



State Human Rights Committee
2012 Annual Report
On the Status of the
Human Rights System

Approved by the
State Human Rights Committee
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Presented to the
State Board of Behavioral Health and Developmental Services
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Message from the SHRC Chair and the Director of Human Rights

This annual report presents the activities and achievements of the State Human Rights Committee (SHRC) and the Office of Human Rights (OHR) in 2012 in accordance with our duties and responsibilities under the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. It is our hope that this report enlightens you about the protection of the human rights of individuals receiving services and the contributions of Virginia's citizens who serve as volunteers to assure these rights.

The State Human Rights Committee continued its long-standing practice of conducting its meetings at community programs and state facilities across the Commonwealth. This practice is extremely important to our consumers, families, volunteers, staff, SHRC members and the Office of Human Rights staff. It provided first-hand knowledge and familiarity with services that are available and provided in a variety of settings. We held meetings at four state facilities, one private location, DBHDS Central Office and one Community Services Boards/Behavioral Health Authorities. These meetings provided opportunities for the SHRC to receive feedback from consumers about quality of care, meet our service providers, visit community-based programs and share points of view about human rights issues. Consumers, staff, and family members also shared their experiences and ideas as to how the SHRC could improve the effectiveness and efficiency of services delivered in facility and community settings.

A critical function of the SHRC is to serve as the final step in the complaint resolution process. In 2012, approximately 6997 allegations of abuse or neglect (over 50% of the allegations of abuse/neglect were acts of peer on peer aggression) and 3937 human rights complaints were managed through the statewide human rights system and all but eleven of those were resolved at the provider level. The SHRC heard seven of those complaints on appeal. If responsiveness to consumer complaints is an indicator of system success, then the fact that over 99+% of complaints are resolved at the lowest level indicates a highly effective system of dispute resolution. The SHRC commends the consumers, providers, advocates and family members who worked together to resolve these issues.

During the past year the SHRC continued its efforts to increase monitoring of the human rights system through the development of goals and objectives that address specific areas of concern. The committee engaged in dialogue with staff regarding the committee's concern about the quality of treatment and limitations the system imposes upon consumers including delay in discharge and treatment of children and adolescents. This dialogue was further informed by the outstanding annual reports each region prepared and presented to the committee throughout the year. The committee also was enlightened by the presentations of experts such as Mr. James Stewart, Commissioner DBHDS, Ms. Heidi Dix, Assistant Commissioner DBHDS, Ms. Emily McClelland, Policy Director DMAS, Dr. Les Saltzberg, Director of Licensing, Mr. Russell Payne, Office of Mental Health Services, Ms. Janet Lung, Director, Office of Child and Adolescent Services, Dr. Anita Schlank Director, Clinical Services, Virginia Center for Behavioral Rehabilitation (VCBR), Karen Taylor, DBHDS Special Counsel, Office of the Attorney General, Mr. John Pezzoli, Assistant Commissioner for Behavioral Health Services,

Ms. Vickie Montgomery, Director, Central State Hospital, Mr. Bill Hawkins, Director, SVTC, Dr. Rebecca Stredney, Forensic Coordinator, Dr. Michael Schaeffer, Forensic Coordinator, Mr. Jim Martinez, Director of Behavioral Healthcare, and Ms. Marion Greenfield, Director, Office of Quality Management and Clinical Training Manager, on issues related to our goals. More details about our goals, objectives and activities can be found beginning on page 13 of this report.

The State Human Rights Committee (SHRC), Office of Human Rights and Advocates devoted a considerable amount of effort during the year to the restructuring of Local Human Rights Committee (LHRC) roles and responsibilities, consistent with the vision articulated during the SHRC planning sessions of 2010: “Success for the DBHDS human rights system is when providers integrate and demonstrate the concepts of the human rights regulations into all aspects of services so that individuals are empowered and supported in seeking the life they choose.”

The State Human Rights Committee continued to focus on specific issues impacting individuals under forensic status. The Committee is particularly concerned about the census management/flow-through issues impacting Central State Hospital and Eastern State Hospital and the rights, management and security of individuals found not guilty by reason of insanity (NGRI). The Committee was pleased to hear of the progress the Office of Forensic Services is making with all of their issues as well its efforts to educate attorneys and others in the legal system regarding the impact of a finding of NGRI.

We extend our sincere gratitude to the Office of Human Rights staff and our volunteers who serve on Local Human Rights Committees and the State Human Rights Committee for their tremendous effort in support of the human rights program. We are proud of this year’s accomplishments and look forward to the future with confidence that with our dedicated staff, loyal volunteers and the support of the Virginia Department of Behavioral Health and Developmental Services, we will succeed in making this program the best possible.



Donald Lyons, Chair
State Human Rights Committee



Margaret Walsh, Director
Office of Human Rights

Overview

The Department's Office of Human Rights, established in 1978, has as its basis the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. The Regulations outline the Department's responsibility for assuring the protection of the rights of consumers in facilities and programs operated, funded and licensed by DBHDS.

Title 37.2-400, Code of Virginia (1950), as amended, and the Office of Human Rights assure that each consumer has the right to:

- Retain his legal rights as provided by state and federal law;
- Receive prompt evaluation and treatment or training about which he is informed insofar as he is capable of understanding;
- Be treated with dignity as a human being and be free from abuse and neglect;
- Not be the subject of experimental or investigational research without his prior written and informed consent or that of his legally authorized representative.
- Be afforded the opportunity to have access to consultation with a private physician at his own expense;
- Be treated under the least restrictive conditions consistent with his condition and not be subjected to unnecessary physical restraint or isolation;
- Be allowed to send and receive sealed letter mail;
- Have access to his medical and mental records and be assured of their confidentiality;
- Have the right to an impartial review of violations of the rights assured under section 37.2-400 and the right to access legal counsel;
- Be afforded the appropriate opportunities... to participate in the development and implementation of his individualized service plan; and
- Be afforded the opportunity to have an individual of his choice notified of his general condition, location, and transfer to another facility. (**new July 1, 2009**)

The State Human Rights Committee's function is to monitor and make suggestions regarding the protection of the legal and human rights of consumers who receive services in programs or facilities operated, funded or licensed by the Department of Behavioral Health and Developmental Services, and to ensure that services are provided in a manner compatible with human dignity and under the least restrictive conditions consistent with the consumer's needs and available services. The SHRC has the responsibility of monitoring and evaluating the implementation and enforcement of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services* promulgated pursuant to §37.2-400 of the Code of Virginia, as amended.

The State Human Rights Committee (SHRC)

- ◆ The SHRC consists of nine members appointed by the State DBHDS Board (hereinafter the Board).

- a. Members shall be broadly representative of professional and consumer interests and of geographic areas of the Commonwealth. At least two members shall be individuals who are receiving services or have received within five years of their initial appointment public or private mental health, mental retardation, or substance abuse treatment or habilitation services. At least one-third shall be consumers or family members of similar individuals.
- b. At least one member shall be a health care professional.
- c. Members cannot be an employee or Board member of the Department or a Community Services Board.
- d. If there is a vacancy, interim appointments may be made for the remainder of the unexpired term.
- e. A person may be appointed for no more than two consecutive terms. A person appointed to fill a vacancy may serve out that term, and then be eligible for two additional consecutive terms.

Duties and Responsibilities:

- ◆ Elect a chair from its own members who shall:
 - a. Coordinate the activities of the SHRC;
 - b. Preside at regular meetings, hearings and appeals; and
 - c. Have direct access to the Commissioner and the Board in carrying out these duties.
- ◆ Upon request of the Commissioner, Human Rights Advocate, provider, Director, an individual or individuals receiving services, or on its own initiative, the SHRC may review any existing or proposed policies, procedures, or practices that could jeopardize the rights of one or more individuals receiving services from any provider. In conducting this review, the SHRC may consult with any Human Rights Advocate, employee of the Director, or anyone else. After this review, the SHRC shall make recommendations to the Director or Commissioner concerning changes in these policies, procedures, and practices.
- ◆ Determine the appropriate number and geographical boundaries of LHRCs and consolidate LHRCs serving only one provider into regional LHRCs whenever consolidation would assure greater protection of rights under the regulations.
- ◆ Appoint members of LHRCs with the advice of and consultation with the Commissioner and the State Human Rights Director.
- ◆ Advise and consult with the Commissioner in the employment of the State Human Rights Director and Human Rights Advocates.
- ◆ Conduct at least eight regular meetings per year.
- ◆ Review decisions of LHRCs and, if appropriate, hold hearings and make recommendations to the Commissioner, the Board, and providers' governing bodies regarding alleged violations of individuals' rights according to the procedures specified in the regulations.

- ◆ Provide oversight and assistance to LHRCs in the performance of their duties hereunder, including the development of guidance documents such as sample bylaws, affiliation agreements, and minutes.
- ◆ Review denials of LHRC affiliations.
- ◆ Notify the Commissioner and the State Human Rights Director whenever it determines that its recommendations in a particular case are of general interest and applicability to providers, Human Rights Advocates or LHRCs and assure the availability of the opinion or report to providers, Human Rights Advocates, and LHRCs as appropriate. No document made available shall identify the name of individuals or employees in a particular case.
- ◆ Grant or deny variances according to the procedures specified in Part V (12 VAC 35-115-220) of the regulations and review active variances at least once every year.
- ◆ Make recommendations to the Board concerning proposed revisions to the regulations.
- ◆ Make recommendations to the Commissioner concerning revisions to any existing or proposed laws, regulations, policies, procedures, and practices to ensure the protection of individuals' rights.
- ◆ Review the scope and content of training programs designed by the department to promote responsible performance of the duties assigned under the regulations by providers, employees, Human Rights Advocates, and LHRC members, and, where appropriate, make recommendations to the Commissioner.
- ◆ Evaluate the implementation of the regulations and make any necessary and appropriate recommendations to the Board, the Commissioner, and the State Human Rights Director concerning interpretation and enforcement of the regulations.
- ◆ Submit a report on its activities to the Board each year.
- ◆ Adopt written bylaws that address procedures for conducting business; making membership recommendations to the Board; electing a chair, vice chair, secretary and other officers; appointing members of LHRCs; designating standing committees and their responsibilities; establishing ad hoc committees; and setting the frequency of meetings.
- ◆ Review and approve the bylaws of LHRCs.
- ◆ Publish an annual report of the status of human rights in the mental health, mental retardation, and substance abuse treatment and services in Virginia and make recommendations for improvement.
- ◆ Require members to recuse themselves from all cases where they have a financial, family or other conflict of interest.
- ◆ Perform any other duties required under the regulations.

Mission Statement

The Office of Human Rights assists the Department in fulfilling its legislative mandate under §37.2-400 of the Code of Virginia to assure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed or funded by the Department.

The mission of the Office of Human Rights is to monitor compliance with the human rights regulations by promoting the basic precepts of human dignity, advocating for the rights of persons with disabilities in our service delivery systems, and managing the DBHDS Human Rights dispute resolution program.

Structure

The Office of Human Rights is located within the Department of Behavioral Health and Developmental Services and is supervised by the State Human Rights Director. The State Human Rights Director oversees statewide human rights activities and provides guidance and direction to human rights staff.

The **State Human Rights Committee** consists of nine volunteers, who are broadly representative of various professional and consumer groups, and geographic areas of the State. Members of the SHRC are appointed by the State DBHDS Board and acts as an independent body to oversee the implementation of the human rights program. Its duties include to: receive, coordinate and make recommendations for revisions to regulations; review the scope and content of training programs; monitor and evaluate the implementation and enforcement of the regulations; hear and render decisions on appeals from complaints heard but not resolved at the LHRC level; review and approve requests for variances to the regulations; review and approve LHRC bylaws, and; appoint LHRC members.

The **Local Human Rights Committees** are committees of community volunteers who are broadly representative of various professional and consumer interests. LHRCs play a vital role in the Department's human rights program, serving as an external component of the human rights system. LHRCs review consumer complaints not resolved at the program level; review and make recommendations concerning variances to the regulations; review program policies, procedures and practices and make recommendations for change; conduct investigations; and review restrictive programming.

Advocates represent consumers whose rights are alleged to have been violated and perform other duties for the purpose of preventing rights violations. Each state facility has at least one advocate assigned. Advocates who serve state facilities and regional advocates are assigned to community public and private programs. The Commissioner in consultation with the State Human Rights Director appoints advocates. Their duties include investigating complaints, examining conditions that impact consumer rights and monitoring compliance with the human rights regulations.

State Human Rights Committee Members

Donald Lyons

Chairperson

Mr. Donald Lyons is a retired State Police Officer from Hillsville, Virginia. He has experience as a supervisor in the Bureau of Criminal Investigation, Drug Investigative Unit for the far southwestern area of Virginia. Mr. Lyons was a licensed polygraph examiner for the Department of State Police. Mr. Lyons is a former member of the Southwestern Virginia Training Center Local Human Rights Committee and served as Chair during his tenure on that committee. Mr. Lyons was appointed to the SHRC by the State DBHDS Board on August 21, 2007, for a term of July 1, 2007 to June 30, 2010, and reappointed for a term of July 1, 2010 to June 30, 2013. Mr. Lyons resides in Hillsville.

Randy J. Johnsey

Vice-Chairperson

Mr. Randy Johnsey has a Bachelor of Science degree in Psychology from East Tennessee State University. Prior to his appointment to the SHRC was an active member and Chairman of Southwest Regional Human Rights Committee. As a consumer Mr. Johnsey provides the invaluable perspective of an individual receiving services from the MHMRSA system. He was appointed to the SHRC by the State MHMRSAS Board on June 3, 2008, for a term of July 1, 2008 to June 30, 2011, and reappointed for a term of July 1, 2011 to June 30, 2014. Mr. Johnsey resides in Glade Spring.

Dr. Jannie Robinson

Dr. Jannie Robinson is the Administrative Director for Negril Academy Day Treatment and Mental Health Support for Negril, Inc. She previously served as Associate Vice-President for Student Affairs at Norfolk State University. She is a Licensed Clinical Social Worker with experience in social work and psychotherapy and has received training in substance abuse services. Prior to her appointment to the State Human Rights Committee she served on the Chesapeake Regional Local Human Rights Committee. Dr. Robinson was appointed to the SHRC by the State DBHDS Board on August 21, 2007, for a term of July 1, 2007 to June 30, 2010, and reappointed for a term of July 1, 2010 to June 30, 2013. Dr. Robinson resides in Danville.

Carolyn M. DeVilbiss

Ms. Carolyn M. DeVilbiss, LCSW, is a retired mental health manager and former employee of Fairfax-Falls Church Community Services Board and Mount Vernon Outpatient Unit. She has experience discharge planning for clients hospitalized in State and local hospitals as well as experience in the oversight of medication services, therapy and case management activities. Ms. DeVilbiss was appointed to the SHRC by the State MHMRSAS Board on June 3, 2008, for a term of July 1, 2008 to June 30, 2011, and reappointed for a term of July 1, 2011 to June 30, 2014. Ms. DeVilbiss resides in Alexandria.

Dr. Frank Royal

Dr. Royal is an Administrative Projects Coordinator for John Randolph Medical Center. He has experience in managing and treating patients in acute care settings for both residential and outpatient services, and has managed and supervised residents in an addiction medicine clinic. He is a former Psychosomatic Medicine Fellow and a former Child & Adolescent Psychiatric Fellow for the Medical College of Virginia. Dr. Royal's experience provides a valuable resource for the SHRC's oversight of the department's medical services. Dr. Royal was appointed to the SHRC on September 15, 2009 for a term of July 1, 2009 to June 30, 2012, and reappointed for a term of July 1, 2012 to June 30, 2015. Dr. Royal resides in Richmond.

Penny Cameron

Ms. Penny Cameron is a Licensed Nurse Practitioner Mental Health Therapist formerly with Fairfax County Government and has over 20 years of experience as Director of Partial Hospitalization where she has managed multidisciplinary treatment teams at various mental health centers. Ms. Cameron has provided review of services and services delivery of treatment for clients with a history of substance abuse and mental illness. She has over 30 years experience in psychiatry and 18 years internal medicine experience in community mental health. Ms. Cameron was appointed to the SHRC by the DBHDS State Board for a term of July 1, 2010 to July 30, 2013. Ms. Cameron resides in Great Falls.

Thomas "TC" Bullock

Mr. Thomas C. Bullock is a Hearings Officer and Hostage Negotiator for the Department of Corrections at Mecklenburg Correctional Center. In his 35 years of experience in the correctional system he has had regular contact with individuals with mental health issues. Mr. Bullock came to the SHRC after serving as a member and as Chair of the Southside Community Services Board Local Human Rights Committee. Mr. Bullock was appointed by the DBHDS State Board for a term of July 1, 2010 to July 30, 2013. Mr. Bullock resides in South Hill.

Ms. Vickie Cash-Graff

Ms. Victoria Cash Graff is a Licensed Clinical Social Worker and Certified Sex Offender Treatment Provider. As a specialist in the field of sexual offenders, Ms. Cash Graff has worked extensively with adult and juvenile offenders in community based treatment. Her presence on the SHRC provides the committee with the expertise needed to fulfill its obligation to provide rights protections to the consumers of Virginia Center for Behavioral Rehabilitation. Ms. Cash Graff was appointed in October 2012 to fill a vacant term of July 1, 2012 to June 30, 2015. Ms. Cash Graff resides in Staunton.

Mr. Timothy Russell

Mr. Timothy Russell is a research assistant and adjunct faculty at the College of William and Mary. He is a former Transitional Living Counselor at ValuMark West End

Behavioral Health Care. Mr. Russell is a former member of Newport News Regional LHRC and a former member and Chair of Williamsburg Regional LHRC. He provides the SHRC with the perspective of a consumer of DBHDS services. Mr. Russell was appointed in October 2012 to fill a vacant term of July 1, 2012 to June 30, 2015. Mr. Russell resides in Williamsburg.

Officer Appointments / Membership Changes

Effective July 1, 2012

Mr. Donald Lyons, Chair
Mr. Randy Johnsey, Vice Chair

Appointments July 1, 2012

Ms. Vickie Cash-Graff
Mr. Timothy Russell

Term endings July 1, 2012

Ms. Christina Delzingaro
Mr. Joseph Lynch

Reappointments July 1, 2012

Dr. Frank Royal, MD

State Human Rights Committee Activities

- **LHRC Bylaws**

The SHRC approved revised bylaws of 4 local human rights committees.

- **Variances**

The SHRC approved seven variances to the regulations.

- **LHRC Appointments**

The SHRC appointed 167 individuals to serve on Local Human Rights Committees.

- **Meetings**

In 2012 the State Human Rights Committee held the following meetings:

January 27	DBHDS Central Office Richmond, VA
March 9	Western State Hospital Staunton, Virginia
April 20	Central Virginia Training Center Lynchburg, Virginia
June 8	Jackson Field Home Jarrett, Virginia
July 13	meeting cancelled
September 7	SWVTC Hillsville, Virginia
October 26	Hampton, Newport News CSB Hampton, Virginia
December 7	SVTC Petersburg, Virginia

Meeting at various facilities and programs throughout the state provides the Committee with firsthand knowledge and familiarity with the kinds of services available to consumers and the settings within which services are provided.

- **Case Reviews**

Making decisions regarding consumer appeals is among the most challenging and important tasks for the SHRC. A total of more than 10,934 human rights and abuse/neglect complaints were processed through the human rights resolution process in 2012. All but 11 of these cases were resolved at the Directors level or below. Those cases were appealed to local human rights committees and seven of those cases were brought before the State Human Rights Committee on appeal. Each case provided the consumer with an additional opportunity to be heard regarding their human rights complaint. These appeals are the culmination of the human rights process and the decisions rendered by the SHRC provide guidance to LHRCs, facilities and programs across the state.

Issues addressed in decisions rendered by the SHRC, and local committees this past year included:

- * right to protection from harm, abuse and exploitation
- * services according to sound therapeutic practice
- * right to treatment with dignity
- * right to informed consent
- * right to participation in decision-making
- * right to freedoms of everyday life

SHRC Biennium Goals and Recommendations for 2012-2014

Biennium Goal # 1

Promote consistent statewide implementation of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. Indicators include:

- Updated policies and procedures
- Training
- Resources
- Review of the human rights regulations
- Participation in any Department effort to revise the regulations

Progress toward Biennium Goal #1 to date:

The Loudon County LHRC submitted a question about the meaning of the term Health Care Provider. Based on the question from this LHRC, the SHRC established a subcommittee to review the issue and provide additional guidance on the matter. The subcommittee plans to have its report completed by early 2011.

The SHRC issued a revised definition of Health Care Provider in January 2011. The new definition provides for more flexibility in the recruitment and filling of this Code mandated member.

On January 10, 2011, the SHRC issued the memo “Implementation of Recent SHRC Decisions re: LHRC Structure”. The memo addressed the following key factors:

- Timeframe for Implementation (June 2011)
- Purpose of Changes (Clarify the role of the LHRC and advocate and strengthen partnership between LHRCs and providers.)
- Number of Affiliates per LHRC (no limit)
- Code Mandated members
- Affiliation Fees (LHRCs cannot charge a fee)
- Informing SHRC of LHRC activities under 12 VAC 35-115-250 D)
- LHRC review of Behavior Plans (LHRCs no longer serve as SCC)
- Definition of Health Care provider
- LHRC Offices
- Provider attendance at LHRC Meetings
- Provider Compliance
- New model Bylaws and Cooperative Agreements

In January 2012, Vickie Montgomery and Rebecca Stredney provided information regarding forensic services and the process for moving individuals under forensic status between CSH and ESH. Information was also provided regarding individuals awaiting behavioral health services in jails.

Dr. Anita Shlank provided information about the changes to the clinical program at VCBR.

The SHRC reviewed VCBR appeals at each meeting throughout the year. A total of 70 cases were reviewed by the VCBR Appeals Committee.

John Pezzoli gave an update on the Patient Fund issue that has been under review for 18 months. The patient fund issue is unresolved as of June 2013.

Biennium Goal #2

The SHRC will promote the department's system transformation including the concepts of recovery and self empowerment.

Indicator:

- Consumers report satisfaction with quality of life and decision-making.

Progress toward Biennium Goal #2 to date:

Jim Martinez provided an overview of the systems recovery efforts at the October meeting.

Biennium Goal #3

The SHRC recommends that DBHDS continue to promote the human rights concepts of treatment in the most integrated settings, and consumer and family choice that are central to the Olmstead Decision.

- Monitor the Department's response to DOJ (new 2011)
 - Indicators: TBD when plan is developed
- Monitor state facility ready-for-discharge lists on a quarterly basis.

Indicators:

 - ❖ Discharge lists will be reduced;
 - ❖ Individuals are satisfied with services and life after discharge.
- Join and monitor the efforts of the Department and VACSB to increase the number of substitute decision makers.

Indicators:

 - ❖ Providers support, teach and encourage individuals to make their own decisions.
 - ❖ Public Guardianship funds are used appropriately to discharge individuals from training centers.

- ❖ Promote alternative decision making avenues such as Power of Attorney and Advance Directives.
- Monitor Department and system efforts toward maintaining youth in the community following their transition to adult services.

Indicators:

- ❖ Youth in transition will receive appropriate services
- ❖ Promote Provider Choice
 - a. Individuals receive services in a timely manner
 - b. Individuals and family members get full, unbiased choice of providers.

Progress toward Biennium Goal #3 to date:

The SHRC monitors the state MH facility discharge lists biannually.

Russell Payne, Community Support Specialist, reported that the number of individuals waiting for discharge from state facilities continues to decline. The SHRC will continue to monitor.

Consumer satisfaction surveys indicate satisfaction with quality of service and recovery efforts. The SHRC continues to monitor this issue.

Vickie Montgomery, Director of Central State Hospital, provided information about the efforts of that facility to promote treatment in the least restrictive environment. Ms. Montgomery came before the SHRC upon invitation as a follow-up to complaints lodged by individuals at CSH whose transfer to ESH was significantly delayed due to census management issues at ESH.

The census management issues at ESH and Region V continue to be an issue that the SHRC closely monitored in 2011. Assistant Commissioner John Pezzoli was asked to provide an update on the Departments efforts to address the issue at the SHRC meeting in March 2011.

Karen Taylor presented training in April 2011 on the changes to the Health Care Decisions Act and how it will increase individual decision making options.

Janet Lung, Director of the Office of Children and Family Services, presented a report on the status of children and adolescent services in early January 2011.

John Pezzoli, Assistant Commissioner, provided updates on census management and flow-through issues between CSH and ESH particularly related to the transfer and admission of forensic patients and jail transfers.

Russell Payne provided the SHRC with by annual updates on the status of the state hospital discharge ready lists.

Karen Taylor, Office of the Attorney General provided updates on changes to HealthCare Decision Act, the DOJ Agreement and annual FOIA training.

Heidi Dix, Assistant Commissioner, provided an update on the Department of Justice Settlement Agreement.

Russell Payne provided the SHRC with biannual updates on the status of the state hospital discharge ready lists.

Les Saltzberg, Deb Lochart, and LaDonna Walters provided updates on the Office of Licensing and Office of Human Rights activities related to the DOJ Settlement Agreement.

Bill Hawkins, Director of SVTC, provided an update on the status of the SVTC closure.

Janet Lung, Director of the Office of Children and Family Services, Les Saltzberg, Director of Licensing, and Emily McClelland, DMAS Policy Director, presented information on the VICAP system or approving Intensive In Home Services.

In 2012 the SHRC received updated information from VOPA and DBHDS regarding the flow-through/census management issues affecting CSH and ESH.

Biennium Goal #4

The SHRC recommends that DBHDS continue to promote the concept of, and provide training in, treatment without coercion in state operated facilities and community based programs and hospitals.

- State Facilities will reduce the use of seclusion and restraint.

Progress toward Biennium Goal #4 to date:

Marion Greenfield, Director of Quality and Risk Management, presented an update on the Department and system's efforts to reduce seclusion and restraint in April 2011.

Mary Clair O'Hara presented an update on the new Seclusion and Restraint Departmental Instruction in October 2011.

Marion Greenfield, Director of Quality and Risk Management, presented an update on the Department and systems efforts to reduce seclusion and restraint.

Biennium Goal # 5

The SHRC will be efficient and effective.

- Required tasks will be completed in a timely manner

Progress toward Biennium Goal #5 to date:

The SHRC reviews the LHRC vacancy list at every meeting.

Biennium Goal # 6

The SHRC will monitor the Virginia Center for Behavioral Rehabilitation's adherence to the human rights regulations through reports, policies, and complaint resolution as needed at every meeting or as issues arise.

- Residents are treated with dignity and respect (new indicator 2011)

Progress toward Biennium Goal #6 to date:

The SHRC takes its role as the oversight committee for VCBR seriously. The Committee completed the following activities related to this role in 2011:

- Reviewed and commented on 15 policies and procedures
- Processed 64 appeals of complaints.
- Engaged in discussions with the Director, Clinical Director and Quality Assurance/Compliance Director about issues and concerns.
- Met with the Resident Advisory Council (RAC) in December to listen to their concerns.

The SHRC takes its role as the oversight committee for VCBR seriously. The Committee completed the following activities related to this role in 2012:

- Reviewed and commented on 7 policies and procedures
- Processed 70 appeals of complaints.
- Engaged in discussions with the Director, Clinical Director and Quality Assurance/Compliance Director about issues and concerns.

Biennium Goal # 7

The SHRC will support Local Human Rights Committees.

- Each SHRC member will attend at least one LHRC meeting per year. SHRC members will provide prior notice to the LHRC chair requesting time on the agenda in order to make brief comments.
- Enhance communication with LHRCs.
 - Explore an email distribution list

Progress toward Biennium Goal #7 to date:

The SHRC published 2 volumes of Human Writes in 2008.

SHRC members attended meetings of local committees.

The SHRC members are now to attend 2 LHRC meetings per year.

The Communications Subcommittee issued a report in March 2011 with recommendations for the support and improvement of communication between and among the SHRC and Local Human Rights Committees. Feedback was requested from LHRC's, Advocates, SHRC members, and DMHR staff in both meeting and electronic venues. Some resulting findings and actions include:

- Feedback from advocates and LHRCs strongly underscores the value of face-to-face contact between SHRC members and among LHRC members across the State. The twice yearly visits by SHRC members to LHRCs is an important opportunity to share issues arising across the state with local committees.
- A scheduled time on the SHRC meeting agenda (during open session) has been established for SHRC members to report out their visits to LHRCs. This gives an opportunity for bringing local concerns to the State Committee and for discussion with the members, the advocates present, and the public regarding these issues.
- Similarly, the value of regional trainings for LHRC leaders and members should be supported and encouraged in order to enhance idea-sharing and support consistency across jurisdictions.
- This Committee will continue to solicit suggestions for enhancing communication (request for comment was sent in the Summer 2011 Newsletter), and to consider recommendations for the enhancement of the State Human Rights website and use of other electronic means for information sharing with LHRC leaders.
- *The SHRC published one Newsletter in 2012.*

Biennium Goal # 8

The SHRC will promote and provide ongoing training opportunities for all stakeholders.
Enhance leadership skills of LHRC members

Progress toward Biennium Goal #8 to date:

The SHRC issues guidance to LHRC members in the newsletter and memorandum.

The SHRC supports regional LHRC training activities. The Communication subcommittee is addressing how to increase training activities by other means including electronic.

Biennium Goal # 9

The SHRC will recognize the service of LHRC members.

Progress toward Biennium Goal #9 to date:

A member of a local committee is featured in each volume of Human Writes.

Office of Human Rights Program Highlights

Staffing

The Office of Human Rights had several staffing changes in 2012 that have significantly impacted the overall organization of the office. A list of the staff changes and status of the positions is below.

Deb Lochart, former Regional Advocate in Region II became the OHR ID Manager. Deb has responsibility for the offices activities under the DOJ agreement.

Kevin Paluszak accepted a lateral transfer from Regional Advocate for Region VI to Regional Advocate in Region II.

Beverly Garnes was promoted from advocate manager to Regional Advocate in Region VI.

LaDonna Walters was hired to fill the vacant advocate position at SVTC. She then transferred to fill a new position as an ID advocate working with Deb Lochart on the DOJ Activities. Taneika Goldman was hired to fill the position at SVTC.

Nerissa Rhodes accepted a position with the Office of Licensing and Tim Jones was hired to fill that position at ESH and Region V.

The proliferation of new providers across the state has put an extra burden on already stretched staff. Regional staff worked with new providers to facilitate licensure in order to provide services to individuals. The numbers below do not reflect the number of actual service locations that a particular provider may operate. For example, a provider of sponsored residential services may provide service at 30 different locations.

The number of providers per region in 2012 is as follows:

- 120 in Region I
- 122 in Region II
- 79 in Region III
- 361 in Region IV

- 301 in Region V
- 158 in Region VI

The number of new providers per region in 2012 is as follows:

- 15 in Region I
- 10 in Region II
- 11 in Region III
- 54 in Region IV
- 44 in Region V
- 15 in Region VI

The number of LHRCs per region in 2012 follows:

- 10 in Region I
- 9 in Region II
- 8 in Region III
- 17 in Region IV
- 26 in Region V
- 8 in Region VI

The OHR continues to promote the cross training of all advocates. At this time, most advocates provide services to both community and state facility programs. This arrangement strengthens both the community and facility programs by providing continuity of care and an increased emphasis on discharge planning and service development.

Efforts to promote compliance with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services* continued throughout the year. OHR staff provided over 179 training events in 2012. These efforts included the following activities:

Training: OHR staff provided training to consumers, family members or providers at the following locations:

- Club Houses
- Psychiatric Hospitals
- Professional Organizations
- Parent Organizations
- Group Homes
- Residential Treatment Centers
- Training Centers
- Psychosocial Rehabilitation Programs
- Community Organizations
- Substance Abuse Programs
- Conferences/Meetings
- Community Services Boards
- Preadmission Screening Evaluator Certification (video tape)

Web based Information: Individuals can also access general information about the human rights program at www.DBHDS.virginia.gov. Click on Human Rights on the left side of the page. This information includes:

- Notice of SHRC meetings
- Notice of Variance requests
- LHRC affiliations and meeting schedules
- Relevant legislative information
- OHR Directory
- SHRC Annual Reports
- Frequently Asked Questions (FAQs)
- Human rights training information including video tapes, power point slide presentations and workbook
- Sample Test Questions

Training and Staff Development

In order to increase communication and information sharing, the Office of Human Rights scheduled more frequent conference calls in 2012. These calls were held in January, February, March, April, May, June, August, September, November and December. A staff meeting was held at central office in October.

All training and meetings focused on enhancing staff ability to effectively advocate for individuals, and monitor the implementation of the regulations. Samples of topics addressed during these meetings include the following:

- General Assembly updates
- Department of Justice updates
- OHR actions in response to the SHRC Implementation memo
- Medication over objection (guidance)
- CHRIS and other data sources
- Budget
- Staffing issues
- LHRC Annual and Quarterly Report development and implementation
- Forensic issues
- Individual's losing services
- At Risk Children
- OHR relationship with VOPA
- Seclusion and restraint
- LHRC document shredding...revision to Bylaws
- Office of Licensing issues and organizational changes
- State facility building updates (SEVTC, WSH, CVTC)

Creating Opportunities Plan and DOJ

Efforts to transform the DBHDS system continued in 2012 with the implementation of the *Creating Opportunities: A Plan for Advancing Community-Focused Services in Virginia*. This plan guides the Department's efforts toward increased community focused services. The plan focuses on enhancing community based services and supports. The human rights system is central to this effort as the human rights regulations apply to individuals served by providers licensed, operated or funded by DBHDS. The work and effort of the SHRC and OHR continue to increase in response to all the new services and providers developed as part of this effort.

Additional system transformation efforts include the promotion of recovery, empowerment and self determination. A critical aspect of this is the use of the person centered planning approach throughout the system. The Person Centered Planning Advisory Committee developed and began the implementation of a model document. This planning tool was developed for use with individuals with intellectual disabilities but can be used by all consumers.

Recovery efforts are moving forward in state facilities and community based programs. There is a statewide Recovery Council that promotes system wide efforts of recovery. Peer mentors and peer run centers are being developed and utilized as a means to enhance and support the recovery efforts of individuals with mental illness.

The Department of Justice (DOJ) and the State of Virginia have entered into a temporary Settlement Agreement in response to DOJ's letter outlining concerns about Virginia's efforts to comply with the Olmstead Act. The Department is actively involved in the further development and implementation of the actions addressed in the settlement agreement including discharging individuals from State Operated Training Centers. The Office of Human Rights and has a critical role in monitoring the health, safety and rights of individuals discharged to community homes. While the Department has discharged many individuals from Training Centers in the past the volume of discharges occurring in response to the DOJ Settlement is far beyond what has been done in the recent past. The human rights system as a whole will need to be increasingly diligent, flexible and responsive to assist with this effort.

Reporting Requirements

The regulations require that providers report and investigate human rights complaints and allegations of abuse, neglect or exploitation. The Department is developing a web based reporting system that should help with having more accurate data. One area that providers continue to struggle with regarding reporting is events of peer on peer aggression. Hopefully the change in the regulations and the new web based system will help in this area. The new system should be operational by spring 2013

Projected Activities for 2012-2013

The primary goal for the Office of Human Rights for the year 2012-2013 is to provide quality advocacy services to consumers in programs operated, funded and licensed by the Department. This is always the central function of the OHR and all other goals and activities support this

goal. In support of this goal a major activity for the upcoming year will be to promote consistent implementation of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. Other major projected activities for the Office of Human Rights for the year 2012-2012 are as follows:

- Promote community integration by assisting with the implementation of the DOJ activities.
- Provide training and guidance on the human rights regulations.
- Implement a web-based human rights reporting system.
- Promote best practice models of recovery and self empowerment
- Continue efforts to identify efficiencies in operation.
- Continue efforts to coordinate monitoring activities with the Office of Licensing
- Provide support, training and guidance to local human rights committees.
- Promote coercion free environments statewide.
- Work with consumers, providers, family members, professionals and other stakeholders to identify options to improve the system and availability of alternative decision-makers.
- Promote consistency and accurate documentation of monitoring activities.
- Develop resources to assist consumers and providers as needed.

Local Human Rights Committees

Local Human Rights Committees continue to monitor the activities of facilities and community programs in assuring protection of consumers' rights. The volunteers who serve on these committees lend their time and expertise to ensure compliance with the Rules and Regulations. Committee members are appointed by the State Human Rights Committee and are eligible to serve two three-year terms. Local Human Rights Committees or subcommittees held approximately 450 meetings in 2012.

All committees meet at least quarterly, with many meeting on a monthly basis. Local Human Rights Committees activities include:

- reviewing complaints filed on behalf of consumers;
- developing bylaws;
- reviewing variance requests;
- conducting fact-finding conferences;
- reviewing restrictive programs; and
- reviewing policies and procedures.

Advocates Activities

During the year, the human rights staff was involved in numerous activities to ensure and protect the rights of consumers. These activities included:

Representing and assisting individuals in the presentation and resolution of complaints;

- 6997 total allegations of abuse/neglect 2012
- 6482 in licensed services
- 4600 of peer to peer aggression
- 609 cases were founded
- 515 in state operated services
- 145 cases were founded

- 3937 total human rights complaints in 2012
- 1120 in licensed services
- 2817 in state operated services

- 10923 complaints and allegations of abuse and neglect were resolved at the Director level or lower
- 11 appealed to LHRC
- 7 appealed to SHRC
- 70 VCBR cases appealed to the Appeals Committee

- Investigating allegations of abuse and neglect and other potential violations of the regulations.
212 investigations in 2012
- Educating consumers, families, staff and Local Human Rights Committees on the rights of consumers;
201 training activities in 2012
350 advocacy activities in 2012
- Monitoring the implementation and compliance with the regulations;
320 announced and unannounced site visits in 2012
- Monitoring of individuals under the DOJ settlement agreement:
135 pre move visits
144 post move visits
- Assisting in developing, reviewing and amending human rights policies and procedures for the approximately 814 providers in the state (755 in 2011). These providers offer 1948 services (1808 in 2011) at 6507 locations across the state (5974 in 2011). Currently, the Office of Licensing has 315 applications for new licenses yet to be processed.
- Providing training to staff, consumers, family members, LHRCs;
- Providing consultation on the human rights program to consumers, program staff, LHRCs, and advocacy and community groups.
- In addition to all of the above, the regional advocates and managers provide supervision to assigned staff.
- Regional staff/teams prepared comprehensive Regional Reports for 2012. These reports provide detailed statistics and information about human rights activities in each of the six regions. Each Regional Team presented their report to the SHRC.

Summary of Community Program Abuse/Neglect and Complaint Allegations

The following table reflects statistics on abuse/neglect allegations/substantiation and human rights complaints from community programs for the years 2001 through 2011. This information is reported to the Regional Advocates from the Community Service Boards (CSB) and private providers.

- There were 1120 human rights complaints as reported to the Office of Human Rights in 2012. This number includes complaints processed both formally and informally in accordance with changes in the 2007 regulations. Providers continue to have questions about the actual nature of a complaint and when to report it to the OHR. OHR and LHRCs continue to educate providers about this important issue.
- There were 6482 allegations of abuse and/or neglect as reported to Office of Human Rights in 2012. The large number of allegations results from the large number of peer on peer incidents that were investigated as potential neglect. 4600 or 70% of these allegations involved peer on peer aggression. Most of the reported peer on peer aggression occurs in residential treatment centers for children and adolescents.
- There were 609 substantiated cases of abuse and or neglect as reported to the Office of Human Rights in 2012, which is up slightly from the 543 substantiated cases reported in 2011.
- Because of the many variables affecting this data it is best used as a tool for quality improvement for a specific provider rather than a tool for comparison among providers or regions.

Community Programs

	Abuse Allegations	Abuse cases Substantiated	Human Rights Complaints
2001	899	162	840
2002	1094	215	785
2003	1626	252	380
2004	1694	276	534
2005	1938	286	849
2006	**3098	**334	**689
2007	**4007	**340	**615
2008	**5402	**464	**1374
2009	**6765	**658	**1311
2010	**5710	**508	** 1021
2011	**6484	**543	**1016
2012	**6482	**609	** 1120

Note: Data for 2004 is incomplete

**Data from Regional Reports

Summary of State Facility Human Rights Complaints and Abuse/Neglect Allegations

(Data source is CHRIS and Regional Annual Reports)

- There were 2817 human rights complaints in state facilities in 2012. This number includes complaints processed both formally and informally and is somewhat higher than the 2701 reported in 2011. The difference is attributed to the large number (1312) of complaints reported at the Virginia Center of Behavioral Rehabilitation (VCBR).
- All but seven of the of the facility complaints was resolved at the Director's level or below. Seven human rights complaints were heard on appeal at the LHRC level and five were heard on appeal at the SHRC level.
- The number of complaints reported at VCBR continues to be high. This is, in part due to the increase in census at VCBR but also because the residents are eager to voice their concerns about the conditions at VCBR. We anticipate that these numbers will continue to rise in direct proportion to the increase in census at the facility.
- There were 515 allegations of abuse/neglect in the state facilities. This number is significantly lower than in the recent past years. The decrease is all the more significant considering the high number of cases from VCBR. Last year SVTC had multiple findings of neglect due to staff sleeping, lack of care and exploitation. These problems have been resolved and are reflected in the lower number of cases. The decrease at SVTC may also be due in part to the decrease in census.
- The 145 substantiated cases of abuse and neglect is also lower than in past years. The decrease is noted primarily from SVTC. Last year SVTC had multiple findings of neglect due to staff sleeping, lack of care and exploitation. These problems have been resolved and are reflected in the lower number of substantiated cases.
- Because of the many variables affecting this data it is best used as a tool for quality improvement for a specific facility rather than in comparison among or between facilities.

State Facility
Abuse/Neglect Data

#Allegations/ #Substantiated

	2007	2008*	2009*	2010*	2011*	2012*
Catawba	11/1	9/0	8/2	9/5	9/3	7/2
CSH	156/18	143/14	136/13	168/17	125/17	77/10
CVTC	60/16	98/36	87/21	46/15	56/18	51/21
CCCA	6/4	4/1	15/2	14/2	9/2	15/5
ESH	78/4	61/5	50/6	61/12	74/12	59/6
HDMC	7/0	4/1	3/1	3/0	9/6	2/0
NVMHI	16/6	24/3	28/0	39/1	24/1	32/7
NVTC	16/10	12/3	19/11	19/11	24/16	11/5
PGH	7/1	12/1	10/0	16/1	22/5	17/1
SEVTC	20/10	19/10	14/7	13/5	25/13	6/5
SVMHI	5/0	5/0	6/4	9/0	3/0	4/0
SVTC	101/25	75/34	60/36	92/57	123/110	58/25
SWVMHI	19/4	14/0	25/2	22/1	14/0	14/1
SWVTC	67/13	72/19	57/11	38/17	56/22	36/10
WSH	25/6	16/5	30/8	23/11	14/11	11/10
VCBR	14/0	35/4	29/4	27/19	114/16	105/37
Totals	608/118	568/132	577/128	599/174	743/255	515/145

* Includes data from CHRIS and the Regional Annual Report

State Facility
Human Rights Complaints

	2007	2008	2009	2010	2011	2012
Catawba	8	74	57	31	26	39
CSH	97	291	163	231	167	208
CVTC	8	3	4	60	12	7
CCCA	25	41	36	8	19	12
ESH	54	215	264	582	633	723
HDMC	1	0	0	1	0	1
NVMHI	6	25	75	37	56	58
NVTC	0	4	0	1	9	1
PGH	42	21	0	1	74	17
SEVTC	3	2	7	2	3	4
SVMHI	39	46	50	18	12	9
SVTC	6	12	16	2	3	1
SWVMHI	14	42	30	34	39	32
SWVTC	10	22	7	11	3	20
WSH	70	345	295	134	333	373
VCBR	292	292	407	1271	1316	1312
Totals	650	1435	1411	2424	2701	2817

- Includes Complaints processed formally and informally
- Data from CHRIS and Regional Annual Reports