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**Report to  
Vermont Governor Phil Scott**

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**2022 Annual Report  
Children and Family Council for Prevention Programs  
Vermont State Advisory Group on Delinquency Prevention**

**In Accordance with 34 U.S. Code § 11133 [Sec. 223]**

**Submitted to: Phil Scott, Governor**

**Jenney Samuelson, Secretary, Agency of Human Services**

**House Judiciary Committee**

**Senate Judiciary Committee**

**Office of Juvenile Justice Delinquency Prevention, U.S. Department of Justice**

**Submitted by: Karen Vastine, Chair, Children and Family Council for Prevention Programs**

**Report Date: February 2023**

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## Executive Summary

The Children and Family Council for Prevention Programs (CFCPP) is the state advisory board for juvenile justice, delinquency and primary prevention as required by V.S.A. 33: 33 § 3302, and the Juvenile Justice Delinquency Prevention Act (JJDP) 34 U.S. Code § 11133 [Sec. 223]. The Council oversees a formula grant that DCF receives annually from the Department of Justice. These funds are for improving the juvenile justice system, preventing “at-risk” youth from entering the juvenile justice system, or programs for juveniles with first-time and non-serious offenses to keep them from entering deeper into the juvenile justice system. In order to receive funding, the state of Vermont must abide by requirements of the federal law. Due to five violations at DOC facilities, Vermont’s most recent formula grant has been reduced by 20%. This is a reduction of approximately \$120,000 and resulting in a grant award of only \$483,139 for Federal Fiscal Year 2022.

The Council consists of 21 members who shall be appointed by the Governor with the advice and consent of the Senate for three-year terms. Membership is based on experience with delinquency prevention, and guided by the Juvenile Justice Delinquency Prevention Act, as amended by the Juvenile Justice Reform Act of 2018 (JJRA). The JJRA requires that there be designated representatives from law enforcement, victim advocacy groups, members who have direct experience with the juvenile justice system, youth members and more. The Council is attached to the Department for Children and Families (DCF) for planning and administrative functions.

**CFCPP Mission:** The Council is grounded in prevention and works to ensure justice by building equitable and effective opportunities for children, youth and families to thrive in Vermont.

### **Current Appointed Council Members:**

Maria Avila  
Stuart Berry  
Julia Brand  
Laurey Burris  
Hon. Amy Davenport, Vice Chair  
Donn Hutchins, Clerk  
Linda Johnson  
Kirsten Kersey  
Michael Loner  
Christopher Lukasik  
Mackenzie Mazza  
Katherine O’Day  
Kreig Pinkham  
Henri Sparks  
Karen Vastine, Chair  
Matt Wolf

The Council and the State are required to maintain compliance with the JJRA, in addition to utilizing a three-year strategic plan of system priorities. The Council's priorities for Federal Fiscal Year 2021-2023 plan are:

1. Eliminate Ethnic and Racial Disparities (ERD) within the juvenile justice system in the State of Vermont by initiating and acting as a catalyst for a combination of direct intervention and primary prevention strategies that achieve this goal.
2. Ensure that Vermont's justice system treats youth and young adults fairly and provides the greatest possible opportunities for youth and young adults to lead productive lives and contribute to their communities.
3. Reduce delinquency in Vermont by supporting prevention and intervention programs in schools, community-based organizations, and state agencies.

## **Section 1: Monitor and Oversee Compliance**

The Council is charged with supporting DCF's monitoring of compliance with the JJRA. For states to be eligible to receive a formula grant from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the state must satisfy the 33 state plan requirements. Four of those state plan requirements are classified as "core requirements," and the OJJDP will reduce the state of Vermont's annual formula grant if the state is out of compliance. The Council funds a part-time Compliance Monitor position using the OJJDP formula grant. This temporary state employee monitors violations of the core requirements and reports back to the OJJDP. OJJDP requires that all facilities with the ability and authority to hold youth securely are inspected on a three-year cycle in line with the Council's three-year plan. The four core requirements are: Deinstitutionalization of status offenders, Separation of juveniles from adult inmates, Removal of juveniles from adult jails and lockups and addressing racial and ethnic disparities.

### **Definitions:**

#### Deinstitutionalization of status offenders

- Status offenders are juveniles charged with offenses that would not be criminal if they were an adult, such as running away or truant behavior. These juveniles shall not be placed in secure detention facilities or secure correctional facilities.

#### Separation of juveniles from adult inmates

- Juveniles may not be subject to sight or sound contact with adult inmates while securely detained.

#### Removal of juveniles from adult jails and lockups

- Juveniles charged with a crime may not be detained in adult jails or police holding cells except to process and release for a limited duration of time (6 hours).

#### Addressing Racial and Ethnic Disparities

- Youth of color are involved with the juvenile justice system at disproportionately higher rates than that of white youth. States are required to track these rates in the juvenile justice system and create and execute an action plan to address these disparities.

### **Relevant Updates:**

#### Federal Definition of Juvenile:

At the end of Federal Fiscal Year 2020, Act 201 (The "Raise the Age" law (RTA)) came into effect and Vermont became the first state in the nation to raise its upper age of juvenile jurisdiction past a youth's 18th birthday. This meant that on July 1, 2020, most young people accused of breaking the law at age 18 (excluding the more serious "Big 12" offenses) were prosecuted in the Family Division of the Superior Court (rather than the adult Criminal Division), with supervision and coordination of services provided by the

Department for Children and Families (DCF), rather than the Department of Corrections (DOC). Beginning on July 1, 2023, most youth accused of breaking the law at age 19 will be similarly included in the juvenile justice system, making the 20th birthday the upper age of juvenile jurisdiction in the state.

This caused a unique impact on the core requirements of the JJDP. Due to RTA, on July 1, 2020, 18-year-olds are now protected by the core requirements, just as their 17-year-old counterparts are protected. There is also state statute that bans juvenile delinquents (of any age) from being housed in DOC facilities. Unfortunately, a handful of 18-year-old delinquents were admitted into DOC facilities before the facility staff were aware that they could no longer be lodged.

#### Juveniles Charged as Adults:

The JJRA expanded upon this requirement to include juveniles charged as adults. Juveniles charged as adults are not to be held in an adult jail or lockup (nor shall they have sight or sound contact with adult inmates) unless the court finds after a hearing and in writing that it is in the interest of justice to do so (Section 223(a)(11)(B)). The Judge must continue to make this finding every 30 days. This change came into effect December 21, 2021.

On June 1st, 2022, S.224 An act relating to juvenile proceedings, was signed into law. The relevant language in this legislation, S.224 provides jurisdiction over section 223(a)(11)(b) hearings. \* \* \* Interests of Justice Hearing \* \* \* Sec. 17. 33 V.S.A. § 5294 was added to read: § 5294. INTERESTS OF JUSTICE HEARING Not later than the next business day after a juvenile who is awaiting trial or other legal process and who is treated as an adult for prosecution in the Criminal Division is taken into custody, the court shall hold a hearing and determine whether to issue a written order, pursuant to 34 U.S.C. § 11133(a)(11)(B), that it is in the interests of justice to hold the juvenile in a jail or other secure facility for adults owned or operated by the Department of Corrections and, if such an order is issued, whether to allow sight or sound contact with adult inmates. Hearings held and orders issued pursuant to this section shall conform with the requirements of 34 U.S.C. § 11133(a)(11)(B), including the criteria set forth therein.

Unfortunately, federal law requires these hearings to occur within 6 hours, which may result in violations.

#### **Violations:**

In 2022, DCF reported to OJJDP that Vermont incurred seven violations of the federal law. All the below violations were 18-year-old juvenile delinquents and occurred over a five month period of time.

1. In 2020, a juvenile delinquent at a DOC Correctional Facility was not separated by sight and sound from adult inmates, which is considered a violation of the S&S requirement.
  - a. This incident resulted in an additional violation of the jail removal requirement, since the DOC facility where the incident occurred is in a Metropolitan Statistical Area, per the U.S. Office of Management and Budget.

2. In 2020, a second juvenile delinquent at a DOC Correctional Facility was not separated by sight and sound from adult inmates, which is considered a violation of the S&S requirement.
3. In 2021, a juvenile delinquent at a DOC Correctional Facility was not separated by sight and sound from adult inmates, which is considered a violation of the S&S requirement.
4. In 2021, a second juvenile delinquent at a DOC Correctional Facility was not separated by sight and sound from adult inmates, which is considered a violation of the S&S requirement.
5. In 2021, a third juvenile delinquent at a DOC Correctional Facility was not separated by sight and sound from adult inmates in, which is considered a violation of the S&S requirement.
  - a. This incident resulted in an additional violation of the jail removal requirement, since the DOC Correctional Facility where the incident occurred is in a Metropolitan Statistical Area, per the U.S. Office of Management and Budget.

DCF and DOC learned of the issue in the beginning of calendar year 2021, and DOC immediately began implementing practice change and developing policy to prevent any more 18-year-old delinquents from admission into their facilities. In July of 2021, DOC released a policy for staff indicating what charges are required for a juvenile to be charged as an adult versus a delinquent. In Federal Fiscal Year 2022, there were no juvenile delinquents held in adult facilities as a result.

Vermont's Compliance Monitor continues to provide training and technical assistance to secure holding facilities across the state to ensure that these violations do not occur again. Due to the five sight or sound violations at DOC facilities, Vermont was over the sight or sound threshold set by OJJDP and has caused the formula grant to be reduced by 20%. This is a reduction of approximately \$120,000 and resulting in a grant award of only \$483,139. These funds are for improving the juvenile justice system, preventing "at-risk" youth from entering the juvenile justice system, or programs for juveniles with first-time and non-serious offenses to keep them from entering deeper into the juvenile justice system. Most of Vermont's formula grant is passed through to community organizations statewide.

While there have been no juvenile delinquents held in adult facilities throughout FFY2022, there have been juveniles charged as adults held (and not sight/sound separated from adult inmates) at DOC facilities without an interest of justice hearing. These violations will be reported to OJJDP in 2023, but since they are new requirements of the federal law, it is unclear if the federal government will penalize states for these violations.

## Section II: Reduction of Racial Disparities

The JJRA requires states to “implement policy, practice and system improvement strategies at the state, territorial, local and tribal levels, as applicable, to identify and reduce racial and ethnic disparities among youth who come into contact with the juvenile justice system, without establishing or requiring numerical standards or quotas.” In order to do this, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) asks states to submit statewide data at key juvenile justice decision points where research has shown that racial disparities may occur, arrest, diversion, pre-trial detention, secure confinement, and adult transfer. The Council has been particularly following the identified trends:

- A substantial amount of juvenile court case filings does not have race or ethnicity data recorded.
- Youth of color are arrested at higher rates.
- Youth of color have their case filed in criminal court at higher rates.

The Council acknowledges that systemic racism and white supremacy culture are rampant throughout the juvenile and criminal justice system. If they are to address these concepts within the “justice” system successfully, they need to be able to understand and address them within themselves. The Council is looking to apply Joe Feagin’s definition of racism and Tema Okun’s definition of white supremacy culture to the work of the Council and dismantle any ideologies created to maintain white privilege from within the Council (with the help of a consultant). This is simply the first step in addressing systemic racism and white supremacy culture in the juvenile justice system.

In the meantime, the Council is continuing their work regarding school discipline. At the end of 2020, the SAG’s Ethnic and Racial Disparities Committee funded two school-based community responses that addresses the systemic and institutionalized racism within school systems as a tactic to addressing the disproportionate arrests of youth of color. Schools are a common area where all youth gather, learn, and grow which creates a unique opportunity to provide crucial supports to youth in a safe, healthy, and nurturing environment. Instead of using punitive measures that perpetuate systemic and institutionalized racism, interventions and programs such as School-wide Positive Behavior Interventions and Supports (PBIS), trauma-sensitive training, and Restorative Practices that aim to address root causes of student behaviors and provide needed services both on and off school grounds are a crucial approach to reducing Vermont’s ethnic and racial disparities in arrests.

Since the end of 2020, the Council has funded two organizations to address these issues: Burlington School District and Spectrum Youth and Family Services to do this work. These agreements have been renewed annually with continued support from the Council. Unfortunately, in December 2022, Spectrum Youth and Family Services had to stop work in the Winooski School District due to challenges with hiring, training/timeline of the school year, and turnover in administration in the school district. The Council is continuing to support Burlington School District for their third year of this work. The Council acknowledges that ethnic and racial disparity work must extend past Chittenden County and to other areas of the state. While we have strategically focused on Chittenden County, youth of color who live in other areas deserve the same emphasis on this work.



### **Section III: System Improvement of the Juvenile Justice System**

The CFCPP is federally charged with advising the administration on juvenile delinquency needs and prevention thereof. The CFCPP advises on state and federal legislation that affect youth by engaging with governmental partners to advise on compliance with the JJRA. Historically, the Council has partnered with DCF and other stakeholders to implement state legislative changes in youth court jurisdiction such as the “Youthful Offender” option for 16- to 21-year-old youth and young adults.

In 2018, Vermont became the first state in the nation to raise the age of Juvenile Court Jurisdiction to 18- and 19-year-olds with the passage of Act 201 on July 1, 2020, the law came into the effect for 18-year-olds and on July 1, 2022, 19-year-olds will also be included. The Council has and will continue to work with DCF as they work through the implementation of raising the age of jurisdiction in the Family Court Division.

- The Council and DCF funded the Crime Research Group (CRG) \$20,000 to evaluate recidivism rates of 18 and 19-year-olds who were adjudicated in adult court prior to July 1, 2020.
  - This measurement provides a benchmark and allows Vermont at some future point to compare the recidivism rate for this population when criminal charges are processed in adult court to the recidivism rate for the same population when similar charges are processed in the juvenile court. As the first state to embark on this approach to young adults, Vermont needs to track data that can measure the outcomes for this population and how the outcomes for young adults processed in the juvenile system differ from the outcomes when that same population was processed in adult court. Recidivism is one of many ways in which outcomes can be measured. Others include quality of life factors including stable housing, education, employment and other factors that reduce the likelihood of further criminal activity. If Vermont can demonstrate positive outcomes associated with raising the age, it will increase the likelihood that other states will follow Vermont’s example. This report identified recidivism through two definitions:
    1. 28 V.S.A. § 4 defines recidivism as offenders who are sentenced to more than one year of incarceration who, after release from incarceration, return to prison within three years for a conviction for a new offense or a violation of probation, and the new incarceration sentence or time served on the violation is at least 90 days.
    2. Measure the number who have a conviction within 3 years of their sentencing for which they were convicted in the base year. Convictions must include either an adult conviction or a youthful offender determination.
  - The CRG provided DCF and the Council with a recidivism report of 18- and 19-year-olds who were convicted in adult criminal court in 2022. CRG was unable to use the definition outlined in 28 VSA § 4 because only two defendants had been sentenced to more than one year in jail and were not eligible to recidivate until after the data for this study were collected. The overall three-year recidivism rate for the second definition is 45.98%

- The Council funded Bennington College \$20,000 to identify and review a group of existing effective domestic violence intervention programs across the United States, and then provide recommendations which Vermont can use to build its own emerging adult intervention program. This needs to be in accordance with the Vermont’s Statewide Standards for Domestic Violence Accountability Programs and subject to approval by the Vermont Council on Domestic Violence. Currently, there is no domestic violence intervention program for offenders in Vermont that considers the unique needs of the emerging adult.
  - In 2022, Bennington College provided the Council with their report, and the Council is now working towards a Request for Proposal for an entity to pilot a program in 2023.
  
- In 2021, After reviewing the Attorney General’s Annual report on Diversion [H.20~Willa Farrell~Diversion Report~1-14-2021.pdf \(vermont.gov\)](#), the Council decided that it was imperative to support the increased use of Diversion for the juvenile population statewide. Restorative justice practices are currently used by Diversion, Balanced and Restorative Justice, and Community Justice programs throughout the State to successfully divert juveniles and young adults, especially first-time offenders, from the justice system. Most of these programs are made available after a charge has been filed. Pre-charge diversion programs are less common. They tend to be concentrated geographically in areas with larger local police departments such as Burlington and Winooski. Unlike post-charge restorative justice programs, the decision to send juveniles to pre-charge programs is usually made by a law enforcement officer as opposed to the State’s Attorney. If an officer is familiar with the benefits of the program, pre-charge diversion is a useful tool to deal with non-violent offenses. It provides an immediate opportunity for the juvenile to take responsibility for their conduct while at the same time providing a voice for victims if there are any. Successful completion means that no charge is ever filed. By minimizing the degree to which the juvenile/young adult is exposed to the justice system, increased use of pre-charge diversion reduces the likelihood that the juvenile/young adult will commit another crime thereby increasing public safety.
  - In 2022, the Council funded the Burlington Community Justice Center (BCJC) \$100,000 to provide law enforcement entities statewide with training on restorative justice best practices and the benefits of pre-charge restorative justice alternatives for juveniles and young adults up to age 22. The training shall be designed to increase pre and post charge referrals and decrease racial and ethnic inequities in these referrals.
  - They held their first day-long training in Chittenden County in July. A total of 14 law enforcement officers attended the training, which took place at the South Burlington Police Department. Their second day-long training for Windsor and Windham Counties was held in August at the Springfield Fire Department. A total of 10 law enforcement officers attended the training.
  - Training enrollment is a challenge. To address this, organizers have implemented a training promotion process that includes several sequential rounds of outreach from both the training team and local restorative justice organizations. In spite of these efforts, police site several shared challenges to enrollment such as short staffing and unwillingness to attend a full-day training. In 2023, the BCJC will continue to implement training while adapting to implementation challenges.

## Section IV: Reducing Delinquency through Youth Services

In Vermont's three-year plan, the SAG identified a top priority goal of reducing delinquency in Vermont by supporting prevention and intervention programs in schools, community-based organizations, and state agencies.

In 2021, the Council posted a Request for Proposal to support the coordination of youth leadership programs across the state as they work to strengthen youth resiliency, youth empowerment, healthy relationships and/or youth-adult partnerships and promote engagement in positive youth development. The Council was looking for programs that would support youth in establishing and maintaining youth leadership programs that are developmentally appropriate and effective at helping at-risk or delinquent youth ages 10 to 23 achieve their full potential. In 2022, the Council funded two organizations each \$37,500 to do this work: Turning Point Recovery Center of Springfield and Center for Restorative Justice in Bennington. Council funding for these projects ended in the summer of 2022.

1. Turning Point Recovery Center of Springfield implemented a peer-based youth leadership training that prepares youth ages 13-21 to become leaders to support their peers who may be struggling with substance abuse issues themselves or within their families. Turning Point trained youth leaders in topics such as active listening, health boundaries, stigma, importance of supervision and support, selfcare. Youth Leaders are matched with youth and then meet with them regularly – these matches are based on fit level and the youth leader's ability to provide the needed level of support to a youth. The youth leaders then meet with a certified recovery coach about issues/needs they or their youth peer are experiencing, and the couch offers direct referrals for services, support and resources as needed. For more information about this program: <https://www.spfldtp.org/yprs>.
  2. Center for Restorative Justice implemented a youth-led clothing store, "Threads". Threads, a youth lead boutique-style, is a clothing store that is designed to offer free clothing options to youth. CRJ hired youth managers who run the store, providing them with crucial work experience. The community has expressed positive feedback on the use of their donations to support teens. For more information about this program: <https://www.bcrj.org/programs-2/>. CRJ was fortunate to receive a grant from the Vermont Women's Fund to continue to fund Threads and our Teen Manager for another year after the Council funding ended.
- In 2022, the Council funded Vermont Afterschool \$146,909 for the development, administration, distribution, and oversight of community-based delinquency prevention programs distributed broadly statewide. This will be over the course of almost three years, and in 2022 Vermont afterschool successfully completed a procurement process that resulted in the funding of three programs:
    1. The Barra School: To create and implement intensive Forest and Wilderness Therapy programming for at risk LGBTQ and other marginalized and underserved youth in

VT in order to reduce criminogenic and substance abuse behaviors. The program achieves this by improving confidence and self-esteem; teaching life-skills to help build resiliency and foster engagement with a healthy community; and by providing tools, resources, and on-going support to ensure youth can manage and overcome adversity and stress in a way that is healthy and productive and lasting.

- Highlights: The program was created for LGBTQ+ youth, and 11 out of 12 participating youth were transgender/non-binary. The program offered a safe outdoor space for youth to come together with mentors who share their identity and participated as their whole, authentic selves. This fostered youth safety, membership/belonging, and self-worth. Although the program followed a predictable and set routine each weekend, youth collectively made the majority of decisions about activities and were consulted every step of the way when changes to the plans were made. This boosted youth competence and confidence and allowed youth to feel like they have control over what happens in the program. Youth become resilient when they are given a chance to contribute to the program, and their voices and choices are respected. In addition, the program also supported youth in verbalizing their needs which helped youth in communicating with their families and friends.

2. Burlington School District, Expanded Learning Opportunities Program: To expand the My Brothers (MBK) and My Sisters Keeper (MSK) afterschool affinity programs at Burlington High School. These programs provide a vital space for our youth of the global majority to foster deeper relationships to each other, their school community and broader community while engaging in activities focused on career paths, identify exploration, academic support, and community activism.

- Highlights: 2022 was mainly used as a planning period for upcoming years. The speakers, visitors, and community partners for the upcoming year have been identified to show representation in different areas of civic life and build networks for students and community partners. Recruitment of a peer mentor and drafting a clear and concise mission statement were the biggest achievements.

3. Center for Restorative Justice: To provide mentorship, meaningful connections and support for youth who are involved in the juvenile justice system as well as youth who are at the greatest risk of engaging in delinquent or risky behaviors. The program will use mentoring, which is an effective intervention proven to help prevent youth from entering (or re-entering) the juvenile justice system, to support Bennington's most at-risk youth who need support now more than ever.

- Highlights: Youth who have been suspended/expelled from school were provided with the space to come to, and the program supported youth in building a connection with their peers. In recognition of responsible behavior and good role modeling exhibited by youth, the program hired one youth to serve as a peer mentor. This showed all youth that they are valued and positive behaviors are rewarded, which empowered them to practice leadership skills and empowered them to lead by example.

In 2022, the Council decided to allocate \$100,000 of their title II formula grant dollars to support Youth Drop-in Centers. This project is meant to be a catalyst for sustainability for teen and youth centers in Vermont in order to boost their capacity for engaging new youth through outreach and to serve more youth in their communities by offering high quality programming, with a target population of young people ages 11 to 26. Please note that there will be a primary emphasis on BIPOC individuals and a secondary emphasis on LGBTQ, youth with disabilities, and low-income individuals. The committee will post a request for grant application in 2023.

In 2017, the Council released a Youth Resource Map to help coordinate youth programming available across the state. In 2023, the Council will be updating and revamping the map for a more youth-friendly format. [Resources For Youth | Department for Children and Families \(vermont.gov\)](#)

## Conclusion

In 2022, the Council continued to work on the below three- year goals established for federal fiscal year 2021-2023.

1. Eliminate Ethnic and Racial Disparities (ERD) within the juvenile justice system in the State of Vermont by initiating and acting as a catalyst for a combination of direct intervention and primary prevention strategies that achieve this goal.
2. Ensure that Vermont's justice system treats youth and young adults fairly and provides the greatest possible opportunities for youth and young adults to lead productive lives and contribute to their communities.
3. Reduce delinquency in Vermont by supporting prevention and intervention programs in schools, community-based organizations, and state agencies.

### Key 2022 Successes:

- The Council administered the requirements of the Juvenile Justice Delinquency Prevention Act (JJDP) and 33 V.S.A § 3301-3307 in partnership with DCF, law enforcement, and community programs.
- Continued to fund and work with community partners to reduce the rate of overrepresentation of youth of color in the juvenile justice system.
- Worked in partnership with community organizations to administer statewide juvenile justice system improvement and delinquency prevention funds.
- During the Council's annual retreat, it was identified that the name of the Council and many of the state statutory requirements do not line up with the federal requirements of the group. The group is proposing to change their name in 2023 to The Council for Equitable Youth Justice.

### Key 2022 Challenge:

- 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 and resulting in a grant award of only \$483,139 for Federal Fiscal Year 2022.

For more information please email:

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