



MOVING JUVENILE JUSTICE REFORM FORWARD

4.5.18

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Overview of Justice Stakeholder Work since
passage of juvenile justice reform

BACKGROUND ON YOUTHFUL OFFENDER STATUS

PRE-ACT 153

- Youth enters a conditional guilty plea in Criminal Court.
- Criminal Court defers sentencing and transfers case to Family Court to determine whether YO status should be granted.
- DCF files a report on the youth that recommends whether: Public safety is at risk; the youth is amenable to treatment; and there are sufficient services.
- If YO motion is approved, conditions of probation, DCF and DOC staff are assigned to work with youth.

BACKGROUND ON YOUTHFUL OFFENDER STATUS

Pre- Act 153

Benefits of YO status:

- Youth can receive support and supervision from a social worker in accessing treatment and services.
- If youth successfully completes their probation requirements, their criminal court record is expunged and their family court record is sealed.

Drawbacks of YO status:

- DOC is not empowered to utilize all of its tools for supervision in the community.
- Because of the initial filing in Criminal Court, aspects of criminal record remain available to the public even post expungement.

BACKGROUND ON YOUTHFUL OFFENDER STATUS

Total Number of Cases from 2015-Present:

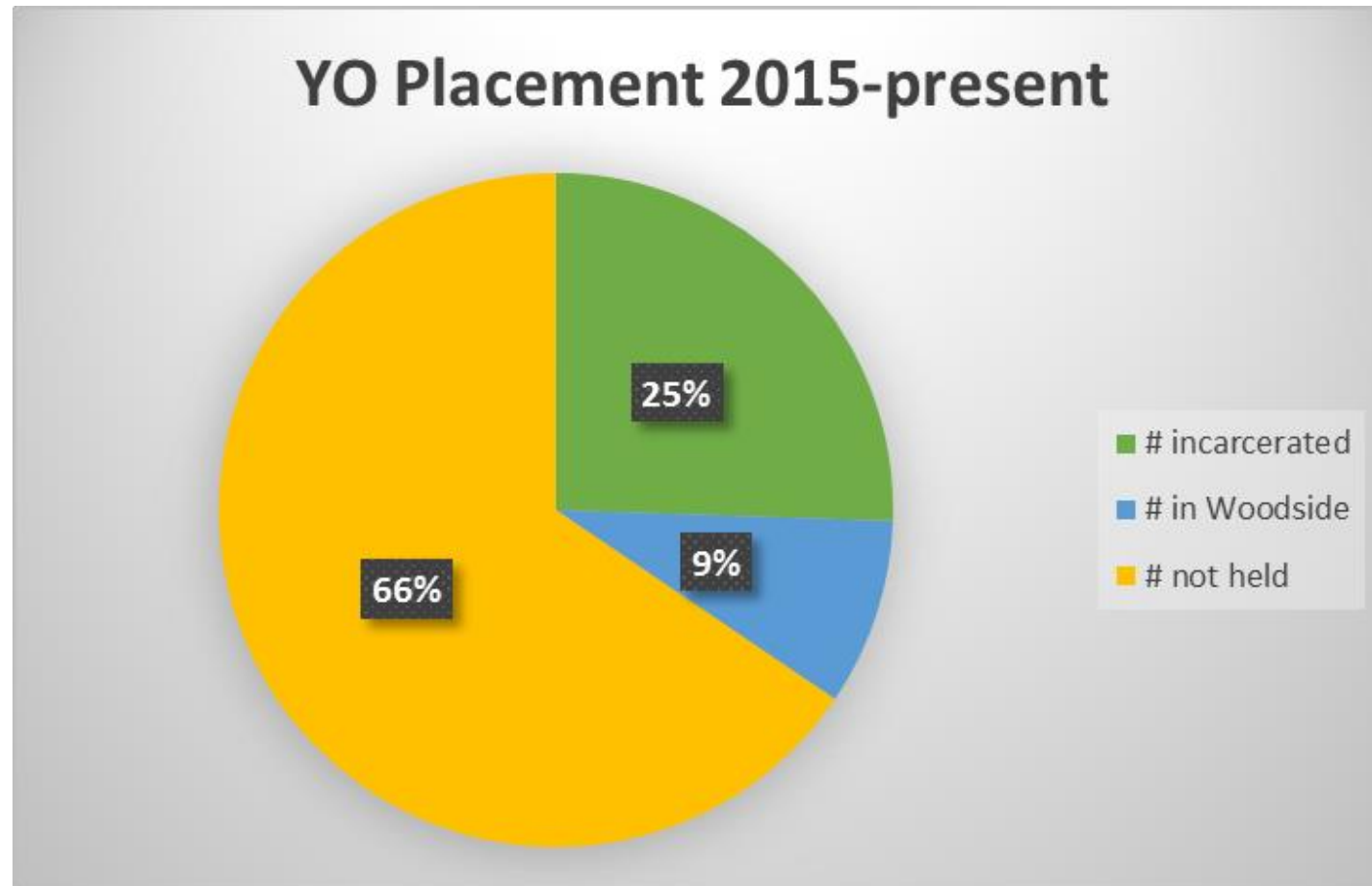
146 (120 Youth)

Total Number of Youth on YO status placed in facilities:

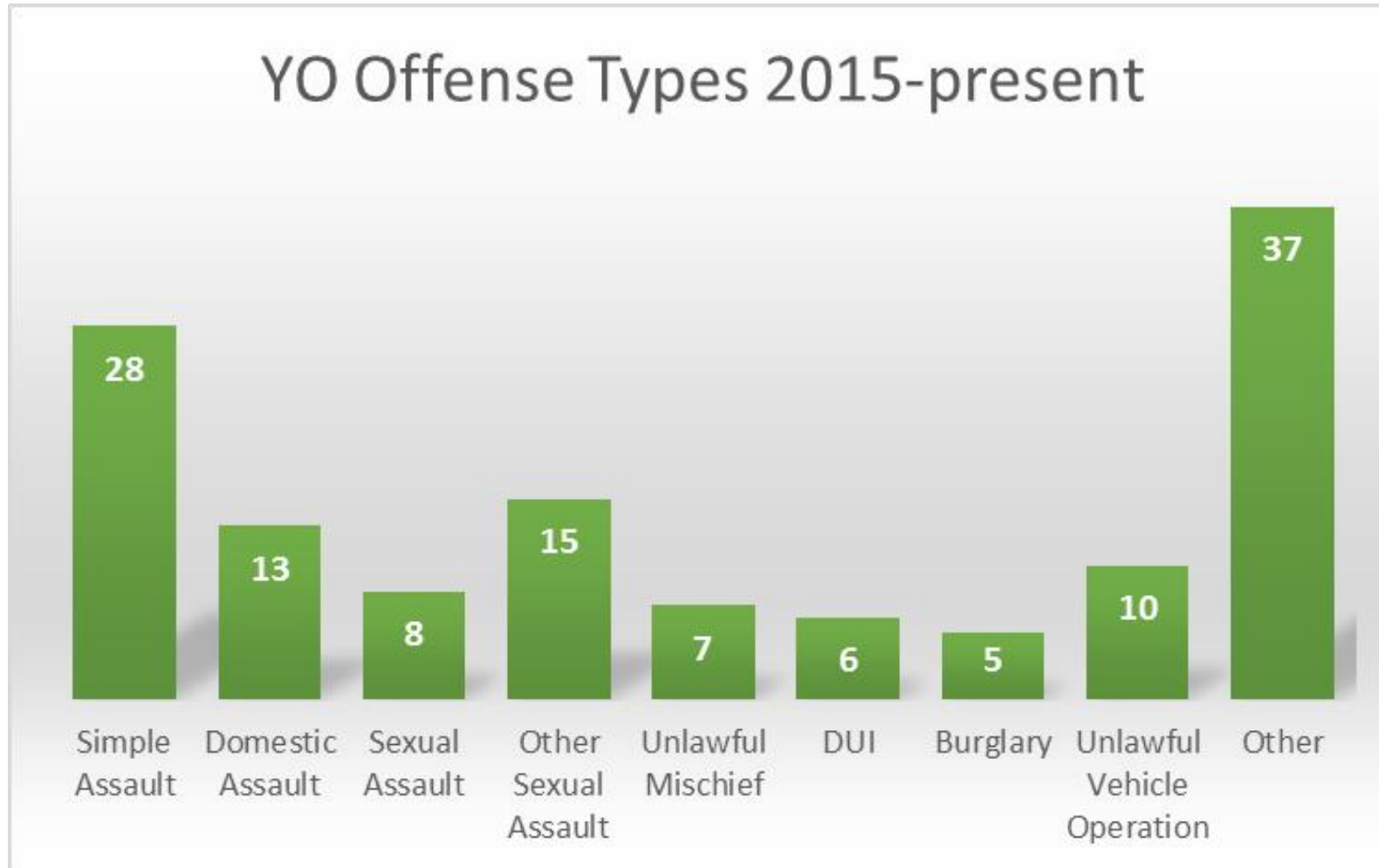
Woodside: 13

Corrections: 37

BACKGROUND ON YOUTHFUL OFFENDER STATUS



BACKGROUND ON YOUTHFUL OFFENDER STATUS



JUVENILE JUSTICE REFORM

Acts 153 and 72 change a number of aspects of the juvenile justice system, including:

- Making it mandatory to file cases involving 16 and 17 year-olds (except for the Big 12 offenses) in family court
- Beginning 7.1.18 - Expanding Youthful Offender (YO) Status to:
 - include young adults up to the age of 21;
 - allow cases to start in family court so confidentiality can be afforded to youth eligible for YO status; and
 - incorporate supervision tools and strategies utilized by DOC to allow more young adults to be supervised in their community.

JUVENILE JUSTICE REFORM

Woodside admissions – law as of 7.1.2018

- During the last legislative session, DCF proposed legislation to provide court only ordered admissions to Woodside for any placement prior to the disposition stage of a delinquency case.
- Act 72 (2017) changed the due process considerations for Woodside admissions consistent with DCF's request to change the current law.

JUVENILE JUSTICE REFORM WORK

Juvenile Justice Stakeholder group:

- DCF
- DOC
- Judiciary
- Office of the Defender General
- Department of State's Attorneys and Sheriffs.

OVER-ARCHING RECOMMENDATION FROM STAKEHOLDER GROUP: ENSURE THAT YOUTH ARE DIVERTED WHEN APPROPRIATE

Our overall vision for Acts 153 and 72 implementation is that youth who commit low level offenses will be diverted from the system.

We want to avoid building a system that ends up involving more youth in court. Therefore we recommend:

- Continuing to explore pre-filing options for youth; and
- Seeking geographic consistency.

WORK WITH CSG'S JUSTICE CENTER

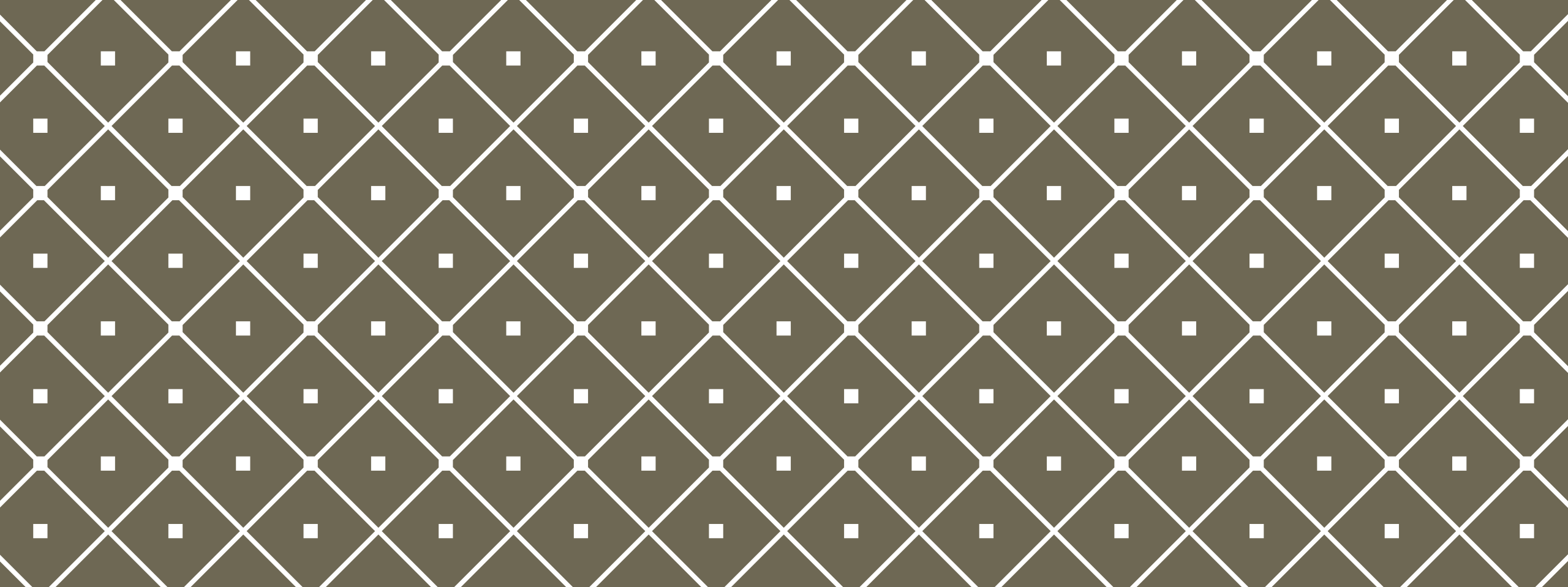
DCF, with a grant from the Children and Family Council for Prevention Programs, contracted with the Justice Center of the Council of State Government to map policy adjustments and the potential impact of the reforms on the existing system.

The Justice Center conducted numerous stakeholder focus groups and analyzed data available to put together a report and recommendations presented to Joint Justice Oversight on October 26th, 2017.

CSG JUSTICE CENTER'S REPORT

Based on the limited data available, the Justice Center predicts that there will be an increase of:

- 97 juvenile delinquency cases per year (increase by 95%)
- 96 new cases of Youthful Offenders (based on the current percentage of cases that go YO)



RIGHT-SIZING THE SYSTEM MINIMIZE LONG-TERM CONSEQUENCES

Recommendations and Responses
to Justice Center's 10.26 Report

ESTABLISH CLEAR CRITERIA FOR YOUTHFUL OFFENDER STATUS – CSG/JUSTICE CENTER

Responses:

DCF: Our hope is that we will not see hundreds of new cases being considered for YO and that more youth and young adults will be diverted.

DOC/DCF are exploring gradations of YO that would allow for low risk supervision that is less staff-intensive, possibly by one department, as well as mid to high level supervision. Much of this could be achieved in policy.

ESTABLISH CLEAR CRITERIA FOR YOUTHFUL OFFENDER STATUS

Response:

Consider approaches in and outside of the courtroom:

- Currently 95% of cases involving 18-21 year olds in criminal court are resolved with stipulation and end up on DOC caseload. Is there any reason we can't have YO cases resolved via stipulation or plea agreement?
- If all parties agree that youth should have youthful offender status, the YO Consideration Hearing could be utilized as a hearing for the court to approve YO stipulation and could also include the disposition case-plan.
 - The youth would need to admit in this scenario.
 - This would truncate the court process and allow for wrapping up disposition case plan all at the same time.
 - We are exploring whether this will need a statutory or policy change.

EXTEND FAMILY COURT JURISDICTION TO INCLUDE ALL 18-YEAR OLDS.

Response:

DCF, DOC and the ODG would support efforts to further study raising the age of juvenile jurisdiction to consider youth and young adults up to the age of 21.

Regardless of the age, studying the impact of raising the age of family court jurisdiction would require additional resources.

S.234 includes a provision for family court jurisdiction to include 18 and 19 year olds.

CREATE A SPECIFIC DEFERRED STATUS FOR YOUNG ADULTS IN CRIMINAL COURT...

Response:

The Stakeholder Group supports adding statutory language that would allow for immediate expungement for cases involving 18-21 year olds for low level offenses upon successful completion of probation or supervision.

REQUIRE THAT YOUTH/YOUNG ADULTS RECEIVE A RISK & MENTAL HEALTH SCREENING AT INTAKE

Response:

Unlike other states, Vermont does not have “intake” for juvenile or young adult cases.

Under current law, youth alleged to have committed delinquent acts, “shall be afforded an opportunity to undergo a risk and needs screening...” 33 VSA § 5225(b)

DCF will administer and share the results of the YASI risk and needs screening as part of its report to the court (33 VSA §5282) regarding the youthful offender hearing.

The stakeholder group is very interested in ways that we can work with pre-trial services – which affords services pre-conviction.

CONSIDER ENCOURAGING OR REQUIRING DIVERSION FOR YOUTH/YOUNG ADULTS SCREENED AS LOW RISK AND/OR WHO COMMIT SPECIFIED OFFENSES

Response:

All of the members of the stakeholder group support a default option: diversion for low to moderate risk youth or young adults, but States Attorneys have authority to override with specified circumstances.

The language in S234 borrows from language in Act 61:

If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A), the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice.

REQUIRE THAT YOUTH/YOUNG ADULTS RECEIVE A RISK ASSESSMENT PRIOR TO DISPOSITION

Response:

S.23 affords the option for DCF/DOC to make a recommendation based on screening.

DCF regularly administers the YASI risk/needs screening as part of its development of the disposition case plan.

Language in S.234 reflects this recommendation.

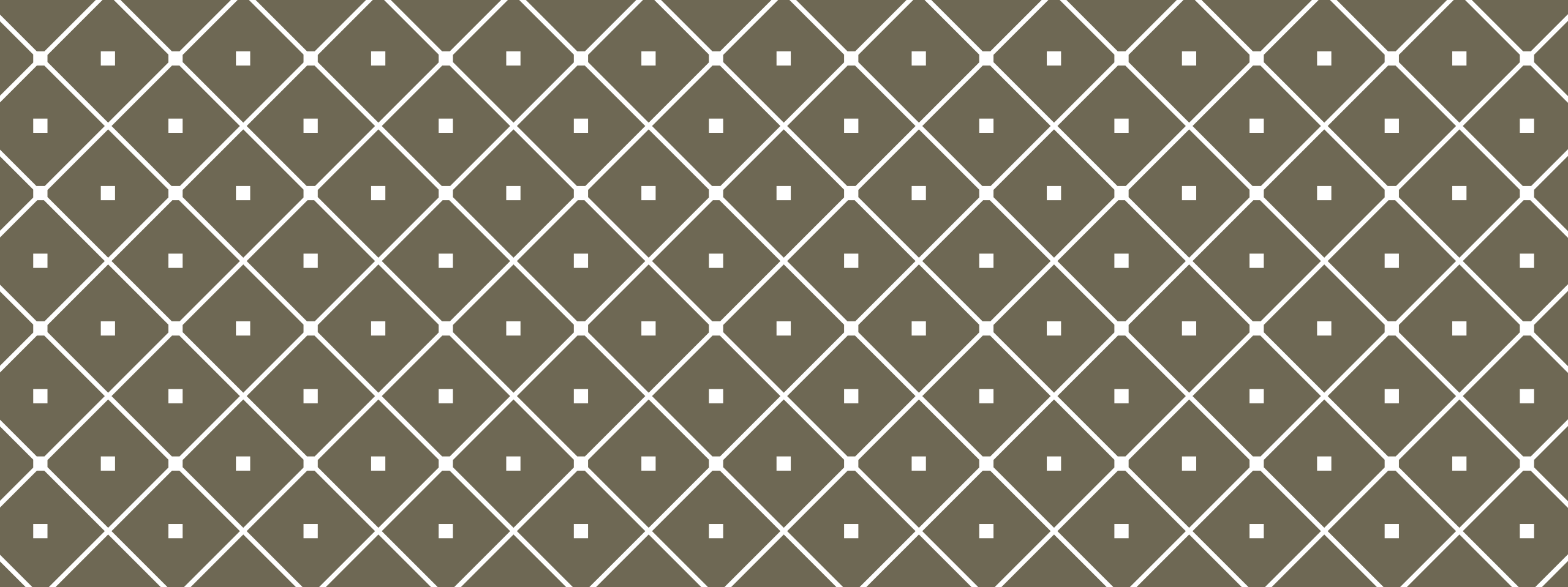
FURTHER EVALUATE THE NEED FOR ADDITIONAL FAMILY COURT JUDGES AND STAFF TO ACCOMMODATE GROWTH IN DELINQUENCY AND YO CASES

Response:

We need to further evaluate court resources including court time, space, and staffing.

Our hope is that we will siphon off enough cases using pre-filing/pre-charge approaches that the impact will be less than the Justice Center estimated. However, if the impact is greater than expected, we will have an issue.

Please note: we acknowledge that Family Court is impacted by the pressure of the CHINS docket.



ENSURE RESOURCES ARE USED EFFICIENTLY TO PROVIDE APPROPRIATE SUPERVISION

Recommendations and Responses
to Justice Center's 10.26 Report

ELIMINATE THE CURRENT DUAL SUPERVISION STATUS FOR YOS.

Response:

We are comfortable that we will be able to resolve this with DOC without making statutory changes.

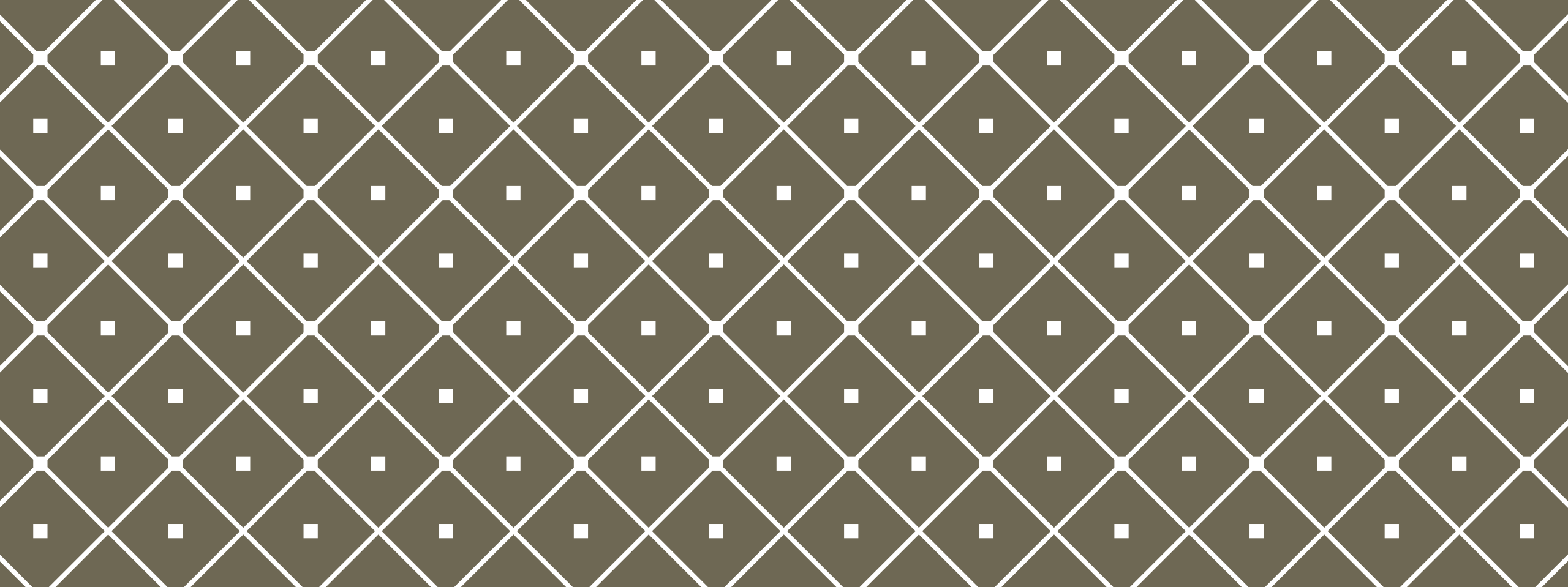
We agree that efficiencies can be gained however, both departments see great value in our collaborative approach to supervising young adults.

ESTABLISH MINIMUM AND MAXIMUM LENGTHS OF TIME YOUTH/YOUNG ADULTS CAN BE PLACED ON SUPERVISION

Response:

Creating maximum length of supervision may not serve this population well. It is not based on a youth model and does not make sense in light of the Vermont system. However, we are interested in exploring how other states have addressed this.

The Stakeholder Group is interested in expanding the use of term probation based on risk and need assessment. The probation certificate is being modified to support this effort.



PROVIDE DEVELOPMENTALLY APPROPRIATE SERVICES:

Recommendations and Responses
to Justice Center's 10.26 Report

REQUIRE A CROSS-SYSTEM WORKING GROUP

Response:

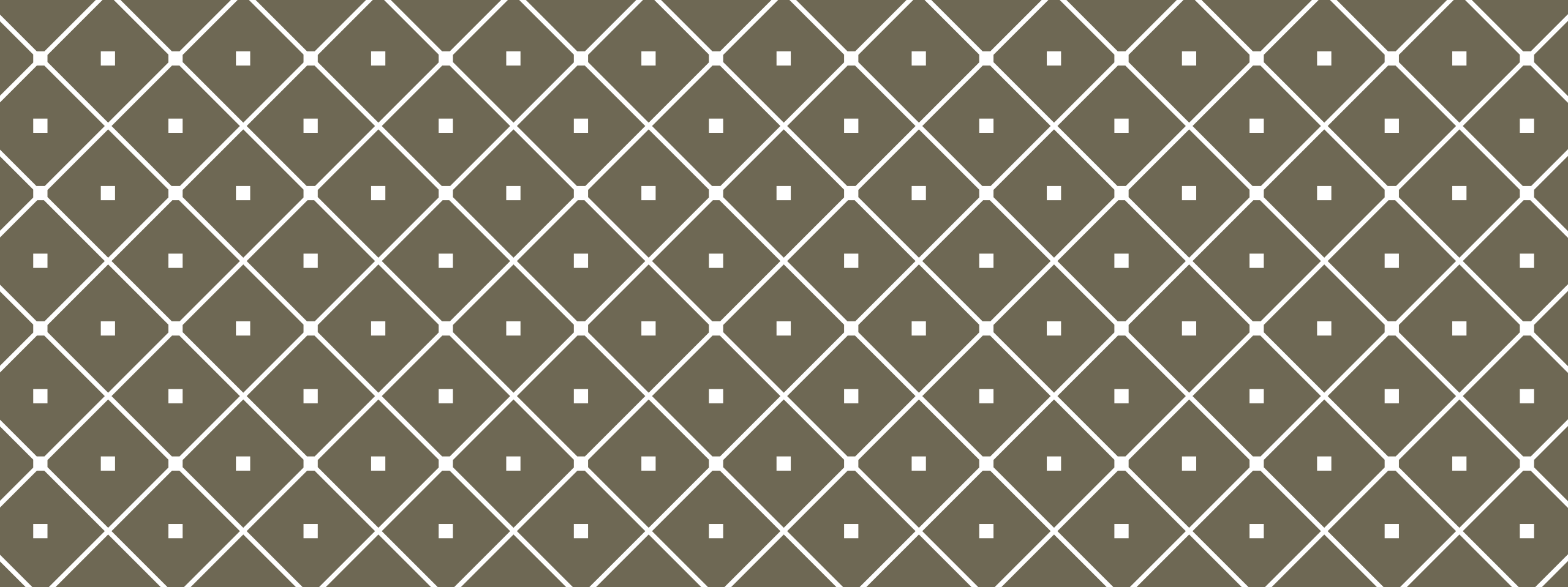
We do not believe that we should create a new cross-system working group.

We agree we should take advantage of existing cross-system working groups to examine available services for young adults across the state, related funding streams, cut-off points for care, and collateral consequences, and make recommendations to the legislature for improvement.

*ESTABLISH PERFORMANCE-BASED CONTRACTING PROVISIONS THAT
HOLD SERVICE PROVIDERS ACCOUNTABLE*

Response:

This is currently underway.



ADDITIONAL IDEAS

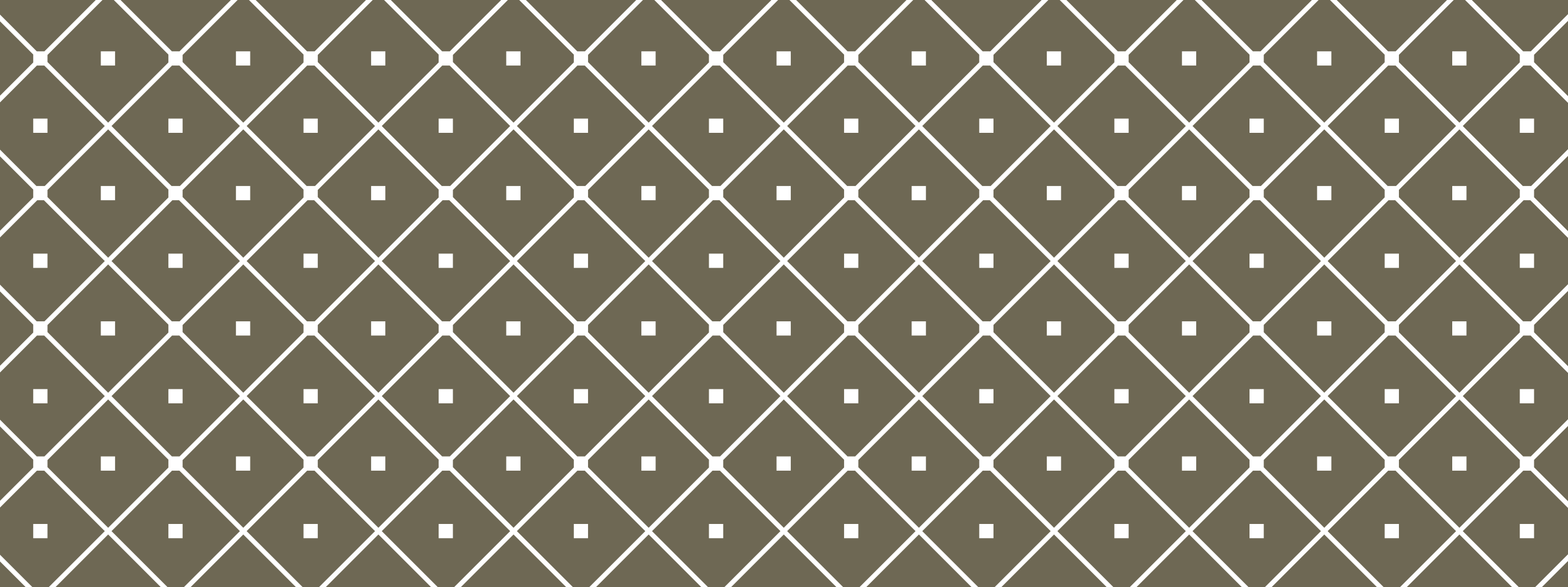
TRAINING FOR STAKEHOLDERS

Provide trainings on:

- the changes of Acts 153 and 72,
- screening tools and how to use the results
- outreach to victims
- brain science

OTHER PATHWAYS FOR YOUNG ADULTS

Re-consider the option for a restorative justice community-based program in lieu of probation → Could be included in low-risk supervision approach.



UPDATE ON WOODSIDE

Overview of next steps to
restore Medicaid Funding

WOODSIDE FUNDING

Background:

Woodside lost Medicaid funding effective 10.1.2016 during the last waiver negotiation with CMS.

Determination at that time was that youth served at Woodside were considered inmates of a public institution and were, therefore, ineligible for Medicaid funding.

WOODSIDE FUNDING

AHS and DCF met in December with representatives of CMS in Baltimore to discuss the restoration of Medicaid funding for Woodside.

A path forward for supporting Woodside with federal Medicaid funding was identified at the December meeting:

- Woodside will apply for certification as a PRTF.
- Woodside has many PRTF requirements already in place, including physician-directed services and accreditation by CARF (Council on Accreditation of Rehabilitation Facilities).

WOODSIDE FUNDING

There are a few steps still needed:

- Adopt state regulations consistent with federal PRTF requirements
- State law will need to be amended to provide that youth currently in the program who turn 18 years old may, if they choose, remain in the program as long as the continued treatment is medically necessary (but no later than age 21)

We anticipate that Woodside could achieve PRTF certification in SFY19



CONTACTS

If you have other questions or feedback you would like to share with us, please contact:

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