

Memo

To: Members of the Senate Committees on Judiciary, Health & Welfare and Institutions
Members of the House Committees on Judiciary, Human Services and Institutions
Interim DCF Commissioner Chen

From: The Children and Family Council for Prevention Programs

Date: January 20, 2023

Re: Response to DCF Proposed High-End System of Care Plan

The Children & Family Council for Prevention Programs (the Council), is the state advisory group for juvenile justice and delinquency prevention, as required by the federal Juvenile Justice Reform Act of 2018 (34 U.S. Code § 11133 (Sec.223)). The Council respectfully submits this memo in response to the *DCF Proposed High-End System of Care Plan* (the Report) submitted to the Vermont Legislature on December 1, 2022. As detailed below, while the Council supports DCF's vision for a right-sized, developmentally appropriate residential system of care for youth, we cannot support DCF's request that the planned expansion of family court jurisdiction over 19-year-olds be delayed until this new system is operational.

The Council fully supports the development of a tiered system for the small number of youth who require stabilization and treatment in a secure residential setting before they can return to their communities. We affirm the importance of a high-end system of care that supports differential responses and tiered transitions to lower levels of care. We additionally applaud the collaboration with community-based partners in developing capacity.

The Report concludes, however, by indicating that DCF will recommend to the Legislature that "the State defer the July 1, 2023, implementation of Raise the Age until such a time as the State has developed the facilities and programs described within the plan." In other words, the expansion of Family Court jurisdiction to include 19-year-olds *not* charged with a Big 12 violent crime must wait until all four tiers of the high-end system of care plan are operational.

Of grave concern is that preceding the recommendation to delay the legislated RTA implementation is a statement of concern over the "growing populations of youth with consistent access to firearms and the increase of organized drug trafficking involved youth." The Report provides no data that either supports this contention or, more importantly, connects it in any way with the entry of 19-year-olds charged with nonviolent offenses into the juvenile system. For Vermonters in our communities of color, these types of statements are particularly charged because in broader parlance there is an assumption that they are about Black, brown and indigenous youth.

Transparent analysis of relevant data is imperative. This is particularly true given the long history of overestimating and mythologizing the severity of youth crime. Data-driven research has consistently disproved the myth that crimes committed by youth pose a disproportionate threat to public safety¹, a

¹ In a report published as recently as August of 2022 by the Office of Juvenile Justice and Delinquency Prevention Programs, actual data continues to refute anecdotal concern. This report concludes with a firm expression that, at least through 2020, violent crimes in the US resulting in arrests of youth had continued to decline precipitously and were, in fact, at a nearly 40 year low. (<https://ojjdp.ojp.gov/publications/trends-in-youth-arrests.pdf>).

myth that has historically (led) contributed to the over-incarceration of youth of color, especially Black youth.²

The connection between the decision to delay the planned expansion of the RTA legislation and the shortage of secure residential beds is further called into question by the data we do possess. The available data suggests that youth who have been the most difficult to place due to a lack of secure placement options, have been 17 years old or younger and thus already under the jurisdiction of the Family Court. In other words, expanding jurisdiction to 19 may have very little impact positively or negatively on efforts to develop, or access to, placement options.

Finally, while we support, DCF’s vision for a tiered residential system of care, there can be no question that the runway to put this vision in place is extremely long. Three out of the four tiers are still in the planning stage and will take years to become operational.³ We cannot support asking 19-year-olds who were supposed to enter the system 6 months ago to wait that long, particularly when the data presented during the initial Raise the Age decision so clearly points to overwhelmingly positive outcomes for youth now handled under family court jurisdiction.

It was clear in 2019 that hard work lay ahead were we to achieve reform. Truthfully, there may never be a perfect time to commit to working through the challenges; but any delay will have a real, life-long impact on the youth who are caught in what could become a perpetual inability on the part of the State to “be ready.” We understand that post-pandemic staffing levels at DCF and in the community provider system are extraordinarily stretched. Moreover, we understand that the lack of secure placement options for the youth at the high end of the system puts a heavy load on existing staff. Nonetheless, we cannot support a recommendation that 19-year-olds be required to indefinitely until the entire residential system of care is built.

We offer our support for system improvements to Vermont’s Juvenile Justice System. We would gladly collaborate and contribute resources in support of further development of a system that: (1) fully embraces the risk-need-responsivity principle; (2) adds residential beds based on clear data; (3) uses secure placements are used for only those youth who need it and are as short as possible; and (4) addresses racial disparities in the juvenile justice system.



² <https://www.sentencingproject.org/app/uploads/2022/08/Racial-Disparities-in-Youth-Incarceration-Persist.pdf>

³ The proposed short-term secure treatment facility in Newbury cannot even start until/unless DCF prevails in an appeal to the Vermont Supreme Court of an Environmental Court decision – a process that could take up to two years. The other two proposed facilities, one for short-term secure stabilization and the other for psychiatric residential treatment, are still in the planning stages without a designated location.