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To: Joint Legislative Child Protection Oversight Committee and Joint Justice Oversight Committee
From: A.J. Ruben, Supervising Attorney, Disability Rights Vermont
Date: November 10, 2020
Re: **Comments on DCF's November 1, 2020 Long-term Plan for Justice Involved Youth**

Dear Members of the Committees,

Disability Rights Vermont (DRVT) is the federally authorized disability protection and advocacy system in Vermont pursuant to 42 U.S.C. 10801 et seq., as well as the Mental Health Care Ombudsman for the State of Vermont pursuant to 18 V.S.A. §7259. Thank you for inviting DRVT to testify today regarding our perspective on the needs of young Vermonter's with disabilities who are involved in the juvenile justice system. As indicated in our 'Wrongly Confined' report released in March 2020, DRVT has identified a systemic problem resulting in Vermonters experiencing extended and unnecessary placements in institutional settings. This is due to a lack of robust community-based resources that are universally acknowledged to be effective at decreasing the reliance on more expensive, involuntary facilities. Instead, Vermont continues to plan on increasing reliance on expensive, extended, involuntary placements in locked facilities that come at the cost of adequately funded community-based resources. The harm this systemic problem inflicts on children and adults with disabilities is significant as people languish in inappropriate settings due to this lack of adequate, appropriate capacity. See <http://www.disabilityrightsvt.org/pdfs/Publications/DRVT-Olmstead-Report-2020.pdf>

DRVT suggests the Committees consider DCF's proposal to pay approximately \$4 million to obtain a locked facility to house up to six (6) boys for months at a time with this background in mind. In addition, the Committee may want to require

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further inquiry into the actual need of this proposed program (Beckett 6 bed program for boys) given what has occurred since DCF stopped using Woodside this last Summer in terms of youth placement needs. Finally, DRVT suggests that the Committees once again (as this topic has been raised before) consider the total number of youth (be they justice-involved or not) that are sent to out of state placements by the Agency of Human Services (DAHL, DMH, DCF) and the Agency of Education. Past testimony has indicated there are close to 200 such youth.

Consideration may be given to the idea that there are two main needs facing DCF and justice involved youth: 1) a need for immediate, crisis placement of youth that are too dangerous/out of control to be in a non-secure setting but DO NOT meet criteria for inpatient psychiatric care and 2) a need for mid and long term program/placement capacity for many youth (justice involved or not) that have significant behavioral/trauma-related problems, require extremely close supervision, but DO NOT meet criteria for inpatient psychiatric placement.

DRVT suggests that the current proposal for the Beckett program may not meet these needs in the most effective manner possible. Regarding the first need, DRVT understands that since Woodside stopped accepting new youth, there has been almost no need to hold youth in a locked facility for more than a few days. If accurate, the lack of a consistent level of five or six youth that require multiple days of locked, secure placement over the past many months could indicate there is no need for a multimillion dollar six-bed locked facility. Regarding the second need, given the huge number of DCF and AHS/AOE youth at out of state placements, spending \$4 million on a 6 bed facility that is not specifically targeted to address a need that currently results in out of state placement may not be optimal.

The Committees may also want to consider how Woodside was being used in the years prior to its closure. That use appeared to DRVT NOT to be specifically for therapeutic treatment intended to last three to four months (as is the current proposal for Beckett) but rather it was a placement of necessity with an immediate effort to find a more suitable placement for longer term mental health treatment. In years past there was a residential program at Woodside, but it has not operated for a while. Given these systemic concerns, the Committee would be acting reasonably to require additional information and data before signing off on the creation of another expensive, locked facility in Vermont.

Additional specific areas that merit review in the Beckett Proposal may include:

- The proposal does not mention mental health conditions for youth, only that youth are charged with delinquency or were adjudicated as such or are in DOC custody. A clear emphasis in the prior Woodside legislation was an acknowledgement that youth requiring the severe conditions of a locked facility had mental health conditions that required prioritization.
- The proposal excludes girls although Woodside did accept girls whose behaviors required secure placement. The proposal is also silent on non-binary people.
- The facility is very rural making it more difficult than was the case at Woodside to have family and individuals from outside the program (for instance special education/speech and language/vocational support staff) come to the program and have residents leave the program to interact with community resources.
- The proposal assumes a maximum stay of four months but one of the main problems with youth at Woodside was they were stuck there past the time they were clinically appropriate for release due to lack of other options, including the Beckett programs that existed at the time. \
- Contrary to the settlement agreement reached between DRVT and DCF over Woodside, the Beckett proposal includes a DCF-funded Licensed Psychologist, not Ph.D.-level clinical director, to assess the needs of youth at the Beckett program and perhaps all youth in DCF custody. That level of oversight may be insufficient given the history of clinical oversight at the Woodside facility.
- An outstanding issue is the use of force protocols that will be in place in the new facility and consideration could be given to requiring the minimum standards be consistent with the Court's Order in the Woodside case limiting the types of youth that could be admitted to the program, the duration and types of uses of force, and mandates to move youth to a different facility should their behavior rise to a level where restrictions on use of force could not be upheld.

In summary, DRVT appreciates the opportunity to comment on the needs of youth with disabilities in Vermont and the extent to which the current DCF proposal may or may not optimize the opportunity to make improvements in our capacity created by the closure of Woodside. Thank you for your consideration of these comments and DRVT remains available to provide additional information upon request.