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**Report to  
The Vermont Legislature**

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# **Juvenile Justice Commission Report**

**In Accordance with H. 766 §3085c  
Act 142: An Act Making Appropriations for the Support of the Government**

**Submitted to: The General Assembly**

**Submitted by: Juvenile Justice Committee:**

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This report is respectfully submitted in accordance with Act 142 of the Adjourned Session of the 67<sup>th</sup> Biennial General Assembly requiring a report from the Juvenile Justice Commission

I. Summary.....	2
II. 2008 Progress .....	3
Collaborative Efforts.....	3
Act 185, the Juvenile Proceedings Act .....	3
The Youthful Offender Statute .....	3
Evidence Based Practices in Juvenile Justice .....	4
Adolescent Drug Courts.....	4
Juvenile Jurisdiction Policy and Operations Council .....	5
Data Sharing.....	6
The Department for Children and Families .....	7
Balanced and Restorative Justice (BARJ) Programs .....	7
Screening and Assessment, Best Practice, and Training .....	8
Secure Detention and Treatment: Woodside .....	8
Development of an “Alternatives to Detention” Continuum.....	10
Department of Corrections.....	11
Community High School of Vermont.....	12
Placement Alternatives for Youth in the Department of Corrections.....	13

## I. Summary

In 2002, an act of the Vermont General Assembly created the Juvenile Justice Commission. The Commission, made up of the Commissioner of the Department for Children and Families (DCF), the Commissioner of the Department of Corrections (DOC), and chaired by the Director of Juvenile Justice is primarily charged with the goal of creating a comprehensive system for youth under the age of 21 who commit delinquent or criminal acts.

The Department for Children and Families and the Department of Correction share the values of the Juvenile Justice Commission Legislation. They are expressed in the practices of Balanced and Restorative Justice—with a focus on accountability, competency development, and public safety—and in rehabilitation-based case management delivered within the framework of a youth’s developmental needs, family, and community. Partnership with the Children and Family Council for Prevention Programs, consultation with the Governor’s Criminal Justice Cabinet, and expanded collaboration with other agencies have improved juvenile justice agendas for current services, for new approaches, and for broader planning. Increasingly, the potential for the juvenile justice system to both have beneficial impact on the lives youth, families, and communities is being recognized and realized.

In the last year, the needs of transition aged youth both in the justice systems and in the foster care system continue to be a primary focus of the Agency of Human Services and of the Juvenile Justice Commission. Operationally, the Commission's agenda has included addressing changes to the juvenile justice system stemming from the passage of Act 185, the Juvenile Proceedings Act. In addition, the Commission has facilitated the Juvenile Jurisdiction Policy and Operations Council to explore juvenile justice jurisdiction options for Vermont.

In other initiatives and collaborations, Commission staff play central roles in improving and expanding alternatives to secure detention, treatment Courts and Juvenile Drug Courts, the improvement of substance abuse services, the improvement of Balanced and Restorative Justice resources, and the planning and support to the Children and Family Council for Prevention Programs.

## **II. 2008 Progress**

### ***Collaborative Efforts***

#### **Act 185, the Juvenile Proceedings Act**

The Commission participated in the legislative hearings addressing revisions to Chapter 55 of the statutes governing juvenile justice court proceedings. The new legislation, effective January 1, 2009, preserves constitutional principles of due process. The principles of Balanced and Restorative Justice, incorporated into the statutes governing adult offenders are now embedded in the juvenile statutes for the first time. A citation system for citing youth into juvenile court proceedings will be instituted, much like the system used by police officers when citing someone into district court. The citation system will shorten the time between the event and the court response, a timeframe that is critical for assuring that youth understand the consequences of their behavior. Victims of juvenile delinquencies will be able to obtain restitution through the victim's restitution fund. Lastly, the Youthful Offender option extends jurisdiction to age 22.

#### **The Youthful Offender Statute**

The Commission has worked together to operationalize the provisions of the new Youthful Offender statute of the Juvenile Proceedings Act. The new statute calls for joint case planning and joint supervision between the Department for Children and Families, Family Services (DCF/FSD) and the Department of Corrections (DOC). In addition, juvenile probation officers will have the authority to place a Youthful Offender 18 years or older into an adult facility.

DCF/FSD and DOC worked together to develop policy, directives and training materials to educate juvenile and adult probation officers, and adult facility staff in the procedures for working with the new Youthful Offender population. The procedures will be in place by January 1, 2009 and initial training will begin and continue throughout 2009. In addition, DOC and DCF entered into an MOU to allow youthful offenders over the age of 18 to be detained in adult facilities if needed.

## **Evidence Based Practices in Juvenile Justice**

DCF/FSD, the Department of Mental Health, the Department of Health, Alcohol and Drug Abuse Programs, and representatives from the statewide juvenile Balanced and Restorative Justice providers have been meeting throughout the year to identify, train and implement evidence-based intervention practices into the juvenile justice continuum of services.

Following the blueprint model for effective implementation of evidence-based practices, this interdepartmental committee has identified the need for evidence-based interventions that engage youth and families in effective behavior change that results in law abidance and community safety. The committee assessed the provider systems' readiness to adopt evidence-based practices utilizing an Organizational Readiness for Change Survey. Utilizing federal Office of Juvenile Justice and Delinquency Prevention Juvenile Accountability Block Grant funds, the committee is designing a Request for Proposals to go out statewide to providers in the Juvenile Justice system for training and implementation of evidence-based interventions. The proposal will begin implementation of evidence-based juvenile justice interventions in several sites throughout the state by the end of next year.

## **Adolescent Drug Courts**

In 2006, the Franklin County juvenile court was awarded a federal Drug Court Planning grant to develop an adolescent drug court. Eight members of the Franklin county juvenile drug court team, including local DCF staff and Youth Justice staff, attended a week-long training in Boston to plan for a juvenile drug court. Follow-up training led by federal representatives also took place in St. Albans.

In May 2007, the Franklin county juvenile drug court team implemented the model that it developed. The juvenile drug court in Franklin County provides intensive judicial oversight and probation supervision, treatment, case management, and intensive community supports to youth with repeated delinquencies and a substance abuse issue. A collaboration of court, State's Attorney, Defender General, DCF and local treatment providers staffs the Juvenile Drug Court.

Now in its second year of operation, the Franklin County Juvenile Drug Court has served 13 youth. Four judges have now served in the Juvenile Drug Court. The Drug Court team continues to refine and adjust its procedures in order to both work more efficiently and to better serve the youth, families, and citizens of Franklin County.

## Juvenile Jurisdiction Policy and Operations Council

The question of which young offenders should be served by the juvenile system and which should be served by the adult system has been debated since the inception of Juvenile Court over a century ago. Nationally, legislative movements in the 1990s responded to upswings of youth violence with expansions in the opportunity to process youth in adult systems. More recently, advances in adolescent brain development research has questioned the wisdom of this trend. In Vermont, jurisdiction boundaries have been largely unchanged since the early 1980s when, in reaction to a dramatic criminal incident involving youth, the legislature adopted major changes in the ability to charge youth as adults.

In Vermont, for youth under 18, the decision of whether to file a delinquency or criminal petition in juvenile or adult court is—with a few statutory guidelines for serious crimes— at the discretion of the State’s Attorney. Over 80% of the petitions filed on 16 and 17 year olds commence in adult court. While there is a waiver process to transfer a case to juvenile court, it is not used frequently. The result is that most of these youth remain in the adult system with adult sentences and records.

Statutory changes that would alter current filing practices and result in more cases of this age group in juvenile court would have major impact on the resources to all the primary parties including DCF resources. Given the Department of Correction’s resources, minimal response and services are provided to under-18- year-old, low-level offenders; thus the opportunity to shift resources is limited. Beyond resources, the legal mechanisms for DCF to serve youth beyond the age of 18 must be addressed to allow for meaningful accountability and case planning. There would also be significant impact on the Court system since juvenile proceedings tend to be more complex and include parents and guardians ad litem.

Low-level offenders with no history in the juvenile system create a class of probation client in the adult system that swell caseloads and receive little service. Anecdotally, it is precisely this lack of attention which is an incentive for youth to “choose” the adult system. In the juvenile system, all probationers are now screened for risk and needs using the Youth Assessment and Screening Instrument (YASI). This assessment identifies issues for juveniles that are not identified currently in the adult system due to extremely high adult caseloads of 150 cases per DOC officer.

With the assistance of Children and Family Council for Prevention Programs, the Commission contracted with the National Center for Juvenile Justice to complete a study to evaluate the impact of potential changes to statute regarding the filing of charges on 16 and 17 year old youth.

The report from the National Center for Juvenile Justice is available online at

<http://humanservices.vermont.gov/boards-committees/cfcpp/publications/vt-jurisdiction-study-final-1/view>

The report lays out three options:

**Option One: Waiver-Only.** All cases against under-18 youth would originate in Family Court, and could be transferred to District Court only with a judicial approval following a discretionary waiver hearing.

**Option Two: Waiver-With-Exclusions.** All cases against under-18 youth would originate in Family Court, *except* those involving the dozen serious offenses listed in 33 V.S.A. §5506. As under current law, these offenses would have to be handled in District Court.

**Option Three: Restore Misdemeanor Cases to Family Court.** All cases against under-18 youth accused of *misdemeanors* would originate in Family Court and could be transferred only by judges. Cases involving 5506 offenses would originate in District Court. And a third category of cases involving 16- and 17-year-olds accused of felony-grade offenses could originate in either forum, at the discretion of prosecutors.

	# of additional new cases moved from DOC to DCF	% Increase in Probation Only Cases in DCF	% Increase in Probation Custody Cases in DCF	# of Additional FTEs Needed	Cost of Additional FTEs
Option One:	955	83%	106%	47-50	\$2,988,730 - \$3,179,500
Option Two:	941	81%	105%	46-49	\$2,925,140 - \$3,115,910
Option Three:	829	67%	97%	34-37	\$2,163,060 - \$2,352,830

Currently youth under 18 charged with misdemeanors in district court are placed on probation and put on DOC caseloads of 100 or more. The result is that little can be done to address the youth's risk and/or needs. Given the emerging body of research about adolescent development, it seems likely that treating these young people as adolescents – rather than adults – would produce better short and long term outcomes for the state.

However, the impact on resources must be further explored, not only on the DCF system, but on other systems actors in the Vermont justice system. The Juvenile Jurisdiction Policy and Operations Council met several times and made recommendations for a Vermont model of juvenile justice that would serve youth up to age 22. The report of the Juvenile Jurisdiction Policy and Operations Council is available online at:

<http://humanservices.vermont.gov/publications/JJCreport07.pdf/view>

## Data Sharing

The 2007/2008 session of the legislature passed legislation allowing DCF/FSD electronic access to family and district court data. Through an existing Memorandum Of Understanding, DCF has been able to access family court data and develop the Juvenile Justice Sourcebook. A link to the Sourcebook is provided below:

<http://humanservices.vermont.gov/publications/juvenile-justice-sourcebook-2008/view>

The Court Administrator's Office and DCF/FSD have now updated the MOU to include both family court and district court electronic access to data. This year the district court data will be included in the Juvenile Justice Sourcebook. Next year, in conjunction with the Agency of Human Services (AHS) CSME data warehouse, an interagency collaboration will begin to design tools to measure outcomes in Juvenile Justice utilizing data from both family and district court, as well as data from DCF/FSD and DOC.

## ***The Department for Children and Families***

### **Balanced and Restorative Justice (BARJ) Programs**

The principles of Balanced and Restorative Justice are integral to juvenile probation in Vermont, and they undergird juvenile probation social work and case planning. The philosophy is based on the concept of crime and delinquency as an "offense of relationship" against both victim and community. The offender has an obligation, to the extent possible, to restore or repair the harm done to those relationships.

The Vermont Youth Justice System gives balanced attention to 1) holding offenders accountable to victims and community; 2) providing skill development and so that offenders can be positive members of the community; and 3) ensuring community safety and building community involvement.

The Department for Children and Families continues to fund the following programs:

- Street checkers, which support compliance with probation conditions; graduated and after-hours supervision and support
- Skill Building Classes and Activities
- Victim Impact Classes
- Juvenile Restorative Probation--Restorative Panels and Restitution Programs: define the harm of delinquent acts and create and supervise a plan to repair the harm.

Youth Justice staff train on the topic of balanced and restorative justice at the DCF New and Existing Employee Training, DCF Youth Services Training, and the Youth Workers Conference.

DCF's BARJ coordinator holds regional meetings with BARJ program staff to provide consultation, training and opportunities to share resources and strategies.

In addition, DCF introduced the concept of Community Detention Monitors (CDM) into two sites, Brattleboro and Burlington. Funded by federal Office of Juvenile Justice and Delinquency Prevention dollars, the CDM program is a highly intensive community supervision model designed to keep delinquent youth engaging in high-risk behaviors out of detention and successful in the community. The CDM caseload is capped at 10 cases, although in practice the caseloads have been as low as 6 youth. The program is in its second year and is part of an

extensive evaluation. Once the evaluation is complete, we will look at expanding this model to other regions in the state.

The restitution collection process has historically been difficult due to local variations in practice and the fact that not all youth who pay restitution are BARJ program participants. The new Juvenile Proceeding Act effective January 1, 2009 will reimburse all victims from the Restitution Fund, to ensure that victims receive timely compensation.

## **Screening and Assessment, Best Practice, and Training**

DCF continues to look for ways to strengthen juvenile probation practice, in keeping with national thinking about best practice.

Vermont has adopted the Youth Assessment and Screening Instrument (YASI) to assess risk, need and protective factors and to develop service plans for youth under probation supervision. Through motivational interviewing, juvenile probation caseworkers complete a brief YASI Pre-Screen to assist in early decision-making and in allocating case resources. If indicated, a full YASI assessment may be administered to aid in the development of a comprehensive case plan and service recommendations. The YASI identifies risk and needs, as well as “protective factors” which are those factors that enhance success, such as a relationship with a supportive adult. The youth is involved in the assessment process.

This year, DCF social workers who work with juvenile probationers attended four days of training on the YASI assessment tool and evidence-based case planning practices. Beginning on January 1, 2009, in keeping with the new Juvenile Proceedings Act changes, all new juvenile probation cases will be screened and assessed using YASI.

In addition, the Bennington district office of Family Services, in collaboration with the State’s Attorney and others, set up a protocol for implementing the YASI pre-screen to divert low-risk youth from the traditional court process.

## **Secure Detention and Treatment: Woodside**

### **Assessment and Improvement Planning**

In Vermont, there is a commitment to serve youth in the community whenever possible. Youth who offend and who need to be placed out of the home for intensive treatment or due to risks to public safety have the same continuum of services available to them as other children and youth in the custody of the Commissioner of the Department for Children and Families. Foster homes, multi-agency case planning, specialized case management, wraparound services, and residential treatment programs meet the needs of all but a small percentage of DCF youth adjudicated delinquent in custody. For those who present highest risk to self or others, Woodside is a secure placement setting that provides both a short term program (D-wing) and a residential component.(R-wing). Of the approximately 400 youth in custody as delinquents at any given time, fewer than 30 are in Woodside.

Woodside has had a reputation for providing quality, relationship-driven programming since it began in 1986. However, following a 2006 evaluation of the program, it became apparent that we needed to address two issues. First, after 20 years, the physical facility needed upgrading and updating to meet the health safety, and programming needs of residents and staff. Second, we needed to evaluate if Woodside, as unique institution in Vermont, maintained best practices as they have evolved in the field of juvenile corrections.

Late in 2006, a report by Vermont Protection and Advocacy confirmed many of the same findings. In addition VP and A highlighted improvements needed to address the mental health and educational needs of Woodside residents who have disabilities. As a result of these two evaluations, we have put into place a comprehensive Woodside Action Plan.

Some of the major accomplishments are:

#### Building and Safety

1. Air conditioning and sprinkler system installed complete
2. Professional cleaning crew “deep cleaned” entire center and full time janitor was hired to address ongoing cleanliness and maintenance.
3. Interior painting of the building completed
4. Two classrooms built for short-term program.
5. Fitness room built and outfitted with exercise equipment.
6. American Correctional Association life safety standards reviewed and deficits remedied
7. Defibrillator purchased; staff trained

#### Practice

1. All detention shifts now include a female staff member.
2. Increased room check procedure and documentation implemented electronic room check documentation installed.
3. New room confinement policy reduces room confinement.
4. Staff have visited detention programs in Illinois, New Hampshire and Maine in an effort to learn from practices in other states.
5. New Woodside Admission Policy specifies expectations for timely caseworker contact with Woodside staff and youth upon admission.
6. Contracted care coordinator providing clinical coordination across all shifts.

#### Training

1. Trauma informed service training provided to 25 staff
2. Focus group on suicide prevention and planning for further training led by clinical director
3. Training on Autism Spectrum held on site

4. Development of training curriculum in positive behavior management skills and documentation skills.
5. Staff have attended national conferences on detention practice and education in a detention facility.

#### Quality assurance and review

1. Participated in two Performance Based Standards program data collections in April and in October. **Performance-based Standards (PbS)** for Youth Correction and Detention Facilities is a self-improvement and accountability system used in 31 states and the District of Columbia to better the quality of life for youths in custody. Developed and directed by the Council of Juvenile Correctional Administrators (CJCA), PbS sets national standards for the safety, education, health/mental health services, security, justice and order within facilities and gives agencies the tools to collect data, analyze the results to design improvements, implement change then measure effectiveness with subsequent data collections
2. Residential Licensing Unit of Family Services has licensed Woodside for one year through June 2009.
3. Residential Licensing Unit participates in monthly program improvement reviews.

### **Development of an “Alternatives to Detention” Continuum**

In Vermont, alternatives to putting youth in secure detention at Woodside include a range of placements within the child welfare system of care including foster homes, group care and residential programs. The goal of detention is to assure public safety while keeping youth in safe and supportive environments where permanent connections can be maintained to the extent possible. DCF is developing a continuum of alternatives to secure detention that work in tandem to ensure that youth are detained at the least restrictive appropriate level, and that they receive the supports and services they need to be successful.

*Community Detention Monitors* began operation in Burlington and Brattleboro in July of 2007 with the support of federal Office of Juvenile Delinquency and Prevention funds. They provide intensive supervision and monitoring of conditions of release for youth at risk of being detained at the commencement of delinquency hearings or violation of probation hearing. They are also available to assist adjudicated youth who are struggling and are at risk of being placed in Woodside or staff secure programs outside their communities. In national models, community detention staff have face-to-face contact with a youth at least 3 times per week, at least some of those contacts occurring in the evening and on weekends. Additional phone contact occurs as well.

While it is important for youth to have face-to-face contact with supportive adults, monitoring technology can assist the social worker and the youth. Many youth in community placements and at home can succeed with a few supports such as a wake up call for school, a check on school attendance, or a call to confirm compliance with a curfew. In 2007, *Voice Monitoring* programs

using a telephone and a voiceprint of a youth will assist in providing community-based supervision. A social worker is able to access voice monitoring through a web-based self-service application, enabling them to set up cases, change call schedules and intensity, and retrieve and check on results. Seven districts currently use voice monitoring on a regular basis. Training on voice monitoring will be offered again in 2008 to encourage all districts to utilize the service.

Not all youth placed at Woodside or one of the staff-secure short-term residential programs require such a high level of supervision; however, there may be no less restrictive placement available that can meet their needs. The first *Response Home* started in November 2007 to provide short-term, security enhanced placements in a community-based setting. A program of supervision, self-assessment, and planning helps youth examine and understand their current situation and improve decision making.

Funded as pilots by the Children and Family Council for Prevention Programs, these programs-- *Community Detention Monitors, Voice Monitoring, and Response Homes*-- are a strategy to reduce the need for youth to leave their communities when at-risk behaviors increase beyond the capacity of existing community resources.

## ***Department of Corrections***

Subsequent to sentencing in adult court, the Vermont Department of Corrections provides an array of services to youth ages 16 – 22, placed on probation or intermediate sanctions or given a sentence of incarceration. The intensity and range of services provided by the DOC are aimed at mitigating risk to re-offend and are based on the specific characteristics of individual youth. The Department first determines severity of offense and utilizes validated risk assessment to determine the level of service need.

This initial assessment process allows the DOC to identify youth, placed on probation, who are not in need comprehensive risk management services. Many of these youth participate in the reparative probation program, supported by DOC staff and staff of local Community Justice Centers. These youth meet with citizens who assist the youth in determining appropriate restorative justice activities in order to mitigate the harm to victims and the community. Other youth participate in the Community Restitution Program, a program of organized work, which supports the needs of local communities. Other youth receive the services of probation officers to assist them in complying with Court ordered conditions of probation.

Youth who are placed on probation, but present a higher risk to community or victim safety, receive the following interventions: case management services, correctional supervision, risk control strategies (electronic monitoring, substance abuse testing), and referral to treatment programs. In targeted areas of the state youth in the community posing more significant risk, services are provided in specialized, statutorily limited caseloads. These youth may receive the following interventions: case management services, intensive correctional supervision and community treatment as appropriate. Some of these youth are placed in intermediate sanction status and received intensive substance abuse treatment.

For youth charged with or convicted of serious crimes, incarceration provides a last resort. For youth who have not reached the age of majority, incarceration is limited to those charged with felonies. For youth over 18, there are no such restrictions and incarceration is more common for this group when convicted of serious crimes.

The good news is that the numbers of both youth (16-17) and young adults (18-22) under Corrections supervision or custody have declined substantively in the past few years. As an example, the number of 16 and 17 year olds in Corrections is half what it was five years ago. There are eight (8) 16-17 year olds in prison, down from 17 in 2001. On June 30, 2008 there were 33 16-17 year olds on intensive supervision, compared to 28 on in June, 2000. On June 30, 2008 there were only 79 16-17 year olds on response supervision, down from 241 on June 30, 2000.

### 16-17 Year Olds in CORRECTIONS

June of Year	in prison	intensive supervision	response supervision	Total
2000	13	28	241	282
2001	17	16	180	213
2002	10	17	186	213
2003	7	18	140	165
2004	7	21	123	151
2005	4	17	112	133
2006	5	14	120	139
2007	6	19	97	122
2008	8	33	79	120

These data are point-in-time counts of youth under DOC supervision on June 30 of each year.

DCF and DOC are also in communication about the youth who are under dual supervision. When an under 18 youth comes to the attention of DOC, DCF is immediately notified. DCF then checks to see if the youth is involved with DCF. The two probation officers from each system are then notified to allow for better case coordination between the two systems.

### Community High School of Vermont

All youth (under age 22), in custody (incarcerated or on furlough in the community) who lack a high school diploma are required to participate in the education program of the Community High School of Vermont (CHSVT). There are CHSVT programs in all nine correctional facilities in the state. In addition, the Department of Corrections has school sites located in designated classroom space at nine probation and parole offices. The Community High School of Vermont offers a high school diploma and credit that is transferable to other high schools around the state.

## **Placement Alternatives for Youth in the Department of Corrections**

### **New Agreement on Department of Corrections Access to Woodside**

While Woodside is intended to serve youth adjudicated delinquent and in the custody of the Commissioner of DCF, under certain circumstances it is appropriate to utilize vacancies in the Woodside Detention program for youth who are the responsibility of the Department of Corrections (DOC)

At times, youth sixteen or seventeen years of age are placed in the custody of the Department of Corrections during the pendency of misdemeanor criminal proceedings. Federal and state laws prohibit the housing of youth who have not been convicted of a felony or who are not currently charged with a felony in facilities used for the incarceration of adults; DOC must make alternative arrangements for the detention of these minor detainees. Last year 4 females and 8 males under 18 years of age were held in alternative detention settings under DOC supervision. The 12 youth were held an average of 18.3 hours each. This represents an increase from 6 youth held for a (higher) average of 21.7 hours in FY2005. Infrequently, youth under the age of 16 are charged or sentenced in adult court for serious felony crimes. Once sentenced, these youth may not be housed in adult facilities. DOC has used Woodside for youth under 16 for both sentenced and detained youth under the age of 16.

The Memorandum of Understanding between DCF and DOC that defines access to Woodside for DOC youth was amended and clarified in 2006. While there are few youth who require access to Woodside, DOC and DCF have worked well together to develop a seamless procedure for ensuring timely access as needed.

### **Contracts with Staff Secure Programs**

DOC also contracts with 206 Depot, a residential placement facility for 16 and 17 year old boys charged with a misdemeanor. Assistance to DOC is available after hours through the DCF emergency system.

