

Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel

6 – 8 PM on Tuesday, May 14th, 2024

Location: Zoom Meetings

- ORCA Media recording of the live meeting:
 - o <https://www.orcamedia.net/show/may-14-2024-rdap>
 - o <https://youtu.be/uIMBioAprY0?si=8BslcLokfCeBBQiy>

- Introductions
 1. Dr. Etan Nasreddin-Longo – Chair of the Racial Disparities Advisory Panel
 2. Julio Thompson – Assistant Attorney General and Civil Rights Unit Co-Director
 3. Dan Bennet – Vermont State Police, Deputy Director of Fair and Impartial Policing
 4. Tyler Allen – Adolescent Services Director with the Department for Children and Families
 5. Laura Carter – Data Analyst in the Division of Racial Justice Statistics
 6. Aryka Radke – Deputy Commissioner of the Family Services Division with the Department for Children and Families
 7. Chris Louras – Public Observer from Rutland
 8. Elizabeth Morris – Juvenile Justice Coordinator at the Department for Children and Families
 9. Kheya Ganguly – Director of Trauma Prevention and Resilience Development for the State of Vermont
 10. Grant Taylor – Minute taker for the Panel
 11. Superior Judge Mary Morrissey – Judiciary Representative on the Panel
 12. Shela Linton – Executive Director of the ROOT Social Justice Center
 13. Chief Don Stevens of the Nulhegan Band of the Coosuk, Abenaki Nation
 14. Isabella Whelan – Housing Program Coordinator for the Department of Corrections
 15. Derek Miodownik – Community and Restorative Justice Executive with the Department of Corrections
 16. Farzana Leyva – Orleans County States Attorney
 17. Reverend Mark Hughes – Executive Director of the Vermont Racial Justice Alliance
 18. Jennifer Poehlmann – Executive Director for the Vermont Center for Crime Victim Services
 19. Tiffany North-Reid – Data Manager with the Division of Racial Justice Statistics

- Meeting minutes from April

Tyler: Motion to approve minutes.

Chief Stevens: Seconded.

Motion passed.

- Public comment

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Reverend Hughes: He spoke with Chair of the Cannabis Control Board James Pepper. Comments on the equity reinvestment from the cannabis development fund. Looking for analysis around acceptance of the existence of systemic racism. War on drugs is one instrument in systemic oppression.

Etan: James Pepper has spoken with him about the presence of the Chair of the Panel on another committee that was proposed. He said that would be something that needs rewriting because he doesn't have more time to serve on another panel or committee.

Reverend Hughes: Was there any discussion about the report?

Etan: Yes, the report calls for the Chair of this Panel to serve on another committee. He cannot, so it needs to be rewritten.

Reverend Hughes: There is some emerging language in H.612 - An act relating to miscellaneous cannabis amendments. This Panel is charged with creating a report each biennium.

Laura: The Division of Racial Justice Statistics is there to assist with the report, not write the report.

Etan: The Panel has not completed that report yet.

Reverend Hughes: Defer time, asks for time on next month's agenda.

- Announcements

Etan: Rebecca Turner and Jessica Brown missed the meeting.

- "Rest stops" – or alternative placement settings


Tyler: High end of system of care refers to residential placement settings that are within the Department for Children and Families' reach. Urgent situations with a high acuity of need.

15 minutes

More intensive mental health treatment. In the last three years there has been a dramatic deficit as to what we have access to for residential placement. He has a presentation about where the need is and what the rationale behind placement types looks like. Discuss it and then open it up for discussion. Begins presentation.

Chief Stevens: Just to be clear, all items on a Totem pole are equal. There is no hierarchy.

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VERMONT
 AGENCY OF HUMAN SERVICES
 DEPARTMENT FOR CHILDREN & FAMILIES

DCF Raise the Age, High End System of Care Status Update in Accordance with Act 23, Section 14

- Reiterates the HESOC plan program types
- High-End System of Care Expansion updates
- Stabilization and Treatment Settings – Foundational Principles Statement
- Partner engagement efforts and other recommendations

Link to [DCF Act 23 report](#)

Aryka Radke, Deputy Commissioner, Family Services Division
 Tyler Allen, Adolescent Services Director, Family Services Division

Tyler: The Department for Children and Families submitted a few reports about what their system of care looks like.

Level of Care	Pre-Pandemic Contracted Capacity	Current Licensed Capacity	Actual Capacity November 17, 2023	Actual Capacity (Percent of Pre-pandemic Contract)	Actual Capacity (Percent of Current Licensed Capacity)
Secure Programming	16	0	0	0%	0%
Crisis Stabilization	20	19	13	65%	68%
Mental Health Emergency Beds	16	18	13	81%	72%
Short Term Stabilization	14	16	6	43%	38%
Intensive residential	75	46	44	59%	96%
Community Based Residential	55	58	31	56%	53%
Total	196	157	107	55%	68%

*Data updated on 11/17/23

Current High-End System of Care Capacity

This is a chart showing what the Department for Children and Families has access to for instate residential care. There are various levels of care. Before the pandemic there were roughly 200 beds available as opposed to last year when there was half that available. Sometimes there are unhealthy case mixes due to an under resourced system.

This brings us to the “rest stop” and other placement settings. The Department for Children and Families has a place called the Yellow House in Lamoille County, and apartment in Chelsea, a project in Middlesex. We use them out of necessity, but they don’t like them because there’s no treatment attached to them, there’s no educational protocol.

HESOC Coordinator – Role and responsibilities

- The immediate scheduling and coordination of high-end staffing of youth in the division's available alternate settings during DCF-FSD business hours, working in collaboration with the Central Intake & Emergency Services (CIES) to ensure consistency after hours and holidays.
- Gather information about the youth and situation, determine the location for staffing, if constant law enforcement/security is necessary, and level of staffing needed in collaboration with Operations and the District office teams.
- Work with our contracted agencies that provide staffing resources as well as our AHS Child and Adolescent Transitional Staffing Team to ensure staffing coverage.
- Directly support FSD staff by coordinating and maintaining the staffing schedule, providing procedure documents, support shift communications and maintain connections with community resources.
- Facilitate the High-end Staffing Weekend Debrief Meeting and Staffing Debriefs to coordinate and develop updates to our procedures, address any un-met needs and make overall improvements to situations when we need to staff our kids at FSD alternative sites or other locations.

Chief Stevens: Within the Department for Children and Families there was a position created for extending the Indian Child Welfare Act down to Abenaki children with the state of Vermont. Marshall Rich was hired for that position. Are you working with that position when it comes to indigenous people?

30 minutes

Aryka: They have not had that come up. It may come up while staffing a child with cultural needs; they would then reach out to that coordinator. She will check into it further and get back to Chief Stevens. Tyler spoke about staffing being a real stressor on workers, and that there was no educational element. Another issue that’s a stressor is when they are staffing kiddos at these alternative sites there are a lot of people coming in and out. That’s not really the stability they want for the youth.

Chief Stevens: There is still a lot of fear within their population. Children might not always self-declare. Often, they are forgotten or left behind.

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Elizabeth: Currently the work is regarding new child protection statewide, Abenaki partners sharing information during open child safety interventions. That group is working on gathering some information to create a practice guide and checklist or even an add on for cultural context guidance specific to engaging with Abenaki tribes.

Chief Stevens: It's difficult for Indigenous people, but there are also a lot of cultural barriers for new Americans. Sometimes they have a different culture and a different way of looking at things than Americans do.

Reverend Hughes: He's looking at the Act 23 report and doesn't see any race disaggregated data.

Tyler: What the Department for Children and Families does with alternative setting staffing is an area of concern for a lot of folks. They are looking for options to move forward. Now they are organizing their work around a practice they want to end.

The Broad Approach

- The youth DCF generally supports have experienced trauma, have significant Adverse Childhood Experiences (ACEs), and experience mental health challenges as a result.
- Consistent with a more therapeutic approach, for decades Vermont has been moving towards using the least restrictive settings possible in a variety of systems of care.
- Setting matters. Brain science shows the value of nature for promoting healing and brain cognitive development.
- There are youth who are our neighbors, friends, students, and families. We, communities as well as State systems, have an obligation to serve and support them.
- DCF developed a statement of principles to guide development of programs and settings for the HESOC

Building a trauma responsive system is a priority. They want it to be therapeutic and want to respect brain science. If a young person runs into a point of crisis within the state of Vermont, then they have a responsibility to care for them. They have a statement of principles about guiding the development of programs and settings. The worst thing to do is overrespond, that leads to

entrenching them in behavioral patterns which become recurrent throughout their adult lives. Their approach is grounded in the idea that these are young people during normal development.

Kheya: What percentage of high-end care cases are housed out of state?

Tyler: At one point there were 48 residential in state and 44 out of state. That doesn't include crisis stabilization. The reality is that Vermont can't provide every type of specialized treatment setting. To solve most of the problems they need to keep kids with their family.

This is the general breakdown of what they're looking to expand in their high-end system of care.

45 minutes

Psychiatric Residential Treatment is a step above the residential settings they have available, but just below the need for a hospital visit.

High-End System of Care (HESOC)

Short-Term Secure Stabilization: Hardware-secured physical structure with generalized therapeutic programming, designed to immediately manage acute safety crises for any justice-involved youth.

Short-Term Secure Treatment: Hardware-secured physical structure with specialized therapeutic programming, designed to address behaviors that present risk to personal or public safety for appropriate justice-involved youth.

Staff-Secure Crisis Stabilization: Community-based physical structure with generalized or specialized therapeutic programming, designed to immediately manage acute crises for any youth, including appropriate justice involved youth.

Psychiatric Residential Treatment: Community-based physical structure with specialized therapeutic services designed to serve youth with intensive mental health or developmental needs, including appropriate justice involved youth.

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Psychiatric Residential Treatment (PRTF)

Program: In collaboration with the Department of Mental Health (DMH) and the Department for Aging and Independent Living (DAAIL), DCF issued an RFP on 5/10/23 to develop a PRTF facility within Vermont that can serve up to 15 Vermont youths.

Staffing: To be provided by the bidder

Status: The RFP yielded a successful bid, and the Departments are currently engaging with the bidder in contractual negotiations

Aryka: The Department for Children and Families is working with the Brattleboro Retreat to provide a psychiatric residential treatment facility.

Tyler: That's the last slide. He'd like to open it up for discussion. Also, they would like to get into the data next time even though it wasn't included in the Act 23 report.

Chief Stevens: Wants to remind everyone that everything needs to be looked at through culturally appropriate lenses. Look at what happened at the Brandon school for boys and at Waterbury state hospital and others. Indigenous people were sterilized. Anything in policy that deals with our kids needs to incorporate a culturally appropriate lens.

Aryka: That is a worthwhile reminder. We know of the disparate impact on children of color. We have our statewide racial equity workgroup look at everything.

Reverend Hughes: Before any of that we got to trace the legacy of slavery to the treatment of black folks, of black bodies, of black minds in our current mental health care system in the United States. It was the predecessor to the prison system. They are the original culture. There's nothing about the criminal justice system or the mental health system that's nice to black people. A rising tide lifting all ships doesn't work. We don't have a Governor who's made it an executive mandate to address these matters with a priority of racial equity across all systems of state government.

Chief Stevens: Different treatment is needed for different cultural backgrounds. New Americans have a different culture and a different way of being. Some people are coming from refugee camps. Indigenous people have issues, new Americans have issues, and black and brown people have their own issues too. One treatment plan for everyone will not work.

Tyler: They build an individualized treatment plan for each person going through the programs. There are many ways they consider each individual and their specific needs. This is how the state is organizing the resources so they can have the most robust continuum of care possible.

1 hour

They engage stakeholder feedback in the processes of what they are building. They get the experience of individuals, including the voice of young people. They can identify their needs and affective pathways because it is a changing world. They gather feedback from a broad group for this process.

Etan: What kind of education is required to staff the facilities?

Tyler: Each program operates under a Clinical Director who is licensed, but all the staff at the facility wouldn't necessarily be licensed.

Reverend Hughes: What are we seeking to accomplish here? What are we trying to do?

Etan: Are you talking about this Panel? We are gathering information.

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Reverend Hughes: He's thinking about the charge of this Panel. What the intent was when they set it up. He's trying to put this conversation into context. What are we seeking to accomplish?

Etan: The Panel is seeking to gather information now. Several Panel members brought up this issue as something to look at.

Reverend Hughes: How do we address systemic racism within the work of the Panel? He doesn't think the Panel is on that path right now.

Etan: It will take time. The Panel meets for 2 hours each month. Right now, it's gathering information. It will be doing the same thing next month.

Reverend Hughes: What are we doing?

Tyler: What he's trying to do here is articulate the position of his department. The action that they are taking, for everybody's understanding, to open a doorway for reciprocal feedback.

Kheya: She thinks this feeds into the justice piece because of juvenile justice which does come under the purview of the Department for Children and Families.

Tyler: Vermont's child welfare system also houses juvenile justice as a practice. The benefit of that is they look at each youth that comes under their care as an individual and can include their family system holistically.

Etan: What have the numbers said in terms of racial disparities? Are there any problem areas?

Tyler: He looks forward to looking at numbers during next month's meeting. He doesn't think any youth of color are represented in the rest stop data.

Aryka: It's important to focus on a diverse cultural lens because we may have youth of color going through the alternative setting program soon. She is facilitating a high-end system of care task force that's looking for creative ways to build out the system Tyler was talking about.

Reverend Hughes: There's a lot of data out there, it all tells the same story. Due to the legacy of slavery, there are racially disparate outcomes. It shouldn't be a surprise to recognize it in this system either. Processes need to be implemented to avoid having this conversation years from now. It's unacceptable to have this conversation now about not knowing where the data is.

Etan: Gathering data has proven quite tricky.

1 hour 15 minutes

Reverend Hughes: The Panel doesn't need to gather the data. The issue is a lack of a mandate requiring various agencies and departments to gather it with a purpose of racially disaggregating it. This is a good exercise where the data is not. How can they institute the acquisition of data moving forward? A baseline measurement is needed to inform mitigation strategy.

Kheya: The Department for Children and Families has old computers and has been asking for new systems for a long time.

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Tyler: They have plugged the data system into every request and report every time it comes around. Data is a little tricky because it's generalized.

- Equity Impact assessments for bills in the legislature

Etan: Discussion about a proposed letter to the legislature from the Panel chair. He had a half-hour meeting with the Attorney General. There is no mechanism to guarantee an equity review for all the bills this session. A letter will not do anything right now, he will send it near the beginning of the next session. The Panel has enough work to do where it needs a full-time staff member. He will meet with Representative Martin LaLonde to further develop a pipeline for bills from the legislature to the Panel. Also, everyone who's a community member of the Panel needs to be reappointed. People appreciated the tone of the letter but felt this wasn't the moment for it.

Chief Stevens: He understands that legislators think the Panel has full-time staff. He knows there aren't any full-time staff currently. He thinks the Panel could find funding through the Attorney General's office.

1 hour 30 minutes

Julio: Most of the money goes into the general fund. For most states and cities, the enforcement agencies don't get to direct the funds they collect through fines and settlements. After Labor Day is when bill requests start coming in and that's the time to make the push for them to go through the Panel. January is far too late. There are members of the Panel that are government agency representatives. When they are called to testify on bills they are typically not speaking on behalf of the Panel. They often speak only on behalf of their office and not as a collective from the Panel. Iowa and Maine enacted legislation that creates mechanisms for elective and mandatory equity impact statements.

Etan: Representative LaLonde is interested in having the conversation. Representative Arsenault offered to write some legislation regarding the use of the equity impact assessment tools.

Chief Stevens: When it came to the Vermont Commission on Native American Affairs, they changed the legislation to allow the commission to hold grants and funding. Maybe the law can be changed to allow the Panel to do the same thing.

Tyler: He thinks the Chair of the Panel represents the Panel well in his writing. His leadership thought there would be a benefit to releasing the letter at a specific time. If the Panel delays sending the letter, maybe a subcommittee can be formed around what to ask the legislature to do. Specifically working with Representative Arsenault about the mandated inclusion of a racial equity report when a bill relates to criminal or juvenile justice application.

- Discussion of the Panel

Etan: The way the Panel functions could use some adjustments. The Panel needs more than 2 hours per month.

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1 hour 45 minutes

There are equity issues to be considered around the cannabis fund. The Panel has been successful. The Division of Racial Justice Statistics is doing great work. Organizations go through reworkings all the time.

Tyler: The legislature could be required to provide the Panel with an equity impact assessment of their proposed bill instead of having the Panel read the entire bill.

Etan: That begins to give shape to what this requirement will look like.

Derek: He thinks waiting to send the letter will add value to its impact. The history of these bodies legislatively is the history of the systemic racism and colonization that keeps getting perpetuated.

Etan: Table the letter for now. He will hear from Representative LaLonde, Representative Arsenault, and Representative Christie. Will submit the letter near September.

- Exit interviews.

Etan: Subcommittee is Etan, Dan, and Tyler. Is that racially diverse enough?

- Next meeting June 11th