



Virginia Department of
Behavioral Health &
Developmental Services

STATE HUMAN RIGHTS COMMITTEE
2020 EXECUTIVE SUMMARY

Presented to the DBHDS State Board
September 29, 2021

Introduction

This annual report presents the 2020 activities and achievements of the State Human Rights Committee (SHRC) and the Office of Human Rights (OHR) in accordance with our duties and responsibilities under the *Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services* (Regulations). This report is intended to inform 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 those rights.

In 2020, the SHRC set their intentions on monitoring the human rights system through the development of goals and objectives that address specific areas of concern. The committee engaged the OHR and DBHDS staff as well as stakeholders at large in discussions regarding the quality of treatment and limitations of our system. This dialogue was further informed by presentations from DBHDS staff, licensed community provider representatives, external advocacy groups like the disability Law Center of Virginia and other contemporary reports and data prepared and presented to the Committee.

Recognizing the treatment environment at DBHDS operated facilities as among the most restrictive, the SHRC continued its focused review of their use of seclusion and restraint, allowing for facility staff to attend meetings to provide presentations and to answer questions about their facilities and policies. OHR staff also provided overview reports at each of the scheduled meetings focused on quarterly facility data and trending information related to seclusion/restraint, abuse, neglect and human rights complaints. The SHRC also continued to invite community providers to present at meetings to learn more about programs and services being provided across the Commonwealth. This assisted the SHRC to better define how they can improve the effectiveness and efficiency of services delivered in both facility and community settings.

As the OHR serves a diverse population of individuals, some of whom have a decrease in understanding of the role of an Advocate and the scope of their Human Rights while receiving services, the SHRC continued efforts to eliminate barriers to individuals' access to and utilization of the assistance provided by the OHR. The "HRAccess" project is intended to reach individuals who are most vulnerable in the area of receptive and expressive language by adding to and revising current resources to empower individuals in the DBHDS service delivery

system to know what their assured rights are and increase awareness and understanding of OHR processes, including who the Advocate is and how to file a human rights complaint.

On March 12, 2020, Governor Northam issued Executive Order 51 declaring a state of emergency in Virginia related to the COVID-19 public health crisis. As a result of the order and the public health crisis, the OHR put into place emergency protocols to govern field operations during the COVID-19 emergency period. The emergency protocols briefly suspended LHRC and SHRC meetings until agency approved HIPAA compliant technology was available (Zoom for Government) and modified public meeting requirements were defined to support virtual meetings. By July 2020 the OHR had begun facilitating a successful process that allowed for local and state committee members, providers and individuals to participate and conduct efficient business meetings electronically.

The following SHRC meetings were held in 2020:

- January 30th - Central State Hospital
- March 5th - Prince William CSB
- April 23rd - Cancelled: Due to COVID Emergency
- June 25th - Virtual
- July 16th – Virtual
- September 10th - Virtual
- November 19th - Virtual
- December 17th - Virtual

2020 SHRC Work Plan: Summary of progress towards goals

1. Monitor Implementation of Regulations:

- Appointed LHRC members
- Held appeals
- Granted variances
- Reviewed OHR Reports
- Submitted an annual report to the State Board

2. Monitor VCBR Human rights policies to include, medical policies, transport policies, etc.:

- Reviewed monthly data and received presentation from VCBR Director regarding medical policies, double bunking policies, seclusion, restraint and risk policy related to transport restraint

3. Monitor human rights regulation implementation to ensure individuals under forensic status rights are protected and not treated as DOC inmates:
 - Received updated documentation from OHR director concerning results of appeals, variances and exemptions
 - Monitored census management and progress on construction of facility expansion
4. Promote treatment in most integrated settings and individual and family choice:
 - Reviewed Data Warehouse reports concerning trends in OHR complaints
 - Presentation heard from SEVTC regarding individual and family participation in discharge process
5. Increase understanding about substance use disorders relating to accessibility to services and statewide trends:
 - Visited and heard from community provider staff at Northern Virginia addiction recovery program
6. Individuals are treated in the most integrated settings
 - Presentation heard from DBHDS staff in charge of Alternative Transportation
7. Individuals are satisfied with services and life after discharge
 - Reviewed Data Warehouse reports concerning trends in HR complaints
 - Presentation heard from dLCV regarding extraordinary barrier discharge list
8. Individuals with capacity make their own decisions. Individuals without capacity have a duly appointed substitute decision maker
 - Promote alternative decision-making avenues such as POA, Advanced Directive and Guardianship
9. Promote treatment without coercion
 - Monitored use of seclusion and restraint
 - Received ongoing information on seclusion and restraint occurrences.

State Human Rights Committee Members

John Barrett, Chair

John worked for DBHDS for 28 years starting at Northern Virginia Training Center in Fairfax in 1973 in the Administration Division as Assistant Director of Admissions before transferring to the Central Office in Richmond. He worked in the DBHDS Central Office until his retirement from state service in 1995. While there, he worked for the Office of Administrative Services, the Office of Licensing as Assistant Director, and the Division of Quality Assurance where he assisted state operated facilities in preparing for Joint Commission Surveys. After retiring from DBHDS, he joined Fidura & Associates as Director of Operations. His duties included overseeing the Licensing and Human Rights activities of the company. He retired again after 14 years. John was a member of the Williamsburg LHRC for 5 years, the last two serving as Chair. He was initially appointed to the SHRC in July of 2013, to fill a vacancy, and then appointed for a full term of July 1, 2015 to June 30, 2018. His second full term will expire on June 30, 2021. John has dual residency in Richmond and the Eastern Shore.

Will Childers, Vice Chair

Will has worked with adults with developmental disabilities, mental health and physical challenges for 35 years. He was Program Coordinator for Blue Ridge Behavioral Healthcare in Roanoke and Associate Director for Developmental Disabilities at HopeTree Family Services in Salem, VA. Will has coordinated residential, in-home and independent living services for adults with intellectual and developmental disabilities. He was an investigator for allegations of human rights violations for 30 years, working collaboratively with human rights advocates as well as other DBHDS staff. Will volunteers regularly to provide care to hospice patients and children referred to the Court Appointed Special Advocates program. He is a former member of the Roanoke-Catawba LHRC, on which he served as Secretary, Vice-Chair and Acting Chair. He was appointed to the SHRC in July of 2018 to fill a vacant term of July 1, 2017 to June 30, 2020, and was reappointed to his first full term of July 1, 2020 to June 30, 2023. Will resides in Hardy.

Sandy Robbins

Sandy is a Psychology Associate who recently retired from the Department of Corrections. She has a Bachelor of Science degree in Psychology/Sociology and a Master of Science in Psychology. Sandy has over 20 years of experience with DMHMRSAS/DBHDS as a Psychologist at Southern Virginia Mental Health Institute and Southside Virginia Training Center, and a Licensing Specialist for the DBHDS Central Office. During her professional career she has worked closely with human rights advocates and the human rights program. Sandy initially became a member of the SHRC in July of 2016 when she was appointed to a term of July 1, 2016 to June 30, 2019. She was reappointed in 2019 for a second term that will expire on June 30, 2022. Sandy resides in Valentines.

Julie C. Allen

Julie is a licensed and board certified behavior analyst with more than 15 years of experience working with children and adults with disabilities, particularly in developing and monitoring behavior support plans. She is the Senior Director of Clinical Services at Community Residences, a large non-profit provider. Under her leadership, the program expanded to provide behavior consultation services to several community services boards, utilizing both Medicaid Waiver therapeutic consultation services and county funding. Before joining the SHRC, Julie worked collaboratively with several LHRCs in Northern Virginia for over 15 years. She is a professional and a family member of an individual receiving services. Julie was appointed to the SHRC in July of 2018 to fill a vacant term of July 1, 2016 to June 30, 2019 and was reappointed in July of 2019 to a full term of July 1, 2019 to June 30, 2022. Julie resides in Chantilly.

David R. Boehm

David is retired from the Department of Corrections, having served in various positions for over 40 years. He is a professional mental health provider, a licensed clinical social worker and a certified sex offender treatment provider. David served on the Virginia Board of Social Work and has been very active with social work ethics, conducting numerous workshops. He is also well known professionally in the field of sex offender treatment and crisis intervention. His knowledge regarding treatment for sex offenders within the Department of Corrections makes him a valuable resource to the SHRC regarding its relationship with the residents of VCBR. He was appointed to the SHRC in July of 2018 for a term of July 1, 2018 to June 30, 2021. David resides in Marion.

Monica Lucas

Monica is a Mental Health Consultant and Behavioral Health Technician at Lucas Concepts & Consulting / Serenity Counseling Services of Virginia. She served as a Co-Owner of Rion's Hope, LLC, and Seventeen Twenty Five, Inc., adolescent group homes providing residential and mental health services. She has served as a member and Chair on various committees including Tuckahoe, Central Area, New Creation, Goochland-Powhatan, Metropolitan, Henrico and Chesterfield LHRCs. Monica was appointed in July of 2018 for a term of July 1, 2018 to June 30, 2021. Monica resides in Richmond.

Timothy Russell

Timothy (Tim) is a Facilities manager at William & Mary. He is a former Transitional Living Counselor at ValuMark West End Behavioral Health Care. Tim is a former member of Newport News Regional LHRC and a former member and Chair of Williamsburg Regional LHRC. He was appointed to the SHRC by the DBHDS State Board to fill a vacancy in December of 2019 for a term of July 1, 2018 to June 30, 2021. Tim resides in Williamsburg.

Cora Swett

Cora worked for the Prince William Community Services Board for 30 years where she held several Administrative positions. The last several years she served as Coordinator for the Office of Consumer and Family Affairs and also served as staff to the Prince William LHRC. In addition, Cora currently serves as Facilitator for the Prince William County Waiver Slot Assignment Committee. Cora currently serves as a family member on the SHRC and was appointed to a full term of July 1, 2019 to June 30, 2022. Cora lives in Prince William County.

Megan Sharkey

Megan currently serves as a consumer member of the SHRC. Megan came to the SHRC after working as a peer recovery advocate and Program Director with Virginia's statewide peer-run grassroots mental health advocacy organization, VOCAL. Prior to their work with VOCAL, Megan completed their Master's of Social Work, with a concentration in administration, policy, and program planning, at the Virginia Commonwealth University in 2017. Megan currently works with Soulforce, a nonprofit that works to end the political and religious oppression of lesbian, gay, bisexual, transgender, queer and intersex people through relentless nonviolent resistance. Megan is serving their first term on the SHRC and was appointed in October 2020 for a term of July 1, 2020 to June 30, 2023. Megan resides in Petersburg.

State Human Rights Committee

<p>Chairperson John Barrett Richmond and Deltaville Region 4 and Region 5</p> <p><i>Appointed July 2013</i> <i>7/1/2012 - 6/30/2015 Vacancy</i></p> <p>Term 7/1/2015 - 6/30/2018 7/1/2018 - 6/30/2021</p> <p>→Professional</p>	<p>Vice-Chairperson Will Childers Hardy Region 1/3 Border</p> <p><i>Appointed July 2018</i> <i>7/1/2017 - 6/30/2020 Vacancy</i></p> <p>Term 7/1/2020 - 6/30/2023</p> <p>→ Professional</p>	<p>Julie Allen Chantilly Region 2</p> <p><i>Appointed July 2018</i> <i>7/1/2016 - 6/30/2019 Vacancy</i></p> <p>Term 7/1/2019 - 6/30/2022</p> <p>→ Family Member</p>
<p>David Boehm Marion Region 3, far southwest</p> <p>Term 7/1/2018 - 6/30/21</p> <p>→Health Care Provider: Certified Sex Offender Treatment</p>	<p>Monica Lucas Richmond Region 4</p> <p>Term 7/1/2018 - 6/30/2021</p> <p>→Professional</p>	<p>Timothy (Tim) Russell Williamsburg Region 5</p> <p><i>Appointed December 2019</i> <i>7/1/2018 - 6/30/2021 Vacancy</i></p> <p>→Consumer</p>
<p>Cora Swett Nokesville Region 2</p> <p>Term 7/1/2019 - 6/30/2022</p> <p>→Family Member</p>	<p>Megan Sharkey Petersburg Region 4</p> <p>Term 7/1/2020 - 6/30/2023</p> <p>→Consumer</p>	<p>Sandy Robbins Valentines Region 3/4 border</p> <p>Term 7/1/2016 - 6/30/2019 7/1/2019 - 6/30/2022</p> <p>→Health Care Provider: Psychology Associate I</p>

State Human Rights Committee
C/o Deb Lochart, State Human Rights Director
P.O. Box 1797
Richmond, VA 23218

Fax: 804-371-4609
www.dbhds.virginia.gov
SHRC@dbhds.virginia.gov

The DBHDS Office of Human Rights

The DBHDS OHR, established in 1978, has as its basis the *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 responsibility for assuring the protection of the rights of individuals receiving services in state operated facilities and community programs licensed and funded by DBHDS.

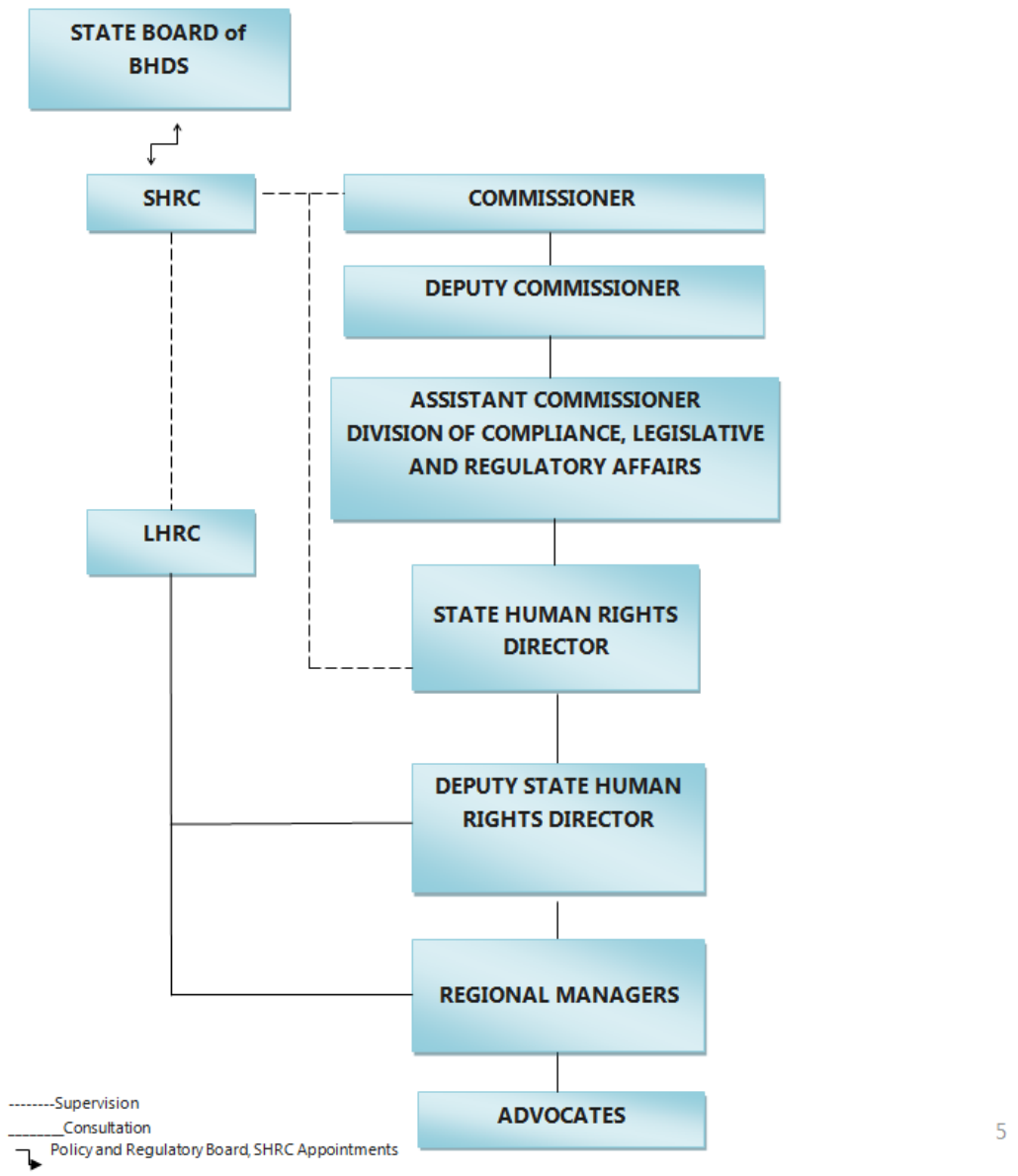
Title 37.2-400, Code of Virginia is the authority behind the Regulations and explicitly assures that each individual receiving services has the following rights:

- 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 clinical treatment, training or habilitation 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.

Duties of the Human Rights Advocate include investigating complaints, examining conditions that impact individual's rights and monitoring compliance with the human rights regulations. Advocates are assigned to each of the 12 state operated facilities and mobilized to public and private community programs where high profile incidents occurred or other trends impacting rights protections are identified. Advocates also provide post-move monitoring and oversight to individuals discharged from the training centers in response to the United States

Department of Justice Settlement Agreement with Virginia, and conduct onsite reviews of newly licensed Waiver providers to assess compliance with the Home and Community Based Settings (HCBS) Rule.

DBHDS HUMAN RIGHTS PROGRAM



The mission of the DBHDS OHR is to promote the basic precepts of human dignity by monitoring provider compliance with the Human Rights Regulations, managing the departments' complaint resolution program, and advocating for the rights of individuals with disabilities in our service delivery systems.

Office of Human Rights Staff

Deb Lochart, State Human Rights Director
Taneika Goldman, Deputy State Human Rights Director
Mary Clair O'Hara, Senior Human Rights Manager for Facility Operation
Jennifer Kovack, Senior Human Rights Manager for Community Operations
Carlton Henderson, Training & Development Coordinator
Michelle Lochart, Data Coordination Advocate
Kli Kinzie, Executive Secretary

Region 1

Cassie Purtlebaugh, Manager
Angela Harrison, Administrative Support
Maynard Ritchie, CCCA/WSH
Lequetta Hayes, DD Advocate/CVTC
Artea Ambrose, Community Advocate
Heather Hilleary, Community Advocate

Region 2

Ann Pascoe, Manager
Jennifer Anglin, NVMHI/Community
Lana Hurt, DD Advocate

Region 3

Brandon Rotenberry, Acting Manager/SWVMHI
Heather Oakes, DD Advocate
Mandy Crowder, SVMHI/Community Advocate
Hollie Carlisle, Catawba/Community Advocate

Region 4

Sharae Henderson, Manager
Andrea Milhouse, Community Advocate
Carrie Flowers, CSH/Hiram Davis
Cheryl Young, VCBR/PGH

Region 5

Reginald Daye, Manager
Courtney, Myles, Administrative Support
April DeLandro, ESH/Community Advocate
Lakel Gurley-Upshaw, ESH/Community Advocate
Latoya Wilborne, SEVTC/Community Advocate
Michael Gause, ESH/Community Advocate

Office of Human Rights Program Highlights

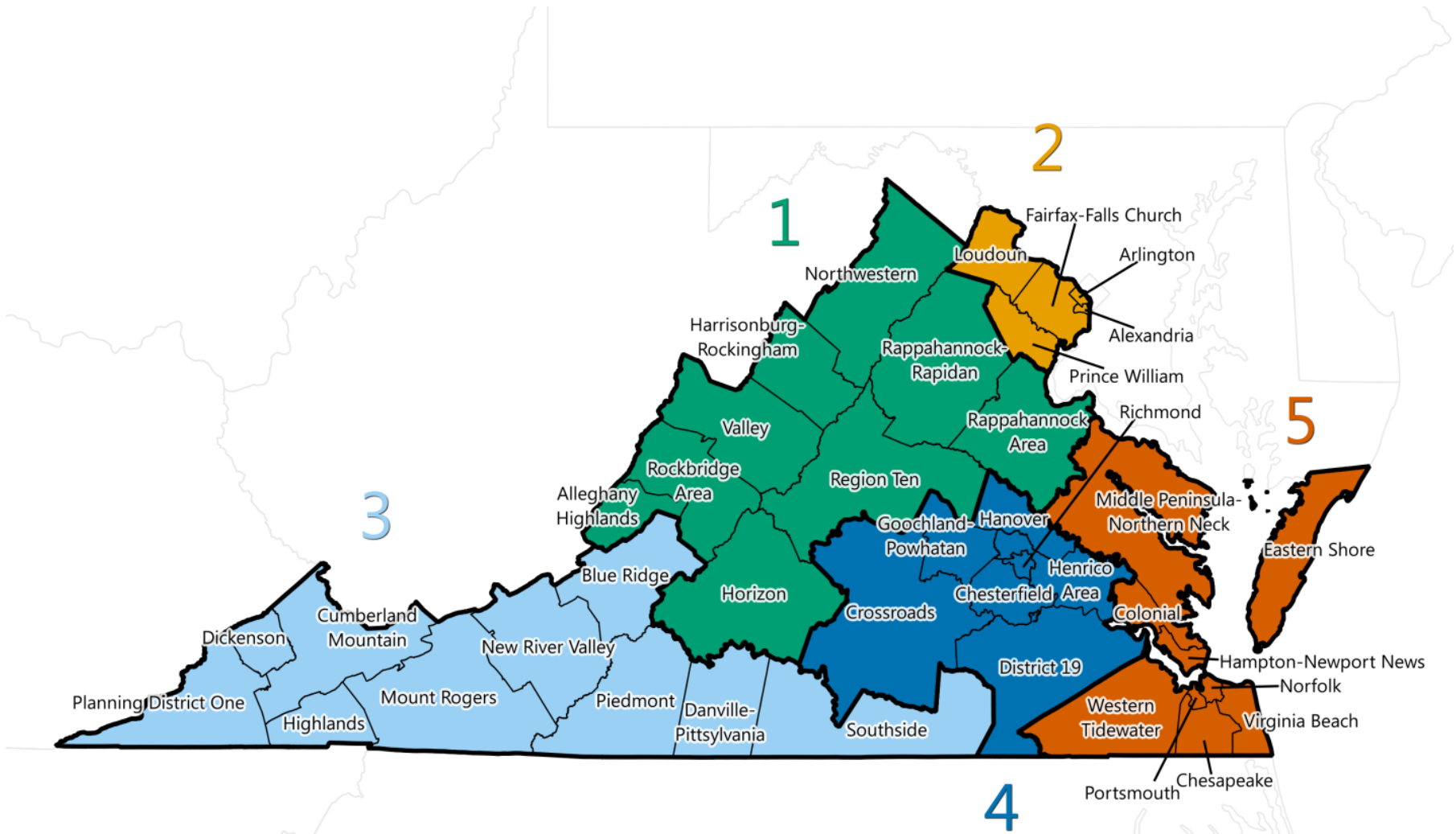
In order to assure a safe environment for individuals receiving services and to ensure follow-up on all substantiated abuse allegations, the OHR continued to operationalize the A.I.M. Protocol during 2020. A.I.M. represents the advocate response of Assessing and Assuring safety for the identified individual, as well as other individuals receiving services; Initiating the complaint resolution process and Monitoring provider follow up through verification that the provider has completed an Investigation and Implemented appropriate corrective action(s). High priority cases, defined as any allegation of sexual assault; restraint with serious injury, and physical abuse with serious injury require an immediate response to include a site visit within 24 hours of notification.

In theory, all allegations of abuse reported to APS or CPS involving DBHDS-licensed/operated providers should also be reported in the Computerized Human Rights Information System (CHRIS). In practice, providers do not always report incidents in a timely fashion. A joint protocol between the Department of Social Services and the Department of Aging and Rehabilitation Services facilitates a process for localities to deliver APS and CPS reports via secure email, fax, or US Postal Service that are triaged, tracked and trended by OHR. DBHDS providers are contacted regarding their failure to report abuse and advised about initiating the complaint resolution process. Citation is also recommend through the Office of Licensing when any violation is identified.

- In FY21, OHR received and reviewed a total of 1,478 APS and CPS reports. Of these, 1,091 alleged abuse, neglect or exploitation involving a licensed community provider or state operated facility. Initial review by the OHR revealed that 235 of these reports were not entered into CHRIS by the provider. Additional OHR follow up determined that 39 reports should have been but were not reported to DBHDS and 21 of the 39 reports identified a violation.

In January 2020 OHR committed to providing regional training opportunities to promote provider literacy regarding individuals' assured rights and corresponding provider duties. Training sessions were open to all licensed providers and include information about reporting abuse/neglect in CHRIS, an overview of the Regulations, review of the use of restraint and restrictions, and "new" provider orientation.

- During FY21 OHR staff provided over 70 distinct consultation and training sessions attended by 1,399 licensed-provider and facility staff and administered over 940 CEUs.



Office of Human Rights Regions

Virginia Department of Behavioral Health & Developmental Services

Abuse/Neglect and Human Rights Complaint Statistics (July 1, 2020 – June 30, 2021)

FY 2021 Human Rights Data Reported by Community Providers			
Total Number of Human Rights Complaints			839
Total Number of Complaints That Resulted in a Violation of Human Rights			103
Total Number of Allegations of Abuse, Neglect, or Exploitation			10,356
Total Number of Substantiated Allegations of Abuse, Neglect, or Exploitation			845
Substantiated Allegations by Type		Exploitation	25
Physical Abuse	104	Neglect	573
Verbal Abuse	95	Neglect (Peer-to-Peer)	75
Sexual Abuse	6	Unauthorized use of Restraint	37
Resolution Levels for the 839 Human Rights Complaints and 10,356 Allegations of Abuse, Neglect, or Exploitation			
Director and Below	11,190	State Human Rights Committee	1
Local Human Rights Committee	5	DBHDS Commissioner	0

In FY21, 208,525 unduplicated individuals received services from CSBs and thousands of others also protected by the human rights regulations received services from DBHDS-licensed private community providers. There were 839 human rights complaints filed in community programs, and 103 complaints (12% of the total) resulted in a violation. There were 10,356 allegations of abuse, neglect, or exploitation filed, and 845 (8% of the total) were substantiated.

FY 2021 Human Rights Data Reported by State Hospitals and Centers			
Total Number of Human Rights Complaints			1510
Total Number of Complaints That Resulted in a Violation of Human Rights			48
Total Number of Allegations of Abuse, Neglect, or Exploitation			2681
Total Number of Substantiated Allegations of Abuse, Neglect, or Exploitation			72
Substantiated Allegations by Type		Exploitation	4
Physical Abuse	18	Neglect	29
Verbal Abuse	18	Neglect (Peer-to-Peer)	0
Sexual Abuse	0	Unauthorized use of Restraint	6
Resolution Levels for the 1,510 Human Rights Complaints and 2,681 Allegations of Abuse, Neglect, or Exploitation			
Director and Below	4,175	State Human Rights Committee	13*
Local Human Rights Committee	3	DBHDS Commissioner	0

In FY21, 9,294 individuals received services in state hospitals and centers: There were 1,510 human rights complaints filed in state facilities, and 48 complaints (3% of the total) resulted in violations being determined. There were 2,681 allegations of abuse, neglect, or exploitation filed in state hospitals and centers, and 72 (3% of the total) were determined to be substantiated. *Eleven of the 13 cases resolved at the SHRC level were reviewed by the SHRC Appeals Subcommittee per a variance allowing alternative procedures for addressing complaints by individuals in maximum security at CSH and residents of VCBR, when the individual is not satisfied with the director's response.

A critical function of the SHRC is to serve as the final step in the complaint resolution process. If responsiveness to individual 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 all who worked together to resolve these issues.

Conclusion

The OHR would like to acknowledge and thank the nearly 100 citizen volunteers serving on each of the 17 LHRCs and the SHRC for their tremendous effort in support of the human rights program and the individuals receiving services. OHR can look forward to the future with confidence that through the commitment of staff and dedicated volunteers, Virginia's service recipients are ensured their human rights are protected.