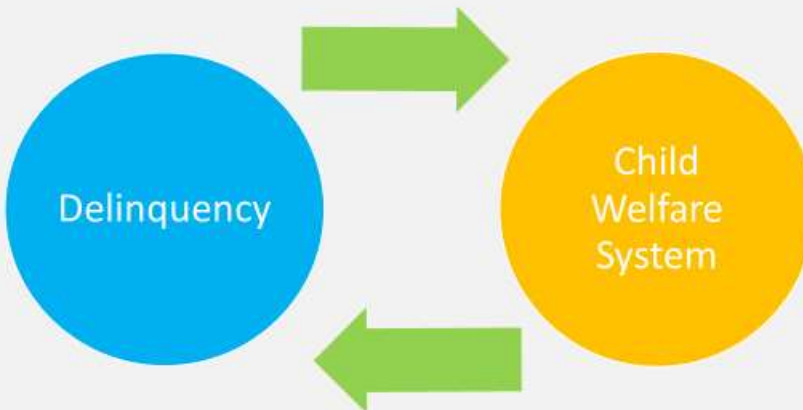
- Alexandria DSS (Child Welfare) and CSB (Child & Family Behavioral Health Services) are drafting a proposal to DJJ in collaboration with CJJR based on the work of the CYPM Information Sharing Workgroup, to include:
 - Early identification of crossover youth
 - Parent, guardian and CSB/DSS access to dispositional reports of shared client
- CSU providing technical assistance

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BETSY FOX TOLENTINO
ASSISTANT SECRETARY OF COMMUNITY OPERATIONS
MAY 19, 2020

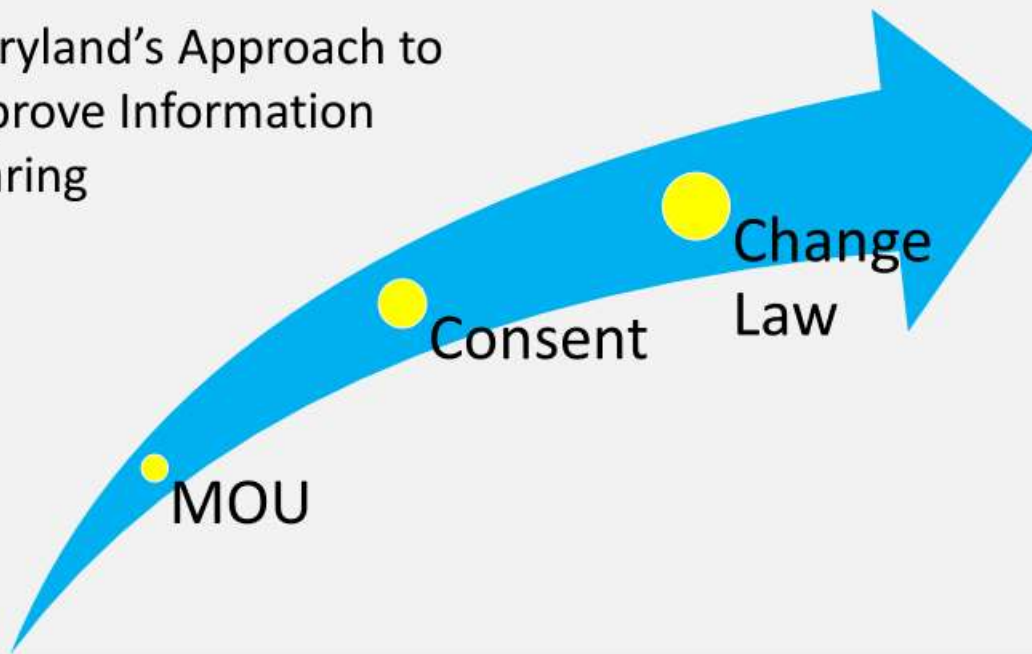
Information Sharing to Support Crossover Youth



Types of Information Sharing

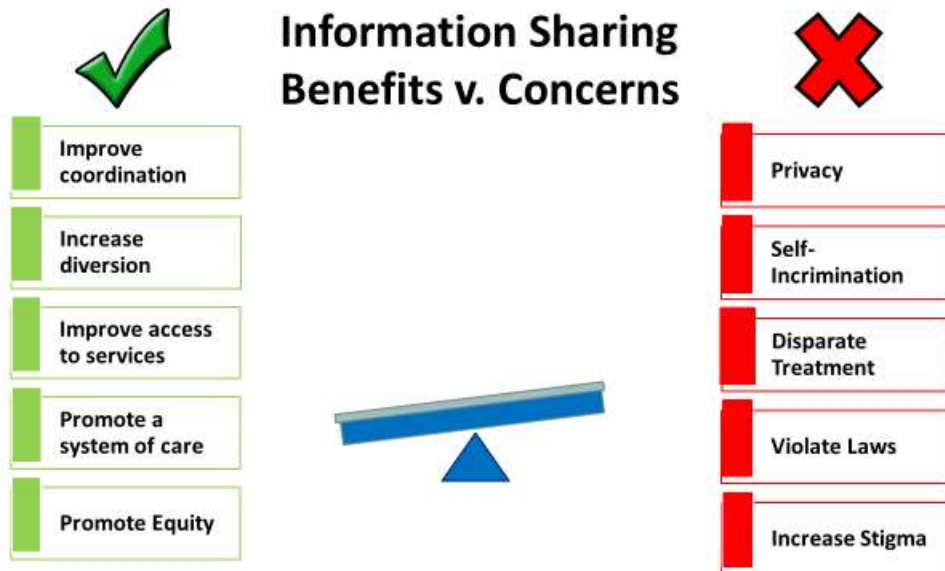
- Individual case planning and decision making
- Data collection to inform law, policy and/or program development
- Data (qualitative and quantitative) to evaluate program or process

Maryland's Approach to Improve Information Sharing

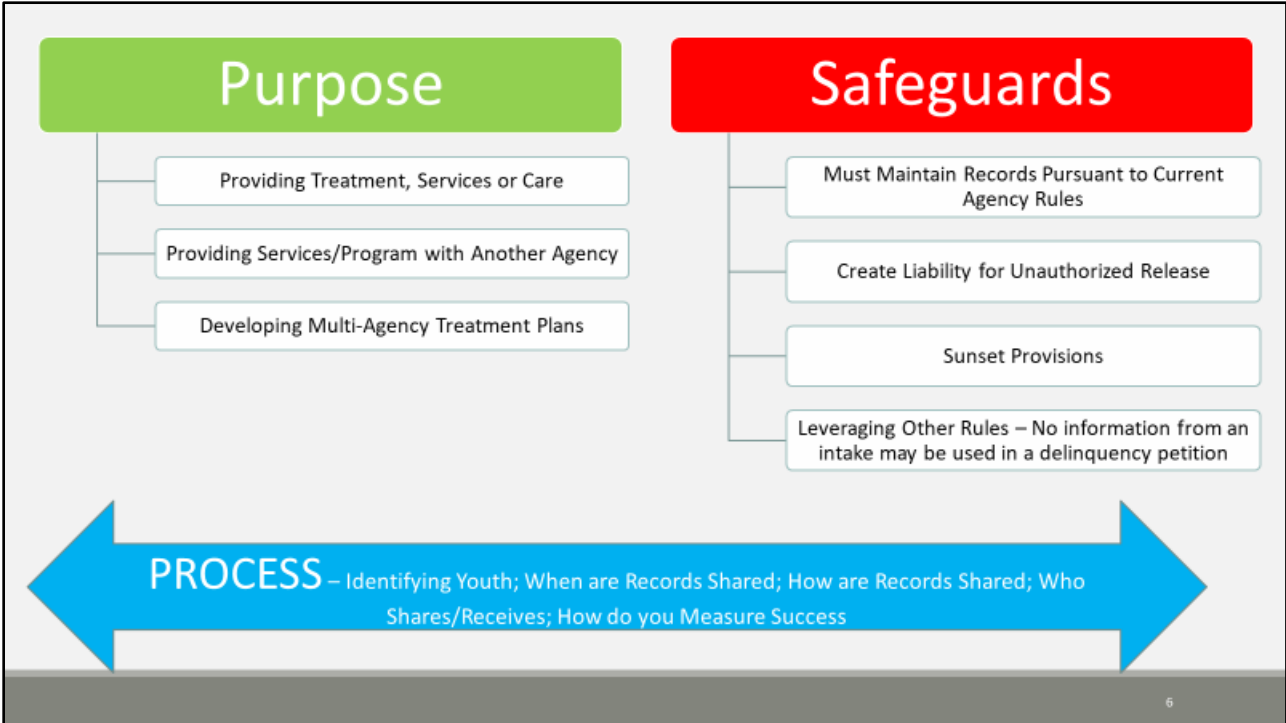


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Information Sharing Benefits v. Concerns



4



Maryland Law - Md. Code, Courts and Judicial Proceedings, 3-8A-27 (6)(i)

“This subsection does not prohibit access to and confidential use of a court record by the Department of Human Services or a local department of social services:

- If the Department of Human Services or a local department of social services is **providing treatment, services, or care to a child** who is the subject of the record.
- The Department of Human Services and local departments of social services shall keep a court record obtained under this paragraph **confidential in accordance with the laws and policies** applicable to the Department of Human Services and local departments of social services.”

“This subsection does not prohibit access to and confidential use of a court record by the Baltimore City Mayor's Office on Criminal Justice if the Baltimore City Mayor's Office on Criminal Justice is **providing programs and services in conjunction** with the Department of Juvenile Services to a child who is the subject of the record, **for a purpose relevant to the provisions of the programs and services and the development of a comprehensive treatment plan.**

- The Baltimore City Mayor's Office on Criminal Justice **shall be liable for the unauthorized release** of a court record it accesses under this subsection.”
- **Sunsets in 2025**

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Resources

✦ Maryland Department of Juvenile Services

<https://djs.maryland.gov/pages/default.aspx>

✦ Maryland General Assembly

Juvenile Law – Disclosure of Court Records

http://mgaleg.maryland.gov/2018rs/Chapters_noln/CH_669_sb0091t.pdf

Confidentiality of Juvenile Records - Baltimore City Mayor's Office on Criminal Justice

<http://mgaleg.maryland.gov/mgawebsite/legislation/details/sb0985?ys=2019RS>

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