

Major Policy Considerations

Expanding the Powers & Duties of the Office of the Children's Ombudsman to Include Juveniles Committed to Department of Juvenile Justice

- I. Scope of the Powers and Duties of the Office of the Children's Ombudsman:**
Should the powers and duties of the Office of the Children's Ombudsman be extended to include youth committed to the Department of Juvenile Justice in a juvenile correctional center?
- II. Eligible Complainants:** Who can file complaints with the Office of the Children's Ombudsman regarding youth committed to the Department of Juvenile Justice?
- III. Exhaustion Requirement:** Should a complainant be required to exhaust administrative remedies within the Department of Juvenile Justice before filing a complaint with the Office of the Children's Ombudsman?
- IV. Access to Data:** Should the Office of the Children's Ombudsman have access to internal Department of Juvenile Justice data upon request or have direct access to internal departmental systems?
- V. Mandatory Investigations:** Should specific critical incidents in a juvenile correctional center mandate an investigation by the Office of the Children's Ombudsman?
- VI. Reporting Requirements:** What data and information will be required in Office of the Children's Ombudsman reports? How often will reports be published?
- VII. Budget & Staffing:** What updates to the Office of the Children's Ombudsman budget and staffing levels will be necessary to facilitate the expanded powers and duties to committed youth?

Section I. Scope of Extended Powers and Duties

Should the powers and duties of the Office of the Children’s Ombudsman (OCO) be extended to include youth committed to the Department of Juvenile Justice (DJJ) in a juvenile correctional center?

- The Department of Juvenile Justice’s definition of a “committed youth” includes youth in Bon Air Juvenile Correctional Center and youth in alternative placements:
 - 19 Central Admission and Placement (CAP) Intake Sites
 - 5 Community Placement Programs (CPP)
 - 8 Individual Bed Placement Facilities (IBP)
 - 4 Detention Reentry Programs

Relevant Code sections:

Va. Code §§ 16.1-272, 16.1-278.8(A)(14), 16.1-278.8(A)(17), 16.1-285.1

Section I. Policy Options
A. OCO powers and duties should be extended to committed youth in a juvenile correctional center. OR B. OCO powers and duties should be extended to include all committed youth which includes committed youth who are in alternative placements.

Section I. Impacts to Consider
Reach to direct care youth: In FY 2025, only 54.3% of youth in DJJ’s direct care were in Bon Air JCC. 45.7% of DJJ direct care youth were in an alternative placement (DJJ Data Resource Guide, 2025). Logistical and jurisdictional issues: DJJ defers to the internal grievance processes of each individual juvenile detention center for direct care youth in alternative programs. Additionally, the distances between JDCs could require extensive travel for on-site investigations.

Section II. Eligible Complainants

Who can file complaints with the Office of the Children’s Ombudsman regarding youth committed to the Department of Juvenile Justice?

- The OCO can receive general complaints from any individual under Va. Code § 2.2-441. Subsection B specifies that the OCO can receive complaints regarding a particular child and administrative act from the following individuals:
 - “(1) the child, if the child is able to articulate a complaint, in accordance with the provisions of subsection A of § 2.2-446, (2) a biological parent of the child, (3) a foster parent of the child, (4) an adoptive parent or a prospective adoptive parent of the child, (5) a legally appointed guardian of the child, (6) a guardian ad litem for the child, (7) a relative of the child or any person with a legitimate interest as defined in § 20-124.1, (8) a Virginia legislator, (9) an individual required to report that a child is alleged to be an abused or neglected child under § 63.2-1509, or (10) an attorney for any individual described in subdivisions 1 through 7.”

Relevant Code section:

Va. Code § 2.2-441(A)

“Any individual may submit a complaint to the Ombudsman. The Ombudsman has the sole discretion and authority to determine if a complaint falls within the Ombudsman's duties and powers to investigate and if a complaint involves an administrative act.”

Section II. Policy Options
A. Any individual can submit a general complaint or a complaint regarding a specific youth. OR B. Any individual can submit a general complaint to the OCO, but complaints regarding specific youth are limited to specified individuals. OR C. Eligible complainants only include affected youth.

Section II. Impacts to Consider
Medium of communication: The scope of eligible complainants will impact the best medium of submitting complaints and communicating with complainants. Youth in custody will need access to complaints by mail and phone. Other complainants may prefer an online complaint form.

Section III. Exhaustion Requirement

Should a complainant be required to exhaust administrative remedies within Department of Juvenile Justice before filing a complaint with the Office of the Children's Ombudsman?

- Currently, no requirement exists to exhaust administrative remedies before filing a complaint with the Office of the Children's Ombudsman. Potential complainants are directed to other resources and remedies before submitting a complaint form.

Relevant Code section:

Va. Code § 2.2-444(B)

"The Ombudsman shall advise a complainant of administrative remedies and may advise the individual to pursue all administrative remedies or channels of complaint open to the complainant before pursuing a complaint with the Ombudsman. Subsequent to the administrative processing of a complaint, the Ombudsman may conduct further investigations of a complaint upon the request of the complainant or upon the Ombudsman's own initiative."

Section III. Policy Options
A. Complainants must complete DJJ grievances and complaints procedure and appeal process before filing with OCO.
OR
B. Complainants may appeal to OCO after completing DJJ grievances and complaints procedure.
OR
C. Complainants can file a complaint directly with OCO.

Section III. Impacts to Consider
Delays to issue resolution: Non-emergency grievances can go unresolved for up to 15 days before a response is required by DJJ. Complaints can go unresolved for 25 days without a response (DJJ VOL IV - 4.1 – 1.15).
Volume and content of complaints: Complaints will not be screened through DJJ's human rights coordinators to be substantiated under Policy Option C (DJJ VOL IV -4.1 – 1.15 – 4.5).

Section IV. Access to Data

Should the Office of the Children’s Ombudsman have access to internal Department of Juvenile Justice data upon request or have direct access to internal departmental systems?

- The Office of the State Inspector General was granted external view-only access to DJJ databases during the completion of the 2025 Bon Air JCC Audit.
- DJJ currently collects data on:
 - Grievances and complaints
 - School attendance
 - Assessments & treatment plans
 - Incident reports

Relevant Code section:

Va. Code § 2.2-445(C)

“The Ombudsman and the Office shall have access, in the Ombudsman's own office, to departmental computer networks pertaining to protective services, foster care, adoption, juvenile delinquency, and the central registry, unless otherwise prohibited by state or federal law or if the release of the information to the Ombudsman would jeopardize federal funding. The cost of implementing this subsection shall be negotiated among the Office and the custodians of such networks.”

Section IV. Policy Options
A. OCO and DJJ enter into a data sharing agreement that streamlines data requests for investigating grievances and complaints. OR B. OCO is granted internal access to DJJ databases for the purpose of investigating grievances and complaints.

Section IV. Impacts to Consider
Administrative burden and delays to issue resolution: Requiring data requests for each investigation can add to the administrative burden of OCO staff and DJJ staff. This will likely also prolong the process of investigations. Privacy protections and data security: OCO will need to work with DJJ to ensure sensitive data, such as therapeutic treatment records and educational records, are compliant with privacy laws and can only be securely accessed.

Section V. Mandatory Investigations

Should specific critical incidents in a juvenile correctional center mandate an investigation by the Office of the Children's Ombudsman?

- Virginia DJJ serious incident reports are mandated in administrative code. These reports could trigger mandated OCO investigations.

Relevant Regulation:

6 VAC 35-71-60 (A)(B)

"A. The following events shall be reported as soon as practicable, but no later than 24 hours after the incident, and in accordance with department procedures to the director or his designee:

1. Any serious illness, incident, injury, or accident involving injury of a resident;
2. Any absence from the facility without permission; and
3. All other situations required by written procedures.

B. As appropriate and applicable, the facility shall, as soon as practicable, but no later than 24 hours after the incident, and in accordance with written procedures, report the incidents listed in subsection A of this section to (i) the parent or legal guardian and (ii) the supervising court service unit or agency."

Section V. Policy Options
A. OCO must investigate all serious incident reports in the JCC.
OR
B. OCO is notified within 24 hours of all serious incident reports and may investigate at the Ombudsman's discretion.
OR
C. OCO is notified after DJJ responds to serious incident reports and may investigate at the Ombudsman's discretion.

Section V. Impacts to Consider
Potential for redundancy: DJJ logs all serious incidents and the actions taken in response to all serious incident reports.
Notification & documentation concerns: The 2025 OSIG Bon Air JCC Audit found systemic gaps in documentation of institutional incident reports and found processing delays. Strain on limited DJJ staff may make additional notification requirements difficult and unreliable for the OCO.

Section VI. Reporting Requirements

What data and information will be required in reports? How often will reports be published?

- The OCO publishes quarterly complaint data reports in addition to the annual reports required in Code. Most investigative reports are not published due to privacy protections.

Relevant Code sections:

Va. Code § 2.2-447

This Code section specifies current reporting requirements for the OCO, which include:

- Reports on factual findings of investigations
- An annual report to the Governor, Commissioner of Social Services, and the General Assembly on the office's activities and recommendations for legislation or revisions to rules or policies.

Section VI. Policy Considerations

- A. Juvenile justice complaint data could be included in quarterly complaint reports. These data reports could categorize complaints to illustrate trends and potential systemic facility issues.

AND/OR

- B. The OCO can include recommendations for juvenile justice system changes in annual reports to the Governor, Commissioner of Social Services, and the General Assembly on the office's activities and recommendations for legislation or revisions to rules or policies.

Section VI. Impacts to Consider

Privacy protections and data security: OCO will need to ensure that data included in reports is deidentified and compliant with privacy regulations.

Section VII. Budget & Staffing Levels

What updates to the Office of the Children’s Ombudsman budget and staffing levels will be necessary to facilitate the expanded powers and duties to youth committed to the Department of Juvenile Justice?

Office of the Children’s Ombudsman Budget (FY 2022-2028)

Fiscal Year	Budget	Positions	Complaint Volume
2022	\$479,500	4.5	264 (June-Sept.)
2023	\$479,500	4.5	446
2024	\$479,500	4.5	487
2025	\$728,985	5.5	466
2026	\$728,985	5.5	N/A
2027	\$1,029,735	7.5	N/A
2028	\$1,029,735	7.5	N/A