

This report is written to provide alternatives to the current structure of juvenile corrections at the Sununu Youth Services Center (SYSC). Background information and alternatives to the continued operations of SYSC are discussed.

When SYSC began housing juveniles in 2006, there were 108 juveniles and the budget was about \$16M. Currently, there are 8 juveniles at SYSC and the budget is about \$12M. Based on DHHS data, nearly 75% of youth at SYSC require behavioral health interventions. DHHS has indicated that they do not formally track recidivism data but have reported in numerous Legislative hearings that recidivism at SYSC likely exceeds 60%. This indicates that nearly 2/3 of all juveniles at SYSC become re-engaged in the juvenile justice system after release. These data indicate that SYSC is ineffective in remediating the clinical issues of incarcerated juveniles, is ineffective, costly and unnecessary.

HB254 (2021), currently referred to House Finance, will reduce the number of juveniles incarcerated at SYSC. If approved, HB254 will only permit serious violent juvenile offenders at SYSC. This will further reduce, perhaps by half, the number of children incarcerated at SYSC. Children not at SYSC are provided services through the NH System of Care (SOC). The SOC (SB14-2019) has been developed over the past two years and funded at nearly \$20M in the FY20-21 budget. In addition, Federal Families First (FFF) legislation requires children to be treated in the least restrictive appropriate alternative. FFF requires any child admitted to a residential facility to be evaluated by an impartial evaluator to determine if the placement is appropriate for the child. As a result of HB254, FFF and the SOC, it is clear that fewer children than the 8 currently at SYSC will require SYSC incarceration at any point in time. This presents an opportunity to provide improved services at a reduced cost. The model being implemented in Vermont provides a roadmap to the creation of this program.

Vermont closed its juvenile corrections facility (Woodside) in late 2020 due to lawsuits regarding conditions at the facility. The VT Legislature required this closure and the development of a long-term plan to be completed<sup>1</sup>.

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<sup>1</sup> Act 154 (2020), Sec.E.316, pp. 187-190. Retrieved from:  
<https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT154/ACT154%20As%20Enacted.pdf>

The Vermont Division of Juvenile Services conducted a review of system needs and developed steps to address treatment needs for juveniles. The report was presented to the Vermont Legislature on November 1, 2020 (see attached). The report provides an analysis of the cost to run a new program<sup>2</sup> and an evaluation of the recommended providers capacity and expertise<sup>3</sup>. The Vermont assumptions inform the policy decision, but a specific cost cannot be guaranteed. However, it is clear that SYSC cannot leverage matching Federal funds. A program with a rehabilitative focus may be eligible for Federal cost sharing.

The Vermont provider run plan proposes to contract with an existing provider to retrofit and operate an existing facility in Vermont for youth requiring secure treatment<sup>4</sup>. Vermont is working to contract with the provider to treat up to 6 children and Vermont estimates their per child per day cost to be \$1.774. The final costs may be different however the greatest change may be due to the program being certified by the Centers for Medicare and Medicaid (CMS) for Federal participation. Eligibility is determined by CMS pursuant to 42 U.S.C. § 672(c)<sup>5</sup>. The statute states in relevant part:

*(2) the term “child-care institution” means a ... childcare institution which accommodates no more than twenty-five children, which is licensed by the State ... but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.*

Federal participation is prohibited for incarceration, which is the reason SYSC is funded exclusively by General Funds, except for the small fraction of reimbursement by school districts. However, when the primary purpose of treatment is rehabilitative, Federal participation is likely. Even at the FY22 proposed SYSC budget of

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<sup>2</sup> **Report on Long-Term Plan for Justice-Involved Youth, 11/1/2020, p. 7-9**

<sup>3</sup> **Ibid**, pp. 6-7

<sup>4</sup> **Ibid**, p. 22

<sup>5</sup> 42 U.S.C. 672(c ) retrieved from: <https://www.govinfo.gov/content/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap7-subchapIV-partE-sec672.pdf>

\$13M, a Medicaid reimbursable service would cost NH half of the current amount. The cost is likely to be far less and this is only achievable in a rehabilitative program, as Vermont has proposed.

The New Hampshire Legislature has made several efforts to downsize and potentially cease operations at SYSC. These efforts have resulted in numerous reports which provide long term vision but have not resulted in changes to juvenile incarceration at SYSC. Substantive reform was accomplished by the legislature in 2017 (HB517) that caused the census to be significantly reduced. However, budget cuts in 2016 (SB466) and 2017 (HB517) were subsequently restored. SYSC budgets have continued to increase each year.

Juvenile corrections reform in the United States shows that managing agencies typically resist closing juvenile corrections facilities. Facility closures which have occurred were initiated by Legislative, Chief Executive or Court mandate. Between 2000 and 2014 there were 65% fewer juveniles incarcerated across the US<sup>6</sup>. Half of all juvenile facilities, housing more than 20 juveniles, were closed<sup>7</sup> during the same period. HB254, and the reduction in incarcerations at SYSC, provides the Legislature the opportunity to require the creation of an alternative to SYSC incarceration and the closure of SYSC. This offers improved treatment services to children at a lower cost. Perhaps less than half the cost, dependent of Federal cost participation as discussed previously.

Below are two potential alternatives to achieve these changes:

- 1) Require DHHS to contract with a provider to develop a 5-10 bed rehabilitative program, similar to the criteria described in the Vermont plan.
- 2) Re-contract with Becket Family Services to change the current Intensive Residential Program, into a program designed for the treatment of 5-10 youth with complex, high intensity needs.

In 2017 HB517 appropriated \$8.7M to create higher rates or additional residential beds which may be needed to accommodate the children diverted by the commitment changes at SYSC. Much of this funding was

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<sup>6</sup> OJJDP Statistical Briefing Book retrieved from <http://www.ojjdp.gov/ojstatbb/corrections/qa08501.asp?qaDate=2014>

<sup>7</sup> *ibid*

allocated to Becket Family Services to provide high intensity residential beds. At that time, there were 352 children in residential placement, as of January, 2021 this number was 291. This number is likely low due to the pandemic, however, based on the FFF and SOC changes, it is anticipated that fewer children will qualify for residential placement in the coming years. Modifying this contract as proposed in 2) above may be an alternative.

The Legislature will need to take several steps to complete this plan:

- 1) Enact statutory language which prohibits commitment or detention at SYSC as of a specific date. The date must be within the FY22-23 budget period. It is recommended that the date be April 1, 2023. This will provide the department with maximum flexibility, while requiring completion within the biennium.
- 2) Require DHHS to submit a completed contract for these services to the Executive Council for approval not later than 3/1/2022. The contract shall require operational readiness of the program by April, 2023 and require the provider structure the program in a manner to assure approval by CMS for Medicaid reimbursement.
- 3) Require DHHS to submit a report on the first of each month, until such time as SYSC has stopped admitting juveniles to SYSC. The report will be sent to the Chairs of the House Children and Family Law and Senate Judiciary Committees, and Chairs of the House and Senate Finance Committees delineating the Legislatively mandated tasks completed and the current status of uncompleted tasks.
- 4) Require the Department of Administrative Services (DAS) to take possession of the property as of 7/1/2023. DAS shall consult with the City of Manchester to dispose of the property in manner consistent with the community's interests.