



Vermont Emphasizes Locked Facilities at the Expense of Support for Children and Youth

On October 26, 2023, the Joint Legislative Justice Oversight Committee heard testimony regarding DCF's "High-End System of Care." The day before, a local news outlet published a story about the abuse of children at Woodside Juvenile Rehabilitation Center, Vermont's former juvenile detention facility.¹ Calling Woodside "the elephant in the room," the DCF Commissioner and his team outlined DCF's plans for its juvenile justice facilities. DCF focused on the reduced capacity of its residential programs as compared to before the pandemic and the Department's efforts to build new facilities to treat youth with co-occurring mental health/trauma needs and safety concerns.² The Executive Director of Vermont State Employees' Union then took the stand and painted a bleak picture of employee health amidst an "imploding" system, ultimately calling for the deployment of the National Guard to ease the pressures on the "staffing" crisis for DCF employees, described in our 2023 Annual Report.³

Less than a week later, a 14-year-old youth was killed with a handgun, allegedly by another 14-year-old youth. This incident intensified the perception that juvenile crime in Vermont is out of control and that Vermont's most urgent crisis is its lack of a locked juvenile facility.⁴ In the past year, public officials and media stories have asserted that young people are increasingly violent and that youth from out of state are coming to Vermont to engage in drug trafficking or other crimes to exploit Vermont's progressive laws on juvenile crime, such as our Raise the Age initiative.

Missing from these conversations has been a focus on the needs of children, youth, and families.⁵ If policymakers' focus is only on where to place juveniles in crisis, then the system will be geared toward crisis, not prevention. Raise the Age is not a "set it and forget it" law. It requires ongoing support and implementation with an eye towards its benefits. In the Joint Justice hearing, DCF was unable to present data on the treatment needs of the children in its care, or the systemic gaps in providing community supports. Instead, it used a proxy: the number of "beds" and facilities available pre-pandemic versus those currently available. Amid the public reckoning with what happened at Woodside—which has shaken DCF internally—the lamentations of Woodside's absence should be met with skepticism.

The system of residential care prior to the pandemic is not a model we should aspire to. Prior to the pandemic, Vermont utilized congregate care at rates higher than the national average.⁶ It appears that DCF intends to expand the congregate care system, but the specifics are unclear. Partly due to the deficiencies in its data system, discussed in our 2023 Annual Report, DCF has not articulated important information about the needs of the children in its care, such as how many young people currently make up the high-end system of care, how many are currently in



inappropriate placements, and what evidence-based practices could be implemented to serve those needs. We have not heard DCF speak publicly about the importance of prevention services to the high-end system of care. The Family First Prevention Services Act and the opportunities it provides to serve children in the high-end system of care have been largely absent from DCF's testimony and reports.

Vermont's recent trend toward punitive measures to address juvenile crime is misfocused. A handful of disturbing events have stirred community fears and become substitutes for clear-headed policy. But juvenile crime is not out of control or random. It follows well-known patterns that exhibit the characteristics of the developing brain: based in trauma, peer groups, and the influence of exploitative adults.⁷ Moreover, while overall crime has risen in the last few years in Vermont, the share of young people committing those crimes has declined.⁸ Young people are more accurately seen as *victims* of crime rather than its perpetrators.⁹ In 2023, incidents in which young people ages 10-19 are victims have risen to their highest rate ever—both by raw numbers and percentage.¹⁰ Concerns about young people being trafficked and used by adults to commit crimes should make us ask how we can support children and youth before they become victims, not merely where to place them once they are arrested.¹¹

If we truly want to create systemic change, we have to start by listening to the requests for support from children and youth. The onset of the pandemic in 2020 led to a significant rise in mental health challenges across our society for people of all ages, and young people were some of the most affected. In Vermont, according to the Youth Risk Behavior Survey, middle- and high-schoolers have been exposed to high levels of violence and other unsafe situations, leading to their poor mental health, anxiety, and suicide risk.¹² Non-white and LGBTQ+ young people are especially affected.¹³ The mental health of young people is not a peripheral issue to juvenile crime or victimization, but at its core.¹⁴ Our policy should reflect current research and science that demonstrates the direct connection between trauma and youth decision-making. As one national expert explained it, "Trauma conditions people to believe that the world is unsafe, which can paradoxically lead them into greater danger. Seeing the world as unsafe makes people much more impulsive and reactive to whatever stimuli are present, sidelining the parts of the brain that process long-term consequences and risk." The OCYFA finds that the way to support youth in feeling safe is not to create more punishments for people committing crimes. It is to support children, youth, and families with their basic needs. As one advocate framed it, "People would be surprised at how much teens worry about their parents not being able to pay the rent next month, or having enough food on the table."¹⁵



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Our Office understands that the safety of our communities sometimes requires that a youth be in a locked environment.¹⁶ However, we believe that the number of young people requiring this highest level of security is small, usually between 0 and 10 at any given time. DCF has not presented data to explain its calculations of the size and treatment modalities of any future facilities. The goal appears to build fast rather than to build carefully. It is unquestionable that placing juveniles in adult facilities puts them at elevated risk of sexual abuse and other dangers.¹⁷ But the bigger problem is not that we don't have sufficient facilities in which to incarcerate young people.¹⁸ It is that we lack, as Vermont's governor has said, "access to the rehabilitation, services, housing and other supports needed to both hold these young adults accountable and help them stay out of the criminal justice system in the future."¹⁹ Shouldn't we focus on *those* needs at least as much as locked facilities? The fact that Vermont penalizes Black and other non-white youth at rates up to ten times their proportion in the state population demonstrates that the problem is far bigger than a lack of locked facilities.²⁰

We cannot build a better high-end system of care without qualitative and quantitative data that explains the actual needs of our children. If we create programs and placements without first understanding need, we risk fitting kids to placements, rather than the reverse. On the other hand, if we invest in prevention services, community supports, legal expertise, and a reduction in the number of kids coming into custody in the first place, we reduce the need for "staffings," residential treatment, and incarceration. Calling for punishments without working to support communities absolves policymakers of their responsibility to protect children from victimization. We owe it to ourselves to work for the best for our young people, not construct a system that assumes the worst.

OCYFA RECOMMENDATIONS REGARDING VERMONT'S SYSTEMS OF CARE

1. DCF should re-engage the Columbia Justice Lab to strengthen Raise the Age implementation.
2. DCF should engage Casey Family Programs in targeted case reviews of 5 to 20 youth in the high-end system of care to assess the need for treatment, programs, and services.
3. DCF should study and track data on the long-term outcomes of young people after they leave residential treatment to assess system successes and areas for improvement.
4. The Vermont legislature should enact Senate Bill 6 of 2023 to limit the use of deception in the interrogation of children and young people.²¹



¹ (Sexton 2023).

² (Department for Children and Families 2023).

³ (Howard 2023, 2).

⁴ (Brouwer 2023).

⁵ No youth or youth representatives were invited to the 10.26.23 Joint Justice hearing.

⁶ See (Fostering Court Improvement 2022).

⁷ See (Office of Juvenile Justice and Delinquency Prevention (OJJDP) 2021) and (Weinstein 2023).

⁸ (Loan 2023).

⁹ (Loan 2023).

¹⁰ (Loan 2023). There is also evidence to show that even these numbers may be inflated—it is possible that young people are overrepresented in arrest data because brain science indicates that kids are more likely than adults to offend in groups—and also more likely to get caught than adults. See (McNamara 2022).

¹¹ See (Weinstein 2023).

¹² See (Vermont Department of Health 2023).

¹³ (Vermont Department of Health 2023, 3): “One in five LGBTQ+ students (20%) and 23% of BIPOC students have seen someone get physically attacked, beaten, stabbed or shot in their neighborhood compared to 14% of heterosexual cisgender and 14% of white, non-Hispanic students – a significant difference. During the past year, BIPOC students (10%) and LGBTQ+ students (10%) were threatened with a weapon such as a gun, knife or club on school property – significantly more than white, non-Hispanic students (6%) and heterosexual cisgender students (6%).”

¹⁴ Youth who are maltreated are more likely than non-maltreated youth to have contact with the juvenile justice system. Unless otherwise noted, citations this paragraph are from: (Office of Juvenile Justice and Delinquency Prevention (OJJDP) 2021).

¹⁵ (McNamara 2022): “An array of studies has shown that people with significant trauma histories can be overly motivated by short-term reward at the expense of weighing the possible cost” (internal citation omitted).

¹⁶ “The state of Vermont was out of compliance for the sight/sound core requirement of the JJRA, resulting in a 20% reduction in funds. This is a reduction of approximately \$120,000.” See (Vastine, 2022 Annual Report Children and Family Council for Prevention Programs Vermont State Advisory Group on Delinquency Prevention 2023, 7).

¹⁷ See (Act 4 Juvenile Justice 2014, 2).

¹⁸ See (Brouwer 2023). As of the date of publication of this Report, this youth has been living safely at home with his parents since his arrest.

¹⁹ (The Imprint Staff Reports 2021).

²⁰ (Morris 2022, 11). See also (Office of Juvenile Justice and Delinquency Prevention (OJJDP) n.d.).

²¹ (Vermont General Assembly 2023).