



State of New Hampshire

Office of the Child Advocate



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Representative Jess Edwards, Chairman
House Finance Committee, Division III
NH General Court
107 North Main Street
Concord, NH 03301

Dear Chairman Edwards,

Thank you for requesting the Child Advocate's input on plans for closing the Sununu Youth Services Center (SYSC), New Hampshire's only hardware-secure facility for detained and committed children. This is an undertaking sought by stakeholders seeking to: bring New Hampshire in line with the latest science and standards of care for children; improve safety for children and save money. Closing the SYSC is the right thing to do for New Hampshire and its children. The process to closure, while seemingly monumental, is actually a small piece of larger system transformation already underway. Two key aspects of this closure are essential:

- Closure of the SYSC and any related actions must be aligned with the Probation Transformation project, the federal Families First Prevention Services Act, the expansion of the children's behavioral health system of care under Senate Bill 14, and the residential care re-design
- Decisions about alternative secure accommodation and reinvestment of resources in communities must include input from all stakeholders, especially children and families

The summary recommendation is:

Close the SYSC in April 2023. Include in the budget an allocation for a Reinvestment Fund for alternative secure treatment, transition-related costs, and displaced employees. Direct the Department of Health and Human Services (department) to hire a consultant for the purpose of convening a transition working group that includes representation of stakeholders, especially children and families, to prepare a transition plan.

Anticipate changes in need for a secure facility with passage of SB 94 diverting more children from the system, HB 254 limiting commitment, and changes in conditions of release as product of the Probation Transformation project underway. Analyze detention and commitment data after those changes for an accurate estimate of need for secure accommodation. While awaiting those changes to go into effect, the working group could contemplate the best model for what is expected to be a minimal need for secure accommodation. This may be in the form of single rooms, a small unit, or a small facility. Immediately and ongoing direct the department to refer all children at SYSC and in residential programs to the CME for assessment and Transitional Enhanced Care Coordination to expedite safe return to home and community with appropriate supports

The summary is based on your questions, which we respond to below.

- Whether there is or could be consensus for closing the SYSC?
- How Juvenile Justice Services (JJ Services) will look going forward and what the need would be?
- What would stakeholders, including children and families, find acceptable?
- What would the system look like and what would the logistics for a feasible plan be?
- How would public feedback be included in determining plan acceptance?
- What are the key milestones for project planning?

Is there or could there be consensus for closing the SYSC?

Every indication the Office has observed reveals New Hampshire is ready to close the Sununu Youth Services Center. The facility has been underused for several years. Trends across the country confirm the census for detained and committed children will continue to decline. Today there are 17 children at the SYSC, 2 are from other states. Deliberations before the House Finance Committee have demonstrated the cost of running the facility ranges from \$12-15 million. DCYF director Joseph Ribsam has testified that despite decrease in census, the cost of operating and maintaining the SYSC will remain flat. This is not the best use of New Hampshire's limited resources for children.

While much of New Hampshire's juvenile justice reform has been prompted by actions of the House Finance Committee with an eye towards reducing budget allocations, an abundance of research confirms that any interaction with the juvenile justice system and certainly detention and commitment, has negative effects on a child's trajectory of wellbeing. Children's mental health is affected, with one-third depressed children experiencing onset of the condition while incarcerated. A significant number of children entering the juvenile justice system are doing so precisely because of unmet mental health needs.¹ In fact, the majority of children in the juvenile justice have a diagnosable mental health disorder.² Studies demonstrate incarcerating children increases the likelihood of poor school performance, unstable employment, and persistent delinquent behavior³. Children are exposed to harm when incarcerated and the community is not made safe.

¹ Government Accountability Office. (2003). *Child Welfare and Juvenile Justice: Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services*. [GAO-03-397 Child Welfare and Juvenile Justice: Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services](#)

² Coccozza, J.J., Skowrya, K.R., & Shufelt, J.L. (2010). *Addressing the Mental Health Needs of Youth in Contact with the Juvenile Justice System in System of Care Communities: An Overview and Summary of Key Issues*. Washington, D.C.: Technical Assistance Partnership for Child and Family Mental Health.

³ Holman, B and Ziedenberg, J, (2020). [The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities](#). A Justice Policy Institute Report.

Today, there are few children confined at the SYSC. They are at significant risk of the negative effects of confinement. They are not receiving adequate, evidence-based care from qualified providers.⁴ And they continue to break laws and return to the facility at a rate of over 60 percent.⁵

Consensus for closing the SYSC is achieved with varying perspectives: it is prohibitively expensive, it harms children, it is not therapeutically effective, and it is not effective in keeping the community safe.

How will Juvenile Services (JJServices) look going forward, what is the need?

The SYSC represents a significant portion of the JJS budget, however it only serves a fraction of the population receiving JJ Services. In January 2021 there were approximately 1140 children with open JJS cases. Of those 1140

- 8-10 children were incarcerated at the SYSC
- 107 were institutionalized
 - 71 in New Hampshire facilities
 - 36 out-of-state.
 - 55 were children in need of services cases (CHINS)
 - 52 were adjudicated delinquent
- 1000+ children are supervised on probation in the community

This is the context of the universe of children with potential need for JJ Services. A second realm of context to consider is that of probation transformation that will affect who needs deeper end accommodation. Senate Bill 94 relative to juvenile diversion programs is a product of the Juvenile Probation Transformation project lead by a team consisting of DCYF, the Child Advocate, a Public Defender, the District Court Associate Administrator, the coordinator of the NH Diversion Coalition, and a Manchester prosecutor. The intent of the project is to limit the number of children coming into JJ Services at all levels. It instead will focus on identifying children's needs and determining whether, if needs are met, risk to community would be mitigated. SB 94 proposes a pre-petition, evidence-based assessment of strengths and needs. If the assessment identifies an intervention that could mitigate need and therefore risk, the arresting authority will be advised not to file petitions on the child. A second goal of the transformation is to revise the rules of probation (conditions of release) to be individualized and guided by the needs assessment with incentive-based probation mentoring versus punitive supervision. Studies show that positive youth development and treating children with their families at home achieve better outcomes.⁶ Senate Bill 94 would situate more children to receive effective intervention outside of JJ Services to avoid exacerbating harm of exposure to the system. Changes in the rules of probation will result in fewer violations of probation.

⁴ State of New Hampshire Office of Legislative Budget Assistant, (2021). [Sununu Youth Services Center, Performance Audit](#).

⁵ Ibid at 2

⁶ Annie E. Casey Foundation, (2018). [Transforming Juvenile Probation: A Vision for Getting it Right](#)

Senate Bill 94 and House Bill 254, if passed, will go into effect January 1, 2022. The process for changing the rules of probation will commence this summer with a target date of being in effect in early 2022 as well.

Your question is which children, with what needs and risk conditions would have a need for secure accommodation? In the context of establishing new pre-petition/pre-adjudication assessments, limits on commitment, and revising the rules of probation, it would be premature and inaccurate to answer that question at this time. We can only estimate with confidence that it will be considerably less than the current need, which is already low. We do note, however, that certain solutions to secure housing have been proposed to the committee, including use of a county jail, and placing children in other state secure facilities. Placing children in an adult county jail would be illegal under RSA chapter 169-B:15.⁷ Incarcerating children in other states would be problematic from a developmental rehabilitative perspective and standards of care. It would also likely be costlier than developing an in-state alternative. We note there have been class actions in some states on behalf of adults who were incarcerated out of their home states.

Waiting for the data that will inform the degree of needed secure beds is the best approach to planning and responsible investment. In that time, the best model of secure care can be contemplated based on the estimates of a very small population of need and plans for complementing community reinvestment established.

It is premature to attempt determining the number of secure beds required after the closure of the SYSC until Senate Bill 94 and House Bill 254 are in effect and the rules of probation have been revised (January 2022).

What would stakeholders, including children and families, find acceptable?

Substantive changes to the JJ Services system, including probation transformation and closing of the SYSC, requires community engagement and input. Community engagement is most relevant in the development of the new reinvestment fund. Communities must feel safe and have a say in how resources are distributed.

The timing of the consensus to close the SYSC is fortuitous as it aligns with the probation transformation initiative. With extensive technical assistance from the Annie E. Casey Foundation, the probation transformation project has already undertaken broad community engagement through webinars and focus groups. The focus of the engagement is empowering and capitalizing on the expertise of stakeholders affected by JJ Services (children, families, law enforcement, juvenile probation and parole officers, prosecutors, public defenders, providers, educators, judges, legislators and advocates). Over 500 persons have participated representing all groups. They are now an informed group of stakeholders familiar with the impact of JJ Services

⁷ **169-B:15 No Detention at Jail.** – Following arraignment no minor shall be detained in any facility where adults charged, convicted or committed for criminal offenses are simultaneously detained.
<http://www.gencourt.state.nh.us/rsa/html/XII/169-B/169-B-15.htm>

involvement and the value of alternative approaches. They should easily be able to shift to dialogue about the best model for alternative secure accommodation.

Broad stakeholder engagement is essential in any jurisdiction for this level of system transformation. In the case of New Hampshire, it is important because historically, nearly all of the juvenile justice reforms have been achieved with the input of a very small group of people. That has resulted in deep resentment among stakeholders who were not consulted or included in deliberations. There is evidence of manipulation of system changes in cases of individual children who are not consistently benefitting from the reforms because of that resentment. Plans for alternative secure beds to the SYSC and other necessary community supports must be developed with the input of all stakeholders, including children and families.

Furthermore, the SYSC serves a very small portion of the population of children institutionalized under delinquency or CHINS Court orders. There are over 100 children placed in residential programs that shadow the SYSC as a means of confinement without evidence of effective treatment at prohibitive cost. The fact many of the children at SYSC arrive from multiple residential placements supports that conclusion. New Hampshire is positioned to close the SYSC because of the expanding community based system and improvement in procured residential programs. Savings of JJ Services expenditures could be significantly expanded by assessing the appropriateness of residential placements and shifting children back to less expensive and more effective community based care. This is in line with the federal Family First Prevention Services Act that will be requiring similar assessment and shift to shorter lengths of residential stays.

Convene a working group of stakeholders, including children and families from highest impacted communities, to determine an acceptable effective plan built around the closure of the SYSC, pre-petition assessments, and the new rules of probation. Aim for January 2022 for plan completion but expect the commission to continue through adjustments, implementation and evaluation.

What would the system look like, what would the logistics for a feasible plan be?

New Hampshire is well-situated for transformation of the entire JJ Services system. As the community-based system builds out, the solution to the SYSC alternative will underscore the small population it accommodates and bring into alignment the distribution of funds to where they are most effectively expended: in prevention.

Working upstream from the secure facility, the process will start with prevention and progress towards most serious offenses to secure confinement. Discussion in the last few weeks suggest the SYSC current operating budget is \$12-15 million per year. Based on the premise that New Hampshire demonstrates commitment to children, it is recommended to maintain a minimum allotment of the current expenditure on the SYSC as a Reinvestment Fund to ensure children's needs are met and the system is responsive during the transition. Steps of that process may include but not be limited to the following.

TASK	SOURCE OF FUNDS
Allocate funds to DCYF for hiring an expert consultant to coordinate closure of SYSC, support/guide a stakeholder working group in devising plans for an alternative secure setting with complementing community investments for service design shift	Re-investment fund
Convene an equitably-represented stakeholder working group to work with the consultant and develop a plan that may include some iteration of the following items.	
Community investment fund for preventative program grants determined by community members (e.g. recreation centers, YMCA memberships, police sports leagues, job coaching, mentors, tutors, etc)	Reinvestment fund
Mobile crisis response and stabilization services activated to home or school for child and family-defined crisis. Stabilizing situations therapeutically will minimize crisis-related offenses. Referrals for ongoing services will prevent offending behavior.	Funds already allocated in 2019 SB 14
Pre-petition assessment (SB 94). Conducted by DCYF JPPO. Identified needs addressed in referral to CME and FAST Forward or other community resources.	Funds already allocated in DCYF budget
Court Diversion – Restorative Justice Programs. Standardize with evidence-based programming, expanded availability statewide, and establish oversight for results based accountability	Reinvestment fund
Multi systemic therapy, the most evidence-based effective program for preventing delinquency and removal from home. Prioritize SYSC-placed children and those in residential programs for access and transition home.	Funds already allocated in DCYF service array
Residential Treatment Re-design – DCYF procures specific, evidence-based residential programs that include transitional supports home for limited lengths of stay	Funds already allocated – DCYF service array
Transitional Enhanced Coordinated Care – intensive supports to prepare children and families for return home from SYSC and residential facilities	Funds allocated in DCYF service array
Secure accommodation – may range from secure foster care to a small unit, to be determined by the working group. Data on the extent of need will be determined once new law and rules are in place	Re-investment fund
Displaced SYSC Staff – the Department will work with Economic Development and State Employee Union to craft an agreement for re-assignment and/or severance package for displaced staff	Re-investment fund

How would public feedback be included in determining plan acceptance?

The initiative to close the SYSC, identify alternatives to the secure facility, and reinvest in community resources can capitalize on the current dialogue established by the Juvenile Probation Transformation project. That established line of communication with broad stakeholder representation also accommodates COVID-19 social distancing with ease for ongoing community conversations and ownership of the new secure accommodation and other services.

What are the key milestones of project planning?

- Spring 2021 - Pass HB2 with language mandating closure of the SYSC by April 2023. Include an allocation for a reinvestment fund for transition-related costs and to address displaced employees
- July 2021 - SYSC closure and service transition consultant hired; Working group on SYSC closure and service transition convened
- January 1, 2022 - SB 94 in effect referring offending children for assessment and treatment where indicate, pre-petition (diverted from system)
- January 1, 2022 – HB 254 in effect limiting commitment of children to the SYSC
- January 2022 - Rules of Probation revised and in effect
- Date TBD - Working group preliminary plan presented
- Date TBD – Working group presents preliminary data analysis of diverted youth in re SB 94 and HB 254 and new rules of probation
- Date TBD – plan for secure placement of children agreed upon based on need determined by analysis of arrest/detention/confinement data. RFP if needed
- March 2023- Any new secure accommodation ready for admissions
- Immediately and ongoing – all children at SYSC and in residential programs are referred to the CME/ Transitional Enhanced Care Coordination for assessment of need and risk in order to expedite return to home and community with appropriate supports

I hope this information is helpful. Please do not hesitate to contact me with questions or concerns.

Respectfully,



Moira O'Neill