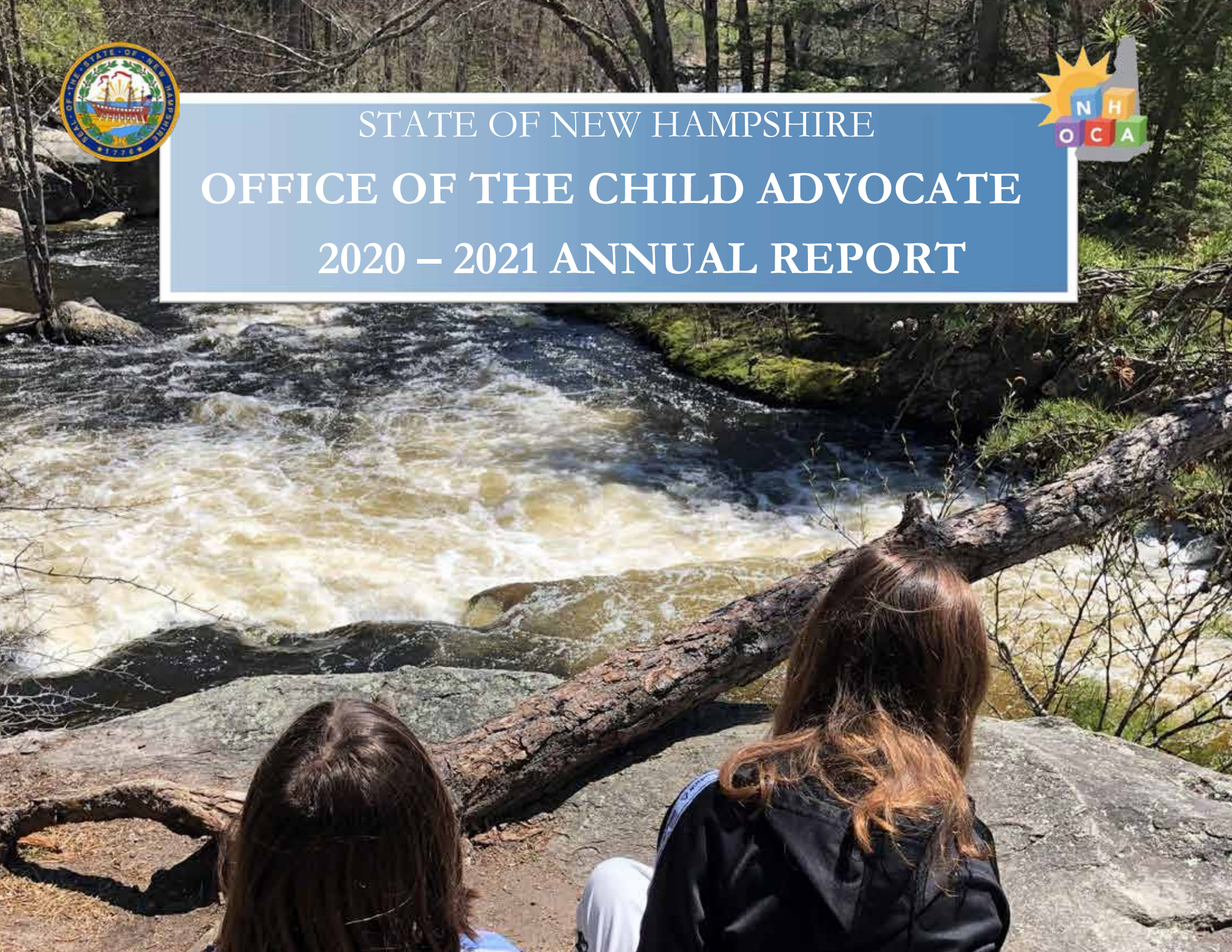

STATE OF NEW HAMPSHIRE

OFFICE OF THE CHILD ADVOCATE

2020 – 2021 ANNUAL REPORT

2021 Annual Report

Reporting Year Ending September 30, 2021

Pursuant to RSA 21-V:8

Moira O'Neill, PhD, RN, Child Advocate

Governor

Governor Christopher T. Sununu, Governor

Executive Council

Theodore L. Gatsas, Executive Councilor
Joseph D. Kenney, Executive Councilor
Janet Stevens, Executive Councilor
Cinde Warmington, Executive Councilor
David K. Waters, Executive Councilor

OCA Staff

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Karen Kimel, Office Coordinator
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Year in Review by the Child Advocate

Moira O'Neill, PhD., RN
The Child Advocate

In January 1909, President Theodore Roosevelt convened a White House Conference on the Care of Dependent Children. In those early days of the 20th Century, Roosevelt's guests concluded that children do best at home with their families. Supporting families to care for their children, Roosevelt and the others determined, would have far better outcomes than what was happening to children when removed and placed in institutional facilities.[i] Roosevelt's understanding of the impact on children, "bereft of their natural homes and left without sufficient care,"[ii] reflected the findings of the earliest science on child development. The great adventurer president was signaling for resources back up stream to prevent children from being abused, neglected, or adjudicated delinquent.

More than one hundred years later, the federal Family First Prevention Services Act of 2018 (FFPSA) became law, echoing Roosevelt's early understanding of prevention. It sends the message that federal dollars are better spent preventing abuse, neglect, and delinquency. It also restricts the use of federal funds for residential placements to only when necessary and when matched with evidence-based proven programming for brief, effective therapeutic care.

In addition to promoting prevention at home in communities, the FFPSA also demands we understand children's needs and treat those needs effectively, with a framework of child development and a sensitivity to the child's experience of trauma. New Hampshire is ready to shift all hands to the community and family. At last, an array of community-based services will wrap around children with mobile crisis and stabilization, in-home 24/7 child and family support, and careful assessment of strengths and needs before turning to deep end, expensive, and often ineffective residential services. Meanwhile, the shift promoting positive youth development has spread to juvenile probation where a transformation is set to see far fewer children enter probation and risk long-term involvement just by being exposed to the system.

The work is not done. The COVID-19 pandemic has exacerbated a children's mental health crisis. As we hurry to respond by purchasing a hospital and building a new, smaller prison with a therapeutic model of care, all of us, including decision makers and planners, must trust that the community-based resources are coming up stream. When children are found delinquent or decisions are contemplated for abused and/or neglected children – often one in the same – child protection service workers (CPSWs) and juvenile probation and parole officers (JPPOs) must remember the new array of services yet to be tried. Individuals serving children must act fast and early. All of this requires that we stop and examine what children need, what they are communicating to us with their behavior, and how we as a multi-disciplinary team can work together to ensure the best outcomes for all New Hampshire children. As President Roosevelt said, "The interests of the nation are involved in the welfare of this army of children no less than in our great material affairs."[iii]

The Office of the Child Advocate (OCA) has had another busy but productive year. This 2021 Annual Report provides a brief snapshot of our work and the important issues that have emerged. This year marked our firm footing in statute and expanded mission. It is time to step back and assess the OCA, our mission, priorities, processes, and plans. We expect our first strategic plan to be completed and ready for implementation early in 2022. In these pages I invite you to meet the OCA team and appreciate the work they view each day as a great privilege. We are all grateful and humbled at the honor of serving New Hampshire's children.

Highlights of 2021 Accomplishments

The OCA's universe is dominated by problems and complaints. That is the nature of oversight. But when we dig in and reach out to partners, problems become opportunities and complaints are alerts to prompt improvements and identify strengths. In 2021 we saw a range of successes from small everyday changes to larger system transformation. Here are a few of the OCA's accomplishments.

Family Connections

- Clarified & streamlined paperwork for children visiting parents in prison
- Re-started visits between a child, aunt and uncle
- Navigated process for establishing paternity with a dad
- Assisted a child to get additional family members on residential call list
- Grandparent reported the OCA was instrumental in helping child remain in school district where child was successful to complete education

Religious Freedom

- With OCA support and advocacy, a child incarcerated at the Sununu Youth Services (SYSC) Center was able to access a Torah, and other items important in the practice of Judaism

Safe Place

- A young girl expecting her own child found herself homeless; the OCA helped her navigate resources and into a safe home with extended family
- A child was able to reduce visits with abusing parents while settling safely in a new foster home

Comfort and Care

- Distributed 150 "Covid Comfort Kits" to children isolated in residential facilities during the pandemic
- Contributed informational materials and comfort items at the DCYF Youth Summit, such as warm socks, personal care items and fidgets
- Shared comfort items with the participants of the Magnify Voices Expressive Arts Contest
- Assisted a child to get a needed eye examine and new glasses
- Met weekly with a child who was struggling at the Sununu Youth Services Center to listen to and support until successful transition home

Permanency

- CASA NH and family attributed permanency for a child after 4 years in limbo to the advocacy of the OCA
- Assisted a child to move forward with relative care as a permanency plan upon graduation from high school
- Assisted a child and the child's DCYF team for successful transition from the Sununu Youth Services Center to college
- Assisted out-of-state child at the Sununu Youth Services Center to get housing and services from home state upon turning 18

Informed Decisions

- Enjoyed the privilege of educating judges on the OCA, child development, developmental disabilities, and best responses to understanding children's behavior so as to make the best decisions on placement and demands
- Convened 5 team meetings in individual cases to bring people together to learn from each other and collaborate on decisions affecting the child

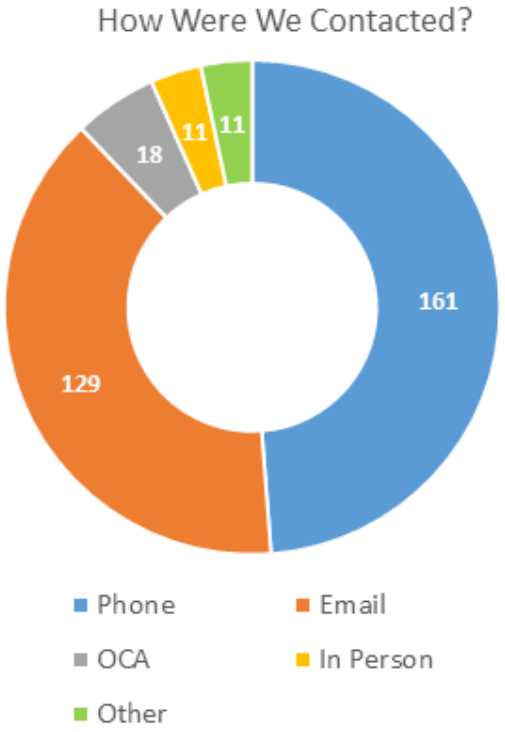
Voice

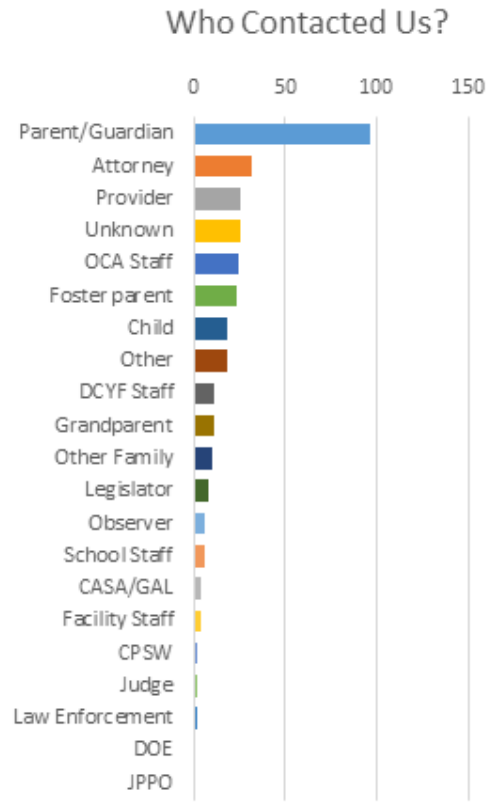
- Initiated conversations with children at the SYSC and residential programs about advocating for themselves. Some were inspired to request an audience with administrators to discuss concerns, rules and activities
- Facilitated the establishment of the Youth Justice Stewards program that will launch later this winter. The program will award grants to organizations for hiring young "experts" with experience in juvenile justice to work on stewarding justice for all young people

"Wow, you guys move fast!! We received the Covid kits and handed them out to the kids, thank you again so much for thinking of us and for doing that!! Mad Libs are a big hit around here and we can never seem to have enough water bottles!!" — *NH Institutional facility staff*

Daily Work – Complaints & Inquiries

330 **Inquiries or complaints received, reviewed, and responded to**





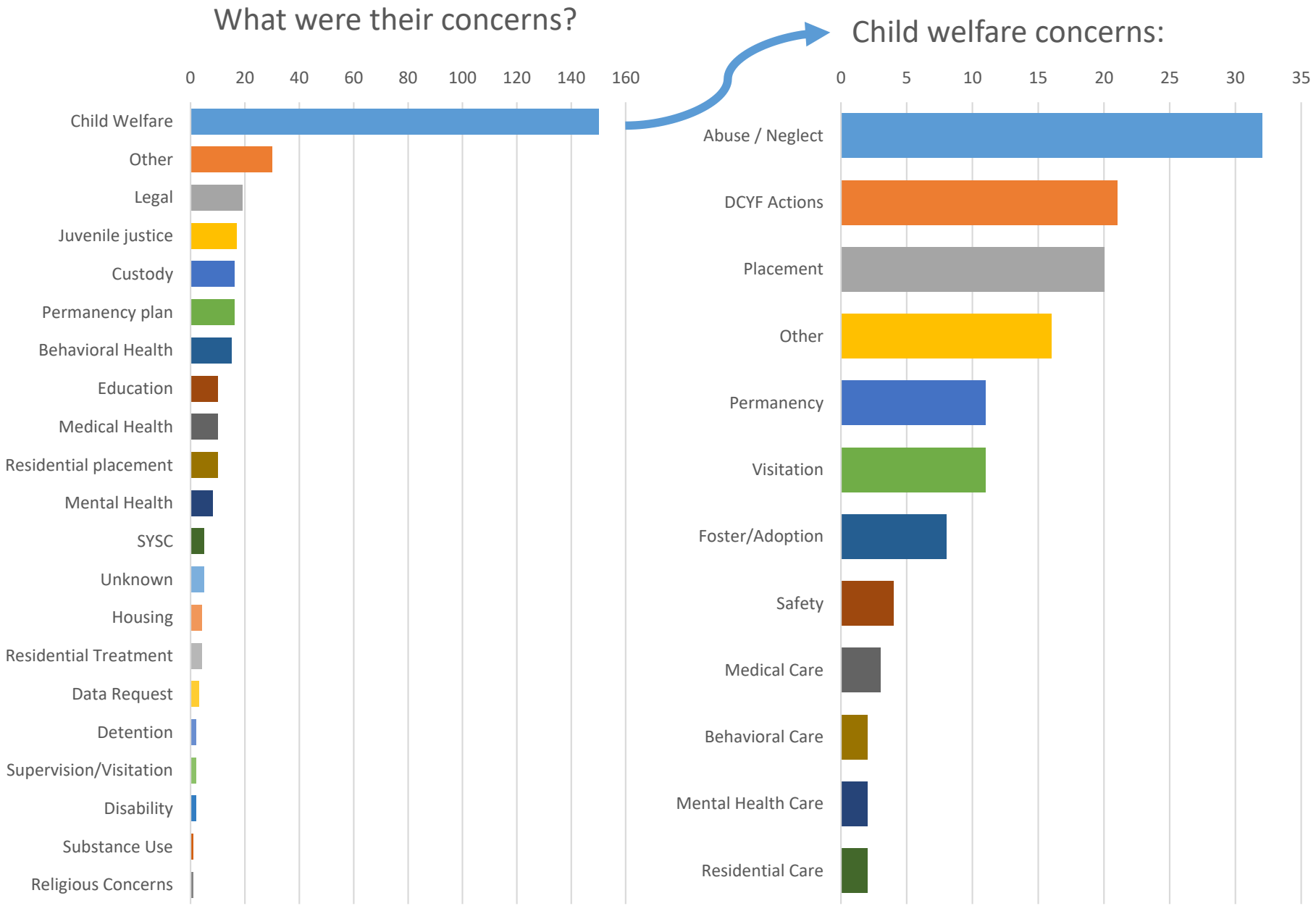
RSA 21-V:2, III Office of the Child Advocate Established.

The office shall…[u]pon its own initiative or upon receipt of a complaint, review and if deemed necessary:

a) Investigate the actions of any agency and make appropriate referrals; provided that department of health and human services specific complaints shall be handled by the ombudsman pursuant to RSA 126-A:4, III.

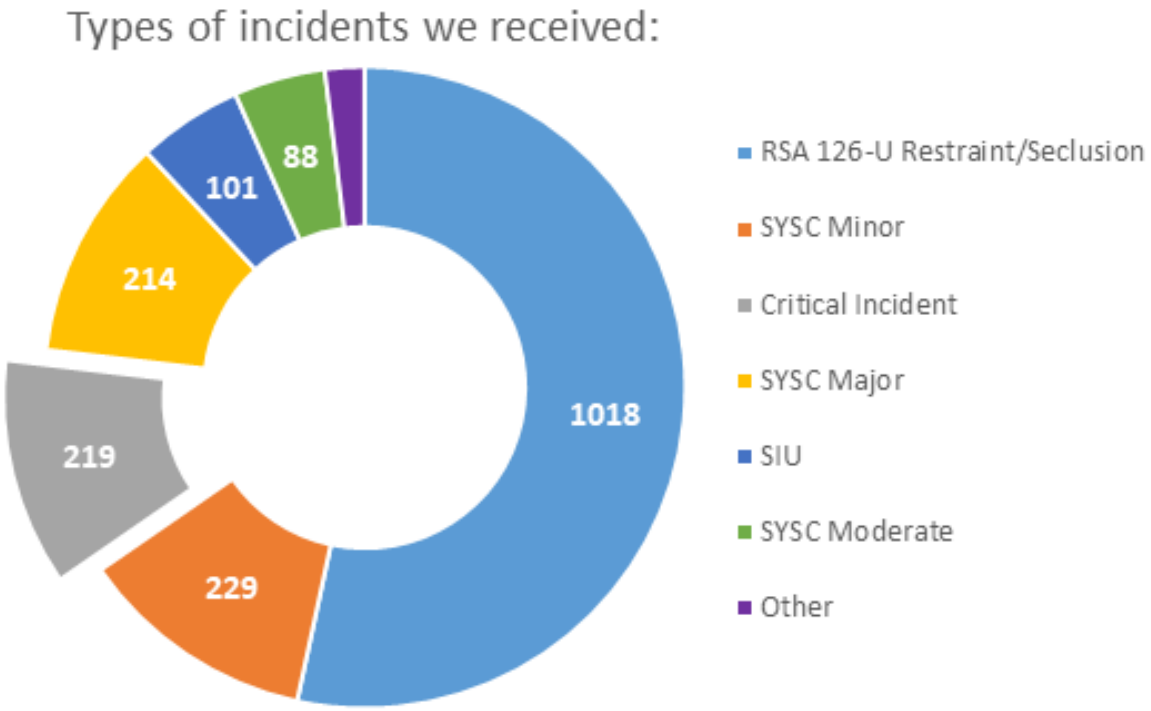
b) Investigate those complaints in which the child advocate determines that a child or family may be in need of assistance from the office or a systemic issue in the state's provision of services is raised by the complaint.

c) Provide assistance to a child or family whom the child advocate determines is in need of assistance, including seeking resolution of complaints, which may include, but not be limited to, referring a complaint to the appropriate agency or entity, making a recommendation to such agency or entity for action related to the complaint, and sharing information in any proceeding before any court or agency in the state in which matters related to the division's child protection and juvenile justice services are at issue.


What were their concerns?
0
20
40
60
80
100
120
140
160
Child Welfare
Other
Legal
Juvenile justice
Custody
Permanency plan
Behavioral Health
Education
Medical Health
Residential placement
Mental Health
SYSC
Unknown
Housing
Residential Treatment
Data Request
Detention
Supervision/Visitation
Disability
Substance Use
Religious Concerns
Child welfare concerns:
0
5
10
15
20
25
30
35
Abuse / Neglect
DCYF Actions
Placement
Other
Permanency
Visitation
Foster/Adoption
Safety
Medical Care
Behavioral Care
Mental Health Care
Residential Care

Daily Work – Monitoring Child Fatalities, Other Incidents & Access to Care

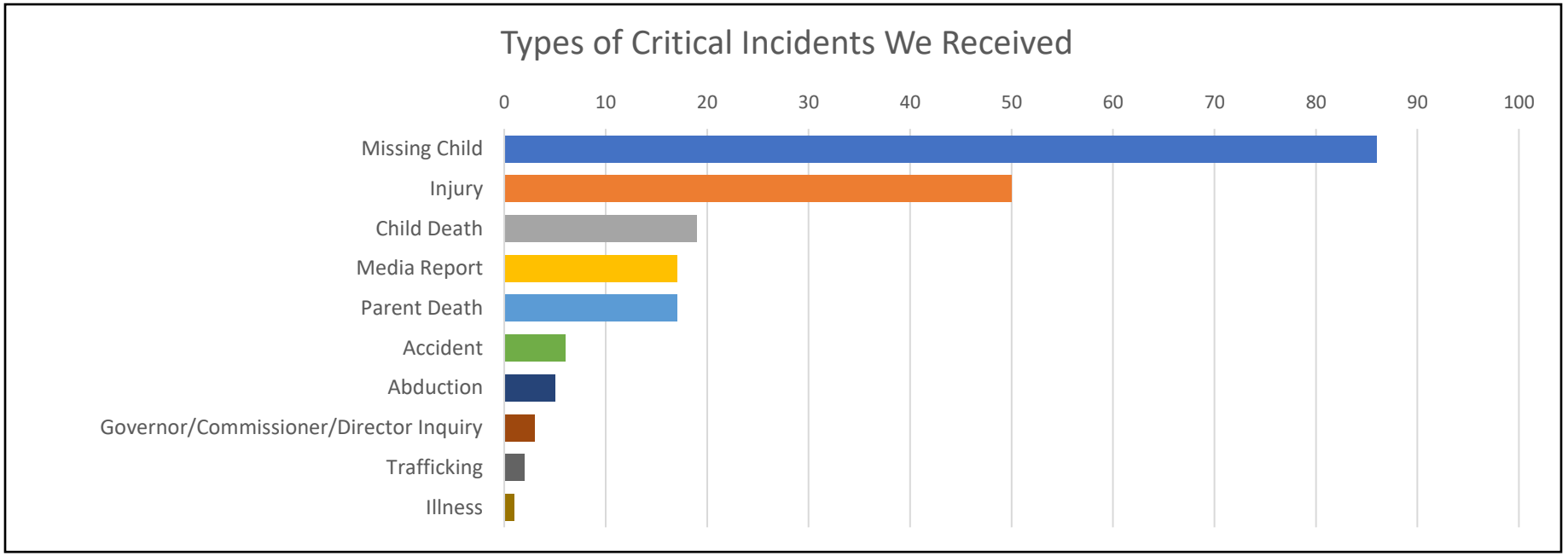
1909 **Incidents received and reviewed**

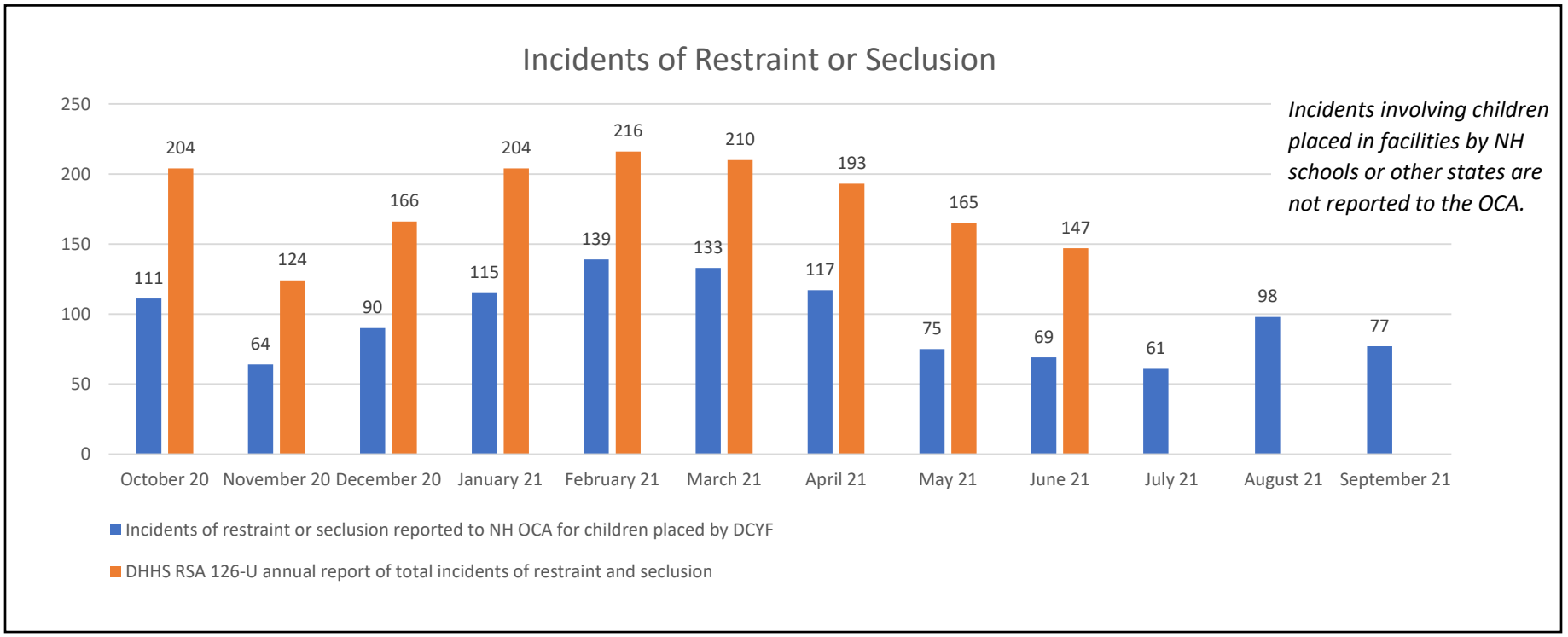


RSA 21-V:7 Incidents and Fatalities.

I. The division shall provide the office with a copy of all critical incident reports or other reports related to actual physical injury to children or a significant risk of such harm, as well as other incidents which may affect the safety and well-being of children in the custody or control of the department of health and human services, including but not limited to reports related to the restraint and seclusion of any child under the care and protection of the division, not later than 48 hours after the occurrence.

II. The division shall provide the office with notice of any child fatality or serious injury of a child under its care or supervision or whose safety and the safety of the child's siblings has been or is being assessed, immediately by telephone. The division shall further provide the office with written report of such fatality or serious injury not later than 48 hours after the occurrence.





Incidents involving children placed in facilities by NH schools or other states are not reported to the OCA.

19 Child Deaths

Under RSA 21-V:7, II, the Division for Children, Youth and Families (DCYF) must report all child deaths, to the OCA. They report two types of child deaths: deaths of children involved with DCYF, and deaths reported to DCYF as possibly caused by abuse or neglect. The first is reported as a means of examining system actions or inactions that might have prevented the death. Both categories are reported for purposes of examining whether there is any risk for surviving siblings or other children. Trends in manner, cause and precipitating factors are examined in all deaths.

The OCA reviews each death as part of our Critical Incident Review process. That involves:

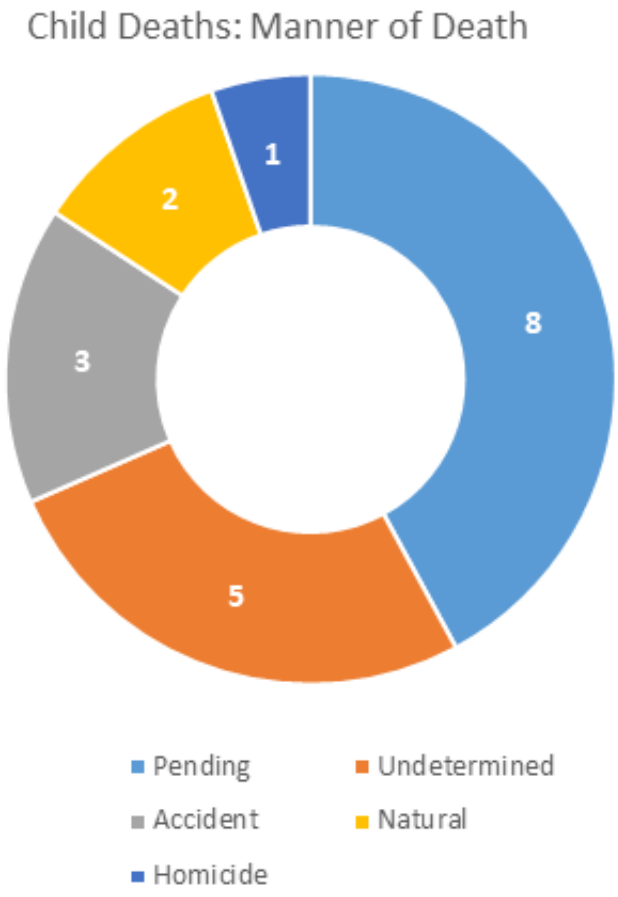
- Reviewing DCYF records to determine extent of agency involvement
- Determining need for any safety plan or support to surviving siblings and family
- Watching for systemic trends that might indicate opportunity for improvements

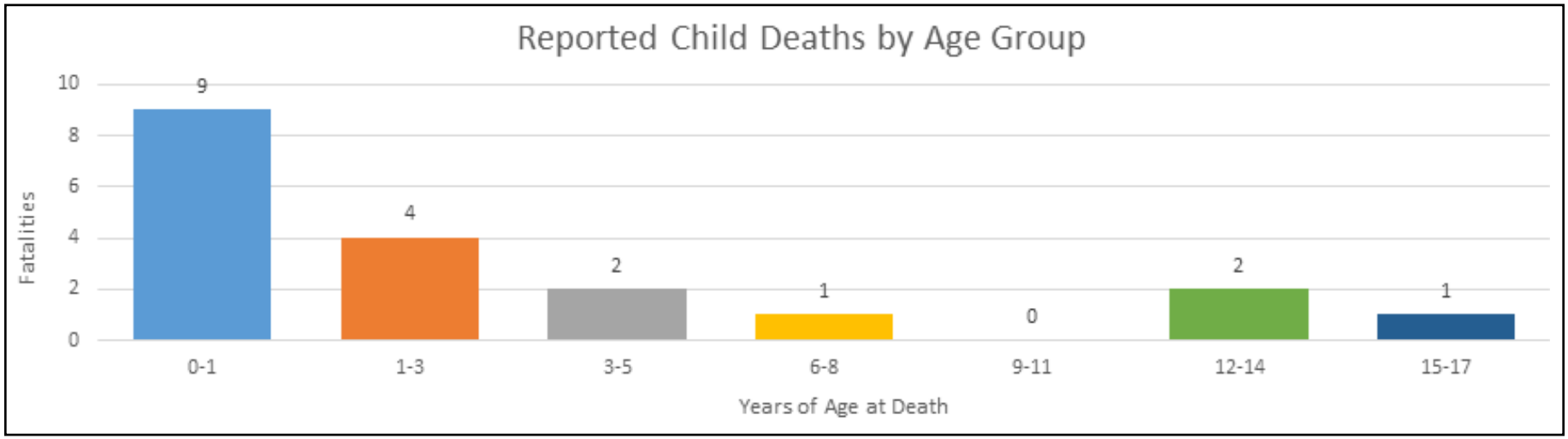
Reporting on child deaths is somewhat complicated due to two specific restrictions:

- Availability of completed autopsies. In unexplained deaths, the autopsy process involves extensive laboratory work, a very slow but thorough process
- Restrictions from reporting when law enforcement is actively investigating

Of the 19 child deaths reported to the OCA in 2021:

- Ages ranged from 1 day to 17 years, 9 were under 1 year
- 14 had some history with DCYF whether due to concerns about their care or the care of others within the family. One had child protection history in another state.





Daily Work – Case Review, Critical Incident Summaries, & System Reviews

10

Individual Child Case Reviews

Individual Child Case Reviews are in-depth reviews using records, interviews, and meeting notes to develop a comprehensive picture of a child's circumstances and needs. These have been useful in informing decisions made by the child's team, including CPSWs, JPPOS, judges, attorneys, and CASA/GALs, that affect the child and family's life.

90

Critical Incident Summaries

Critical Incident Summaries examine both the incident and the current safety of the child and/or surviving siblings. This process also identifies trends that may impact other children and families. One theme emerging among critical incidents is the problem of substance use among parents, and children's exposure to those substances in lethal ways. A related theme is untreated mental illness. Access to services is the best way parents and children avoid harm to themselves or others. A preventable tragedy remains unsafe sleep practices. 6 deaths of Infants in this reporting period related to unsafe sleep environments, including co-sleeping and presence of soft bedding.

2

System Reviews

To ensure transparency of government and build trust with citizens, the OCA will periodically conduct system reviews to identify opportunities for system strengthening. At the completion of a system review, the OCA may make recommendations or share any key points for learning to improve policies, practices or procedures or influence broader systemic reform. The OCA currently has two residential facility reviews underway. It anticipates the release of 1 within the next month. Once that review is completed, the OCA will delve into the other facility review.

> *"It's great to hear that your office has expanded and we're grateful for the work you do every day."*
>
> *Participant at Presentation on RSA 21-V*

System Learning Reviews – Learning from Deaths, Other Incidents & Complex Cases

The OCA is the only independent children's services oversight agency in the country using safety science, an evaluative science employed in safety-critical industries like aviation and nuclear power, to learn from critical incidents and complex cases in children's services.[iv] Utilizing safety science provides an evidence-based process and helps the OCA to build collaborative relationships by creating a safe space for review by a team of DCYF staff and other stakeholders. This year, the OCA evolved the System Learning Review process to the System Review Mapping process. The new Mapping process incorporates input from individuals with first-hand knowledge of a case and produces a visual map of decision making.

4

Cases reviewed: 1 System Learning Review and 3 System Review Mappings

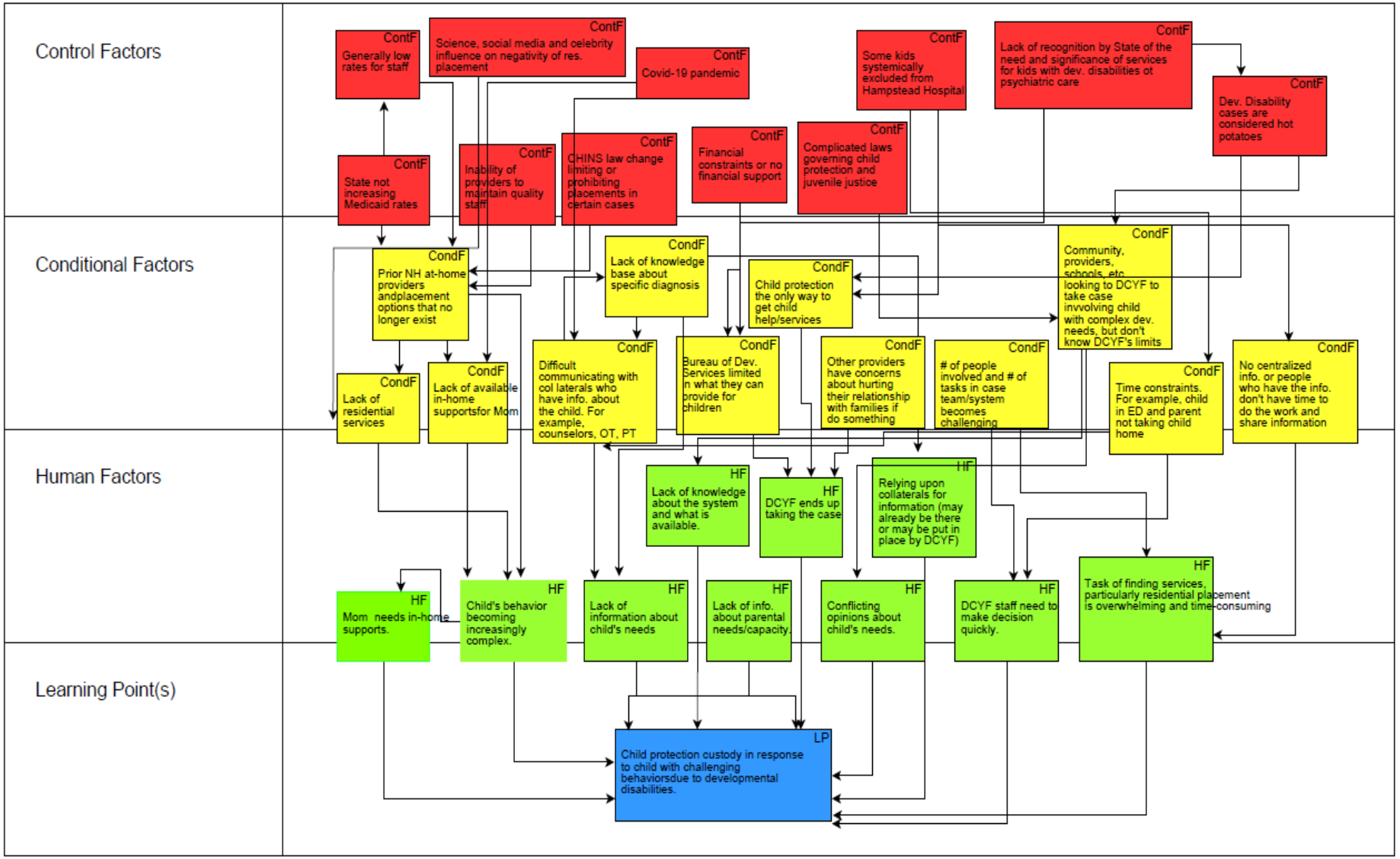
- An 80-minute prone restraint of a child at a residential facility (System Learning Review)
- Child death (System Review Mapping)
- Suicide attempt of child involved in child protection and juvenile justice (System Review Mapping)
- Child who was in the emergency department for 4 weeks due to behaviors resulting from developmental disabilities and was initially unable to access to acute psychiatric care (System Review Mapping)

Trends identified:

- CPSW dedication and persistence, despite complexity of cases involving multiple systems
- Need for interagency meetings/communication
- Need to recognize and include parents for their expertise in special care
- Establish adequate reimbursement for and promote the use of behavioral psychologists and technicians: increase access to functional behavioral analysis and associated treatment
- Flexibility in case closure to locate missing parents
- Need for in-home and community-based services for children with developmental disabilities
- Addressing child protection concerns earlier to prevent child from entering juvenile justice system
- Increase engagement and accountability for services by parents in juvenile justice cases
- Need to utilize newly enacted RSA 169-C:12-f, III(b) rebuttable presumption of harm law in cases involving psychological maltreatment

> *"I really enjoyed yesterday's System Review Mapping. It truly felt like we were working on system solutions…"*
>
> *DCYF System Review Mapping Participant*

System Review Mapping — Sample Map



"I am excited to be a part of this process…and really enjoyed the last meeting."

DCYF System Review Mapping Participant

Areas of Concern

Trends in complaints, incident reports, review findings and other developments of children's services in 2021 that warrant attention.

1909 Incidents

330 Complaints and Inquiries

Areas of Concern

- COVID 19
- Access to acute psychiatric care and emergency department boarding
- Phenomenon of crossover from child protection to juvenile justice
- Understanding behavior
- Transformation in Juvenile Justice (Probation and Incarceration)
- Residential placements to episodes of care

COVID-19 in 2021

12,981 Children reported by the CDC to be COVID-19 positive in New Hampshire between 10/1/20 and 9/30/21[v]

161 Estimated number of children in New Hampshire that experienced the death of a primary caregiver due to COVID-19 between 4/1/20 and 6/30/21[vi]

115 COVID-19 positive DCYF-involved children reported to NH OCA by DCYF between 10/1/20 and 9/30/21

21 Children reported by the CDC that were hospitalized in New Hampshire due to COVID-19 between 10/1/20 and 9/30/21[vii]

While New Hampshire has yet to report a death of a child related to complications of COVID-19, we must still consider the harm caused by the virus in terms of long-term physical or mental health effects. Small studies have indicated potential long-term physical effects to children, including those who experienced mild symptoms at diagnosis.[viii, ix, x]

School closings and isolation resulting from 2020 pandemic-related Executive Orders were successful in keeping overall infection rates down. However, a side effect of those prevention measures was the exacerbation of a long-brewing crisis in children's mental health, discussed more in the next section. Much of children's distress was reflected in the artwork submitted to the 2021 Magnify Voices Expressive Arts Contest – an annual event highlighting children's view of mental illness (See inset).

We also witnessed delays in permanency for children in DCYF's care and custody due to limited or ceased visits with parents and family. This was especially apparent for children in institutional facilities. Some facilities closed their doors for months at a time to prevent infection. That also restricted visits needed for reunification not only delaying permanency, but leaving children in institutional placements for longer periods of time.

Finding the right balance between infection control and mental and developmental wellbeing remains a challenge, particularly in the most important domains of a child's life: school and reunifying with family. Any potential risk should be taken seriously. Masks, handwashing, social distancing, and when eligible, vaccination, remain the best intervention to keep children safe.[xi]

Opal Shinnlinger,
Mascoma Valley Regional HS

Access to Acute Psychiatric Care

Long before the pandemic New Hampshire saw a brewing mental health crisis for children. Senate Bill 14 in 2019, along with other DCYF budget allocations, were intended to prevent crisis, divert children from increasingly long waits in emergency departments, and keep children at home where they do best. The planned community-based services like expanded in-home services and mobile crisis response and stabilization along with a trauma-informed standard of care expected in all behavioral health, would pivot New Hampshire towards a level of responsive prevention. However, implementation of those services has been severely delayed due to budget interruptions and obstacles to obtaining the necessary contracts to implement services. In the meantime, the pandemic further stressed children with isolation, uncertainty, and fear – all exacerbating trauma and dysregulating children with chronic conditions who require consistency and connections. Waits in emergency departments piled up, especially for children with chronic developmental disabilities, or those whose mental illness was so neglected or aggravated that it manifested as assaultive, aggressive behavior. These children, the most acute and disabled, the most at risk for long term institutionalization and permanent disconnection from their families and communities, were most affected. To compound matters, these children have been systematically excluded from acute psychiatric care at Hampstead Hospital (HH) due to an exclusion in the contract the New Hampshire Hospital (NHH) made with HH when children's acute psychiatric care was shifted to the private facility.[xii] Upon inquiry about whether those children will be served at HH upon a planned State purchase, the Commissioner of Health and Human Services stated, "We would have all levels of care available eventually."[xiii]

Throughout 2021, the incidence of children "boarding" in emergency departments awaiting acute psychiatric care continued to break records.[xiv] Under RSA 21-V:4, I(a), the OCA was only able to review the records of a portion of those children who benefitted from Medicaid, receiving daily reports. Ultimately, we are not confident in our data as being fully representative of the children waiting. Questions remain to be answered. For example, where do the children on the wait list eligible for Medicaid go when they are no longer on the list? Who tracks the children who are excluded from acute psychiatric care by the NHH and HH contract? How is success measured? We have seen some children waiting in emergency departments, sometimes for days or weeks, experience exacerbation of their condition. We also discovered that many of the children whose records we reviewed were the subject of abuse or neglect. They included children excluded from admission to HH due to behaviors or delinquency charges. A review of our HH waitlist data for August and September of 2021 revealed:

88% Percent of children on the Hampstead Hospital waitlist that had referrals to DCYF for suspected abuse or neglect

8 Average amount of DCYF abuse or neglect referrals for children on the Hampstead Hospital waitlist

52% Percent of children who were taken off the list without being reported as accepted to Hampstead Hospital

6 Average amount of days children waited on the Hampstead Hospital waitlist for acute psychiatric care

Crossover: From Child Protection to Juvenile Justice

Many children in the juvenile justice system have histories of abuse and/or neglect. Some are dually involved in child protection services (CPS) for being abused or neglected, and juvenile justice services (JJS) for delinquency. Some are placed in residential facilities for problem behaviors arising from maltreatment-induced trauma and developmental interruptions. Mismatching treatment to child needs and overuse of physical restraints provoke acting out or running away, opening a path to JJS. Abuse or neglect assessments are often closed once a JJS case is opened. DCYF staff report opening a delinquency case to obtain services for the child when there is not enough evidence to open a CPS case. Although well intended, it shifts accountability away from parents to children. The experience of New Hampshire's children is similar nationally.[xv] Crossover or dual involvement has been associated with multiple placements, poor school performance, recidivism, and adult criminal system involvement at higher rates.[xvi] This population also disproportionately includes children of color, girls, and lesbian, gay, bisexual, questioning, and/or gender nonconforming and transgender (LGBQ/GNCT) children.[xvii] The OCA has also observed a high incidence of crossover among children excluded from accessing acute psychiatric care at HH due to behavior and presence of resulting delinquency charges.

100% **The percentage of New Hampshire children incarcerated at the SYSC who had history of CPS involvement from a point in time survey.**

The OCA conducted a point-in-time survey of children incarcerated at SYSC to understand their needs and options for alternative rehabilitation. 16 children were present at some point in the period, one from out of state. All 15 New Hampshire children (100%) had CPS involvement, with a range of 2-33 referrals to DCYF for suspected abuse or neglect.

In July, OCA staff participated in the 2021 Janet Reno Forum at Georgetown University Center for Juvenile Justice Reform, A Better Path Forward: Restructuring Systems to Support Crossover Youth. The event featured the Crossover Youth Practice Model that promotes cross-system collaboration aimed to improve communication and responsiveness to children in dual systems and ultimately, children's outcomes by interrupting the path into both systems.[xviii] Subsequently, the OCA pursued funding from Casey Family Programs and the Annie E. Casey Foundation and co-sponsored a screening and discussion of the film Quest — The Truth Always Rises. The film depicts the life of a child who committed delinquent acts as a means of self-preservation in an abusive situation.[xix] More community conversations and reporting about children who crossover or have dual involvement are planned.

CASE REVIEW: ABUSE AND NEGLECT TO DELINQUENCY

There were 27 referrals to DCYF and 8 assessments with concerns for Sarah involving allegations of medical neglect, neglect, lack of supervision, and psychological, physical, and sexual abuse. However, no abuse or neglect case ever opened. Sarah eventually pled true to 6 delinquency petitions resulting from an altercation with one of her parents after the parent attempted to kick Sarah out of the house. The OCA worked with DCYF to see the need to finish one of the recent assessments initially closed incomplete, and report to the child that her psychological abuse was confirmed, and the parent held accountable. Sarah felt heard. She was then able to process her trauma and move forward successfully.

"I had to extend my probation to not go home. I don't think it is fair for me. And that is hard that I have a juvenile petition and stay in the juvenile system so that I don't have to go home to someone who is abusive."

Crossover Child

Residential Placements to Episodes of Care

Children in Care

New Hampshire has long demonstrated an over-reliance on residential services for children who exhibit problematic behaviors due to manifestations of mental illness, developmental disability, and behavioral conditioning from adverse childhood experiences. Children are also placed in residential facilities due to a perceived lack of foster homes. DCYF's own 2018 Adequacy and Enhancement Assessment reported, "[t]he current system is skewed to serve children, youth, and families with the most expensive, most restrictive services, rather than with more upstream, preventive services and supports." [xx]

In 2020, DCYF CPS received 28,389 reports of suspected abuse or neglect. Of those, DCYF substantiated an estimated eight percent.[xxi] In the same year, there were 2,572 JJS cases opened. Between the two services, there were 2,034 children in out-of-home placements (1,642 CPS and 392 JJS).[xxii] DCYF placed most children in foster homes or with relatives. They placed approximately 300 children served by CPS and JJS in congregate residential settings at any given time during 2020. DCYF certifies 401 beds for placement among New Hampshire residential providers. They are part of the inventory of 639 beds DHHS-licensed for residential care in the state. Many of those beds are filled by children from other states and separately, by NH school authorities. There is no central database of children placed by school authorities, thus the OCA is not able to track them. Throughout the year there may be 70-85 children placed by DCYF in residential settings outside of New Hampshire.

The OCA frequently works with children in residential facilities, some as far away as Arkansas or Missouri. Of the 1909 incidents received by the OCA this past year, 1709 of them were for children in residential facilities involving approximately 219 individual children. Most of those incidents involved restraint or seclusion of a child. Restraints and seclusions occur when a child demonstrates dysregulated or noncompliant behavior. Record reviews reveal these incidents may be provoked by mismatched placement, and therefore a mismatch of treatment to need. It is not unusual for a child to be placed at the first facility with an opening rather than a facility assessed to offer specific treatment modalities that are known to be affective treating a child's condition. There may also be insufficient understanding of a child's behavior as a form of communication.

Finding a balance of protection and minimizing exposure to trauma are a challenge when it involves removing a child from home to begin with. Awareness of long-term effects of trauma on child development emerged in the mid-1980s, most notably described in the 1995 Felitti and Anda study on adverse childhood experiences (ACE). [xxiii] Being removed from home is an ACE. The growing body of knowledge firmly rooted trauma sensitivity in therapeutic care of children with histories of abuse and neglect like the ones placed at residential facilities.

As the OCA reported elsewhere,[xxiv] the practice of placing children residentially because of a perceived lack of alternatives appears to be influenced by the culmination of several factors. For example, CPSWs have had historically high caseloads, limiting available time to spend seeking appropriate services. They are also given limited resources to look for appropriately matched placements. JJS have historically tended to be punitive and more restrictive rather than therapeutic and rehabilitative. New Hampshire also has had a limited community-based services array for alternatives to congregate care. All of this leads to an over reliance on residential placement.

The Future of Residential Care

With the build-out of community-based prevention, treatment, and coordinating resources, the need for residential/congregate care is predicted to drop substantially. In the meantime, a significant aspect of the State's current system improvements is a re-design of what residential care is and how it is used. Driven largely by the federal FFPSA, residential care in New Hampshire is transforming from a casual vendor relationship with the state, to a contracted service with clear expectations of purpose, quality, effectiveness, and accountability. New Hampshire is building a system of care less reliant upon sending children away from home. We now have care management entities (CME) to coordinate access to care and transition out of residential care, and an independent comprehensive assessment for treatment (CAT) to determine and match to appropriate level of service. Furthermore, the emphasis will shift away from "placement" of children to "episodes" of treatment and treatment-related expectations. Use of residential-level care is now expected to be short-term, with rapid and well-supported return home to family or caregivers.

In the Summer of 2021, the State signed contracts with 14 residential facilities. This is the first time DHHS is in the position to hold residential providers accountable for quality and appropriateness of care through established contractual expectations. In compliance with the federal FFPSA, New Hampshire will be able to use federal IV-E foster care funds to reimburse for residential services if the facility meets certain standards, including accreditation. The stated intent of utilizing the residential providers is to provide evidence-based, trauma-informed care for short-term stabilization of children's mental and behavioral health needs that cannot be met in the community. Shifting language, the State refers to a child's stay at a residential facility as a "residential episode of treatment" rather than a "residential placement."

Areas for Strengthening

Contracting for specific aspects and quality of service is a major achievement for DCYF and the Bureau of Children's Behavioral Health (BCBH). Monitoring contract compliance will be a powerful means for ensuring effective care and limited disruption in children's development. However, there are still areas in the evolving system of care that will require ongoing development. Matching children to level of care may not be as effective as matching to specific modalities of care that are proven effective treating specific conditions or needs of children. However, as the new process rolls out, careful monitoring of child outcomes will build track records on programs to enhance decision making for subsequent admissions.

In the early assessments conducted by the CAT, as well as in the informational sessions about the process, there appears to be a focus on access to residential care as though the growing community-based array of services is forgotten, or its existence not yet trusted. Right from birth, home visiting and early intervention services set families on a path for nurturing children. When trauma happens, building on the effectiveness of early intervention, the gold star evidence-based treatment for caregivers and children aged 0-6 years is Child and Parent Psychotherapy (CPP). New Hampshire has a network of 96 licensed CPP clinicians in 24 agencies across the state. New services for older children include multi-systemic therapy, Youth Advocacy Program, Inc., LifeSet, and Intercept. All of them are designed to support children and families to develop positive relationships and effective coping strategies that promise wellbeing, school success and positive youth development.

> *"It seems like there are always excuses for why things aren't happening and why I am still here … at first they said I could extend probation to help me, but it hasn't helped and it just got me into a more restrictive placement."*
>
> *Dually involved child placed in an institutional facility.*

Understanding Behavior

With few exceptions, New Hampshire children are placed in residential, congregate care facilities because they demonstrate some problem behavior. There are several underlying causes of problematic behavior.

- Trauma exposure may result in running away (from abuse or neglect), poor self-regulation and coping skills, impulsivity, and modeling of abusive, offending behavior.[xxv]
- Disruptions in development, including from acquired brain injury may manifest with disinhibition, distraction, and aggression.[xxvi]
- Language impairment, often undiagnosed, is associated with internalizing (e.g., self-harm), externalizing (e.g., aggression), and attention-related behavior difficulties.[xxvii]
- Medical / intellectual disabilities and genetic syndromes may be associated with self-injurious behaviors.[xxviii]

In some cases, children will appear to have no control over their behavior in a dysregulated moment. In other cases, children's behavior appears intentional as they have learned to get their needs met through using and modeling the problem behavior.

The OCA has observed a pattern of children being placed in residential programs due to behavior without any firm understanding of the behavior. A sensitivity to trauma has evolved in New Hampshire in ways that benefit children and improve program interventions. However, although trauma may explain that a child resorts to anti-social behavior, it does not explain the function of the behavior. Without an understanding of the function of behavior, effectiveness of treatment may be hit or miss. Some interventions, including the busy milieu of a congregate setting, may exacerbate the underlying problem.

The process of functional behavioral assessment or analysis (FBA) reflects early examination of behavioral psychology that demonstrated behavior as predictable response to some factor in an individual's world. In other words, behavior is prompted by a trigger (e.g., certain noises or discomforting challenges), reinforced by consistency of response (e.g., attention, avoidance), and may be worsened by certain conditions (e.g., change in routine). The OCA has advocated for children to undergo analysis of the function of their behavior prior to any placement. Information collected in an FBA will inform a behavioral intervention program that could even be successful at home, preventing residential placement. The OCA has recommended these assessments in previous reports. We have also called for improving reimbursement rates for behavioral psychologists conducting the important assessments. The new CAT assessment, using the child and adolescent needs and strengths instrument (CANS) as mentioned above, is a good start at identifying and recommending level of need. However, for problematic behavior, without a full understanding of the function of that behavior, or what the child is communicating through it, there is not a full understanding of the type of behavior intervention required or direction for the adults who will be implementing a behavior program.

CASE REVIEW:
ANDY HAS TO WAIT

Andy has autism. He is mostly nonverbal. He came to child protection because his mother could not find help at home. He was placed in an institutional facility due to increasingly aggressive behavior. Complications of COVID-19 isolation exacerbated his behavior and the facility discharged him. Andy went home with no services. Shortly after returning home, he went to the emergency department because of aggressive behavior. He spent 4 weeks there where he also displayed aggressive behavior until he was admitted to Hamstead Hospital to wait for a bed in another institutional facility. There is a plan for moving him thousands of miles away from his mother. He has not yet had a functional analysis of his behavior to guide the people caring for him.

Transformation in Juvenile Justice: Changing Probation & Incarceration

Since 2003 it has been understood that the juvenile justice system is used as a point of access to services for diagnosable mental health disorders that children cannot access in communities.[xxix,xxx] This means many children end up in the system for care rather than seriousness of offense.

>450 The number of participants in Probation Transformation learning sessions

The OCA continues to be an active member of the Probation Transformation team sponsored by the Annie E. Casey Foundation. The project training sessions covered:

- Research findings on adolescent brain development, trauma, and behavior
- Improved long-term outcomes through diversion and community-based resources
- Enhanced effectiveness through positive youth development versus traditional surveillance
- Maximizing accountability & rehabilitation with individualized, strengths-based conditions of probation
- Systemic racial and ethnic inequities accounting for disproportionate representation
- Accountability

144 for 12 Number of beds and average number of children incarcerated at SYSC

In 2021, House Bill 2, the budget bill, contained language for closure of the SYSC. Closure marks an opportunity to re-think incarceration of children. The OCA's point in time survey of children at the SYSC found all the children could be treated effectively with intensive in-home services or, when clinically indicated, in appropriate residential care. This is in line with the evidence confirming the negative effects of detention and confinement on children, including of their mental health, school performance, and employment prospects. Keeping children connected to communities results in greater safety for the community[xxxi] by incentivizing respect and positive behavior through personal connections and feelings of being valued.[xxxii] The OCA has testified in support of this new approach before the Committee to Develop a Plan for the Closure and Replacement of SYSC. The DHHS commissioner has put forth a report recommending an 18-bed home-like replacement facility.

WHAT WOULD YOU CHANGE ABOUT PROBATION?

"I don't think it 's helping you when your JPPO shows up in the school cafeteria making sure all of your friends see him up in your business."

Child involved in JJS

Legislative Initiatives & Guidance

The 2021 Regular Legislative Session felt the pressure and loss of the pandemic. However, the power of Zoom improved access for advocates and citizens, including many children who testified on complex and sometimes painful issues. The OCA contributed to legislative actions that promise improved services and supports in the interest of children. Select bills and outcomes included:

Keeping Up to Date

The role of the OCA's oversight is taking hold as legislators are cognizant of keeping the Office informed and up to date by reporting mandates. **SB 157-FN-A** now requires the DHHS Commissioner report on the 10-year mental health plan of 2018 containing priorities for implementation of the plan to the OCA, among other persons and entities.

Safe Use of Psychotropic Drugs

The OCA was influential in amending **HB 120** to ensure when children are prescribed psychotropic medications while placed in foster care or residential facilities, there is diligent oversight by DCYF nurses of prescribing, administration, and outcomes. This success comes nearly three years after a federal inspector general's report counted New Hampshire among the five states with the highest rates of foster children administered psychotropic medication. Additionally, the OCA advocated successfully for comprehensive medical assessment to rule out an underlying physical cause and a comprehensive psychosocial assessment to address psychosocial issues prior to prescribing medications.

Diversion from Negative Effects of Juvenile Justice System

The greatest predictor of recidivism in delinquency is involvement in the juvenile justice system. **SB 94** creates an opportunity to assess children's strengths and needs, determine whether meeting needs mitigates risk to the community, and sets children on a path to healthy, pro-social behavior with referrals to the services that will meet identified needs. The Child Advocate has been a committed partner with the Probation Transformation Team working under the guidance of the Annie E. Casey Foundation and the Georgetown University Center for Juvenile Justice Reform. SB 94 is critical to the transformation of probation and juvenile justice.

Permanency: Home at Last

The OCA supported **SB 93-FN** to clarify and ease rigid timelines for children to have permanency. Permanency is a bureaucratic concept that fails to communicate fully the experience of a child living with constant uncertainty, waiting to rest in the safety of a home with committed family. We have urged DCYF, the Court, providers, foster families, and all involved in the lives of children on a path to new nuclear families, to preserve, as much as possible extended kin relationships that ground children in a circle of support, culture and identity.

RSA 21-V:2, II(e) Office the Child Advocate Established.

The office shall…[a}dvise the public, governor, commissioners, speaker of the house of representatives, senate president, and oversight commission about how the state may improve its services to and for children and their families.

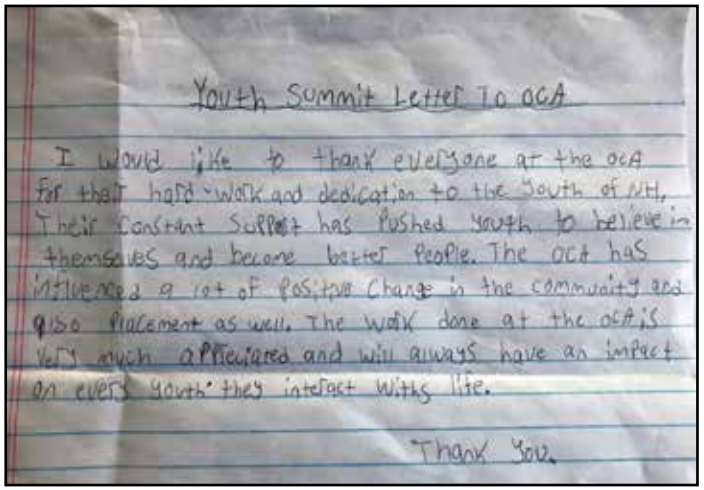
Outreach & Education

Listening

Big plans for reaching and listening to children placed away from home in residential facilities were thwarted by COVID-19 and all its restrictions on social gathering. Heck, even the OCA team could not meet in person for what seemed like forever. As we found our stride with virtual meetings and as residential facilities "teched up" we were able to embark on a virtual outreach tour. Regular "office hours" followed at two facilities, the SYSC and Vermont Permanency Institute for Girls. We hope to extend the opportunity to all residential facilities in the coming year.

Raising Youth Voice

It was not enough for the OCA to listen to children in 2021. We combined educating children about the power of self-advocacy and the importance of policy makers to hear their voices with our listening sessions. For the annual *DCYF Youth Summit* the OCA provided technical assistance and time to a young speaker. As the reporting year ended, we witnessed young leaders put their signatures on the creation of the Youth Justice Stewards Steering Committee with the promise of building a network of expert advocates to guide transformation in the juvenile justice system. The OCA also sponsored the *Magnify Voices Expressive Arts Contest*. The 2021 annual event saw powerful expressions of suffering and resilience under the travails of mental illness. The effects of COVID 19 loss and isolation were palpable in the artwork but the creative lens also spoke of resilience and hope among young people willing to speak of the problem and rise above it.


Youth Summit Letter To OCA

I would like to thank everyone at the OCA for their hard work and dedication to the youth of NH. Their constant support has pushed youth to believe in themselves and become better people. The OCA has influenced a lot of positive change in the community and also placement as well. The work done at the OCA is very much appreciated and will always have an impact on every youth they interact with in life.

Thank You.

Presentations and Trainings

The pandemic did not stop the children's services world from learning and building skills. OCA staff participated in 18 conference presentations, panels, trainings and listening sessions. We never missed an opportunity to spread the word on the latest science of brain development or new modalities of effective care across the state, region, country and, thanks to the World Affairs Council, the world. We also took RSA 21-V on the road and presented about the OCA, its mandate, Safety Science work, and authority, to state agency staff, judges, provider organizations, university courses, and other interest groups.

"Thank you very much for the time you took to understand our audience and for your efforts to help us make the training even better… You have made the Circuit Court a better place through your time and efforts." — NH Circuit Court Judge

RSA 21-V:2 Office of the Child Advocate Established.

The office shall: …

II…

(d) Examine, on a system-wide basis, the care and services that agencies provide children, and provide recommendations to improve the quality of those services in order to provide each child the opportunity to live a full and productive life.

…

VI. Perform educational outreach and advocacy initiatives in furtherance of the mission and responsibilities of the office.

Representing Children's Interests

31 Boards and committees on which the OCA regularly participates

The following boards and committees are in addition to many ad-hoc convenings, child treatment team meetings, and other special events or legislative coordinating meetings, to ensure the voices of children are part of policy and program conversations.

Prevention	Legal	Child Protection	Juvenile Justice	Outreach & Education
Children's System of Care Advisory Council	Attorney General's Task Force on Abuse and Neglect	Abuse - Neglect Monitoring and Reporting in COVID Leadership Group	Commissioner's Sununu Center Transition Work Group	Granite State Children's Alliance, Know & Tell Advisory Board
Children's System of Care Workforce Development Network Leadership Team	Bar New Editorial Board	Another Planned Permanent Living Arrangement (APPLA) Committee	Probation Transformation Team	Homeless Youth Subcommittee
Community Resource Guide Leadership Group	Family Treatment Court Oversight Committee	Child Fatality Review Committee	San Diego Probation Transformation Team	Magnify Voices Expressive Arts Context Event Committee
Community Resource Guide Data Subgroup	Model Court Committee	Child Welfare Interagency Team	Foundational and Steering Committee for the Youth Justice Steward Program	NH Microsoft 365 Champions
Community Resource Guide Working Group		Child Advocate, DCYF Constituency Services and DHHS Ombudsman Quarterlies		Regional Child Advocate & Ombudsman
DCYF Quality Assurance Case Reviews		Perinatal Substance Exposure Task Force		USDA Children and Family Chapter
Safe Sleep Work Group				US Ombudsman Association Annual Conference Planning Committee

Stay tuned:
The OCA is hosting the United States Ombudsman Association Annual Conference in Portsmouth, Fall 2022!

Message to the Children

Your voice matters.

In a world where you may feel you have no control, adults create and enforce all the rules and laws and make all the decisions in your life, you must trust that you hold the power to make positive change. Your experience is your expertise. Share it. You need to be heard. Your ideas and wishes should be part of the conversation. Your feelings are valid. Your knowledge is deep. Speak up. Advocate. Advocate for yourself. Advocate for a peer. Advocate for someone who cannot speak for themselves. Advocate to make an unjust rule fair. Advocate to update an old law that no longer applies. There are so many ways. Whatever way you choose, the Office of the Child Advocate is here for you.

Assistant Child Advocate Jason Taylor and 2021 Graduate

- Create art with a story and point of view and show it off.
- Write the music that tells a truth to be listened to and shared.
- Perform small positive acts until there is a big positive change.
- Be a squeaky wheel by speaking up for injustice.
- Ask for help.
- Offer help.
- Contact your legislator.
- Offer testimony to the legislature on bills that impact your life.
- Be an example.
- Lead by example.
- Walk with the OCA.

Meet The Office of Child Advocate Team

Emily Lawrence, JD, Associate Child Advocate

Among other things, I am the lead on the review processes the OCA utilizes with the support of Casey Family Programs and developed by Collaborative Safety LLC. When I am facilitating a review, I focus on creating a safe space for the DCYF team so they can examine the environment in which CPSWs and JPPOs operate day to day with honesty and openness. Collaboration and learning are key. We all have the same goals for children.

Karen Kimel, Office Coordinator

The Office of the Child Advocate may be small, but it is an independent State agency. Although it is administratively attached to the Department of Administrative Services, my role is to perform the in-house administrative functions of the agency. At any given time, I coordinate the budget, accounts payable, procurement, IT, supplies, travel, HR matters, logistics, social media accounts, outreach materials, and whatever else needs managing. A Jill of all trades, I am also the first point of contact for the OCA. Every day brings a new challenge and enables me to support and promote the team in the important work we do for children.

Jason Taylor, Assistant Child Advocate

My day begins with checking the phones, E-mail, and case management system for new inquiries from people worried about children. In a single day I may assist a child to state their needs in a treatment team meeting, console a parent who is in the process of losing their parental rights, direct a foster parent to supportive services, share information with a probation officer about a new in-home service, or walk an attorney through an established system process. For many people, I just listen and use my experience to guide them to the right place. My favorite days are those when I get to meet with young people and help influence positive outcomes for them and their families.

Chris and Caitrin are the newest members of the OCA staff. Their work will capture the results of New Hampshire's investment in children, confirm trends in care that need attention, and bring transparency to government to ensure accountability.

Caitrin Perry, Legal Secretary

I spend my hours reviewing incident reports and entering them into our case management system for further analysis and, if needed, case review. I also monitor and review case records for children who are frequently the victims of physical restraint in facilities or the child who has been missing for weeks. In doing so, I track trends and identify gaps in our system.

Chris Sheehan, Children's Services Analyst

I solve problems by finding ways to measure them and monitor progress over time. My day begins with seeing how many children are in the emergency department waiting for psychiatric care. I frequently talk with the OCA about the data we are tracking and how we utilize the data to demonstrate the need for preventative services and resources for children and families. I will be re-building the OCA's data system so we can better identify trends in system weaknesses as well as recognize shifts towards success.

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[xii] [5]Exhibit 1-A of the 11/25/2019 Agreement for Services at 029-gc-agenda-121819.pdf (nh.gov) (exclusionary criteria for the admission of children and youth).

[xiii] Personal communication, October 15, 2021.

[xiv] *See* Timmins, A. (2021, October 14). State in the process of buying Hampstead Hospital, a provide of mental health care for children. *New Hampshire Public Radio*. State in the process of buying Hampstead Hospital, a provider of mental health care for children | New Hampshire Public Radio (nhpr.org) (reporting that "[s]ince the start of the pandemic, [the number of children waiting in emergency departments] has reached 50 and typically hovers between 20 and 35").

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[xviii] Crossover Youth Practice Model | Center for Juvenile Justice Reform | Georgetown University

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