



State of New Hampshire

Office of the Child Advocate

Moira O'Neill

Director

ISSUE BRIEFING

Case Number 2020-01-IS01

COVID-19 Quarantine for Children in the Custody of DCYF:
A Community-based Solution

July 10, 2020

MISSION

The mission of the Office of the Child Advocate (OCA) is to provide independent and impartial oversight of the New Hampshire Division for Children, Youth, and Families (DCYF), the state agency responsible for child welfare and juvenile justice systems, to promote effective reforms that assure that the best interests of children are being protected. To achieve this mission, the OCA:

- Listens to all concerns about DCYF
- Responds to complaints with a credible, objective review process
- Respects the importance of every person in a child's life
- Builds collaborative relationships and provides informed recommendations for reform
- Promotes practices that are proven to be effective to help children and families
- Maintains independence and impartiality in all aspects of oversight of DCYF

DESCRIPTION

The OCA will periodically release issue briefs to inform DCYF and/or the public on activities of the office and/or to provide information and educational outreach on relevant issues in furtherance of the OCA mission and responsibilities. Issue briefs may identify gaps or areas in need of system strengthening, but an issue brief may also highlight findings and recommended practices that contribute to the best interests of children under the care and protection of DCYF.

JURISDICTION

The OCA shall “[p]rovide independent oversight of the division for children, youth, and families to assure that the best interests of children are being protected” and “[r]egularly consult with the department of health and human services and the oversight commission established in RSA 170-G:19.” RSA 170-G:18,III(a), (b). The OCA shall also “[h]ave the authority to review and investigate any aspect of the department's child protection policies or practices.” RSA 170-G:18,III(f). In addition, the OCA shall “[p]rovide information and referral services to the public regarding the department's child protection services; provided that case specific complaints shall be handled by the department” and “[p]erform educational outreach and advocacy activities in furtherance of the mission and responsibilities of the office.” RSA 170-G:18,III(g), (h).

ISSUE

There may be times when children in the custody or supervision of DCYF need to have a quarantine period prior to placement at, or following temporary leave from and return to, residential treatment facilities. However, New Hampshire has no means of accommodating such a quarantine period for these children.

On March 13, 2020, the Governor declared a state of emergency in New Hampshire as a result of the Novel Coronavirus (COVID-19) pandemic. Since that date, with few exceptions, New Hampshire's providers of children's residential services have essentially ceased admissions to minimize risk of COVID-19 exposure. The majority of facilities are not equipped with either space or staff to accommodate the recommended 14-day quarantine to protect other resident children and staff from viral exposure while providing a developmentally appropriate therapeutic program. If a resident child absconds from a facility, the child may not be re-admitted due to perceived risk and need for quarantine. Some providers have refused to allow children to attend important family events, legal proceedings, and even therapeutic appointments without threat of permanent discharge. The COVID-19 pandemic is not expected to be resolved for at least a year. A surge of infections is predicted for autumn 2020 and winter 2020-2021. The lack of quarantine capacity may be an obstacle to children's care. However, the COVID-19 pandemic is underscoring risks associated with congregate living in general. The situation exacerbates empirically proven negative effects associated with congregate living that may outweigh the benefit of placing children in these facilities. This Issue Briefing examines underlying system concerns and contemplates a community-based, home or home-like remedy for the COVID-19 quarantine of children in DCYF custody.

BACKGROUND

To arrive at the most effective remedy to the problem of residential quarantine capacity, the context within which the problem lies must first be contemplated, specifically: the use of residential care for children involved with child protection and juvenile justice systems. New Hampshire demonstrates 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. In fact, DCYF's *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."¹

¹ American Public Health Services Association, Alliance for Strong Families and Communities, (2018). New Hampshire Division for Children, Youth and Families Adequacy and Enhancement Assessment, page 28. <https://www.dhhs.nh.gov/dcyf/documents/adequacy-enhance-assess-070318.pdf>

In 2019, Senate Bill 14 passed into law with broad support from the legislature and governor. It was intended to expand the system of community-based care and supports (SOC). The bill included establishment of mobile crisis response services for child and family-defined crisis as a means of stabilization, direction to appropriate services, and prevention of acute and long term out-of-home care. The legislation also requires assessment of child and family strengths and needs by an independent assessment entity with independent referral to appropriately matched services; and expansion of available wrap-around intensive child and family supports.

In the same year, the biennial budget included allocation of funds for DCYF to implement a residential care system re-design. The re-design is intended to bring New Hampshire into compliance with the federal Family First Prevention Services Act (FFPSA). The FFPSA is in effect now and final date for compliance is October 2021. The FFPSA shifts the use of Federal IV-E funds from out-of-home services for children who are abused and neglected, to community-based family-strengthening and abuse/neglect prevention services. While funds may still be used for residential care, the federal law imposes strict measures for independent assessment of child and family strengths and needs that must be matched to evidence-based treatment by an accredited program. Under the FFPSA, the independent assessment entity is further mandated to monitor appropriateness of placement and therapeutic progress to expected outcomes. Failure to comply with FFPSA risks New Hampshire losing considerable federal funding – a potentially significant loss given the cost of residential treatment ranges from \$51.94 - 2,490.45 per day.²

The broad policy change that FFPSA represents is based on empirical findings of children doing better when they are kept at home or in a home-like setting. When out-of-home placement is determined to be necessary for a child's wellbeing and care several state and federal laws govern the type and quality of that placement:

- The federal Adoption Assistance and Child Welfare Act (P.L. 96272) of 1980 mandates that children be placed in the least restrictive placement available
- The federal Individuals with Disabilities Education Act mandates a least restrictive setting
- New Hampshire RSA 169-B, -C, and -D each nod to the necessity of seeking least restrictive settings and maintenance of children at home or in home-like settings whenever possible
- Key principles of the New Hampshire system of care include services provided at the community level with youth and family in their home and community, and all children receive service in least restrictive, most normative environment that is clinically appropriate

² Daily rates from DCYF records last reviewed September 2019

The benefits of home or home-like placements were echoed in a recent review of New Hampshire's residential services. Therapeutic foster care was identified as a significant gap in the array of services meant to best meet the needs of children. As a result, the implementation of increased capacity of therapeutic foster homes is now integrated into the residential services re-design.³

There are times when an intensive residential program is the most appropriate to meet a child's needs. Because of the restrictions of law, national data demonstrate a child may experience several failed placements in less restrictive settings before they arrive at the appropriate level of care.^{4,5} In New Hampshire a default to less restrictive has not been observed, as explained above. However, children do experience a high rate of multiple failed placements. Record reviews reveal a practice that has historically focused on available beds rather than specific models of care. This practice appears to be influenced by the culmination of several factors. For example, child protection service workers (CPSWs) have had historically high caseloads, limiting time spent seeking appropriate services. Juvenile justice services tend to punitive, restrictive approaches rather than therapeutic and rehabilitative. New Hampshire also has had a limited community-based services array for alternatives to congregate care, therefore, the over reliance on most restrictive settings described in the Adequacy and Enhancement report. The Bureau of Children's Behavioral Health recently assessed match between identified level of care and level of placement among a small sample of children at one facility. Ten of 26 children were unmatched to the level of care provided. Currently, a pattern may be emerging with pandemic-influenced limited residential options. Children are directed to residential pathways through a provider willing to accept children into short term intensive shelter care followed by self-referred deeper restrictive settings. Foster care is especially a rare consideration for children in juvenile justice services.

Even with greater attention to matching children to the appropriate therapeutic placement, the longer term outcomes for children discharged from residential services has not been promising in national data. While children matched to a program of least restriction are more likely to be living at home after discharge than counterparts in more restrictive settings, both groups experience persistent risk of academic failure, substance use, and subsequent involvement with

³ Bureau of Children's Behavioral Health, DHHS. Presentation to the System of Care Advisory Council, July 8, 2020.

⁴ Dale N, Baker AJL, Anastasio E, Purcell J., (2007). Characteristic of children in residential treatment in New York state. *Child Welfare.*; 86(1):5-27. [PubMed: 17408008]

⁵ Whittaker, J.; Fine, D.; Grasso, A., (1989). Characteristics of adolescents and their families in residential treatment intake: An exploratory study. In: Balcerzak, EA., editor. *Group care of children: Transitions, towards the year 2000*. Washington DC: Child Welfare League of America, p. 67-90.

law enforcement.⁶ This view of most effective supports for children is the foundation for the president's recent executive order on strengthening the child welfare system.⁷ Timely, responsive care, as would be activated by mobile crisis response and stabilization services, with adequate assessment of needs, would shorten a child's time out-of-the home by reducing multiple failed placements.⁸ The attention New Hampshire's re-designed system receives in placement decisions will be a worthwhile investment avoiding the empirically identified negative outcomes of imposing the wrong type of care on a child.⁹

This background provides important context for contemplation of options for children in need of a quarantine period. With the consideration of the over-reliance on residential care that may not always be the most effective path for children's success or state financial resources, accommodations for quarantine should be similarly informed.

POTENTIAL REMEDIES

The Office of the Child Advocate has learned about four potential solutions DCYF has considered or is considering for accommodating a needed COVID-19 quarantine period for children being placed in residential treatment.

- Build a quarantine unit at the Sununu Youth Services Center (SYSC)
- Invest in private residential facility infrastructure to enhance quarantine and staff capacity
- Enlist foster care and/or family caregivers for quarantine
- Maintain status quo

DISCUSSION

When taken in the context of the path New Hampshire is already on and the direction New Hampshire needs to go to best serve children and their families, solutions that require additional investment in residential infrastructure do not meet New Hampshire's longer-term needs. New Hampshire is in an excellent position to expand a community-based system of care that is responsive, not only to children's needs as they have been understood pre-COVID-19, but also from what we are learning about children and families as the pandemic unfolds. Lessons from COVID-19 demonstrate the value and, going forward, necessity for a robust community-based

⁶ Ringle, JL, Huefner, JC, James, S, Pick, R, & Thompson, RW, (2012), 12-month follow up outcomes for youth departing and integrated residential continuum of care. *Child Youth Services Review*, 34(4), doi: [10.1016/j.childyouth.2011.12.013](https://doi.org/10.1016/j.childyouth.2011.12.013)

⁷ <https://www.whitehouse.gov/presidential-actions/executive-order-strengthening-child-welfare-system-americas-children/>

⁸ Sunseri PA, (2005). Children referred to residential care: Reducing multiple placements, managing costs and improving treatment outcomes. *Residential Treatment for Children & Youth*, 22:55.

⁹ Lyons JS, Terry P, Martinovich Z, Peterson J, Bouska B, (2001). Outcome trajectories for adolescents in residential treatment: A statewide evaluation. *Journal of Child and Family Studies*. 10:333 345.10.1023/A:1012576826136

system of care that will best situate New Hampshire to respond to children's needs as viral transmission remains a constant threat for the coming years.

SYSC & Private Facility Quarantine Units

Investment in enhancing the physical space at the SYSC or at private facilities would not serve as the best use of New Hampshire's resources for two reasons. First, with the movement away from reliance on residential care, the need for physical structures is uncertain. Staffing is a second and considerable obstacle. New Hampshire already faces considerable workforce shortages. The state competes with surrounding states that have similar needs and higher wages. There is no accurate measure to predict need for quarantine. That means that a full complement of staff as would be required, would not be consistently needed. Would staff still be paid? Would they be shifted elsewhere, thereby creating a shortage when mobilized to the quarantine unit? Basic principles of business and market demand prevail in such an uncertain situation. Given the likelihood of limited and inconsistent need, an established physical space would risk shift in use for other means at a time when the State is well on its way to a carefully planned and responsive evidence-based, home and community-based system.

Foster Care for Quarantine

In March 2020, DCYF administrators reported surveying foster parents to determine willingness and ability to host children who have been exposed, are infected and/or need quarantine. The response was positive. A significant resource was identified. The survey did not address the need for accommodating children who may have intensive needs beyond quarantine. There is somewhat of a consensus that children with complex behavioral needs, and especially children who are age 16 and above, are difficult to match with foster homes. However, allocating the considerable resources that would otherwise be required for building physical space and hiring staff to foster or relative caregivers could be an effective incentive.

Establishing a special rate for quarantine care reimbursement would help attract caregivers along with the limited commitment of a 14-day accommodation for the intermittent need of quarantine services. Further, enlisting intensive in-home providers, including the Department's Fast Forward wrap around program, to partner with quarantine caregivers when the child has complex needs would guarantee intensive supports and allow for stabilization and assessment to ensure appropriate next steps after quarantine. This option is practical because it will not result in idle staff or empty facilities when not in use. The foster or relative caregiver would simply carry on usual routine in their homes. A short-term commitment (average quarantine is 14 days) may appeal to those people who would like to contribute to helping children but are unable to accommodate children full time or for long term.

Maintaining Status Quo

Until the SOC is expanded and the re-design of residential care is underway, there will still be children who are caught in a COVID-19 limbo. If a certain residential program is appropriate for

a child, if it has been thoroughly vetted as having the capacity to meet a child's individual needs, then ensuring the child has been quarantined and is not a risk to the rest of the program's population is likely to motivate providers to accept admissions. Making no change risks children being placed in the wrong setting, which has been proven to exacerbate conditions, not help.

Obstacles

A sustainable and effective remedy to the problem of inadequate quarantine capacity must be designed in the context of all other considerations. New Hampshire should be asking why children who need quarantine are not home? Last year, legislation and a budget were approved to build an infrastructure of support for children in their homes. To best serve children, capitalize on federal resources, and minimize need for state expenditure in times of serious budget shortfalls, New Hampshire must move rapidly to redesign and enhance systems serving children at home and in the community to lessen reliance on ineffective residential programming.

New Hampshire is positioned to be a national leader in a well-designed and responsive home and community-based system of care complimented by evidence-based residential programs equipped to meet individual needs of children when necessary. However, there are several obstacles to building the system and ensuring protection from the viral spread. The expansion of the SOC and the residential re-design, passed by the legislature in spring 2019, have been considerably delayed;

- The Department service procurement capacity is substantially limited. The development of requests for proposals (RFP) and drafting of contracts for services is extremely slow. There are not enough staff to complete the work in a timely manner causing considerable delays in rolling out expended and redesigned services
- The Department human resources process is cumbersome and short staffed. Although changes have been made, there remain considerable delays in filling necessary positions
- The Department perceives providers as not ready, due to COVID-19 influences, to apply for contracts and bring new services on line, while providers report they are concerned with delays given community need and resources
- DCYF perceives limited foster and relative care resources

CONCLUSIVE RECOMMENDATIONS

- Craft a specialized foster or relative care program for 14-day quarantine placements. Allocate resources for assured success of care as well as incentivized providers to include:
 - Enhanced daily rates for flexibility of timing and risk of exposure (allocate COVID-19 release funds for this model of care)
 - Engage in-home, intensive support services for flexible case assignment designed to support short stay care and assessment of need to ensure next steps meet

- child's needs and any handoff to providers and caregivers is fluid (allocate COVID-19 release funds for this model of care as an incentive or for uncovered services)
- Undertake a marketing initiative to recruit foster parents for this short-term commitment, flexible option of helping children
 - Allocate COVID-19 Relief funds to enhance Department capacity for building the necessary community-based system in response to COVID-19-related stresses on the system, to include:
 - 2-3 positions in the Department's contracts and procurement office to expedite release and process of RFP and contracts for:
 - Community-based voluntary services
 - Rapid mobile response and stabilization services (will also relieve pressure on emergency departments needed for COVID-19 response)
 - Independent Assessor
 - Statewide Case Management Entity (one exists, a second is expected)
 - Residential service procurement
 - Multi-systemic therapy
 - Homebuilders
 - 1-2 extra positions in the Department HR to increase capacity to expedite hiring and design/approval and posting of supplemental job descriptions to ensure the Department's capacity to implement and oversee all new programs and services
 - Prioritize staff departments needed to process RFPs in the most efficient manner, including the Department, the Office of the Attorney General and any other necessary office
 - Assess any and all children in quarantine enroute to a residential placement with a strength-based needs and risk measuring instrument to ensure placement is appropriate and match of program appropriate - so long as child is well enough to participate.