



## Virginia Commission on Youth Crossover Youth Information Sharing Work Group

<p style="text-align: center;"><b>Study Mandate</b></p> <p>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.</p>	
<p style="text-align: center;"><b>Draft Recommendations</b></p>	<p style="text-align: center;"><b>Work Group Comments</b></p>
<p><b>Create guidance on information sharing:</b></p> <p><u>Recommendation 1</u></p> <p>Request the Department of Juvenile Justice, Department of Social Services, and the Department of Behavioral Health and Developmental Services, respectively, to create 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.</p> <p>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</p>	

<p>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.</p> <p>Guidance should incorporate guidelines from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) <a href="#">Guidelines for Juvenile Information Sharing</a> and the <a href="#">Models for Change Information Sharing Toolkit</a>.</p> <p>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.</p>	
<p><b>Create a model memorandum of understanding:</b></p> <p><u>Recommendation 2</u></p> <p>Request the Department of Juvenile Justice, Department of Social Services, and the Department of Behavioral Health and Developmental Services to form an interagency work group to create a model memorandum of understanding (MOU) on youth information sharing that should include, but not be limited to, who has access to, 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 MOU shall be disseminated to local agencies for their adaptation and use.</p>	<p><u>City of Alexandria/ CJJR team</u>, is concerned with this recommendation. “The idea of the State agencies developing model MOUs that then localities try to adapt would result in potentially 125 different practices. Instead, we think we should be strongly pushing for Code changes in DJJ and DSS sections.”</p> <p>“In general, we don’t like the continued push down to local agencies to develop their own MOUs, training, etc. While we do believe in the locally driven approach when it comes to addressing the service needs of communities, this is more about setting a basic understanding of shared information so those individualized service needs can then be addressed.”</p> <p><u>Shay Bilchik, Founder and Director Emeritus, Center for Juvenile Justice Reform (CJJR)</u>, recommends “a state level standard/approach that is codified in some manner, followed by local units of government working with their counterparts to bring them to life through local protocols/case practice. There should not</p>

	<p>be as much variability in how information sharing is conducted across local jurisdictional lines - and the resulting differences in the strength of case plans - as the pushing down to localized agreements would create.”</p>
<p><b>Training on information sharing:</b></p> <p><u>Recommendation 3</u></p> <p>Request local departments of social services, court service units, and community services boards to include in their initial employee and ongoing training for their workers a course on youth information sharing. 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.</p> <p><u>Recommendation 3b</u> (based on comment feedback)</p> <p>Clarify in recommendation 3 that initial and ongoing training be developed and provided by the state agencies.</p>	<p><u>Gretchen Brown, Assistant Director, Henrico County Local Department of Social Services</u>, comments that, “if the expectations are in our state-issued guidance and developed by the state agencies, I think the responsibility for training should be with the state agencies. At least for local departments of social services, all staff are required to participate in a multitude of mandated state trainings and this could easily be incorporated into guidance training. This would allow for more consistency in setting expectations instead of starting with 120 local interpretations, even though those could eventually develop over time.”</p> <p><u>City of Alexandria/ CJJR team</u>, comments that “if we have a <i>Code established minimum</i> [of information sharing], then for Recommendation #3 and #4 it becomes the responsibility of DJJ and DSS to develop a statewide training on information sharing. They would surely develop an e-training which is easily within their resources. Additional local cross system training is also recommended, but on the heels of statewide training.”</p> <p><u>Shay Bilchik, CJJR</u>, comments that the benefit to a state level standard/approach to information sharing is having “a standardized set of training materials that would be created at the state level and offered in a variety of settings in partnership with local jurisdictions.”</p>

<p><u>Recommendation 4</u></p> <p>Request local departments of social services, court service units, and community services boards to conduct recurring cross-agency training on information sharing as a way to learn about other agency’s protocols and revisit and discuss shared MOUs.</p>	<p><u>Gretchen Brown, Henrico County LDSS</u>, states for recommendation 4 that “these requirements should be encouraged parts of the suggested MOU template that is created and negotiated by departments/agencies in each locality.”</p>
<p><b>Immediate information sharing at intake:</b></p> <p><u>Recommendation 5</u></p> <p>Issue Presented: Can DJJ/CSU get information about prior or ongoing youth involvement with DSS from a local department of social services at the juvenile’s initial point of contact with the CSU (at intake)? This idea was raised at the last meeting as a way to promote diversion planning.</p> <p>The following <i>Code</i> section, § 63.2-105, allows for information to be shared “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.” This <i>Code</i> section also details a non-exclusive list of persons having a legitimate interest. An excerpt of this <i>Code</i> section is below.</p> <p>A question for the work group. Does <i>Code</i> <a href="#">§ 63.2-105</a> need to be amended?</p> <p style="padding-left: 40px;">Confidential records and information concerning social services; child-protective services and child-placing agencies.</p> <p style="padding-left: 40px;">A. The local department may disclose the contents of records and information learned during the course of a child-protective services investigation or during the</p>	<p><u>Gretchen Brown, Henrico County LDSS</u>, comments that “CSU can likely be a party of legitimate interest for information pertaining to the child, but the cited code section regarding party of legitimate interest is specific to when the LDSS is in the process of the CPS investigation or provision of services so this would not cover historical/closed involvement.”</p> <p>Ms. Brown also provides an example and an explanation. “Locally, we require signed consents from the parents or legal guardian and are limited in what we release when the abuser is not the person signing the consent. There are many aspects of a case that could not be shared under a release because there might not be all of the necessary releases signed, the matter could be under appeal, etc; however a conversation could likely provide CSU with the information they need to proceed.”</p> <p><u>City of Alexandria/ CJJR team</u>, comments that “an option is to add CSB and CSU in the legitimate interest category, but we are only talking about notification of involvement and no other detail, and this section covers much more than that.”</p> <p>“Perhaps better to be specific regarding legitimate interest allowing CSB and CSU to know merely that there is DSS involvement without consent.”</p>

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. Persons having a legitimate interest in child-protective services records of local departments include, but are not limited to, (i) any person who is responsible for investigating a report of known or suspected abuse or neglect or for providing services to a child or family that is the subject of a report, including multidisciplinary teams and family assessment and planning teams referenced in subsections J and K of § 63.2-1503, law-enforcement agencies and attorneys for the Commonwealth; (ii) child welfare or human services agencies of the Commonwealth or its political subdivisions when those agencies request information to determine the compliance of any person with a child-protective services plan or an order of any court; (iii) personnel of the school or child day program as defined in § 63.2-100 attended by the child so that the local department can receive information from such personnel on an ongoing basis concerning the child's health and behavior, and the activities of the child's custodian; (iv) a parent, grandparent, or any other person when such parent, grandparent or other person would be considered by the local department as a potential caretaker of the child in the event the local department has to remove the child from his custodian; and (v) the Commitment Review Committee and the Office of the Attorney General for the purposes of sexually violent predator civil commitments pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2

**Create database and conduct data analysis:**

Recommendation 6

Request the Office of the Secretary of Health and Human Resources and Secretary of Public Safety and Homeland Security to work together to assess the cost and feasibility of creating a central database for use by departments in identifying crossover youth status at the initial contact point with an agency for purposes of service delivery.

Recommendation 7

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.

City of Alexandria/ CJJR team, supports recommendation 6. Adds that, “another idea would be [to model] on the current Systems Partnering in a Demographic Repository (SPIDeR) capacity which searches different databases for limited information.”

City of Alexandria/ CJJR team, supports recommendation 7. “Not having the ability to share local data for the purpose of system improvement has been a huge barrier.”

**DSS commitment to information sharing:**

Recommendation 8

Request the Department of Social Services in its next *Annual Progress and Services Report (APSR) Child Abuse Prevention and Treatment Act (CAPTA) Plan Update* to include a section on its work: “supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;” ([CAPTA Section 106\(a\)\(12\)](#)).

*The above quoted language is one of the purposes CAPTA lists for its grant to states under the law.*

**Commission on Youth Study and Initiatives:**

Recommendation 9

Request as a part of this study’s final report on crossover youth information sharing, that the Commission on Youth develop a list of resources on crossover youth information sharing and disseminate it to relevant stakeholders.

Recommendation 10

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.

City of Alexandria/ CJJR team, is unsure about how recommendation 10 fits in to the efforts of this work group.

<p><b>Additional Discussion Items:</b></p> <ul style="list-style-type: none"> <li>• What can be done to support parents and families in navigating and accessing information on their children and help them understand their rights?</li> <li>• Do any changes need to be made to <a href="#">SB 1206</a> that went unaddressed in this year’s legislation?</li> </ul>	
	<p><b>Additional Comments:</b></p> <p><u>Gretchen Brown, Henrico County LDSS</u>, shares that “it would be exciting for the state to consider adopting the Crossover Youth Practice Model as a way to come together to establish best practices in serving our youth and consistency in case management across our child-serving agencies.”</p> <p><u>City of Alexandria/ CJJR team</u>, includes two additional recommendations calling for <i>Code</i> changes to set a baseline of information sharing at the state level. “We believe that a minimum level of sharing information, specifically outlined in <i>Code</i>, should be a statewide expectation, and then localities can figure their approach from there.”</p> <p><b>City of Alexandria/ CJJR team, makes two recommendations:</b></p> <p>Amend the <i>Code of Virginia</i> in the relevant DJJ and DSS sections to allow for:</p> <ol style="list-style-type: none"> <li>1) A minimum amount of information regarding a youth to be shared without consent for the purposes of earliest identification of cross system involvement. Minimally share current (and maybe historical) involvement without details, and then leave everything</li> </ol>



else to consent being required. (Exempting CSB here due to HIPAA). This *Code* change must include that all information received remains with the local department and CSB, and cannot be passed along to other entities.

Amend the *Code of Virginia* to permit:

- 2) A change in how dispositional reports are shared.

**Review and provide a copy of a dispositional report to youth and guardian prior to a hearing**

Prior to finalizing a dispositional report, the CSU worker will review the report with the guardian and youth and local department of social services & CSB (when involved), in order to ensure accuracy and a trauma-informed approach.

Guardians and youth shall be provided with a copy of the dispositional report within a certain number of business days of finalization, and prior to a dispositional hearing. (Currently they can only view it at the courthouse and never get a copy), and

**Provide a copy of a dispositional report to the local department of social services and CSB with guardian consent prior to a hearing**

Similarly, when a local department of social services and/or CSB are involved, and with guardian consent, local department of social services and/or CSB are to be provided copies of a dispositional report within a certain number of business days of finalization and prior to dispositional hearing. This *Code* change must include that all information received remains with the

local department and CSB, and cannot be passed along to other entities.

Shay Bilchik, CJJR, with respect to Alexandria’s suggested recommendation, comments that, “outside of initial sharing of information to identify a crossover youth and consent to share further information, consideration should be given to facilitating the sharing of information as a matter of law as part of the development of the disposition report and case plan, with significant limitations on any further sharing of the information learned by the parties.”

Valerie L'Herrou, Staff Attorney, Virginia Poverty Law Center (VPLC), expressed a number of concerns about increased information sharing.

Highlighting the legal and protective preferences of confidentiality over the sharing of information:

- Recently, “privacy statutes, and court rules and rulings on access to court records in juvenile and child dependency hearings, have started trending to err on the side of confidentiality rather than disclosure. For example, in 2018, *Code of Virginia § 16.1-305.01* made previously public child custody and support records confidential.”
- Because juvenile delinquency records are not destroyed when a child reaches the age of majority, “the confidentiality of these records is the only protection young people have to prevent a juvenile delinquency record following them into adulthood.”
- “Even amongst DSS folks, there appears to be a preference toward limiting, rather than opening. For example, in Virginia Court of Appeals and Supreme Court of Virginia cases involving child dependency cases, even though the juvenile's name is not public and the court records are sealed, the

opinions include many of the facts of the case, and the parents' names as petitioners are listed; caseworkers have expressed concern that children in foster care are sometimes embarrassed to learn that details of their cases are publicly available on the Supreme Court's website, and hope they could be made inaccessible.”

An issue of convenience rather than need:

- While it may be inconvenient to ask a court to allow record sharing, or to get a waiver for a child in a parent's custody, for a child in DSS custody, DSS can release information to a plethora of persons as it deems helpful to the child.  
[\(§ 63.2-105\)](#)
- Section [16.1-305\(2\)](#) seems to allow the DSS or DJJ a lot of access to records in the court's possession.

Ms. L'Herrou states that “it would be helpful to me to know examples where the child would be placed at risk if information was not shared.”

Additional Considerations:

- Protections for disclosures from youth who are in treatment settings, to not use these in delinquency proceedings, will likely not be meaningful once the information is out in the open.
- Ms. L'Herrou states that FERPA and HIPAA are implicated by these discussions, as well as, the privacy provisions of Title IV-E and B and other federal and state statutes, and should be part of the conversation.