
**Report to
Vermont Governor Phil Scott**

**2023 Annual Report
Council for Equitable Youth Justice
Vermont State Advisory Group on Delinquency Prevention**

In Accordance with 34 U.S. Code § 11133 [Sec. 223]

Submitted to: Phil Scott, Governor

Jenney Samuelson, Secretary, Agency of Human Services

Commissioner Winters, Commissioner, Department for Children and Families

House Judiciary Committee

Senate Judiciary Committee

Office of Juvenile Justice Delinquency Prevention, U.S. Department of Justice

Report Date: February 2024

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Executive Summary

The Council for Equitable Youth Justice (the Council) is the state advisory board for reducing racial disparities in the youth justice system, improving the youth justice system, and preventing delinquency in Vermont as required by 33 V.S.A. § 3302, and the Juvenile Justice Delinquency Prevention Act (JJDP) 34 U.S. Code § 11133 [Sec. 223]. The Council oversees a formula grant that DCF receives annually from the Department of Justice. These funds are for improving the juvenile justice system, preventing “at-risk” youth from entering the juvenile justice system, or programs for juveniles with first-time and non-serious offenses to keep them from entering deeper into the juvenile justice system. In order to receive funding, the state of Vermont must abide by requirements of the federal law.

The Council consists of up to 25 members who shall be appointed by the Governor with the advice and consent of the Senate for three-year terms. Membership is based on experience with delinquency prevention, and federal membership requirements from the Juvenile Justice Delinquency Prevention Act, as amended by the Juvenile Justice Reform Act of 2018 (JJRA). The JJRA requires that there be designated representatives from law enforcement, victim advocacy groups, members who have direct experience with the juvenile justice system, youth members and more. The Council is attached to the Department for Children and Families (DCF) for planning and administrative functions.

Important Update:

Due to five violations at DOC facilities, Vermont’s FFY2022 formula grant was reduced by 20%. This was a reduction of approximately \$120,000 and resulted in a grant award of only \$483,139 for Federal Fiscal Year 2022, 50% of which needs to be focused on addressing the compliance issue. The Council is still working through how to utilize these dollars in a way that effectively helps the State to move forward to create a high-end system of care that provides secure placements for the few juveniles who need it. Vermont’s FFY2023 formula grant was not reduced, and totals approximately \$600,000.

CEYJ Mission:

Our mission is to: prevent youth legal system involvement, shield youth from the adverse impact of a criminal record, eliminate racial and ethnic disparities, and reduce the risk of reentering the system.

Current Appointed Council Members:

Maria Avila
Stuart Berry
Julia Brand
Laurey Burris
Hon. Amy Davenport, Vice Chair
Donn Hutchins, Secretary/Treasurer
Linda Johnson

Kirsten Kersey
Michael Loner
Christopher Lukasik
Katherine O'Day
Kreig Pinkham
Henri Sparks
Karen Vastine, Chair
Matt Wolf

The Council and the State are required to maintain compliance with the JJRA, in addition to utilizing a three-year strategic plan of system priorities. The Council's priorities for Federal Fiscal Year 2021-2023 plan are:

1. Eliminate Ethnic and Racial Disparities (ERD) within the juvenile justice system in the State of Vermont by initiating and acting as a catalyst for a combination of direct intervention and primary prevention strategies that achieve this goal.
2. Ensure that Vermont's justice system treats youth and young adults fairly and provides the greatest possible opportunities for youth and young adults to lead productive lives and contribute to their communities.
3. Reduce delinquency in Vermont by supporting prevention and intervention programs in schools, community-based organizations, and state agencies.

Section 1: Monitor and Oversee Compliance

The Council is charged with supporting DCF's monitoring of compliance with the JJRA. For states to be eligible to receive a formula grant from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the state must satisfy the 33 state plan requirements. Four of those state plan requirements are classified as "core requirements," and the OJJDP will reduce the state of Vermont's annual formula grant if the state is out of compliance. The Council funds a part-time Compliance Monitor position using the OJJDP formula grant. This temporary state employee monitors violations of the core requirements and reports back to the OJJDP. OJJDP requires that all facilities with the ability and authority to hold youth securely are inspected on a three-year cycle in line with the Council's three-year plan. The four core requirements are: deinstitutionalization of status offenders, separation of juveniles from adult inmates, removal of juveniles from adult jails and lockups and addressing racial and ethnic disparities.

Definitions:

Deinstitutionalization of status offenders

- Status offenders are juveniles charged with offenses that would not be criminal if they were an adult, such as running away or truant behavior. These juveniles shall not be placed in secure detention facilities or secure correctional facilities. Vermont does not charge status offenders with delinquencies, unlike many states in the Nation.

Separation of juveniles from adult inmates

- Juveniles may not be subject to sight or sound contact with adult inmates while securely detained.

Removal of juveniles from adult jails and lockups

- Juveniles charged with a crime may not be detained in adult jails or police holding cells except to process and release for a limited duration of time (6-hour exception).

Addressing Racial and Ethnic Disparities

- Youth of color are involved with the juvenile justice system at disproportionately higher rates than that of white youth. States are required to track these rates in the juvenile justice system and create and execute an action plan to address these disparities.

Relevant updates:

Federal Definition of Juvenile:

At the end of Federal Fiscal Year 2020, Act 201 (Vermont’s “Raise the Age” law (RTA)) came into effect and Vermont became the first state in the nation to raise its upper age of juvenile jurisdiction past a youth’s 18th birthday. This meant that on July 1, 2020, most young people accused of breaking the law at age 18 (excluding the more serious “Big 12” offenses) are charged in the Family Division of the Superior Court rather than the adult Criminal Division, with supervision and coordination of services provided by the Department for Children and Families (DCF), rather than the department of corrections (DOC). beginning on July 1, 2024, most youth accused of breaking the law at age 19 will be similarly included in the juvenile justice system, making the 20th birthday the upper age of juvenile jurisdiction in the state.

This legislative change had a unique impact on the core requirements of the JJRA. due to RTA, after July 1, 2020, 18-year-olds became protected by the core requirements, just as their 17-year-old counterparts are protected. Vermont also has a state statute that bans juvenile delinquents (of any age) from being housed in DOC facilities. Unfortunately, a handful of 18-year-olds charged as delinquents were admitted into DOC facilities after July 1, 2020, before the facility staff were aware that they could no longer be lodged.

Juveniles Charged as Adults:

Under the JJRA, the core requirements were expanded to include juveniles charged as adults as well as juveniles charged as delinquents. Juveniles charged as adults are not to be held in an adult jail or lockup (nor shall they have sight or sound contact with adult inmates) unless the court finds after a hearing and in writing that it is in the interest of justice to do so (Section 223(a)(11)(B)). The Judge must continue to make this finding every 30 days. This change came into effect in the federal law on December 21, 2021.

In 2022, the Vermont law was amended to require an interest of justice hearing for juveniles charged as adults and held in an adult jail or lockup. The Statute (33 V.S.A. § 5294) provides as follows:

“Not later than the next business day after a juvenile who is awaiting trial or other legal process and who is treated as an adult for prosecution in the Criminal Division is taken into custody, the court shall hold a hearing and determine whether to issue a written order, pursuant to 34 U.S.C. § 11133(a)(11)(B), that it is in the interests of justice to hold the juvenile in a jail or other secure facility for adults owned or operated by the Department of Corrections and, if such an order is issued, whether to allow sight or sound contact with adult inmates. Hearings held and orders issued pursuant to this section shall conform with the requirements of 34 U.S.C. § 11133(a)(11)(B), including the criteria set forth therein.”

Unfortunately, federal law requires these hearings to occur within 6 hours rather than the next day. In Vermont, this will often result in a violation since courts are not open on weekends, holidays or in the evening. For example, if a youth is charged with an offense

on a Friday night, the earliest opportunity the Court can hold an Interest of Justice hearing is Monday morning, days after the federal law requires it to have occurred.

2023 Violations Reported: In 2023, DCF reported to OJJDP violations that occurred during the Federal Fiscal Year 2022 (October 1, 2021 – September 30, 2022).

Juveniles charged as adults:

This was the first year where Section 223(a)(11)(B)) of the JJRA came into effect. There were 13 incidents where juveniles charged as adults were detained in an adult jail or lockup in excess of 6 hours (or 48 hours in the case of rural facilities). In one instance a youth was held for more than 130 days during the reporting period, resulting in two additional violations. In another instance a youth was held for over 135 days during the reporting period, resulting in three additional violations. OJJDP has announced that it will collect baseline data from states for the first two years before making compliance determinations. As a result, Vermont's funding was not reduced. This two-year period is an opportunity for states to evaluate and identify where and how improvements can be made in their justice systems with the goal of preventing and removing all juveniles charged as adults from adult jails and lockups. The Council is educating OJJDP and our Congressional delegation on the implication of the 6-hour hearing requirement, particularly for small rural states.

Juveniles charged as delinquents, status offenders, or non-offenders:

In 2023, there were no violations that involved juveniles charged as delinquents, status offenders, or non-offenders. However, there were several instances where the rural removal exception was utilized. This exception allows facilities in rural areas of the state to hold youth for 48 hours instead of 6 and are still reported to OJJDP even though they do not result in funding reductions.

2022 Violations Reported: In 2022, DCF reported to OJJDP violations that occurred during the Federal Fiscal Year 2021 (October 1, 2020 – September 30, 2021).

Juveniles charged as adults:

The federal law did not protect juveniles charged as adults until December 21, 2021, which is after the corresponding federal fiscal year.

Juveniles charged as juveniles:

Vermont incurred seven violations of the federal law. All the below violations involved 18-year-old juveniles charged as delinquents in the Family Division and occurred over a five-month period of time immediately following the implementation of Act 201.

1. In 2020, a juvenile delinquent at DOC Correctional Facility was not separated by sight and sound from adult inmates, which is considered a violation of the S&S requirement.
 - a. This incident resulted in an additional violation of the jail removal requirement, since the DOC facility where the incident occurred is in a Metropolitan Statistical Area, per the U.S. Office of Management and Budget.
2. In 2020, a second juvenile delinquent at a DOC Correctional Facility was not separated by sight and sound from adult inmates, which is considered a violation of the S&S requirement.

3. In 2021, a juvenile delinquent at a DOC Correctional Facility was not separated by sight and sound from adult inmates, which is considered a violation of the S&S requirement.
4. In 2021, a second juvenile delinquent at a DOC Correctional Facility was not separated by sight and sound from adult inmates, which is considered a violation of the S&S requirement.
5. In 2021, a third juvenile delinquent at a DOC Correctional Facility was not separated by sight and sound from adult inmates in, which is considered a violation of the S&S requirement.
 - a. This incident resulted in an additional violation of the jail removal requirement, since the DOC Correctional Facility where the incident occurred is in a Metropolitan Statistical Area, per the U.S. Office of Management and Budget.

DCF and DOC learned of the issue in the beginning of calendar year 2021, and DOC immediately began implementing practice change and developing policy to prevent any more 18-year-old delinquents from admission into their facilities. In July of 2021, DOC released a policy for staff indicating what charges are required for a juvenile to be charged as an adult versus a delinquent. In Federal Fiscal Year 2022, there were no juvenile delinquents held in adult facilities as a result.

It is important to still discuss the implications of the FFY2022 reporting period. Due to the five sight or sound violations at DOC facilities, Vermont was over the sight or sound threshold set by OJJDP and the formula grant was reduced by 20%. This reduction of approximately \$120,000 resulted in a grant award of only \$483,139. Of this amount the Council is required to spend at least \$241,570 “addressing the problem.” These youth were placed in a DOC facility due to the lack of a secure juvenile facility. The Council is still working on how to utilize these additional dollars in a way that effectively helps the State to move forward to create a high-end system of care that provides secure placements for the few juveniles who need it.

Section II: Reduction of Racial Disparities

The JJRA requires states to “implement policy, practice and system improvement strategies at the state, territorial, local and tribal levels, as applicable, to identify and reduce racial and ethnic disparities among youth who come into contact with the juvenile justice system, without establishing or requiring numerical standards or quotas.” In order to do this, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) asks states to submit statewide data at key juvenile justice decision points where research has shown that racial disparities may occur, arrest, diversion, pre-trial detention, secure confinement, and adult transfer. The Council has been particularly following the identified trends:

- A substantial amount of juvenile court case filings do not have race or ethnicity data recorded. In FFY2022, the Council reported to OJJDP that 24 percent of case filings for juveniles <19 years of age did not have race or ethnicity information.
- Youth of color are arrested at higher rates. 1.72% of the total youth black population had a case filed in FFY2022. OJJDP asks states to compare this rate with the rate of case filings for their white counterparts to determine disparities. Only .83% of the total white youth population had a case filed in FFY2022. 1.72% divided by .83% results in a ratio of 2.07%, which is the disparity ratio for black youth in comparison to white youth. If these populations were arrested at the same rate, the ratio would be 1%.

The Council acknowledges that systemic racism and white supremacy culture exist in the juvenile and criminal justice system. If Council members are to address these concepts within the youth “justice” system successfully, they need to be able to understand and address them within themselves. With the help of a trainer, the Council plans to apply Joe Feagin’s definition of racism and Tema Okun’s definition of white supremacy culture to the work of the Council in order to dismantle any ideologies created to maintain white privilege within the Council (with the help of a trainer). The Council has spent calendar year 2023 discussing the parameters for this work and is looking forward to beginning it in 2024.

In the meantime, the Council is continuing its work regarding school discipline. At the end of 2020, the Council’s Ethnic and Racial Disparities Committee (ERD Committee) funded two school-based community responses that address the systemic and institutionalized racism within school systems as a strategy to addressing the disproportionate arrests of youth of color. Schools are a common area where all youth gather, learn, and grow which creates a unique opportunity to provide crucial supports to youth in a safe, healthy, and nurturing environment. Instead of using punitive measures that perpetuate systemic and institutionalized racism, these school-based projects use interventions such as School-wide Positive Behavior Interventions and Supports (PBIS), trauma-sensitive training, and Restorative Practices that aim to address root causes of student behaviors and provide needed services both on and off school grounds. This is a crucial approach to reducing Vermont’s ethnic and racial disparities in arrests.

The Council funded two organizations for three school years to do this work: Burlington School District and Spectrum Youth and Family Services. These agreements have been renewed annually

with continued support from the Council. While the Spectrum Youth and Family Services project ended in December 2022, the Council continues to support Burlington School District for a fourth (albeit not full) year.

This will be the last year that the Council funds the Burlington School District. The Council acknowledges that ethnic and racial disparity work must extend beyond Chittenden County to other areas of the state. While we have strategically focused on Chittenden County, youth of color who live in other areas deserve the same supportive programs. In addition, intervention work for youth of color who are already in the justice system is crucial. Because of that, the ERD Committee has re-identified goals that they will focus on into 2024.

1. The ERD Committee will advise the executive committee (including the scoring tool used to review RFPs and other documents related to the selection) and consult the full Council with the selection, recruitment, and retention of a trainer to address white supremacy culture and anti-racism within its operations – including representation on the group scoring and recommending the finalists.
2. Recruit and seat three new members, specific members of the global majority, on the ERD Committee. The ERD Committee will conduct community partner outreach to find prospective members outside of Chittenden County.
3. The ERD Committee will ensure that all youth of the global majority who receive programming funded by the Committee in 2023-2025 will be afforded the opportunity to provide direct feedback regarding that programming, and if applicable their experience with the school discipline system and the juvenile justice system.
4. Work with relevant partners to ask the 2024 legislature to add a requirement that juvenile race data be required for the judiciary, and that filing be consistent throughout the state.

Section III: System Improvement of the Juvenile Justice System

The Council is federally charged with advising the administration on juvenile delinquency needs and prevention thereof. The Council advises on state and federal legislation that affects youth by engaging with governmental partners to advise on compliance with the JJRA. Historically, the Council has partnered with DCF and other stakeholders to implement state legislative changes in youth court jurisdiction such as the earlier described RTA legislation and the hybrid “Youthful Offender” option for 16- to 21-year-old youth and young adults.

In 2018, Vermont became the first state in the nation to raise the age of Juvenile Court Jurisdiction to 18- and 19-year-olds with the passage of Act 201. On July 1, 2020, the law came into effect for 18-year-olds. 19-year-olds are currently set to be included July 1 of 2024. The implementation of the 19-year-old provision has been delayed by the Legislature for two years in a row due to the lack of a secure detention facility and DCF staffing shortages. The Council will continue to work with DCF as it works through the implementation of raising the age of jurisdiction in the Family Court Division. The System Improvement Committee will also continue to monitor and report to the Council on other legislation related to Vermont’s youth justice system such as proposals to raise the minimum age of criminal responsibility from 10 to 12 years old, expand the Big 12 offenses¹ or further delay the expansion of Family Division jurisdiction to include 19-year-olds.

The System Improvement work focused on two projects in 2023:

Emerging Adults and Intimate Partner Violence:

- In 2022, the Council funded Bennington College to identify and review any existing effective domestic violence intervention programs across the United States, and then provide recommendations which Vermont can use to build its own emerging adult intervention program. Currently, there is no domestic violence intervention program for offenders in Vermont that considers the unique needs of the emerging adult. Please see their report [HERE](#). The proposed program design was required to be in accordance with Vermont’s Statewide Standards for Domestic Violence Accountability Programs and approved by the Vermont Council on Domestic Violence.
- In 2023, the Council posted a Request for Proposal for a community provider to start a pilot program based on Bennington College’s recommendations. An apparent successful bidder has been identified, and an agreement is in the process of being executed. We are hopeful that the program will be online by the second quarter of Calendar Year 2024.

Youth Restorative Justice Training for Law Enforcement:

- In 2022, the Council funded the Burlington Community Justice Center (BCJC) to provide law enforcement entities statewide training on restorative justice best practices and the benefits of pre-charge restorative justice alternatives for juveniles and young adults up to age 22.

¹ The Big 12 are the most violent offenses including murder, sexual assault, etc. If a youth who is 14 years old or older is charged with a Big 12 offense, the charge can be brought in adult criminal court.

- Between January 2022 and June 2023, the training team conducted day-long trainings held in Burlington, Springfield, Bennington, St. Albans, and Newport. 21 agencies were represented and a total of 58 participants were trained.
- The biggest challenge in this training was low law-enforcement participation. Over the course of the training project, organizers were forced to cancel four scheduled training courses due to low enrollment, three of which were in Central Vermont. One reason for the lack of enrollment is that the initial design was for a one-day program. While the program was high quality, comprehensive introduction to restorative justice, it did not take into consideration the fact that it is difficult for law enforcement to get time off to attend a one-day program in light of staffing shortages. During the third year of the program, BCJC made some adjustments. A curriculum for a shorter introductory program that could be offered by local community justice centers was developed by BCJC. BCJC also explored the possibility of dividing the longer curriculum into two parts so that it would be easier for law enforcement to get the time to participate.
- Additional work needs to be done to advocate for standardized restorative justice training and make it easily available to law enforcement depending on level of interest. While a day long program may be of interest to officers who already appreciate the benefits of restorative justice, shorter, introductory programs need to be available for law enforcement who are not familiar with it.

Section IV: Reducing Delinquency through Youth Services

The Council supports delinquency reduction in Vermont through the support of prevention and intervention programs in schools, community-based organizations, and state agencies.

Delinquency Prevention

- In 2022, the Council funded Vermont Afterschool \$146,909 for the development, administration, distribution, and oversight of community-based delinquency prevention programs distributed broadly statewide. Since the intent of this was to be over the course of almost three years, this funding continued in the calendar year 2023. The initiative funded the following organizations:
 1. The Barra School: To create and implement intensive Forest and Wilderness Therapy programming for at risk LGBTQ and other marginalized and underserved youth in VT in order to reduce criminogenic and substance abuse behaviors. The program achieves this by improving confidence and self-esteem; teaching life-skills to help build resiliency and foster engagement with a healthy community; and by providing tools, resources, and on-going support to ensure youth can manage and overcome adversity and stress in a way that is healthy and productive and lasting.
 2. Burlington School District, Expanded Learning Opportunities Program: To expand the My Brothers (MBK) and My Sisters Keeper (MSK) afterschool affinity programs at Burlington High School. These programs provide a vital space for our youth of the global majority to foster deeper relationships to each other, their school community and broader community while engaging in activities focused on career paths, identity exploration, academic support, and community activism.
 3. Center for Restorative Justice: To provide mentorship, meaningful connections and support for youth who are involved in the juvenile justice system as well as youth who are at the greatest risk of engaging in delinquent or risky behaviors. The program will use mentoring, which is an effective intervention proven to help prevent youth from entering (or re-entering) the juvenile justice system, to support Bennington's most at-risk youth who need support now more than ever.

Youth Drop In Centers:

- In 2023, the Council posted an RFP for organizations who currently operate teen and youth centers in Vermont to boost their capacity for engaging new youth through outreach and to serve more youth in their communities by offering high quality programming. The CEYJ intended to fund organizations with creative new programming that may include but is not limited to:
 - Extending hours of operation (host night/weekend events, open earlier or close later).

- Hiring a former program participant to lead outreach operations and/or activity coordination/facilitation.
- Purchasing facility upgrades that are captivating and engaging for the current consumer population (e.g., VR headset, cooking equipment, computers, software, instruments, etc.).
- Purchasing memberships or passes for community activities (e.g., museums, performances, makerspaces, gyms, pools, etc.).
- Purchasing promotional materials/equipment/software to improve public relations and/or for awareness campaigns.
- Facilitating a program planning committee, including, but not limited to, how to increase engagement among youth center participants and the larger community.
- Hosting a strategic planning retreat with current and past program participants to update program culture, rules, etc.
- Hiring trainers to help adapt the program to be more welcoming and accessible to BIPOC youth.
- Hiring subject matter experts for activities.
- The target population for this project is young people ages 11 to 25 with a primary emphasis on BIPOC individuals and a secondary emphasis on LGBTQ, people with disabilities, and individuals from households with lower incomes. Three apparent selected bidders have been notified and their agreements are currently being executed.

School Education:

- To ensure that youth engage in a free, high-quality education in a safe school environment, the Council has been working to put together a conference focused on delinquency prevention for school-aged youth. We all want VT students who are engaged and supported in school. The mission of this conference is to help youth services and schools connect and learn from each other to build more robust communities of care for our youth. The conference is anticipated to occur in Barre in October of 2024.

Youth Resource Map:

Finally, in 2017, the Council released a Youth Resource Map to help coordinate youth programming available across the state. In 2023, the Council worked on updating and revamping the map for a more youth-friendly format, [RESOURCES FOR YOUTH | DEPARTMENT FOR CHILDREN AND FAMILIES \(VERMONT.GOV\)](https://resourcesforyouth.vermont.gov/). Work is anticipated to be finalized on the map in 2024.

Conclusion

In 2023, the Council continued to work on the below three- year goals established for federal fiscal year 2021-2023.

1. Eliminate Ethnic and Racial Disparities (ERD) within the juvenile justice system in the State of Vermont by initiating and acting as a catalyst for a combination of direct intervention and primary prevention strategies that achieve this goal.
2. Ensure that Vermont's justice system treats youth and young adults fairly and provides the greatest possible opportunities for youth and young adults to lead productive lives and contribute to their communities.
3. Reduce delinquency in Vermont by supporting prevention and intervention programs in schools, community-based organizations, and state agencies.

Key 2023 Successes:

- The Council successfully educated the legislature on the JJRA and updated its state statute and name to be in line with the federal law and its current activities.
- The Council administered the requirements of the Juvenile Justice Delinquency Prevention Act (JJDP) and 33 V.S.A § 3301-3307 in partnership with DCF, law enforcement, and community programs.
- Continued to fund and work with community partners to reduce the rate of overrepresentation of youth of color in the juvenile justice system.
- Worked in partnership with community organizations to administer statewide juvenile justice system improvement and delinquency prevention funds.

Key 2023 Challenge:

- The state of Vermont's system of care continues to have implications for the core requirements of the JJRA. While the federal grant was not reduced this year, the lack of a secure juvenile facility for juveniles charged either with delinquencies or criminal charges creates a precarious situation.

For more information please email:

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