

**STATE OF NEW HAMPSHIRE**  
**JUVENILE JUSTICE ORGANIZATION**  
**PERFORMANCE AUDIT REPORT**  
**NOVEMBER 1998**

TO THE FISCAL COMMITTEE OF THE GENERAL COURT:

We have conducted an audit of New Hampshire's juvenile justice organizational structure to address the recommendation made to you by the Legislative Performance Audit and Oversight Committee. We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to provide a reasonable basis for our findings and conclusions. Accordingly, we have performed such procedures as we considered necessary in the circumstances.

The purpose of the audit was to evaluate the sufficiency of New Hampshire's juvenile justice organizational structure and make recommendations regarding changes to the current structure to improve efficiency and effectiveness. The audit period encompassed the six-year period from fiscal year 1993 through fiscal year 1998.

This report is the result of our evaluation of the information noted above and is intended for the information of the management of the Department of Youth Development Services, Division for Children, Youth and Families within the Department of Health and Human Services, the State Advisory Group, the Juvenile Parole Board, and the Fiscal Committee of the General Court. This restriction is not intended to limit the distribution of this report, which upon acceptance by the Fiscal Committee is a matter of public record.

*Office of Legislative Budget Assistant*  
OFFICE OF LEGISLATIVE BUDGET ASSISTANT

November 1998

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**STATE OF NEW HAMPSHIRE  
JUVENILE JUSTICE ORGANIZATION**

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## ABBREVIATIONS

CHINS	Children In Need Of Services
DCYF	Division For Children, Youth And Families
DHHS	Department of Health And Human Services
DOJ	Department of Justice
DYDS	Department Of Youth Development Services
JPB	Juvenile Parole Board
JJDPA	Juvenile Justice And Delinquency Prevention Act
OJJDP	Office Of Juvenile Justice And Delinquency Prevention
SAG	State Advisory Group

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# STATE OF NEW HAMPSHIRE JUVENILE JUSTICE ORGANIZATION

## SUMMARY

### PURPOSE AND SCOPE OF AUDIT

This audit was performed at the request of the Fiscal Committee of the General Court consistent with the recommendation of the joint Legislative Performance Audit and Oversight Committee and was conducted in accordance with generally accepted government auditing standards. It describes the current juvenile justice organizational structure and analyzes the roles and responsibilities of the Division for Children, Youth and Families (DCYF), the Department of Youth Development Services (DYDS), the Juvenile Parole Board, and the State Advisory Group in New Hampshire's juvenile justice system and whether the current organizational structure is sufficient for the provision of existing juvenile justice services.

### BACKGROUND

New Hampshire established a juvenile justice system separate and distinct from the adult criminal justice system in 1937. Major revisions to State statutes in 1955, and again in 1979 resulted in RSAs 169-B (Delinquent Children) and 169-D (Children In Need Of Services) that exist today.

The purpose of RSA 169-B is to encourage the moral, mental, emotional, and physical development of delinquent youths by providing needed protection, care, treatment, counseling, supervision, and rehabilitation. The statute also promotes a youth's acceptance of personal responsibility and understanding of personal consequences for a delinquent act, consistent with the protection of the public interest. A delinquent is defined as a person who has committed an offense before reaching the age of 17 years which would be a felony or misdemeanor under the criminal code of this State if committed by an adult.

Children in Need of Services (CHINS) also fall under the juvenile justice system as outlined in RSA 169-D. CHINS are children under the age of 18 who may have committed a status offense (an offense that if committed by an adult would not be a crime such as running away, truancy, and incorrigibility), committed what would be a violation of the State's criminal code if committed by an adult, and are expressly found to be in need of care, guidance, counseling, discipline, supervision, treatment, or rehabilitation.

### CURRENT ORGANIZATIONAL RESPONSIBILITIES

#### *Department Of Youth Development Services*

The DYDS was established July 1, 1995 to provide secure care for delinquent youths committed to the youth development center and secure detention for youths at the youth detention services unit. Additionally, the department provides residential and educational services to educationally disabled children at the Tobey Special Education School. The mission of DYDS is to provide "residential and educational services in a safe, secure



## **SUMMARY (Continued)**

environment appropriate for youth with behavioral problems referred by the local courts and schools, while promoting personal accountability...with the goal to return the youth to their local community with skills to be productive members of society." The youth development center, located in Manchester, houses up to 108 delinquents and the youth services center, located in Concord, has beds for 46 youths. The department is staffed with 293 full- and part-time personnel.

### *Division For Children, Youth And Families*

DCYF within the Department of Health and Human Services (DHHS) provides services to New Hampshire's children and families "necessary to allow them to address critical areas of need with the goal of achieving the optimum quality of life." Through its juvenile services unit, DCYF is responsible for providing services to CHINS and delinquent youths. DCYF has responsibility for investigating the background of youths adjudicated delinquent. In addition, the juvenile services unit is responsible for managing federal grants, monitoring compliance with grant requirements, and developing juvenile justice policies and procedures. The unit has a total of 85 full- and part-time staff working at various locations throughout the State. For the month of May 1998, the juvenile services unit supervised approximately 2,200 delinquents and 650 CHINS.

### *State Advisory Group*

The federal Juvenile Justice and Delinquency Prevention Act (JJDPA) requires the establishment of a State Advisory Group of not less than 15 and not more than 33 members. The purpose of the State Advisory Group, as defined by the JJDPA, is to: 1) participate in the development and review of the state's juvenile justice plan, 2) review and comment on all juvenile justice and delinquency prevention grant applications submitted by localities to the state, 3) advise the state agency responsible for the preparation and administration of the state plan, 4) submit to the Governor and Legislature at least annually recommendations regarding the state's compliance with meeting the core requirements of the JJDPA, and 5) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system.

### *Juvenile Parole Board*

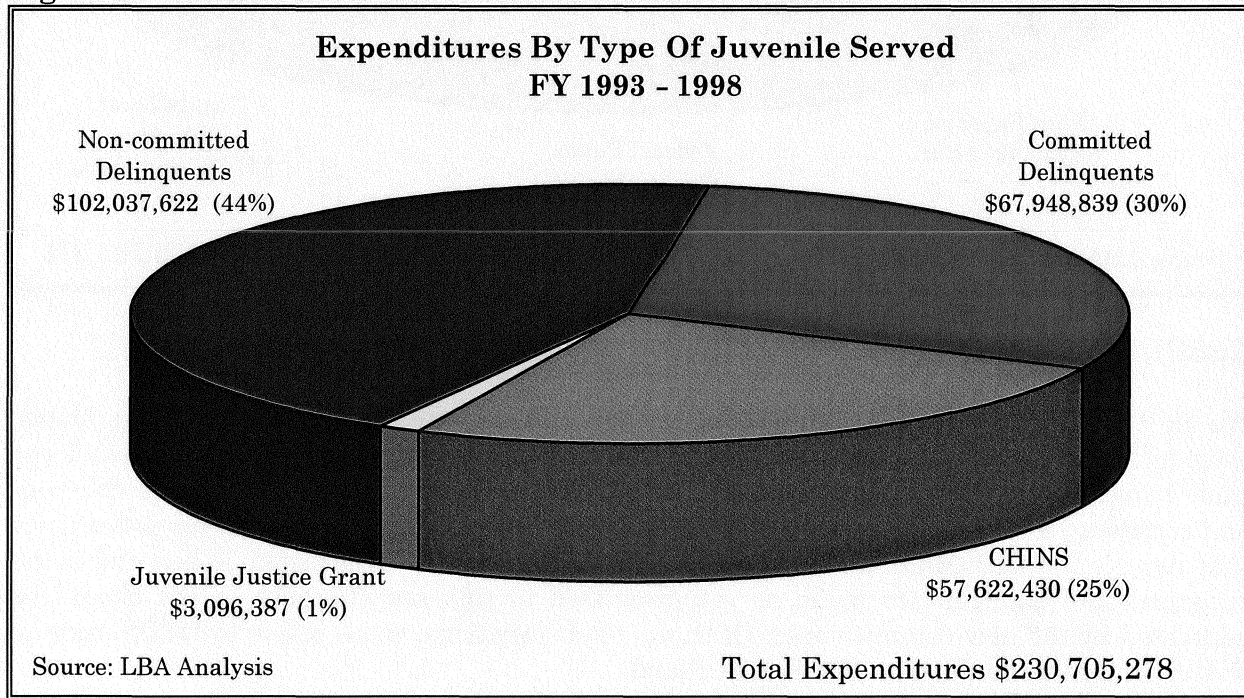
The Juvenile Parole Board is a five-member independent board established under RSA 170-H responsible for "paroling delinquents from facilities." The board is also responsible for establishing rules relative to: the parole process, criteria used to evaluate prospective parolees, conditions of conduct for parolees, procedures for the revocation of parole, and conditions upon which a parolee may be returned to a secure facility pending action by the board. DCYF juvenile services unit and DYDS staff provide input on a youth's readiness for parole to assist the board in making decisions on whether a juvenile is appropriate for parole.

## SUMMARY (Continued)

### FUNDING AND EXPENDITURES

DCYF and DYDS expended a combined total of \$231 million on juvenile justice programs in the six-year period from fiscal year 1993 through fiscal year 1998 as presented in Figure 1. Of this amount, programs for non-committed juvenile delinquents accounted for \$102 million (44 percent), committed juvenile delinquents accounted for \$68 million (30 percent), with CHINS cases consuming \$58 million (25 percent). Committed juvenile delinquents are defined here as those under the care of the youth development and youth services centers. Another \$3 million (one percent) was spent through federal juvenile justice grants to benefit CHINS and non-committed juvenile delinquents.

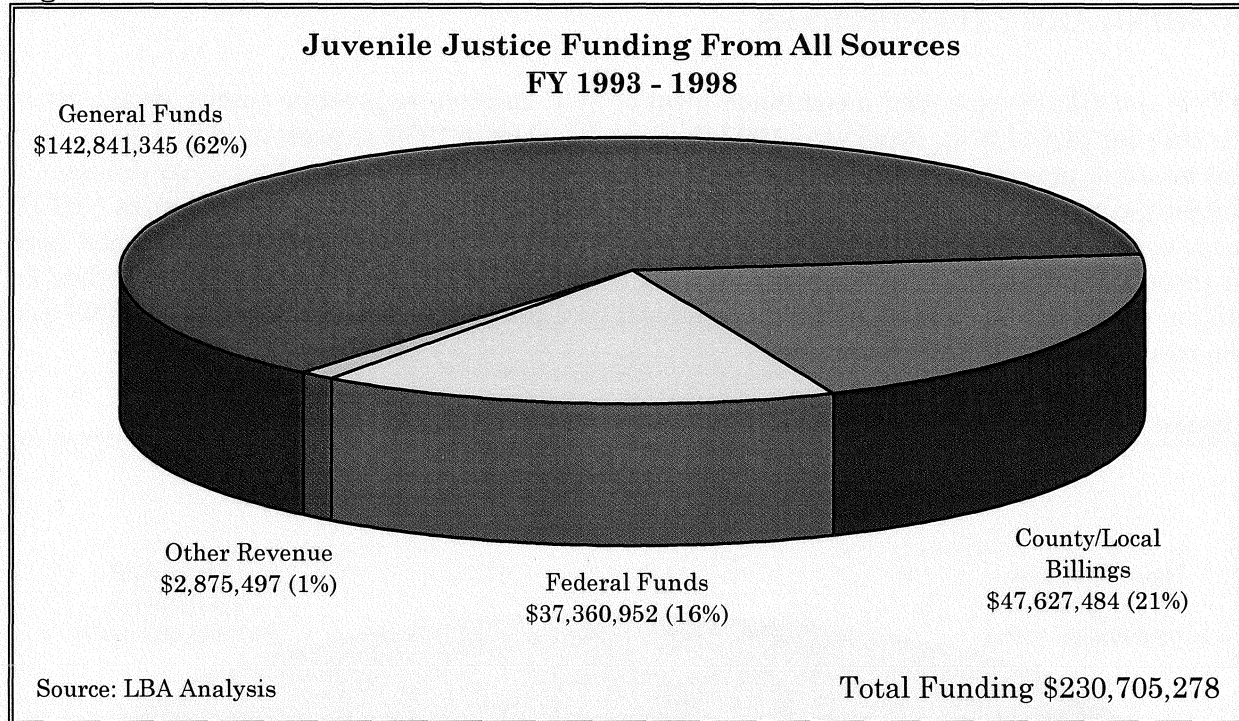
Figure 1



General Fund appropriations provided \$143 million (62 percent) of the \$231 million expended from fiscal year 1993 through 1998 as shown below in Figure 2. County and local billings funded \$48 million (21 percent), with federal funds of \$37 million (16 percent) and other revenue of \$3 million (one percent) providing the balance. With the exception of federal funds, funding sources remained fairly consistent throughout the six year audit period.

## SUMMARY (Continued)

Figure 2



### RESULTS IN BRIEF

We noted 20 observations and recommendations regarding the State's juvenile justice system. Five address problems we found with the current organizational structure of the State's juvenile justice system and recommend changes we believe will provide a coherent and coordinated juvenile justice system. The remaining 15 observations contain deficiencies that require the immediate attention of the individual agencies concerned. When and if the organizational changes are made as recommended in this report, these issues should be addressed by the new commissioner. Of these 15 observations, three relate to DYDS, nine to DHHS, and three to the Juvenile Parole Board.

#### *Reorganization Needed For New Hampshire's Juvenile Justice System*

We found the current juvenile justice organizational structure should be improved in the areas of coordination, management, authority and responsibility, and accountability. As a result, we are recommending changes to New Hampshire's juvenile justice system. The first and most important of these changes is transferring juvenile justice responsibilities and personnel within DCYF and DYDS to a separate and independent agency responsible for comprehensive juvenile justice services.

Along with the creation of the new agency, we recommend that both the Juvenile Parole Board and the State Advisory Group be administratively attached to this agency. In addition, we recommend that the classified positions known as the juvenile justice specialist and the

## **SUMMARY (Continued)**

jail compliance monitor, both of which are necessary for the State's continued eligibility to receive federal JJDPAs, be transferred to the Department of Justice. Finally, we recommend the Legislature consider requiring comprehensive juvenile justice data collection managed by a single entity responsible for analyzing and distributing the information.

### *Department Of Youth Development Services Deficiencies*

The DYDS deficiencies requiring immediate correction primarily surround the lack of required administrative rules, the department's rate setting activities and a resulting surplus, and the department's lack of authority to extend jurisdiction.

### *Department Of Health And Human Services Deficiencies*

DHHS and DCYF share responsibility for making immediate corrections for deficiencies including noncompliance with State law, the lack of required administrative rules, use of police powers, lack of statutory authority for activities in which DCYF engages, and the inability to provide information.

### *Juvenile Parole Board Deficiencies*

The Juvenile Parole Board needs to immediately address its noncompliance with State law, lack of administrative rules, and needed amendments in its authorizing statute.

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**STATE OF NEW HAMPSHIRE  
JUVENILE JUSTICE ORGANIZATION**

**RECOMMENDATION SUMMARY**

OBSERVATION NUMBER	PAGE	LEGISLATIVE ACTION REQUIRED	RECOMMENDATION	AGENCY RESPONSE
1	31	YES	Reorganize the State's juvenile justice system and consolidate services within a single agency.	DYDS - CIP DHHS - CIP JPB - C SAG - C
2	33	YES	Administratively attach the Juvenile Parole Board to the proposed new agency responsible for juvenile justice.	DYDS - CIP DHHS - CIP JPB - C
3	34	YES	Establish the State Advisory Group in State law and administratively attach it to the proposed new agency responsible for juvenile justice services.	DHHS - CIP SAG - CIP
4	35	NO	Transfer the juvenile justice specialist and jail compliance monitor positions to the Department of Justice and designate the Department of Justice as the agency to receive JJDPA funds and the new Juvenile Accountability Incentive Block Grants.	DHHS - DNC DOJ - C

**Agency Response Legend:** C = Concur, CIP = Concur In Part, DNC = Do Not Concur

Recommendation Summary (Continued)

OBSERVATION NUMBER	PAGE	LEGISLATIVE ACTION REQUIRED	RECOMMENDATION	AGENCY RESPONSE
5	37	YES	Require comprehensive juvenile justice data collection by a single entity.	DYDS - C DHHS - CIP JPB - C SAG - C
6	38	YES	DYDS initiate the rulemaking process and adopt rules following legislation specifically granting such authority to the commissioner of DYDS.	DYDS - C
7	40	NO	DYDS revise its current billing system to reflect the actual costs to educate children at the Tobey Special Education School and determine the appropriate disposition of its current \$1.2 million surplus.	DYDS - C
8	40	YES	Amend RSA 169-B:19, III-a (a) to give the DYDS commissioner authority to petition the courts to extend jurisdiction when necessary.	DYDS - C
9	41	NO	DHHS develop and adopt comprehensive administrative rules detailing all aspects of juvenile services performed by the department and rules specifically required by: RSA 170-G:5; RSA 170-G:8-a, III; RSA 169-D:29, VIII; and RSA 170-G:4, XVI.	DHHS - CIP

Agency Response Legend: C = Concur, CIP = Concur In Part, DNC = Do Not Concur

**Recommendation Summary (Continued)**

OBSERVATION NUMBER	PAGE	LEGISLATIVE ACTION REQUIRED	RECOMMENDATION	AGENCY RESPONSE
10	42	NO	DHHS revise procedures regarding juvenile services officer authority to utilize handcuff and arrest powers to the extent of the law.	DHHS - C
11	43	NO	DHHS develop and adopt rules for a workload formula for juvenile services officers consistent with RSA 170-G:3 (III) and RSA 170-G:15. Develop a workload formula for juvenile services assistants.	DHHS - CIP
12	45	NO	DHHS develop and adopt rules relative to a certificate of need formula for shelter care and detention beds, or seek legislation amending Chapter Laws.	DYDS - CIP DHHS - DNC
13	47	NO	DYDS, DCYF, and the Juvenile Parole Board develop and sign a memorandum of agreement to formalize the current responsibilities performed by juvenile services officers and develop and adopt appropriate administrative rules based on the agreement.	DYDS - C DHHS - CIP JPB - C
14	48	NO	DCYF discontinue using child protective social workers for CHINS case management.	DHHS - CIP
15	49	NO	DCYF and DYDS formally reach agreement that the commitment order, PDI, and other relevant information regarding the juvenile will accompany the youth upon commitment to the youth development center.	DYDS - C DHHS - CIP

**Agency Response Legend:** C = Concur, CIP = Concur In Part, DNC = Do Not Concur



**Recommendation Summary (Continued)**

OBSERVATION NUMBER	PAGE	LEGISLATIVE ACTION REQUIRED	RECOMMENDATION	AGENCY RESPONSE
16	50	NO	DCYF juvenile services officers should bring allegations directly to DYDS who should hold preliminary hearings within 72 hours. DYDS should consider delegating statutory responsibility to DHHS through a memorandum of agreement. In the meantime, DHHS should cease hearing allegations of violations of parole conditions.	DYDS - C DHHS - CIP
17	52	NO	DCYF comply with information requests and reporting requirements relative to the OJJDP and the State Advisory Group.	DHHS - CIP
18	53	YES	The Juvenile Parole Board begin maintaining minutes and permanent records of its activities. Consider legislation amending RSA 91-A:3, II(f) to exempt the Juvenile Parole Board similar to the adult parole board.	JPB - C
19	54	NO	The Juvenile Parole Board adopt updated rules in accordance with RSA 541-A and RSA 170-H:4 and the agency to which the board is attached ensure that the board adopts rules in a timely manner.	JPB - C
20	55	YES	Amend RSA 170-H:2, V and RSA 170-H:11 to make its age references consistent with age changes made in RSA 169-B.	JPB - C

# STATE OF NEW HAMPSHIRE JUVENILE JUSTICE ORGANIZATION

## 1. INTRODUCTION

### 1.1 Overview

The concept of a juvenile justice system separate from the adult criminal system dates back to 1899 when Illinois became the first state in the nation to establish a separate court system for juveniles. In the early history of juvenile justice, states played a benevolent role under the concept of *parens patriae* and juveniles were not to be punished, rather they were to be rehabilitated. Given the benevolent role of the state, informal procedures for managing youths were used. By 1925, most states had followed Illinois' lead and implemented either juvenile courts or juvenile probation.

By the 1950s, severe recidivism and increasingly violent juvenile crimes called into question the rehabilitative approach to juvenile justice. In 1966, the United States Supreme Court concluded juveniles were entitled to much the same adversarial due process system as adults. A year later, the Supreme Court effectively ended the state's benevolent role in juvenile justice with its decision in *In re Gault*. This decision threw out the *parens patriae* doctrine and concluded juveniles were entitled to the four basic elements of due process: the right to notice, the right to counsel, the right to question witnesses, and the right against self-incrimination. The Juvenile Justice and Delinquency Prevention Act (JJJPA) of 1974 (42 USC 5601 et seq.) required states to meet certain criteria to receive federal funding for state juvenile justice efforts. The criteria include the following four core requirements:

- deinstitutionalizing status offenders,
- segregating incarcerated juveniles from adult offenders,
- removing juveniles from adult jails and lockups, and
- addressing disproportionate minority confinement where it is found to exist.

Responding to increases in juvenile offenses and levels of violence, state legislatures nation-wide undertook efforts throughout the 1980s and 1990s to make the juvenile system more like the adult system. Measures like mandatory transfer to the adult system for certain offenses, lowering the age of majority, and lowering the minimum age at which a juvenile can be transferred to the adult system tended to lessen differences between the two systems. Many of these trends continue today. Nationally, state juvenile codes have become increasingly focused on accountability and punishment of young offenders. They retain, however, measures to intervene early and provide treatment in the lives of youth at risk.

New Hampshire established a juvenile justice system separate and distinct from the adult criminal justice system in 1937. Major revisions to State statutes in 1955, and again in 1979 resulted in RSAs 169-B (Delinquent Children) and 169-D (Children In Need Of Services) that exist today.

## **1. Introduction (Continued)**

### **1.1 Overview (Continued)**

The purpose of RSA 169-B is to encourage the moral, mental, emotional, and physical development of delinquent youths by providing needed protection, care, treatment, counseling, supervision, and rehabilitation. The statute also promotes a youth's acceptance of personal responsibility and understanding of personal consequences for a delinquent act, consistent with the protection of the public interest. A delinquent is defined as a "person who has committed an offense before reaching the age of 17 years which would be a felony or misdemeanor under the criminal code of this state if committed by an adult, and is expressly found to be in need of counseling, supervision, treatment, or rehabilitation as a consequence thereof." Although the age of majority in New Hampshire is 17 years, in certain instances State law allows the courts to retain juvenile jurisdiction over persons aged between 18 and 24 years.

Both the Department of Youth Development Services (DYDS) and the Division for Children, Youth and Families (DCYF) within the Department of Health and Human Services (DHHS) have responsibility for delinquents. DYDS has responsibility for juveniles committed to the youth development center and detained at the youth detention services unit. DCYF has responsibility for investigating the background of youths adjudicated delinquent.

Children in Need of Services (CHINS) also fall under the juvenile justice system as outlined in RSA 169-D. CHINS are children under the age of 18 who may have committed a status offense (an offense that if committed by an adult would not be a crime such as running away, truancy, and incorrigibility), committed what would be a violation of the State's criminal code if committed by an adult, and are expressly found to be in need of care, guidance, counseling, discipline, supervision, treatment, or rehabilitation. DCYF has responsibility for CHINS.

### **1.2 Scope, Objectives, And Methodology**

On April 8, 1998, the Fiscal Committee of the General Court adopted a recommendation made by the joint Legislative Performance Audit and Oversight Committee to conduct a performance audit of DYDS. Representatives from the Fiscal Committee, joint Legislative Performance Audit and Oversight Committee, Department of Administrative Services, and Office of Legislative Budget Assistant subsequently met to further define the audit's scope. As a result, it was suggested the performance audit primarily review the sufficiency of New Hampshire's juvenile justice organizational structure. This performance audit was conducted in accordance with generally accepted government auditing standards and accordingly included such procedures as we considered necessary in the circumstances.

#### *Scope And Objectives*

This report describes and analyzes New Hampshire's juvenile justice organizational structure for fiscal years 1993 through 1998. The issues we focused on primarily addressed the roles and responsibilities of DCYF, DYDS, the Juvenile Parole Board, and the State

## 1. Introduction (Continued)

### 1.2 Scope, Objectives, And Methodology (Continued)

Advisory Group in New Hampshire's juvenile justice system and whether the current organizational structure is sufficient for the provision of existing juvenile justice services.

Our audit addressed the following specific objectives:

- Assess whether the roles and responsibilities of DYDS and DCYF are sufficiently discrete to warrant services being provided by two separate agencies,
- Assess whether there is sufficient communication and cooperation between DYDS and DCYF to ensure the continual unimpeded flow of information and coordination of effort between the two agencies, and
- Assess whether the Juvenile Parole Board is appropriately located within DHHS.

#### *Methodology*

To obtain general background information and develop an understanding of New Hampshire's juvenile justice organizational structure we reviewed reports, articles, performance audits, and publications by governmental and non-governmental organizations involved with juvenile justice including the federal Office of Juvenile Justice and Delinquency Prevention. We also conducted interviews with officials and staff from DCYF and DYDS, the chair of the Juvenile Parole Board, members of the State Advisory Group, and other individuals involved with the current juvenile justice system. We also reviewed New Hampshire statutes and administrative rules. Finally, we reviewed organization charts of DCYF, DHHS, and DYDS.

To obtain information related to the audit objectives, we used five basic methods:

- Structured interviews with officials and staff from DCYF, DYDS, and the Department of Justice, the chair of the Juvenile Parole Board, members of the State Advisory Group, the chair of the Commission on Juvenile Justice, and other State and federal officials knowledgeable of the current juvenile justice organizational structure in New Hampshire;
- Document reviews of State statutes, administrative rules, federal statutes, federal reports, annual reports, and other reports related to juvenile justice;
- Telephone surveys of juvenile justice specialists from other states;
- Mail surveys of juvenile services officers and juvenile services assistants; and
- File review of juveniles served by DCYF and DYDS.

## 1. Introduction (Continued)

### 1.3 New Hampshire's Juvenile Justice Process

New Hampshire police officers have broad discretion in juvenile cases as they are the most common point of contact a juvenile has with the justice system. Depending on the nature of an offense, an officer may either proceed formally or informally. Informal options consist of release with counseling to parent or guardian and release with required attendance at an approved diversion program. Formal disposition may include filing a CHINS or delinquent petition with the court or detaining the youth with court approval.

#### *Delinquents*

A detained youth's arraignment must occur within 24 hours of the youth being taken into custody, except for Sundays and holidays. Due process must be observed when dealing with juveniles before the court. This includes the right to counsel.

The court has several options while the youth awaits an adjudicatory hearing. The youth may be released to parents, relatives, or guardians; required to participate in diversion or other programming; placed in an out-of-home setting such as a foster home or shelter care facility; or securely detained at the youth detention services unit operated by DYDS.

The case must be adjudicated by the court within 21 days if the youth is detained or 30 days if not detained with one 14-day extension for good cause shown. These proceedings are similar to those of adult criminal courts. If the allegations contained in the petition can not be proven beyond a reasonable doubt, the case is dismissed, the records sealed, and the youth is released if detained. If the allegations contained in the petition are found to be true (similar to guilty in an adult criminal court), an investigation into the cause of the transgression is conducted by a DCYF juvenile services officer. Reports based on this investigation are used in a dispositional hearing which must be held 21 days after the adjudicatory hearing if the youth is detained or 30 days if not detained.

Disposition options available to the court vary. The judge may order conditional release which permits the youth to remain in the community subject to supervision, as well as behavioral and treatment expectations. Other options include fines, community service, restitution, and/or attendance at community-based programming. Placement options include foster home, group home, crisis home, shelter care facility, residential treatment facility, or commitment to the youth development center. Youths found delinquent after their sixteenth birthday can be committed to a county correctional facility for a term no greater than an adult could be for the same offense or until their eighteenth birthday. Certain cases that would be felonies in the adult system can be transferred to the superior court for trial as an adult case. All dispositions must be reviewed within one year after the dispositional hearing and annually thereafter as long as the order is pending.

## **1. Introduction (Continued)**

### **1.3 New Hampshire's Juvenile Justice Process (Continued)**

#### *Children In Need Of Services (CHINS)*

CHINS are managed in substantially the same manner as delinquent youth. Differences include less legalistic terminology used to describe the youth's contact with the juvenile court system (e.g. "initial appearance" is used in lieu of "arraignment"). Courts can not fine CHINS (except those that violate State law) and CHINS may not be committed to a facility where they may come into contact with alleged or adjudicated delinquents. CHINS petitions can be filed by parents, schools, or law enforcement officials. CHINS may be detained by police or juvenile services officers who may dispose of such cases with or without court referral.

### **1.4 Department Of Youth Development Services**

The Department of Youth Development Services was established July 1, 1995 to provide secure detention for New Hampshire's juvenile justice system and to provide residential and educational services to educationally disabled children. The mission of DYDS is to provide "residential and educational services in a safe, secure environment appropriate for youth with behavioral problems referred by the local courts and schools, while promoting personal accountability...with the goal to return the youth to their local community with skills to be productive members of society." According to RSA 621 and RSA 621-A the department consists of the youth development center, located in Manchester, and the youth services center, located in Concord. The department's 293 part-time and full-time staff are split between these two locations.

#### *Youth Development Center*

The youth development center is the sole secure treatment facility for adjudicated delinquents in New Hampshire. It offers structured, coeducational treatment and education programs intended to protect the community and rehabilitate youth. Founded in 1856 as the House of Reformation, the youth development center was an independent entity supervised by a board of trustees until July 1, 1983 when it was subordinated to what is currently DCYF, within DHHS. It remained a component of DHHS until July 1995 when it became part of the newly established DYDS.

Youths found to be delinquent by a court may be committed to the youth development center for the duration of their minority (17 years of age). In some instances, courts may remand youths to the Department of Corrections when they reach 17 years of age. According to DYDS personnel, youths typically reside at the youth development center for eight to 12 months.

The youth development center has an operating capacity of 108 beds, including 21 beds for female offenders. According to DYDS personnel the youth development center also has an additional five beds for emergency placements and five beds the administration chooses not to use for a total of 118 beds. Pursuant to the 1987 Consent Decree in the case of Harry P.

## 1. Introduction (Continued)

### 1.4 Department Of Youth Development Services (Continued)

v. Sheridan, if the population capacity is exceeded a fine of \$100 per resident is imposed per day, excluding Sundays and holidays. These fines are paid to the Clerk of the Merrimack County Superior Court who turns them over to Child and Family Services, Incorporated, of Concord. DYDS reported it paid \$5,000 in fines in fiscal year 1996, the only year during our audit period when such fines were incurred. The department reported no other fines were paid during the audit period. As a result of the consent decree, the department uses emergency criteria to restrict admissions to the youth development center once the population reaches 108 residents. These criteria include assault, false fire alarm resulting in a death, felonious use of a firearm, homicide (capital, first, or second degree murder; manslaughter; negligent homicide; or causing/aiding a suicide), incest, kidnapping, sexual assault, aggravated felonious sexual assault, or felonious sexual assault. Nevertheless, when the capacity is reached and no emergency beds are available, the department is compelled to administratively release youths to ensure compliance with the consent decree even though youths have not completed the prescribed rehabilitative program. Between fiscal years 1995 and 1997, youth development center personnel reported 92 youths have been administratively released in this manner. No youths were administratively released during fiscal years 1993, 1994, or 1998 however.

#### *Youth Services Center*

The youth services center, located in the Tobey Building on the grounds of New Hampshire Hospital (also known as State Office Park South) in Concord, consists of the youth detention services unit and the Tobey Special Education School. The youth detention services unit, formerly known as the awaiting disposition of the court unit, is a coeducational secure detention facility for youths alleged to have committed serious delinquent acts and found to be a danger to themselves or the public or are believed to be a flight risk. While detained at the youth detention services unit, juveniles continue their education and receive other services. The detention unit has a capacity of 23 beds. However, the unit's population is often higher according to DYDS personnel. This has necessitated the application of the same emergency admission criteria that applies to the youth development center. The detention unit is not subject to the Harry P. consent decree.

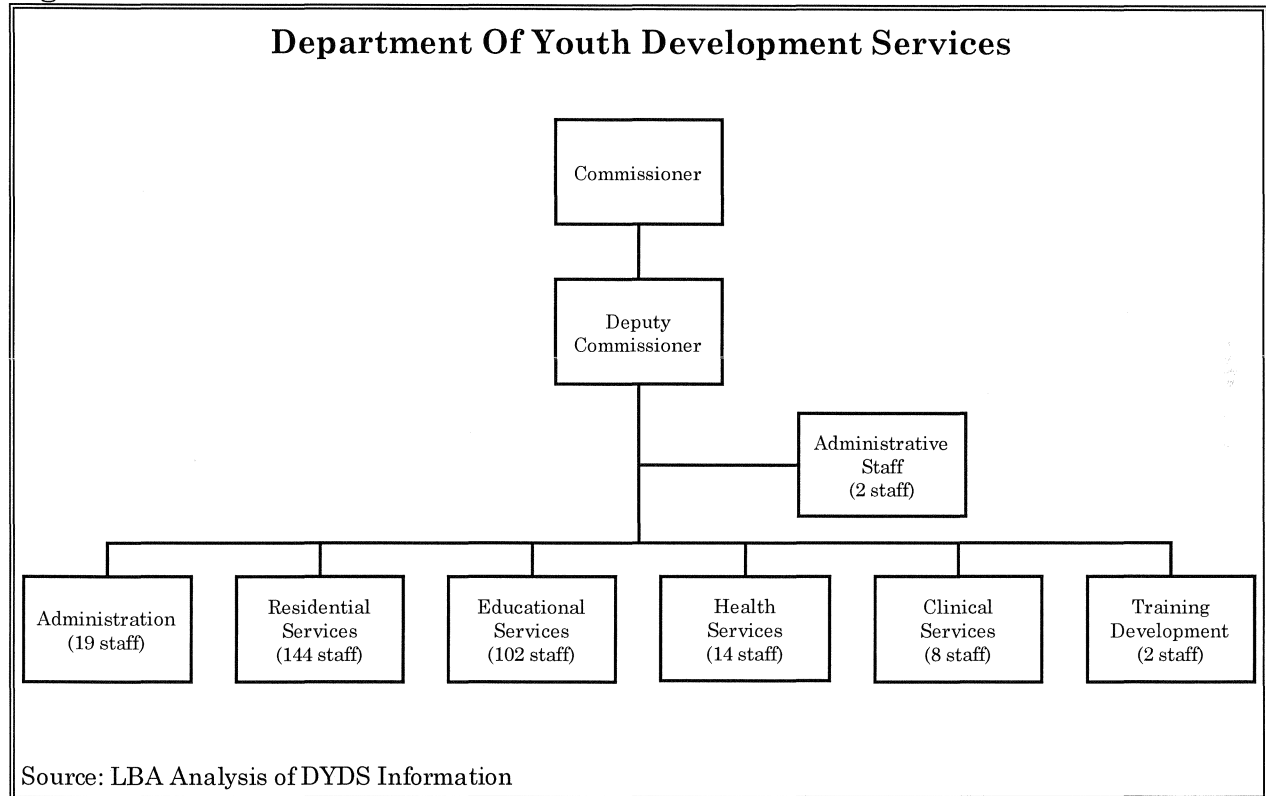
The Tobey Special Education School is an alternative school certified by the New Hampshire Department of Education as a day school and residential program for educationally disabled youth. Juveniles attending the Tobey School are not committed by the courts. Rather, their home school district applies for enrollment to the school and pays the cost of the student's program. The school may serve children aged six to 21 years who are identified as seriously emotionally disturbed or with another educational disability and entitled to services under an Individualized Educational Plan. Youth at the Tobey School generally can not be served in less structured settings. The capacity of the Tobey School is 23 residential students and ten day students.

## 1. Introduction (Continued)

### 1.5 DYDS Organization And Management

The Department of Youth Development Services is currently organized into six functional areas: administration, residential services, educational services, health services, clinical services, and training development. The department's organization and general staffing are shown in Figure 3.

**Figure 3**



#### *Commissioner's Office*

The commissioner's office consists of the commissioner, the deputy commissioner, an administrative assistant, and an executive secretary.

#### *Division Of Administration*

The Division of Administration is headed by a business administrator and is responsible for fiscal management of the department's budget, managing grants, resident bank accounts, trust funds, and related functions. The division is also responsible for the full spectrum of human resources management, equipment management, and food services for each of the three facilities within the department. The Division of Administration is staffed



## **1. Introduction (Continued)**

### **1.5 DYDS Organization And Management (Continued)**

by an accountant, two payroll officers, five account technicians and clerks, a human resources coordinator, a steward, and eight chefs and cooks.

#### *Division Of Residential Services*

A director heads the Division of Residential Services and is responsible for providing a highly structured living environment and regimented routine at the youth development center and the youth detention services unit. Residential services are provided by 95 youth counselors, six house leaders, and six assistant house leaders as well as 35 other support and administrative staff members. Youth counselors constitute the largest component of DYDS staff and provide many of the rehabilitative services to youth including peer group counseling and close supervision. Residential youth counselors are supervised by house leaders and assistant house leaders. The department's only juvenile services officer is also contained within the Division of Residential Services. This juvenile services officer is responsible for completing a social history on each committed youth, attending court hearings as the department's representative, and monitoring youth on administrative furlough in out-of-home placements. The division is also responsible for maintaining the grounds and physical plant of the youth development center.

#### *Division Of Educational Services*

The director of the Division of Educational Services supervises the educational and vocational programs operated by the department. Both the youth development center and the youth services center have a principal responsible for education at each location. The youth services center principal is responsible for both the residential unit and educational services at the Tobey Special Education School in addition to educational services at the youth detention services unit. All teachers employed by the department are New Hampshire certified and hold endorsements in their academic area or field of specialization. Many teachers also hold learning disabled or seriously emotionally disturbed endorsements. Specialists provide media and library support. Services at the youth development center include eighth grade diploma, general education diploma, job title certificates, and numerous academic and vocational programs. This division is staffed by 47 teachers, 12 teacher assistants, a house leader and assistant house leader, and 21 youth counselors. Twenty other support and administrative staff, including the director and principals, round out the educational staff.

#### *Division Of Health Services*

The Division of Health Services provides medical, dental, and psychiatric care to juveniles under the department's care. Nursing services are provided 24-hours per day at all three facilities. Part-time and contracted physicians provide medical coverage to DYDS facilities. Ancillary medical services such as laboratory, x-ray, surgical, and other specialized services are provided in the community for the youth development center and are provided either by the New Hampshire Hospital or community sources for the youth services center.

## **1. Introduction (Continued)**

### **1.5 DYDS Organization And Management (Continued)**

Basic dental care is provided by a contracted dentist at the youth development center weekly, while emergency dental care is provided by the New Hampshire Hospital for juveniles at the youth services center. Psychiatric services are provided on a contract basis. Health services staff consists of a director, a part-time physician, one registered nurse coordinator, two registered nurse specialists, three full-time psychiatric nurses, and six full-time equivalent registered nurses.

#### *Division Of Clinical Services*

Clinical Services provides psychological services to juveniles under the department's care. Services are provided by psychological associates and may include substance abuse treatment, sexual offender treatment, self-esteem development, violence management, and communications skills. Clinical Services is staffed by a psychologist, five psychological associates, one licensed alcohol and drug counselor, and one support staff.

#### *Training Development*

The training development manager is responsible for staff training. Continuing staff training requirements include CPR, first aid, aggression management, suicide prevention, and professional behavior in the workplace. Training development is staffed by a training development manager and a training assistant.

### **1.6 Division For Children, Youth And Families**

DCYF's function is to provide services to New Hampshire's children and families "necessary to allow them to address critical areas of need with the goal of achieving the optimum quality of life." Through its juvenile services unit, DCYF is responsible for providing services to CHINS and delinquent youth.

For the month of May 1998, the juvenile services unit supervised approximately 2,200 delinquents and 650 CHINS. In addition, the juvenile services unit is responsible for managing federal grants, monitoring compliance with grant requirements, and developing juvenile justice policies and procedures. In October 1998, administration for the juvenile services unit moved to the Brown Building at the State Office Park South. Field services are supervised from eight field offices throughout the State.

#### *State Advisory Group*

The federal Juvenile Justice and Delinquency Prevention Act (JJDPA) requires the establishment of a State Advisory Group. The purpose of the State Advisory Group, as defined by the JJDPA, is to: 1) participate in the development and review of the state's juvenile justice plan, 2) review and comment on all juvenile justice and delinquency prevention grant applications submitted by localities to the state, 3) advise the state agency responsible for the preparation and administration of the state plan, 4) submit to

## **1. Introduction (Continued)**

### **1.6 Division For Children, Youth And Families (Continued)**

the Governor and Legislature at least annually recommendations regarding the state's compliance with meeting the core requirements of the JJDP, and 5) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system.

The JJDP requires the group to have not less than 15 members and not more than 33 members appointed by the Governor. Membership is to consist of at least one locally elected official; representatives of law enforcement and juvenile justice agencies; representatives of private nonprofit agencies; volunteers who work with delinquents or potential delinquents; youth workers involved in alternatives to incarceration; persons with experience addressing school violence and vandalism, learning and emotional disabilities, and youth violence; and at least three members who are currently under the jurisdiction of the juvenile justice system. At least one-fifth of the members need to have been appointed prior to age 24 and a majority of the members can not be full-time employees of the federal, state, or local governments.

### **1.7 DCYF Organization And Management**

During the audit period the juvenile services unit of the DCYF consisted of the following staff: a juvenile justice administrator, a juvenile justice specialist, a jail compliance monitor, a program specialist, eight juvenile services supervisors, 53 juvenile services officers, nine juvenile services assistants (of which two positions are part-time), two child protective social workers, and nine secretary positions. The State Advisory Group is also contained within DCYF. Figure 4 outlines the organization of the juvenile services within DCYF.

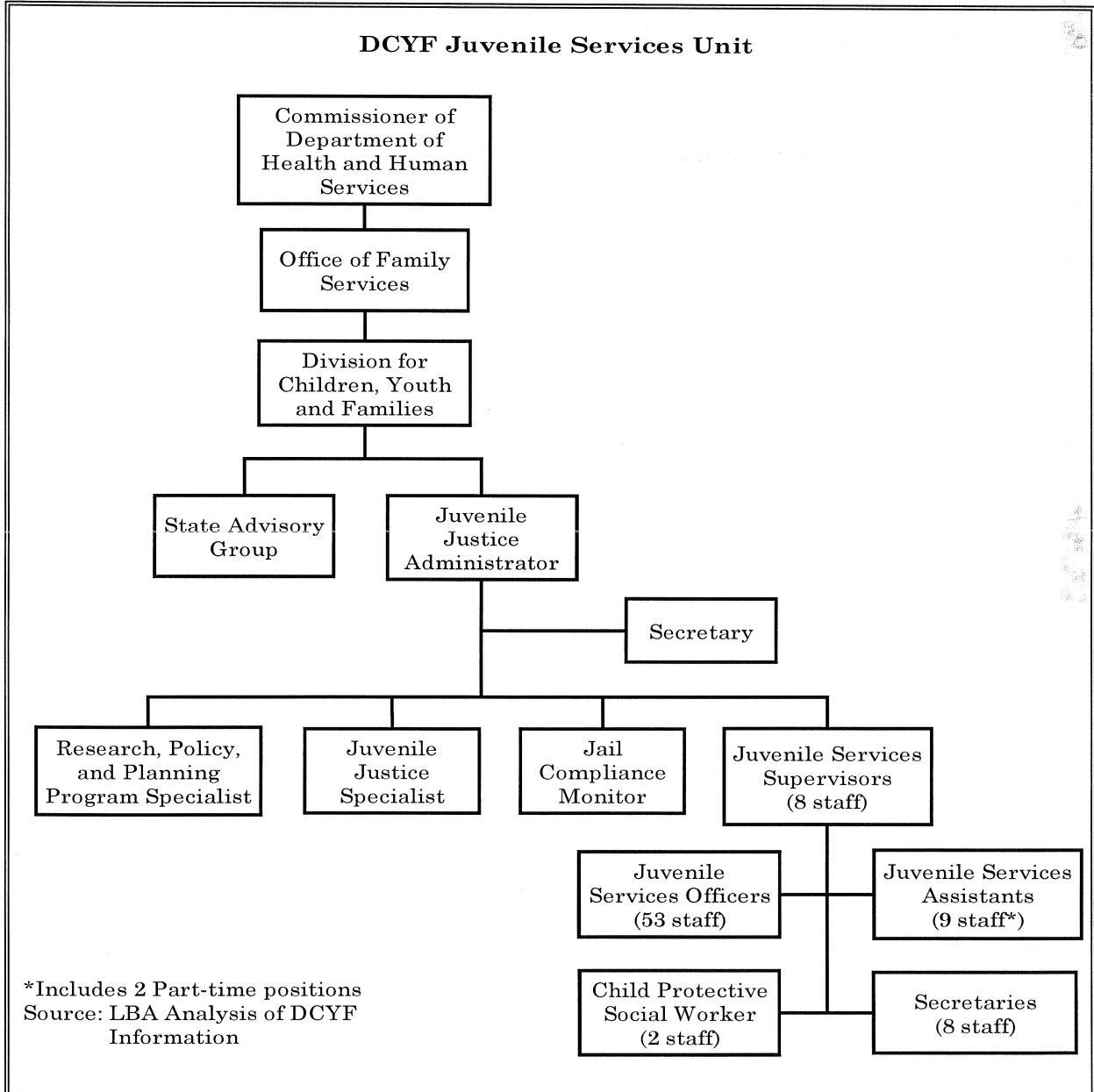
The juvenile services unit has been overseen by a juvenile justice administrator since 1997 when the position was established. The juvenile justice administrator is responsible for directly supervising eight juvenile services supervisors, the juvenile justice specialist, the jail compliance monitor, and the program specialist. The juvenile justice administrator is also responsible for coordination with DYDS and local law enforcement agencies; development of juvenile justice policy and prevention programs; and management of federal grants. The juvenile justice administrator is also a member of the State Advisory Group.

The juvenile justice specialist, which is required under the Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974 as amended, is responsible for managing and ensuring compliance with formula grant criteria awarded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and completing all reports and forms associated with the formula grants as well as coordinating on-site reviews of each of the subgrantees. In addition, the juvenile justice specialist acts as a liaison between the State Advisory Group and DCYF.

1. Introduction (Continued)

1.7 DCYF Organization And Management (Continued)

Figure 4



The jail compliance monitor is responsible for ensuring compliance with the JJDPA's core requirements by working with adult jail and lock-up facilities and other facilities used to hold juveniles. The jail compliance monitor conducts on-site reviews of local police departments, monitors the seven Youth Attendant Programs (YAPs) in the State, and assists in the creation and development of YAPs in areas that require them. YAPs are programs designed to monitor youths in police custody since youths are not supposed to be confined in adult jails.

## **1. Introduction (Continued)**

### **1.7 DCYF Organization And Management (Continued)**

The program specialist assigned to the juvenile services unit is responsible for updating and maintaining policies and procedures regarding juvenile issues and communicating policy and procedure changes among DCYF, field offices, and the judiciary.

As reported earlier, there are eight juvenile services unit field offices which, as established by RSA 170-G, provide services to youths referred to DCYF by the district courts pursuant to RSA 169-B (Delinquent Children) and RSA 169-D (Children In Need Of Services). The field offices are housed in DHHS district offices, courts, or other outstations, and are located in: Manchester, Salem, Portsmouth, Conway, Concord, Keene, Laconia, and Nashua.

A juvenile services supervisor is responsible for managing the day-to-day operations of each field office. They supervise the juvenile services officers and juvenile services assistants in each location. The Nashua and Laconia juvenile services unit supervisors are also responsible for supervising a child protective social worker who works primarily with CHINS.

Juvenile services officers have been under the authority of the State and DCYF since 1988. Juvenile services officers are officers of the court and are responsible for investigating and reporting on any case, matter, or question requested by any justice of the court; supervision of youths on conditional release, parole from the youth development center, or as part of the Interstate Compact on the Placement of Children; and participation in community service activities including diversion programs. In addition, juvenile services officers have the power to arrest youths who are found violating the law, are fugitives from justice, or are in immediate danger. Juvenile services officers are also responsible for coordinating and monitoring treatment plans through communications with parents, school districts, law enforcement, youth programs, DYDS staff, and others; interacting with and authorizing payments to providers of services to juveniles; prosecuting youths for violations of conditional release, violations of parole, or contempt of court orders; and completing various reports, case notes, and forms and entering the data on the BRIDGES computer system.

According to DCYF officials, duties performed by juvenile services officers have evolved from providing direct-care to juveniles to providing case management, focused on arranging for services through providers. DCYF officials reported juvenile services officers have an average caseload of between 40 and 60 juveniles each.

Juvenile service assistants perform functions similar to juvenile services officers except they are not officers of the courts and do not have arrest power. The juvenile services assistant position was created to increase personnel, to provide a career track to becoming a juvenile services officer, and to alleviate fears among juvenile services officers that their positions would be privatized. Juvenile services assistants support juvenile services officers in supervising juveniles placed on conditional release or parole. As part of their work, juvenile services assistants prepare investigations for the court, prepare and maintain case

## **1. Introduction (Continued)**

### **1.7 DCYF Organization And Management (Continued)**

records, monitor and review cases to assure plans and court orders are being followed, coordinate services to juveniles as recommended by juvenile services officers and ordered by the court, and provide direct supervision of juveniles under the direction of the juvenile services supervisor. Supervisors reported juvenile services assistants manage smaller caseloads than juvenile services officers.

### **1.8 Juvenile Parole Board**

The Juvenile Parole Board is an independent board established under RSA 170-H. The board is responsible for "paroling delinquents from facilities." The board is also responsible for establishing rules relative to: the parole process, criteria used to evaluate prospective parolees, conditions of conduct for parolees, procedures for the revocation of parole, and conditions upon which a parolee may be returned to a secure facility pending action by the board. The board is required to hold at least 12 parole hearings a year and more if necessary. Currently, the board conducts parole hearings every two weeks. DCYF juvenile services unit staff (usually juvenile services officers) and DYDS staff provide input on a youth's readiness for parole to assist the board in making decisions on whether a juvenile is appropriate for parole.

The board consists of five members serving five-year staggered terms appointed by the Governor and Council. According to RSA 170-H:13, the board is administratively attached to the DHHS. The board conducts parole hearings at the DYDS administration building on the youth development center grounds in Manchester. The board has the authority to submit a budget and request staff support from DHHS. According to DCYF officials, the board has not submitted a budget or received other support through DCYF. The board currently receives administrative and financial support from DYDS.

### **1.9 Funding And Expenditures**

DCYF and DYDS expended a combined total of \$231 million on juvenile justice programs in the six-year period from fiscal year 1993 through fiscal year 1998 as presented in Table 1. Of this amount, programs for non-committed juvenile delinquents accounted for \$102 million (44 percent), committed juvenile delinquents accounted for \$68 million (30 percent), with CHINS cases consuming \$58 million (25 percent). Committed juvenile delinquents are defined here as those under the care of the youth development and youth services centers. Another \$3 million (one percent) was spent through federal juvenile justice grants to benefit CHINS and non-committed juvenile delinquents.

## 1. Introduction (Continued)

### 1.9 Funding And Expenditures (Continued)

**Table 1**

**Expenditures By Type Of Juvenile Served (DCYF And DYDS Combined)**

Juvenile Type	1993	1994	1995	1996	1997	1998	Total
Delinquents-Non-committed	\$14,618,206	\$16,666,295	\$19,211,535	\$17,253,056	\$16,588,393	\$17,700,137	\$102,037,622
Delinquents - Committed	10,011,482	11,061,231	11,802,330	11,291,029	11,543,965	12,238,802	67,948,839
CHINS	8,244,932	9,413,729	10,831,223	9,742,400	9,390,186	9,999,960	57,622,430
Juvenile Justice Grant*	195,560	328,005	508,825	604,946	672,924	786,127	3,096,387
<b>Total</b>	<b>\$33,070,180</b>	<b>\$37,469,260</b>	<b>\$42,353,913</b>	<b>\$38,891,431</b>	<b>\$38,195,468</b>	<b>\$40,725,026</b>	<b>\$230,705,278</b>

Source: LBA Analysis of Statements of Appropriations.  
 \* DCYF was unable to provide the portions of the grant spent on CHINS cases and delinquent cases.

General Fund appropriations provided \$143 million (62 percent) of the funding for the \$231 million expended from fiscal year 1993 through 1998 as shown below in Table 2. County and local billings funded \$48 million (21 percent), with federal funds of \$37 million (16 percent) and other revenue of \$3 million (1 percent) providing the balance. With the exception of federal funds, funding sources remained fairly consistent throughout the six year audit period.

**Table 2**

**Total Funding From All Sources**

Funding	1993	1994	1995	1996	1997	1998	Total
General Fund	\$21,600,759	\$24,411,926	\$25,876,964	\$22,954,632	\$23,130,900	\$24,866,164	\$142,841,345
County/Local Billings	7,685,828	8,601,746	8,137,535	8,143,207	7,610,329	7,448,839	47,627,484
Federal Funds	3,222,808	3,945,499	7,786,131	7,263,793	6,911,052	8,231,669	37,360,952
Other Revenue	560,785	510,089	553,283	529,799	543,187	178,354	2,875,497
<b>Total</b>	<b>\$33,070,180</b>	<b>\$37,469,260</b>	<b>\$42,353,913</b>	<b>\$38,891,431</b>	<b>\$38,195,468</b>	<b>\$40,725,026</b>	<b>\$230,705,278</b>

Source: LBA Analysis of Statements of Appropriations.

Table 3 presents the funding sources for and categories of expenditures incurred by DCYF in carrying out its responsibilities related to CHINS and non-committed delinquents. Of the \$163 million incurred during the audit period by DCYF, the single largest category of expenditure was purchased residential care at \$73 million, or 45 percent of the total. General Fund appropriations of \$97 million provided the majority (60 percent) of the funding for DCYF expenditures.

As shown in Table 4, the cost to operate the youth development and youth services centers during fiscal years 1993 through 1998 totaled \$68 million, of which \$56 million (82 percent) was incurred for salaries and benefits. The remaining \$12 million (18 percent) was expended for current expenses, food, utilities, worker's compensation, and other expenditures. General Fund appropriations funded \$46 million (68 percent) of the cost to operate the facilities with county and local billings providing \$20 million (29 percent). The remaining three percent was funded by Tobey School recycling and miscellaneous transfers from other agencies.

# 1. Introduction (Continued)

## 1.9 Funding And Expenditures (Continued)

**Table 3**

**DCYF CHINS And Delinquent Funding And Expenditures (FY 1993 - 1998)  
(Exclusive Of The Youth Development And Youth Services Centers)**

<b>Funding Source</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>Total</b>
General Fund	\$15,276,075	\$17,352,280	\$17,461,042	\$15,570,945	\$15,178,978	\$15,701,789	\$96,541,109
Federal Funds	3,222,808	3,945,499	7,786,131	7,263,793	6,911,052	8,231,669	37,360,952
County/Local Billings	4,274,578	4,834,622	4,998,747	4,450,349	4,220,466	4,552,766	27,331,528
Other Revenue	285,237	275,628	305,663	315,315	341,007	0	1,522,850
<b>Total</b>	<b>\$23,058,698</b>	<b>\$26,408,029</b>	<b>\$30,551,583</b>	<b>\$27,600,402</b>	<b>\$26,651,503</b>	<b>\$28,486,224</b>	<b>\$162,756,439</b>
<b>Expenditures</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>Total</b>
Residential	\$10,537,811	\$12,023,870	\$14,229,931	\$12,652,857	\$11,006,014	\$13,017,722	\$73,468,205
Title IV-E	4,914,545	5,367,974	5,482,559	4,901,315	5,306,232	6,353,102	32,325,727
Social Services	2,875,434	3,274,731	4,968,642	4,231,626	3,732,355	3,640,000	22,722,788
Salaries and Benefits	2,300,753	2,804,347	3,024,846	2,963,432	3,189,877	3,105,034	17,388,289
Diagnostic and Clinical Service	1,274,340	1,459,393	1,295,391	1,288,159	1,540,675	701,941	7,559,899
Legal	751,534	851,355	761,578	740,131	993,785	673,864	4,772,247
Other Expenditures	404,281	626,359	788,636	822,882	882,565	994,561	4,519,284
<b>Total</b>	<b>\$23,058,698</b>	<b>\$26,408,029</b>	<b>\$30,551,583</b>	<b>\$27,600,402</b>	<b>\$26,651,503</b>	<b>\$28,486,224</b>	<b>\$162,756,439</b>

Source: LBA Analysis of Statements of Appropriations.

**Table 4**

**Youth Development Center And Youth Services Center  
Funding And Expenditures (FY 1993 - 1998)**

<b>Funding Source</b>	<b>1993*</b>	<b>1994*</b>	<b>1995*</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>Total</b>
General Fund	\$ 6,324,684	\$ 7,059,646	\$ 8,415,922	\$ 7,383,687	\$ 7,951,922	\$ 9,164,375	\$46,300,236
County/Local Billings	3,411,250	3,767,124	3,138,788	3,692,858	3,389,863	2,896,073	20,295,956
Transfers from Other Agencies	243,561	198,615	203,997	166,572	161,696	167,114	1,141,555
Tobey School Recycling	31,987	35,846	43,623	47,912	40,484	11,240	211,092
<b>Total</b>	<b>\$10,011,482</b>	<b>\$11,061,231</b>	<b>\$11,802,330</b>	<b>\$11,291,029</b>	<b>\$11,543,965</b>	<b>\$12,238,802</b>	<b>\$67,948,839</b>
<b>Expenditures</b>	<b>1993*</b>	<b>1994*</b>	<b>1995*</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>Total</b>
Salaries and Benefits	\$ 8,409,832	\$ 8,981,001	\$ 9,450,611	\$ 9,156,825	\$ 9,585,433	\$ 9,931,918	\$55,515,620
Other Expenditures	329,125	860,005	960,616	478,209	431,069	547,612	3,606,636
Worker's Compensation	502,670	379,539	457,458	686,712	556,368	765,861	3,348,608
Current Expenses	265,331	336,179	403,771	347,475	349,246	372,639	2,074,641
Utilities	258,882	258,320	273,613	367,575	360,807	370,977	1,890,174
Food	245,642	246,187	256,261	254,233	261,042	249,795	1,513,160
<b>Total</b>	<b>\$10,011,482</b>	<b>\$11,061,231</b>	<b>\$11,802,330</b>	<b>\$11,291,029</b>	<b>\$11,543,965</b>	<b>\$12,238,802</b>	<b>\$67,948,839</b>

Source: LBA Analysis of Statements of Appropriations.

\* The youth services center budget for fiscal years 1993 through 1995 was under DCYF. Since fiscal year 1996, the youth services center budget has been the responsibility of DYDS.



## 1. Introduction (Continued)

### 1.10 Significant Achievements

It is important to recognize that performance auditing by its nature is a critical process, designed to identify problems or weaknesses in past and existing practices and procedures. We mention here a number of successful and positive practices and programs that we observed and for which sufficient documentation was available.

#### *Department Of Youth Development Services*

The department has involved itself and committed youths in the local community. This involvement takes the form of community service and presentations to area colleges. Residents of Stark House, an unlocked cottage located on the edge of the youth development center grounds in Manchester, regularly volunteer in the community to help non-profit organizations. Agencies assisted include Easter Seals, the American Red Cross, the City of Manchester, New Hampshire Food Bank, and the Salvation Army. For calendar year 1997, DYDS reported 1,232 resident-hours devoted to community service.

Another example of community participation is their involvement in the Adopt-A-Police K-9 Program. The youths sponsor a drug detection dog from Dover. The dog and his police officer handler visit the youth development center classroom to give demonstrations. A youth development center teacher established the program to enhance learning experiences and to provide positive interactions between youths and law enforcement personnel.

Youth development center staff have also given presentations to criminal justice and psychology students at local colleges including New Hampshire Technical Institute, Saint Anselm College, and New England College. In some cases residents attend to provide their perspectives.

These interactions with the public may help the youth to reintegrate back into society and help the agencies at the same time. They may also provide positive role models for the youth.

#### *Division For Children, Youth And Families*

##### Juvenile Offender Locator Team (JOLT) Program

The Concord juvenile services unit and the Concord Police Department created a program called JOLT. For this program a Concord DCYF juvenile services officer and a Concord police officer team up on randomly scheduled nights to conduct curfew checks on juvenile offenders on conditional release, house arrest, or parole from the youth development center. The division reported an increase in the compliance with court orders as a result of this program.

## **1. Introduction (Continued)**

### **1.10 Significant Achievements (Continued)**

#### Enhanced Training For Juvenile Services Officers

The division has instituted a new worker academy. New employees are required to spend the initial three days of their employment in orientation. Ten days are then spent in job shadowing. There are 24 days of additional training throughout the remainder of the first year of employment. The curriculum is based on juvenile services officer core competencies reproduced and adapted with permission from the Institute for Human Services and the 1994 National Center for Juvenile Justice "Desktop Guide to Good Juvenile Probation Practice."

The annual personnel evaluation now includes an Annual Individual Training Plan. This plan is completed by the individual officer and their supervisor. As it is based on the core competencies, it allows the individual officer to recognize areas of training that need to be accomplished, and the staff development unit within DCYF to recognize and plan for the training needs of the field staff.

#### Juvenile Justice Administrator Position Established

DCYF created the juvenile justice administrator position to provide a sense of identity for juvenile services unit personnel. The position was filled in June 1997.

### **1.11 Year 2000 Compliance**

The Year 2000 issue is the result of shortcomings in many electronic data processing systems and other equipment that makes operations beyond the year 1999 troublesome. For many years, computer programmers eliminated the first two digits from a year when writing programs. For example, programmers would designate January 1, 1980 as "01/01/80" instead of "01/01/1980." On January 1, 2000 at 12:00:01 a.m., the internal clock in some computers and other equipment will roll over from "12/31/99" to "01/01/00." Unfortunately, many programs (if not corrected) will not be able to distinguish between the year 2000 and the year 1900. This confusion may cause the programs to process data incorrectly or stop data processing altogether.

It is incumbent upon management to determine the scope of the Year 2000 issue on the operations of the organization and to plan and take steps to make systems and other equipment Year 2000 compliant prior to its causing disruption of government services.

#### *Department of Youth Development Services*

DYDS reports that it has done an assessment of Year 2000 compliance. Management reports the only computer system utilized, other than the New Hampshire Integrated Financial System is NH BRIDGES operated by DCYF. DYDS management also reports that since the youth services center phone system is on the Centrex system they assume it

## **1. Introduction (Continued)**

### **1.11 Year 2000 Compliance (Continued)**

will be compliant and the phone switch vendor at the youth development center has assured them it is compliant.

#### *Division for Children, Youth and Families*

DCYF reports it uses several desktop applications that are managed by the department's Office of Information Services which is taking steps to ensure the products are updated in time. Management also reports it uses the Eligibility Management System (EMS) which is Year 2000 noncompliant but will be replaced by New HEIGHTS which is expected to be compliant.

DCYF management reported the basic architecture of NH BRIDGES is Year 2000 compliant but some code does not make full use of Year 2000 compliant features. Management also reported they have a plan in place to complete needed fixes in 1999.

### **1.12 Report Outline**

The remaining sections of the report present our analysis of New Hampshire's juvenile justice organizational structure. Chapter 2 contains our review of the sufficiency of New Hampshire's juvenile justice organizational structure. Chapter 3 contains our section on Other Issues and Concerns. Due to the specific direction we received from the joint Fiscal and Legislative Performance Audit and Oversight Committees, we did not pursue a number of potential issues discovered during our field work. These issues may have been further investigated during a wider-scope performance audit. They are presented as other issues and concerns in Chapter 3, along with our informal suggestions for their rectification. Chapter 4 contains our conclusion.

# STATE OF NEW HAMPSHIRE JUVENILE JUSTICE ORGANIZATION

## 2. JUVENILE JUSTICE ORGANIZATION

Section 2.1 describes problems we found with the current organizational structure of the State's juvenile justice system and recommends changes we believe will provide a coherent and coordinated juvenile justice system. Section 2.2 examines deficiencies with DYDS that require immediate attention. These deficiencies include lack of required administrative rules, the department's rate setting activities and a resulting surplus, and the department's lack of authority to extend jurisdiction. Section 2.3 identifies deficiencies in DHHS's juvenile justice services requiring immediate attention. These deficiencies include lack of required administrative rules, use of police powers, lack of statutory authority for activities in which it engages, noncompliance with State law, and inability to provide information. Section 2.4 addresses deficiencies in the Juvenile Parole Board operations. These deficiencies pertain to the board's lack of administrative rules and needed amendments in its authorizing statute.

### 2.1 Reorganization Needed For New Hampshire's Juvenile Justice System

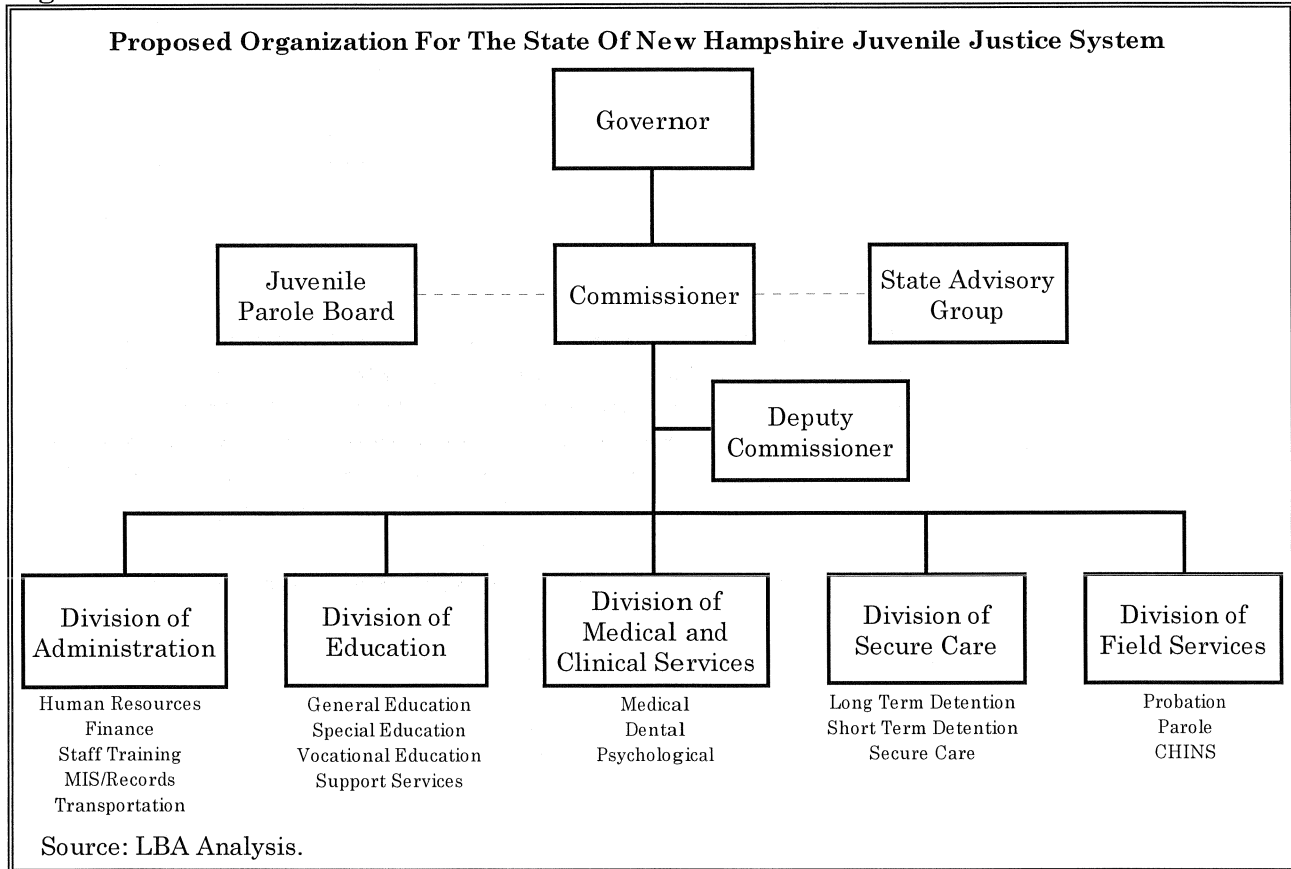
New Hampshire's juvenile justice system consists primarily of functions performed by DYDS, established in 1995; the juvenile services unit within DCYF; the State Advisory Group; and the Juvenile Parole Board. The juvenile justice system in New Hampshire has been reorganized several times over the years. However, these reorganizations have resulted in a fragmented system where the two major State agencies do not cooperate or communicate effectively, nor is there a clear mandate of their authority or responsibilities provided by State law.

The Executive Branch Reorganization Act of 1983 (RSA 21-G) through its declaration of findings and policy, as well as its guidelines for reorganization, spells out the Legislature's desire to structure the executive branch "to improve the coordination and management of State services by establishing clear lines of authority, responsibility, and accountability for program implementation." DCYF was the primary State agency responsible for juvenile justice issues from 1988 through 1995. In that year the Legislature made changes to the juvenile justice system by separating the youth development center and youth services center and placing them in the newly created DYDS. We found the current organizational structure should be improved in the areas of coordination, management, authority and responsibility, and accountability. As a result, we are recommending further changes to the New Hampshire juvenile justice system. The first and most important of these changes is transferring juvenile justice responsibilities and personnel within DCYF and DYDS to a separate and independent agency responsible for juvenile justice services. Our recommendation for the organizational structure of this new agency is illustrated in Figure 5.

**2. Juvenile Justice Organization (Continued)**

**2.1 Reorganization Needed For New Hampshire’s Juvenile Justice System (Continued)**

**Figure 5**



Along with the creation of the new agency, we recommend that both the Juvenile Parole Board and the State Advisory Group be administratively attached to this agency. In addition, we recommend that the classified positions known as the juvenile justice specialist and the jail compliance monitor, both of which are necessary for the State's continued eligibility to receive federal Juvenile Justice and Delinquency Prevention Act (JJDP) grants, be transferred to the Department of Justice. Finally, we recommend the Legislature consider requiring comprehensive juvenile justice data collection managed by a single entity responsible for collecting and distributing the information.

As indicated by the numerous observations contained in this report, we recommend the State establish a single agency responsible for the efficient and effective management of a coordinated juvenile justice system. We believe that many, if not all, of the findings noted would be rectified by adequate communication between those responsible for the supervision, security, and aftercare of our State's most troubled youths. We further believe such adequate communication would best be accomplished under one agency with common management, mission, and goals.

## 2. Juvenile Justice Organization (Continued)

### 2.1 Reorganization Needed For New Hampshire's Juvenile Justice System (Continued)

#### Observation No. 1

***A Single State Agency  
Responsible For Juvenile Justice  
Services Should Be Created***

With the creation of DYDS in 1995, financial and physical responsibility for services provided to delinquent youths was split between DYDS and DCYF. While DCYF's responsibilities for abused and neglected children and CHINS remained intact, its responsibilities for committed delinquents became more limited. Adjudicated delinquents committed to the youth development center became the custody of DYDS until age 17. However, if released from the youth development center prior to the age of 17, DCYF once again assumes responsibility for supervising the youth and paying for services.

DCYF is also responsible for paying settlement costs for all CHINS and delinquent youths. Services recommended by DYDS staff for youths in the agency's custody must nevertheless be approved by DCYF. Lack of communication and coordination between the two agencies may inhibit this approval process, as juvenile services officers and assistants are not regularly involved with youths while committed to the youth development center, thus making them less aware of these youths' needs. Several personnel from DYDS and DCYF reported that decreased involvement by DCYF field staff while a youth is committed to the youth development center impacts service planning and relationships between the juvenile services staff and the youth.

There are conflicts in the perceived roles and responsibilities of DCYF juvenile services staff. This is evidenced by our survey of juvenile services field staff where 50 of the 62 personnel responded. Seventy-two percent reported barriers to performing their duties because of their placement within DCYF. In addition, 46 percent of the respondents indicated DCYF's lack of juvenile justice philosophy and experience was a weakness. Finally, 30 percent indicated the confusion between the roles of juvenile services officers and child protective social workers was a weakness.

DCYF and DYDS have been unable to fully agree to their respective responsibilities. A draft memorandum of agreement was initiated in 1995 to coordinate a wide-range of interagency operations. The most recent version of the draft memorandum reportedly has been under DCYF review since October 1997. Officials in both agencies reported the agreement had not yet been signed. The system's efficiency has been limited due to the failure to develop and implement mutually agreed-upon procedures.

Even the simplest tasks are not adequately coordinated. As we report in Observation No. 15 on page 49, statutorily required reports may not accompany a youth committed to the youth development center. In addition, DCYF juvenile services personnel reported they do not receive information in a timely manner from DYDS and, while DYDS personnel reported juvenile services officers and assistants do not attend monthly progress meetings at the youth development center, these DCYF personnel reported they did not receive timely

## **2. Juvenile Justice Organization (Continued)**

### **2.1 Reorganization Needed For New Hampshire's Juvenile Justice System (Continued)**

#### **Observation No. 1: A Single State Agency Responsible For Juvenile Justice Services Should Be Created (Continued)**

notification of such meetings or the meetings are scheduled for days they are required in court. Juvenile services officers and assistants also reported they are not always notified of administrative releases from the youth development center.

The manner in which the two agencies have operationalized their perceived roles, responsibilities, and authority is unclear and inconsistent with law. Youths committed to the youth development center and subsequently paroled are supervised during parole by DCYF juvenile services officers and juvenile services assistants. However, DYDS and the Juvenile Parole Board have this responsibility according to State law. Both DCYF and DYDS officials reported DCYF has been responsible for supervising parolees since the 1980s. See Observation No. 13 on page 47 for a full discussion of this issue.

DHHS also appears to be operating outside its authority in holding hearings before hearing officers to determine whether probable cause exists to return a juvenile to the youth development center. There is no provision in statute for this procedure. The Juvenile Parole Board and the commissioner of youth development services have this authority according to RSA 170-H:10. See Observation No. 16 on page 50 for a full discussion of this issue.

#### **RECOMMENDATION:**

We recommend the Legislature consider reorganization of the State's juvenile justice system to consolidate the State's juvenile justice services within a single agency. The DCYF juvenile services unit with responsibility for CHINS and delinquents under RSA 169-B and 169-D could be merged with DYDS administrative and facilities management functions to form a new, independent agency responsible for juvenile justice services. We recommend the Legislature consider transferring all the functions, duties, property, powers, personnel, records, and funds of the juvenile services unit within DCYF except for the positions of juvenile justice specialist and jail compliance monitor and DYDS to this new agency. See Observation No. 4 on page 35 for our recommendation on the juvenile justice specialist and jail compliance monitor positions.

## 2. Juvenile Justice Organization (Continued)

### 2.1 Reorganization Needed For New Hampshire's Juvenile Justice System (Continued)

#### Observation No. 1: A Single State Agency Responsible For Juvenile Justice Services Should Be Created (Continued)

##### AUDITEE RESPONSE:

*DYDS concurs in part.*

*DHHS concurs in part.*

*The Juvenile Parole Board concurs.*

*The State Advisory Group concurs.*

*For the complete text of auditee responses, see Appendix A, page A-1.*

#### **Observation No. 2**

##### ***Administrative Attachment For The Juvenile Parole Board Should Be Changed***

RSA 170-H:13, I administratively attaches the Juvenile Parole Board to the DHHS. We found no evidence of a working relationship between the Juvenile Parole Board and DHHS. The DHHS does not provide monetary and staff support to the board. The board does not submit a budget through the department nor does DHHS provide administrative assistance to the board. According to a DCYF official, the youth development center has always supported the Juvenile Parole Board. We found substantial problems with the administration of the board under the current structure.

A DCYF official reported a 1997 verbal agreement between DCYF and DYDS states that DYDS would continue to support the board. The board depends upon DYDS resources including staff, materials, and mileage reimbursement because the Juvenile Parole Board has no budget of its own.

According to several DYDS staff, mileage reimbursement is paid from a DYDS maintenance account. DYDS must also pay for staff support for the board. A DYDS secretary who supports the board estimated that 75 percent of her time is spent handling board matters. We estimated this staff support costs DYDS approximately \$21,592.50 in salary and benefits per year. Unbudgeted funds spent on the Juvenile Parole Board reduces money available for other DYDS needs.

We also found the Juvenile Parole Board operates under administrative rules that expired in 1991. For additional information on this issue see Observation No. 19 on page 54. Also, the Juvenile Parole Board's statute defining "delinquent" is not current. For more



**2. Juvenile Justice Organization (Continued)**

**2.1 Reorganization Needed For New Hampshire's Juvenile Justice System (Continued)**

**Observation No. 2: Administrative Attachment For The Juvenile Parole Board Should Be Changed (Continued)**

information on this issue see Observation No. 20 on page 55 for additional details regarding statutes governing the board's operation.

We also found the Juvenile Parole Board inappropriately compels youths to sign an acknowledgment of DCYF juvenile services officer's authority to supervise the youth while on parole. However, this authority does not exist in statute. State law requires DYDS to supervise these youths. For more information on this issue, see Observation No. 13 on page 47.

Our survey of 25 other state juvenile justice specialists indicated that 17 of 20 (85 percent) states with juvenile parole locate their juvenile parole functions and juvenile corrections facilities within the same agency.

**RECOMMENDATION:**

**We recommend the Legislature consider administratively attaching the Juvenile Parole Board to the proposed independent agency responsible for juvenile justice. This will clarify responsibility for supporting and guiding the board to comply with State law. We further recommend the board develop its own budget and submit it along with the new agency's biennial budget. In the absence of changes to the current organizational structure we recommend the Juvenile Parole Board be administratively attached to DYDS and develop its own budget and submit it along with DYDS' biennial budget.**

**AUDITEE RESPONSE:**

*DYDS concurs in part.*

*DHHS concurs in part.*

*The Juvenile Parole Board concurs.*

*For the complete text of auditee responses, see Appendix A, page A-3.*

**Observation No. 3**

***Administrative Attachment For The State Advisory Group Should Be Changed***

DCYF has not provided adequate support and guidance to the State Advisory Group. We were unable to find any State law, executive order, or administrative rule establishing the State Advisory Group or outlining its roles and responsibilities in New Hampshire's juvenile justice

## 2. Juvenile Justice Organization (Continued)

### 2.1 Reorganization Needed For New Hampshire's Juvenile Justice System (Continued)

#### Observation No. 3: Administrative Attachment For The State Advisory Group Should Be Changed (Continued)

system. Seventy-six percent of the States we surveyed indicated their State Advisory Groups were codified in State law, executive order, or other formal document. Without State law, executive order, or administrative rules clearly describing the group's purpose and responsibilities, group members, juvenile justice agencies, and members of the public do not have a clear understanding of the group's role, responsibility, and authority within the juvenile justice system.

Confusion surrounding the operation of the State Advisory Group is evident in members' perceptions of the group's organization. One group member indicated that the State Advisory Group was an independent body. Another member stated the State Advisory Group wants separation from DCYF.

The State Advisory Group's 1996 annual report stated that the State Advisory Group, working with the juvenile justice specialist, developed and submitted the three-year plan to the federal OJJDP and "requested, reviewed the RFPs and awarded the OJJDP grant funds for 1997." Awarding OJJDP grants appears to be beyond the authority of the group.

#### RECOMMENDATION:

**We recommend the Legislature consider establishing the State Advisory Group in State law and administratively attach it to the proposed new agency responsible for juvenile justice services. This legislation should outline the group's responsibilities as defined by federal law.**

#### AUDITEE RESPONSE:

*DHHS concurs in part.*

*The State Advisory Group concurs in part.*

*For the complete text of auditee responses, see Appendix A, page A-4.*

#### Observation No. 4

***Juvenile Justice Specialist And Jail Compliance Monitor Positions Should Be Transferred To The Department Of Justice***

DCYF has jeopardized federal JJDPA grant money by not providing required reports to the OJJDP and by failing to keep filled the federally funded jail compliance monitor position. New Hampshire relies heavily on the juvenile justice specialist and jail compliance monitor to ensure the required documentation is collected and made available to the OJJDP.

## **2. Juvenile Justice Organization (Continued)**

### **2.1 Reorganization Needed For New Hampshire's Juvenile Justice System (Continued)**

#### **Observation No. 4: Juvenile Justice Specialist And Jail Compliance Monitor Positions Should Be Transferred To The Department Of Justice (Continued)**

As mentioned earlier, the State must meet certain requirements of the JJDP grant to continue to receive funds. DCYF is required to provide the federal OJJDP with regular and timely reports. DCYF relies on the juvenile justice specialist, a required position under the Act, and the jail compliance monitor positions to collect data and provide reports to the federal OJJDP regarding the State's compliance with the core requirements of the Act. Both of these positions are federally funded.

The jail compliance monitor position was vacant from December 1994 through March 1996 then again from October 1997 through March 1998. In addition, the current staff in the jail compliance monitor position was reassigned to the field as a juvenile services officer for a short period to cover a staff shortage, taking this person away from the jail compliance monitoring duties. The purpose of the jail compliance monitor is to ensure juveniles are not incarcerated in adult jails. A May 1998 OJJDP Compliance Monitoring Audit Report found that even though violations dropped by two-thirds between September 1995 and September 1997, the State's violation rates remained high for the deinstitutionalization of status offenders and jail removal requirements of JJDP. The State's noncompliance with the jail removal requirement has jeopardized JJDP funding in the past. OJJDP has stated the compliance monitor is perhaps the most important step in achieving compliance with deinstitutionalization of status offenders and jail removal requirements.

DCYF has also had difficulty providing information and reports to OJJDP. DCYF's lack of attention to meeting JJDP requirements continually places the State at risk of losing JJDP grants. For a full discussion of this issue see Observation No. 17 on page 52.

Officials familiar with federal grants in the State indicated there is a lack of coordination between the JJDP grants managed by DCYF and other federal Department of Justice grants managed by the New Hampshire Department of Justice. Some grants managed by the New Hampshire Department of Justice can be used to address both adult and juvenile issues. Coordination of grant money could maximize the effectiveness of federal funding. For example, both the new Juvenile Accountability Incentive Block Grant (JAIBG), managed by DCYF and Violent Offender Incarceration/Truth In Sentencing funds (VOI/TIS), managed by the New Hampshire Department of Justice, can be used to build detention facilities.

#### **RECOMMENDATION:**

**We recommend the Department of Justice be the designated agency to receive JJDP funds and the new Juvenile Accountability Incentive Block Grants. We**

## 2. Juvenile Justice Organization (Continued)

### 2.1 Reorganization Needed For New Hampshire's Juvenile Justice System (Continued)

#### Observation No. 4: Juvenile Justice Specialist And Jail Compliance Monitor Positions Should Be Transferred To The Department Of Justice (Continued)

believe the Department of Justice contains the institutional capacity and knowledge to properly manage JJDPA grants. Because the juvenile justice specialist and jail compliance monitor positions work to assure JJDPA grant requirements are met, we also recommend the transfer of these positions from DCYF to the Department of Justice.

#### AUDITEE RESPONSE:

*DHHS does not concur.*

*The Department of Justice concurs.*

*For the complete text of auditee responses, see Appendix A, page A-5.*

#### **Observation No. 5**

##### ***Inadequate Juvenile Justice Data Collection***

No single agency within the State is responsible for collecting and managing juvenile justice data. Several agencies collect some juvenile justice data but data collection is not comprehensive. Data that are collected can not be compared to or supplemented with another agency's data. State-wide recidivism data, one essential piece of data needed to determine program effectiveness, is not currently collected in New Hampshire.

DYDS stated it is beginning to collect recidivism data. Their recidivism formula includes youths committed to the youth development center who have completed their treatment program and been paroled to measure program effectiveness. The formula does not include youths released due to reaching age of majority, or youths who are "pushed" or otherwise released. Sixty-four percent of states we surveyed indicated recidivism data was collected.

There is no requirement in law to standardize juvenile justice data across local, county, or State agencies, no requirement to collect or centralize such information, and no agency responsible for juvenile data management activities. Courts used to report juvenile delinquency statistical data to a Board of Probation under RSA 169-B:39, however this provision was repealed in 1989. Without this information the State can not determine program effectiveness. The State also can not track how many delinquents become involved in the adult system. Accordingly, the State allocates resources without information related to the effectiveness of juvenile programs.

## 2. Juvenile Justice Organization (Continued)

### 2.1 Reorganization Needed For New Hampshire's Juvenile Justice System (Continued)

#### Observation No. 5: Inadequate Juvenile Justice Data Collection (Continued)

##### RECOMMENDATION:

We recommend the Legislature consider requiring comprehensive juvenile justice data collection. A single entity should be responsible for collecting and distributing the information.

##### AUDITEE RESPONSE:

*DYDS concurs.*

*DHHS concurs in part.*

*The Juvenile Parole Board concurs.*

*The State Advisory Group concurs.*

*For the complete text of auditee responses, see Appendix A, page A-6.*

### 2.2 Department Of Youth Development Services Deficiencies

We found several deficiencies in examining DYDS that require immediate attention. When and if organizational changes are made as recommended in this report, these issues should be addressed by the new commissioner. These deficiencies primarily surround the lack of required administrative rules, the department's rate setting activities and a resulting surplus, noncompliance with State laws, and the department's lack of authority to extend jurisdiction.

#### **Observation No. 6**

##### ***Clarification Of DYDS Rulemaking Authority Needed***

Since its inception in 1995, DYDS has promulgated only one set of administrative rules. Effective January 31, 1998 Administrative Rule Chapter Yds 500, *Program and Service Information Relating to the Consent Decree*, describes procedures for the education of educationally disabled or potentially disabled children in DYDS residential programs in accordance with the Consent Decree in the case of James O. v. Marston, et al.

RSA 541-A:16 requires each agency to adopt administrative rules governing its organization, operations and practices, and formal and informal procedures. The department has not adopted these rules. In addition the department has not adopted rules in several areas specifically required by State law.

## 2. Juvenile Justice Organization (Continued)

### 2.2 Department Of Youth Development Services Deficiencies (Continued)

#### Observation No. 6: Clarification Of DYDS Rulemaking Authority Needed (Continued)

The department indicated it does not have statutory authority to promulgate rules. This belief appears to stem from contradictory language contained in RSA 621. As currently printed, RSA 621:35 grants rulemaking authority relative to the youth development center to the “commissioner of health and human services.” However, Chapter 181 of the Laws of 1995, which amended RSA 621, changed RSA 621:3, II-a to state, “In this chapter...“Commissioner” means the commissioner of the department of youth development services.”

Several sections of State law, however, provide the commissioner of DYDS with department-wide rulemaking authority. Chapter 181:24 of the Laws of 1995 transferred all the functions, powers, duties, personnel, records, property, and funds to DYDS for the youth services center and the youth development center. This alone appears to give the department authority to act on any issue related to its purpose. RSA 21-G:9, II empowers commissioners with every power enumerated to the commissioner, whether granted to the commissioner, the department, or any administrative unit of the department. RSA 21-G:9, II (b), requires the commissioner to adopt all rules of the department irrespective of where rulemaking authority is located. As noted above, RSA 541-A:16 requires each agency to adopt administrative rules related to its organization, operations and practices, and formal and informal procedures.

State agencies adopt administrative rules in order to communicate its policies, procedures, and practices binding on persons outside the agency including members of the general public. Rulemaking allows for public and legislative oversight of an agency’s operation. The lack of rules also limits the department’s ability to coordinate its effort with other State agencies that deal with delinquent and alleged delinquent youth, limiting the effectiveness of its individual efforts and making the State-wide process less effective than it might be otherwise.

#### RECOMMENDATION:

**We recommend DYDS initiate the process of developing administrative rules and adopt such rules following legislative action specifically granting such authority to the commissioner of DYDS.**

#### AUDITEE RESPONSE:

*DYDS concurs. For the complete text of DYDS’s response, see Appendix A, page A-8.*

## 2. Juvenile Justice Organization (Continued)

### 2.2 Department Of Youth Development Services Deficiencies (Continued)

#### Observation No. 7

##### ***Tobey Special Education School Surplus***

The Tobey Special Education School at the youth services center has accumulated a surplus in its accounts, totaling \$1,269,692 as of June 30, 1998, for which it does not have statutory authority to retain. The surplus results from over billing school districts for the expenses associated with educating children at the center.

RSA 186-C:20 allows DYDS, which assumed control over the Tobey Special Education School in fiscal year 1996, to bill school districts for "...expenses for an educationally disabled child assigned to the special education program at the youth services center ..." It also states that the school districts "shall pay the rate established for the special education program of the center."

According to agency personnel, the rate is established by taking current year appropriations less certain departmental overhead costs then dividing that figure by the number of enrolled students to arrive at the billing rate. This methodology does not take into consideration whether actual costs were less than appropriated. A review of the school's revenues and expenditures for the period under audit shows that the school, on average, expended 91 percent of its appropriations. The school was potentially over billing the school districts by nine percent.

#### **RECOMMENDATION:**

**We recommend DYDS revise its current billing system to reflect the actual costs to educate children at the Tobey Special Education School. Billing rate calculations should include adjustments for prior year over or under billings. Additionally, the department should determine the appropriate disposition of the \$1.2 million surplus currently in its account.**

#### **AUDITEE RESPONSE:**

*DYDS concurs. For the complete text of DYDS's response, see Appendix A, page A-8.*

#### Observation No. 8

##### ***DYDS Lacks Statutory Authority To Petition Courts To Extend Jurisdiction***

DYDS lacks statutory authority to petition the court to extend jurisdiction beyond the age of criminal responsibility for a youth adjudicated delinquent for a violent crime or adjudicated on four or more separate occasions. The DHHS was provided with authority to petition the court when RSA 169-B:19 was amended in 1995.

## 2. Juvenile Justice Organization (Continued)

### 2.2 Department Of Youth Development Services Deficiencies (Continued)

#### **Observation No. 8: DYDS Lacks Statutory Authority To Petition Courts To Extend Jurisdiction (Continued)**

RSA 169-B:19, III-a (a) states "...the prosecutor or the department of health and human services may file a motion with the court to extend jurisdiction..." for a minor under the age of seventeen who has been adjudicated delinquent for a violent crime or adjudicated delinquent on four or more separate occasions.

Because the statute does not reflect the latest organizational changes made in 1995, DHHS may petition the courts in regards to youth over which it has no jurisdiction or control. Conversely, DYDS is unable to petition the court because it lacks statutory authority. This may result in youths, for which DYDS has been responsible for substantial periods of time, not having jurisdiction extended when needed. It also results in disjointed responsibility for youths remanded over to DYDS authority.

#### **RECOMMENDATION:**

**We recommend the Legislature consider amending RSA 169-B:19, III-a (a) to give the DYDS commissioner authority to petition the courts to extend jurisdiction when necessary.**

#### **AUDITEE RESPONSE:**

*DYDS concurs. For the complete text of DYDS's response, see Appendix A, page A-8.*

### 2.3 Department Of Health And Human Services Deficiencies

Our audit found several deficiencies in DCYF's juvenile services functions that require immediate attention. When and if organizational changes are made as recommended in this report, these issues should be addressed by the new commissioner. These deficiencies primarily surround the lack of required administrative rules, use of police powers, lack of statutory authority for activities in which it engages, noncompliance with State law, and inability to provide information.

#### **Observation No. 9**

##### ***DHHS Lacks Comprehensive Juvenile Services Administrative Rules***

The DHHS commissioner has not adopted comprehensive rules governing DCYF's role in juvenile justice. RSA 541-A:16 requires each agency to adopt administrative rules related to its organization, operations and practices, and formal and informal procedures. A March 1993 performance audit of the Child Settlement Program noted similar deficiencies in the division's rule making efforts.



**2. Juvenile Justice Organization (Continued)**

**2.3 Department Of Health And Human Services Deficiencies (Continued)**

**Observation No. 9: DHHS Lacks Comprehensive Juvenile Services Administrative Rules (Continued)**

While DHHS does have administrative rules related to juvenile justice and other numerous DCYF responsibilities, the commissioner has not adopted administrative rules in several important areas specifically required by State statute. RSA 170-G:5 requires the DHHS commissioner to adopt rules necessary for DCYF operations. RSA 170-G:8-a, III, requires rules governing access to records of the division. RSA 169-D:29, VIII, requires rules regarding obtaining a waiver of parental reimbursement in certain cases. However, these rules have not been adopted.

In addition, RSA 170-G:4, XVI, requires rules for the method of distribution of funds for cities, towns, and counties for prevention, court diversion, and alternative disposition programs. These rules have expired.

State agencies adopt administrative rules in order to communicate their policies, procedures, and practices binding on persons outside the agency including members of the general public. Rule making allows for public and legislative oversight of an agency's operation. Without administrative rules, DCYF's juvenile services function remains concealed from the public and provides no description of how the unit functions, the services it provides, or how it interacts with other State agencies and the public. In addition, without duly adopted rules reflecting the policies and practices of juvenile services, the department may be functioning without proper authority.

**RECOMMENDATION:**

**We recommend DHHS develop and adopt comprehensive administrative rules detailing all aspects of juvenile services performed by the department in accordance with RSA 541-A and rules specifically required by: RSA 170-G:5; RSA 170-G:8-a, III; RSA 169-D:29, VIII; and RSA 170-G:4, XVI.**

**AUDITEE RESPONSE:**

*DHHS concurs in part. For the complete text of DHHS's response, see Appendix A, page A-8.*

**Observation No. 10**

***Clarification Needed In Arrest Powers***

RSA 170-G:16, IV gives DCYF juvenile services officers the power to "arrest and take into custody any minor who is found violating any law, or who is reasonably believed to be a fugitive from justice, or whose circumstances are such as to endanger his person or welfare, unless immediate action is taken." However, DCYF officials were uncertain whether the division allowed juvenile services officers to handcuff or arrest youths.

## 2. Juvenile Justice Organization (Continued)

### 2.3 Department Of Health And Human Services Deficiencies (Continued)

#### Observation No. 10: Clarification Needed In Arrest Powers (Continued)

The division has no administrative rules regarding the use of handcuffs or arrest powers of juvenile services officers. One DCYF official stated the division has no policy regarding the use of handcuffs. However, Item 778 of the DCYF Policy Manual entitled "Use of Handcuffs" clearly describes the use of handcuffs to restrain juveniles. This policy became effective October 10, 1990. We reviewed supplemental job descriptions for juvenile services officers and the DCYF policy manual and found no reference to arrest powers in either.

In addition, although juvenile services officers are assigned handcuffs, they are not trained in their use. No training is provided by the division in the proper use of handcuffs or how to effect an arrest. A DCYF official stated no handcuff training had been provided in a few years. A supervisor reported being prohibited by the division from seeking training in their use, even though there would be no cost to the division. As a result, field staff are not sufficiently prepared to carryout their assigned responsibilities.

DCYF officials have indicated an administrative decision was made not to use the powers assigned to juvenile services officers by law. A DCYF official stated the division prefers juvenile services officers call local law enforcement when a youth needs to be taken into custody. Liability issues were also noted by DCYF officials as another obstacle in the full use of the juvenile services officer's authority.

Juvenile service officers are operating in the field untrained in some key areas of their job responsibility. This may unnecessarily subject the State to legal action and may compromise the health and welfare of State employees and the juveniles in their care. It may also fail to adequately protect communities from delinquent youths.

#### **RECOMMENDATION:**

**We recommend DHHS revise procedures regarding juvenile services officer authority to utilize handcuff and arrest powers to the extent of the law.**

#### **AUDITEE RESPONSE:**

*DHHS concurs. For the complete text of DHHS's response, see Appendix A, page A-9.*

#### **Observation No. 11**

##### ***Juvenile Services Officer Workload Formula Needed***

The DHHS commissioner has not established a workload formula for juvenile services officers within DCYF as required by RSA 170-G:3, III. RSA 170-G:15 states "The commissioner shall, through rules adopted pursuant to RSA 541-A, assign permanent juvenile services officers to each judicial district consistent with the workload formula established by the department in consultation with the New Hampshire

## **2. Juvenile Justice Organization (Continued)**

### **2.3 Department Of Health And Human Services Deficiencies (Continued)**

#### **Observation No. 11: Juvenile Services Officer Workload Formula Needed (Continued)**

Judges Association, and subject to the approval of the presiding justice.” RSA 170-G:3, III also supports the need for workload standards in hiring juvenile services officers. Specifically, RSA 170-G:3, III states “...The number of juvenile services officers hired shall be consistent with the workload formula established by administrative rule pursuant to RSA 541-A and available funding.” RSA 170-G does not mention a workload formula for juvenile services assistants.

The division’s lack of a workload formula for juvenile services officers was also noted in an observation in the March 1993 performance audit of the New Hampshire Child Settlement Program. At that time, the division concurred in part with our observation and recommendation and responded that a target date for the proposed workload standards had been set for October 1, 1993. However, DCYF still has not developed workload standards for its juvenile services officers. DCYF officials stated the lack of funding needed for additional staff necessary under a workload formula has hindered the development of a formula.

As of June 12, 1998, there were 53 juvenile services officers and nine juvenile services assistants assigned to eight area juvenile services offices throughout the State. DCYF officials reported juvenile services officers have an average caseload of between 40 and 60 juveniles each. Two supervisors reported they supervise juvenile services officers who have caseloads as high as 80 to 90. The juvenile services assistants in several juvenile services units carry smaller caseloads than juvenile services officers. It is unclear how DCYF determines the staffing needs in its juvenile services offices without a formula or standard to determine workloads for the juvenile services officers.

Juvenile services supervisors we interviewed reported juvenile services officers should manage between 30 and 35 cases to effectively provide direct supervision to juveniles. The federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) issued a juvenile probation bulletin in 1996 stating that, based upon a 1992 national survey of juvenile parole officers, the median caseload size was 41. Respondents stated 30 cases per officer was optimal. A 1993 OJJDP report cites caseload recommendations from several standard setting groups. The Institute of Judicial Administration/American Bar Association recommended a workload formula based upon the number of expected contacts between probation officers and the juvenile and the nature of the services provided. They recommended caseloads of 15 to one for a high level of supervision, 35 to one for a medium level of supervision, and 50 to one for a low level of supervision. This report also referenced two reports issued by the National Advisory Committee for Juvenile Justice and Delinquency Prevention which recommended an average caseload of 25 juveniles per officer, with a range of 40 to one for minimal supervision and 12 to one for intensive supervision. All the standard setting groups referenced in the OJJDP report recommended the administrative agency establish maximum caseload or workload ratios.

## 2. Juvenile Justice Organization (Continued)

### 2.3 Department Of Health And Human Services Deficiencies (Continued)

#### **Observation No. 11: Juvenile Services Officer Workload Formula Needed (Continued)**

Without a workload formula DCYF may not have the information needed to assess the number of juvenile services officers necessary to work with the juveniles. Increased caseloads also reduce the time available to juvenile services officers to spend with each juvenile on their caseloads.

#### **RECOMMENDATION:**

**We recommend DHHS develop and adopt rules for a workload formula for juvenile services officers consistent with RSA 170-G:3, III and RSA 170-G:15. We also recommend a workload formula be developed for juvenile services assistants.**

#### **AUDITEE RESPONSE:**

*DHHS concurs in part. For the complete text of DHHS's response, see Appendix A, page A-10.*

#### **Observation No. 12**

##### ***DCYF Lacks Administrative Rules For Shelter And Detention Bed Formula***

DHHS has not developed administrative rules for the certificate of need formula used to determine the appropriate number of shelter care and detention beds for the State. Chapter 201:16 of the Laws of 1990, amending Chapter 197:12 of the Laws of 1988, states DCYF "shall maintain an appropriate number of shelter care/detention beds, based on the certificate of need formula as established in rules adopted pursuant to RSA 170-G:5." We believe "certificate of need" as used in these Chapter Laws does not refer to the Certificate of Need process of the Health Services Planning and Review Board under RSA 151-C; hence the Legislature's assignment of this responsibility to DHHS.

Currently, DCYF contracts with two agencies, NFI North Inc. and Lutheran Social Services of New England, Inc. to operate three shelters in the State. NFI North Inc. operates a 15-bed staff secure short-term shelter for male youths in Manchester and owns and operates a 15-bed staff secure short-term shelter for male and female youths in Jefferson. Lutheran Social Services of New England, Inc. offers a 12-bed staff secure short-term shelter for female youths in Antrim. In addition, DYDS operates a 23-bed detention unit located in Concord.

Juvenile services supervisors we interviewed reported needing more shelter care and detention beds in the State. In addition, 40 of the 50 (80 percent) juvenile services officers

## 2. Juvenile Justice Organization (Continued)

### 2.3 Department Of Health And Human Services Deficiencies (Continued)

#### **Observation No. 12: DCYF Lacks Administrative Rules For Shelter And Detention Bed Formula (Continued)**

and juvenile services assistants responding to our survey noted the lack of beds as a problem with the current juvenile justice system.

According to juvenile services supervisors, the detention and shelter care bed shortage results in the placement of some juveniles in inappropriate residential settings or being released to their homes. A 1997 study of New Hampshire's detention services found that between January 1, 1997 and April 1, 1997, 40 youths were refused admission to the youth detention services unit due to the population being at or above capacity or the youth did not meet emergency admission criteria, such as assault, sexual assault, robbery, arson, homicide, or felonious use of a firearm. Shelters do not accept juveniles once they have reached their capacity nor do they accept assaultive youths. The detention unit must take the youth when there are no available shelter beds, parents refuse to take the youth, or no other placement options exist (which often leads to overpopulation). Several individuals assigned to a juvenile services field office expressed their concerns to DCYF regarding the lack of available shelter care and detention beds, as well as having to keep juveniles who should be in placement in their parental homes while awaiting beds.

Without an administrative rule establishing the certificate of need formula for shelter care and detention beds the division cannot determine its shelter care and detention bed needs and whether the current number of beds meets the current demand.

#### **RECOMMENDATION:**

**We recommend DHHS develop and adopt rules relative to a certificate of need formula for shelter care and detention beds in accordance with Chapter 197:12 of the Laws of 1988 as amended by Chapter 201:16 of the Laws of 1990, or alternatively seek legislation amending these Chapter Laws.**

#### **AUDITEE RESPONSE:**

*DYDS concurs in part.*

*DHHS does not concur.*

*For the complete text of auditee responses, see Appendix A, page A-11.*

## 2. Juvenile Justice Organization (Continued)

### 2.3 Department Of Health And Human Services Deficiencies (Continued)

#### Observation No. 13

***DCYF Juvenile Services Officers Lack Statutory Authority To Supervise Youth Paroled From The Youth Development Center***

DCYF juvenile services officers supervise youths released on parole from the youth development center operated by DYDS. Although a June 1996 draft memorandum of agreement between DCYF and DYDS addresses this issue, neither agency has

signed it.

RSA 170-G:4, II-a stipulates juvenile services officers shall provide services for all children and youth referred to DHHS by the district courts pursuant to RSA 169-B and 169-D and for all children and youth who are at risk of placement with the division in connection with the child's need for services or juvenile delinquency. However, the statute does not provide for youths released on parole to be referred to DHHS.

The Juvenile Parole Board provides parolees with several documents following their release including a sheet entitled "Conditions of Parole." This sheet requires the youth to acknowledge "...that the Juvenile Services Officer, is a duly empowered agent of the Board with full legal powers to so act." However, no statute, rule, or agreement exists to permit this arrangement.

State statutes indicate DYDS has continuing responsibility for juveniles released from the youth development center. RSA 621:23 through 25 specifies that DYDS shall:

- Have control of children on administrative release to parole and parole until they reach the age of 17 years,
- Seek out proper placements for children qualified for administrative release to parole or parole and keep in contact with children,
- Determine whether it is in the best interest of a child on administrative release to parole or parole to be placed under different conditions,
- Remand children to the youth development center with the same authority and power as the Juvenile Parole Board, and
- Investigate the religious and moral character of those into whose custody a released child is placed.

DYDS, DCYF, and the Juvenile Parole Board appear to be following historical precedence. DCYF's policy manual item 780 states, "Supervision of juveniles is consistent with the provisions of RSA 170-G:16, II." However, this statute does not address juveniles on parole.

DCYF juvenile services officers supervise youth that are the responsibility of DYDS without statutory authority, duly adopted rules, or other interagency agreement. The lack of field services personnel in DYDS prevents the department from carrying out statutorily required duties and providing continuous supervision to paroled youths. Continuity of care for committed youths is compromised by current practice as youths in the custody of DYDS are supervised by DCYF juvenile services officers.

2. Juvenile Justice Organization (Continued)

2.3 Department Of Health And Human Services Deficiencies (Continued)

**Observation No. 13: DCYF Juvenile Services Officers Lack Statutory Authority To Supervise Youth Paroled From The Youth Development Center (Continued)**

**RECOMMENDATION:**

We recommend DYDS, DCYF, and the Juvenile Parole Board develop and sign a memorandum of agreement to formalize the current responsibilities performed by juvenile services officers. We further recommend DYDS, DCYF, and the Juvenile Parole Board develop and adopt appropriate administrative rules based on the agreement.

**AUDITEE RESPONSE:**

*DYDS concurs.*

*DHHS concurs in part.*

*The Juvenile Parole Board concurs.*

*For the complete text of auditee responses, see Appendix A, page A-11.*

**Observation No. 14**

***DCYF Child Protective Social Workers Are Handling CHINS Cases Without Statutory Authority***

The DCYF has assigned at least two child protective social workers to work full-time with Children in Need of Services (CHINS) contrary to RSA 170-G:4. One child protective social worker is located in Nashua and the other in Laconia. Child protective social workers in Conway handle CHINS cases. The child protective social workers reportedly handle CHINS cases with mental health related issues.

RSA 170-G:4, II specifies that the DHHS will provide through social workers, services for all children and youth referred to it pursuant to RSA 169-C (Child Protection Act); RSA 170-B (Adoption); RSA 170-C (Termination Of Parental Rights); and RSA 463 (Guardians Of Minors) and for children and youth who are at risk of placement in connection with child abuse or neglect. RSA 170-G:4, II-a specifies that DHHS will provide through juvenile services officers, services for all children and youth referred to it by the district courts pursuant to RSA 169-B (Delinquent Children) and 169-D (Children In Need Of Services) and for all children and youth who are at risk of placement in connection with the child's need for services or juvenile delinquency.

According to a DCYF juvenile services supervisor, child protective social workers do a better job with certain CHINS identified with mental health issues than juvenile services

## 2. Juvenile Justice Organization (Continued)

### 2.3 Department Of Health And Human Services Deficiencies (Continued)

#### Observation No. 14: DCYF Child Protective Social Workers Are Handling CHINS Cases Without Statutory Authority (Continued)

officers because of the mental health needs of the youths. Two juvenile services supervisors stated mental health and education officials file CHINS petitions because they want youths placed or to hold youths accountable. Another juvenile services supervisor reported these same youths are so mentally disturbed that a juvenile services officer can not help them.

Juvenile services officers are authorized under RSA 170-G:16 to take charge of and provide supervision to juveniles and arrest or take into custody a youth found violating the law, who is or may be a fugitive from justice, or who is a danger to himself or others. Child protective social workers are not similarly empowered. Because child protective social workers do not have the same statutory powers as juvenile services officers, they may encounter difficulties providing supervision and other services to youths through the continuum of case management. This arrangement may unnecessarily expose the State to liability and jeopardize the safety of youths and child protective social workers.

#### RECOMMENDATION:

**We recommend DCYF discontinue using child protective social workers for CHINS case management.**

#### AUDITEE RESPONSE:

*DHHS concurs in part. For the complete text of DHHS's response, see Appendix A, page A-13.*

#### **Observation No. 15**

***Investigative Reports Do Not Always Accompany Committed Youths***

RSA 169-B:19, IV requires a summary of the investigating officer's report accompany each commitment order for youths committed by the court. According to DYDS staff, some youths arrive at the youth development center without Pre-Dispositional Investigations (PDIs) or other summary information completed by DCYF juvenile services staff. During our review of 60 DYDS case files for youths committed to the youth development center between fiscal years 1993 and 1998 we could not find the PDI for 18 cases (30 percent). DYDS staff who use the reports to classify committed youths stated reports received are often too vague, lack needed information, or are not timely. One DYDS staff person estimated between fifteen and twenty percent of all reports received must be redone by department employees. Five of the fifty (ten percent) DCYF juvenile services officers and assistants responding to our survey stated that they seldom if ever or only sometimes forwarded such reports to DYDS.



## 2. Juvenile Justice Organization (Continued)

### 2.3 Department Of Health And Human Services Deficiencies (Continued)

#### **Observation No. 15: Investigative Reports Do Not Always Accompany Committed Youths (Continued)**

There is no administrative rule, policy, or agreement between DCYF and DYDS regarding what must accompany a juvenile upon commitment to the youth development center. The absence of rules, policies, or an agreement hinders the smooth flow of communication between agencies. Excessive caseloads may also contribute to the missing reports. There are some cases where PDIs are waived by the presiding judge, however, this does not appear to eliminate the requirement for a summary report to accompany the commitment nor do such reports appear to be regularly waived.

Without adequate information regarding a youth's offense history and special needs, DYDS does not have all the information it needs to make appropriate and timely decisions on how to program a youth for rehabilitation and education, or on how to classify a youth for appropriate security precautions. In some instances DYDS staff must track down juvenile services officers to get the required information or duplicate work already completed by the juvenile services officer. This limits the efficiency of the juvenile justice system and may pose a risk to the health and welfare of both DYDS staff and committed youths.

#### **RECOMMENDATION:**

**We recommend that under current organization DCYF and DYDS formally reach agreement that the commitment order, PDI, and other relevant information regarding the juvenile will accompany the youth upon commitment to the youth development center.**

#### **AUDITEE RESPONSE:**

*DYDS concurs.*

*DHHS concurs in part.*

*For the complete text of auditee responses, see Appendix A, page A-13.*

#### **Observation No. 16**

##### ***DHHS Hearing Officers Hold Parole Violation Hearings Without Authority***

According to DCYF and DYDS management, DCYF juvenile services officers refer youths alleged to have violated their conditions of parole to a DHHS hearing officer for a preliminary hearing to determine whether probable cause exists. If the hearing officer determines probable cause exists, the youth is returned to the youth development center. If the hearing officer determines probable cause does not exist, the youth is freed. This procedure is not supported by State law or rule. Rather, this process appears to have evolved from the

## 2. Juvenile Justice Organization (Continued)

### 2.3 Department Of Health And Human Services Deficiencies (Continued)

#### Observation No. 16: DHHS Hearing Officers Hold Parole Violation Hearings Without Authority (Continued)

agencies following historical precedence and appears in a June 14, 1996 draft memorandum of agreement between DCYF and DYDS that remains unsigned by either party.

The draft memorandum of agreement states the DCYF juvenile services officer notifies the DHHS hearing officer and DYDS that a juvenile is alleged to have violated parole conditions. A preliminary hearing before the DHHS hearing officer is held within 72 hours, excluding weekends and holidays, of the youth's return to the youth development center. If the DHHS hearing officer determines probable cause exists, DYDS notifies the Juvenile Parole Board to schedule a Juvenile Parole Board revocation hearing. The juvenile services officer then presents the case to the Juvenile Parole Board who decides whether to revoke parole.

RSA 170-H authorizes the DYDS commissioner to return a paroled youth to a secure facility if the conditions meet criteria established by the Juvenile Parole Board. The board must be informed within 72 hours of the youth's return to secure care by the commissioner and the case must be heard within ten working days. Since the Juvenile Parole Board meets biweekly, they are in session often enough to meet this requirement.

#### RECOMMENDATION:

**We recommend DCYF juvenile services officers bring allegations directly to DYDS who should hold preliminary hearings within 72 hours. Alternatively, DYDS should consider delegating its statutory responsibility to DHHS through a signed memorandum of agreement. In the meantime, DHHS should cease hearing allegations of violations of parole conditions. Appropriate administrative rules should be adopted to reflect the parole revocation process.**

#### AUDITEE RESPONSE:

*DYDS concurs. DYDS did not provide additional comments to this response.*

*DHHS concurs in part. For the complete text of DHHS's response, see Appendix A, page A-14.*

## 2. Juvenile Justice Organization (Continued)

### 2.3 Department Of Health And Human Services Deficiencies (Continued)

#### Observation No. 17

##### ***DCYF Unable To Timely Provide Needed Information***

DCYF has been unable to provide representatives of the federal OJJDP with required information to verify State compliance with the federal JJDPA of 1974 as amended. OJJDP uses field audits and site visits to verify compliance with JJDPA grant criteria.

In 1994 and 1995, the division failed to provide OJJDP with performance reports and did not have State Advisory Group reports to the Governor and Legislature as required by the JJDPA. In 1996, the division failed to provide OJJDP with required individual project reports timely.

An OJJDP official terminated a field audit in 1997 because "...little of the basic field audit information requested was available." In a follow-up field audit in 1998, DCYF still had not provided OJJDP with several documents requested in the aborted 1997 effort even though OJJDP advised the division to ensure the availability of required material. A 1998 memorandum from OJJDP indicated that the 1995 and 1996 annual performance reports remained missing; that individual project reports from mid-1997 were not filed; and progress reports for 1994 through 1997 for various grant categories were not filed. This same memorandum indicated eight areas where the division's inability to provide requested information could cause the State to lose grant funds.

The State Advisory Group, which advises the division on the use of federal formula grants, has similarly been unable to obtain information from DCYF, including detailed information on the balance of the group's own budget for which DCYF is the fiduciary agent. According to officials familiar with the group's operation, the State Advisory Group does not receive information when it is needed. Some State Advisory Group members indicated that DCYF treats its information as proprietary in nature.

DCYF handles several federal grant programs overseen by OJJDP. The State's program is assessed on a recurring basis by federal authorities. These assessments require the division to provide OJJDP with documentation regarding the use of federal funds, compliance with the JJDPA, and the State's plan to ensure compliance. Compliance with the requirements of the grants is necessary for continued receipt of federal funds. States failing to comply with the requirements of JJDPA are subject to the loss of federal grants.

Federal auditors are unable to accurately complete their work and verify New Hampshire's compliance with grant criteria. This has contributed to federal fiscal year 1998 formula grant award restrictions and \$150,000 in grants being delayed in 1996. The division's lack of responsiveness jeopardizes the State's continued eligibility to receive these formula grants totaling \$898,950 annually. If past division practices continue, another \$1.8 million over two years in new Juvenile Accountability Incentive Block Grants may be affected. The State Advisory Group's inability to obtain needed information in at least one case

## 2. Juvenile Justice Organization (Continued)

### 2.3 Department Of Health And Human Services Deficiencies (Continued)

#### Observation No. 17: DCYF Unable To Timely Provide Needed Information (Continued)

reportedly resulted in the return of \$10,000 in federal grant money to OJJDP because the group was unable to expend the funds before deadlines.

#### RECOMMENDATION:

**We recommend DCYF comply with information requests and reporting requirements relative to the OJJDP and the State Advisory Group.**

#### AUDITEE RESPONSE:

*DHHS concurs in part. For the complete text of DHHS's response, see Appendix A, page A-15.*

### 2.4 Juvenile Parole Board Deficiencies

Our audit found several deficiencies in the Juvenile Parole Board's operations that require immediate attention. When and if organizational changes are made as recommended in this report, these issues should be addressed by the new commissioner. These deficiencies pertain to the board's noncompliance with State statute, lack of administrative rules, and needed amendments in its authorizing statute.

#### Observation No. 18

##### ***Juvenile Parole Board Does Not Comply With RSA 91-A, Access To Public Records And Meetings***

The purpose of RSA 91-A is to ensure both the greatest possible public access to the actions, discussions, and records of all public bodies, and their accountability to the citizens of the State. We found the following deficiencies in the Juvenile Parole Board's compliance with RSA 91-A, Access To Public Records And Meetings.

- RSA 91-A:2, II requires minutes to be promptly recorded and made available within 144 hours of a public meeting. The board does not maintain minutes of its biweekly meetings.
- RSA 91-A:3, I requires votes by bodies to enter into nonpublic session to be recorded in the body's minutes. The board does not record its vote to enter into nonpublic session.

## 2. Juvenile Justice Organization (Continued)

### 2.4 Juvenile Parole Board Deficiencies (Continued)

#### **Observation No. 18: Juvenile Parole Board Does Not Comply With RSA 91-A, Access To Public Records And Meetings (Continued)**

- RSA 91-A:3, III requires minutes to be prepared and a record of all actions be made available for public inspection within 72 hours of a non-public meeting, unless a recorded vote of two-thirds of the members present determines that revealing the information would adversely affect the reputation of a person other than a member of the board or agency itself. The board's vote to prevent disclosure of records is not recorded.
- RSA 91-A:4, I requires records *and* minutes be available for public inspection. RSA 91-A:5, II exempts only the *records* of parole and pardon boards from the public release provisions of this chapter making minutes available and still requiring maintenance of such records. The board, having no records, can not meet the requirement of having minutes available. Moreover, should a board's decision come into question, there is no record of board actions for them to refer back to.

The lack of DHHS providing support as required by 170-H:13 as described in Observation No. 2 on page 33, contributes to this noncompliance.

#### **RECOMMENDATION:**

**We recommend the Juvenile Parole Board begin maintaining minutes and records of its activities and otherwise ensure compliance with RSA 91-A. We also recommend the Legislature consider amending RSA 91-A:3, II(f) to exempt the Juvenile Parole Board similar to the adult parole board.**

#### **AUDITEE RESPONSE:**

*The Juvenile Parole Board concurs. The Juvenile Parole Board did not provide additional comments to this response.*

#### **Observation No. 19**

##### ***Current Juvenile Parole Board Administrative Rules Needed***

The Juvenile Parole Board is operating under administrative rules that expired in 1991. Since Chapter 416:27 of the Laws of 1983 created the Juvenile Parole Board one set of administrative rules has been adopted. In 1985 the board adopted Chapters Ju 100-400 which expired in 1991. The board began the rule making process in 1988 but final rules were never adopted.

RSA 170-H:4, III requires the Juvenile Parole Board to adopt rules pursuant to RSA 541-A, relative to: the parole process, including the conduct of parole hearings; criteria used to

## 2. Juvenile Justice Organization (Continued)

### 2.4 Juvenile Parole Board Deficiencies (Continued)

#### **Observation No. 19: Current Juvenile Parole Board Administrative Rules Needed (Continued)**

evaluate prospective parolees; conditions for the conduct of parolees; procedures for revocation of parole; and conditions under which DYDS may return a parolee to a secure facility pending action by the board. RSA 541-A:16 also requires each agency to adopt administrative rules related to its organization, operations and practices, and formal and informal procedures.

State entities adopt administrative rules in order to communicate policies, procedures, and practices binding on persons outside the agency including members of the general public. The rule making and adoption process allows for public and legislative oversight of an entity's operation. Having last gone through the complete process in 1985, the board's functions have not had recent public or legislative review. Without duly adopted rules reflecting the policies and practices of the board, the board may be in violation of State law.

#### **RECOMMENDATION:**

**We recommend the board adopt updated rules in accordance with RSA 541-A and RSA 170-H:4 and the agency to which the board is attached ensure that the board adopts rules in a timely manner.**

#### **AUDITEE RESPONSE:**

*The Juvenile Parole Board concurs. The Juvenile Parole Board did not provide additional comments to this response.*

#### **Observation No. 20**

##### ***Juvenile Parole Board Needs Updated Statute***

The Juvenile Parole Board's statute defining "delinquent" is not current. RSA 170-H:2, V defines a delinquent as "...any person under 18 years of age who has been adjudicated delinquent by a...court." RSA 170-H:11 also states a delinquent unless paroled shall remain in custody until his eighteenth birthday. The terms "delinquent" and "minor" as defined by RSA 169-B:2 relating to delinquency changed to 17 years effective January 1, 1996. However, this change has not been reflected in the Juvenile Parole Board's authorizing statute. RSA 170-H was not updated when other juvenile justice related laws had the age of criminal responsibility changed to 17 years of age.

According to statute paroled juveniles remain the board's responsibility until they reach their eighteenth birthday although no juvenile justice agency has any jurisdiction over them. This situation clouds custody issues and may expose the State to unnecessary liability.

**2. Juvenile Justice Organization (Continued)**

**2.4 Juvenile Parole Board Deficiencies (Continued)**

**Observation No. 20: Juvenile Parole Board Needs Updated Statute (Continued)**

**RECOMMENDATION:**

**We recommend the Legislature consider amending RSA 170-H:2, V and RSA 170-H:11 to make its age references consistent with age changes made in RSA 169-B.**

**AUDITEE RESPONSE:**

*The Juvenile Parole Board concurs. The Juvenile Parole Board did not provide additional comments to this response.*

**STATE OF NEW HAMPSHIRE  
JUVENILE JUSTICE ORGANIZATION**

**3. OTHER ISSUES AND CONCERNS**

In this section we present issues we encountered during our audit which were not developed into formal observations. While these issues fall outside our current audit's scope, we consider them noteworthy. The appropriate agencies and the Legislature may consider them deserving of action or further study; therefore we have included suggestions where appropriate.

**3.1 Juvenile Probation And Parole Office Locations**

Juvenile services staff spend a significant amount of their time in court. However, some juvenile services officer offices are located in DCYF field offices while others are located in a stand-alone office. The Nashua juvenile services office is located in the court building. Some juvenile services supervisors indicated that having juvenile services staff offices physically located in the court is the most efficient arrangement. In this way juvenile services staff can work from their office and attend court when called rather than sitting in the lobby, unable to make phone calls or complete other work.

We suggest consideration be given to locating juvenile probation and parole officers in or in close proximity to court buildings whenever possible and economically feasible.

AUDITEE RESPONSE:

*DHHS concurs in part. For the complete text of DHHS's response, see Appendix B, page B-1.*

**3.2 Juvenile Services Assistants Need Authority In Statute**

Nine juvenile services assistants, two of which are part-time, are employed by the juvenile services unit of DCYF. These positions were initially developed in 1995 as contracted positions as a result of increased caseloads for juvenile services officers. According to DHHS personnel, the positions were subsequently established within DCYF to increase personnel, provide a career ladder to juvenile services officer positions, and to alleviate fears among juvenile services officers that their positions would be privatized.

According to DCYF officials, juvenile services assistants were supposed to support juvenile services officers with paperwork and be closely supervised. However, the juvenile services assistants now perform much the same functions as juvenile services officers including acting as court officers and supervising juveniles, but have smaller caseloads. RSA 170-G:16 authorizes only juvenile services officers as court officers and to take youths into custody. Some juvenile services supervisors stated juvenile services assistants may be placed in the same situations as juvenile services officers but may not have the authority to act.



### **3. Other Issues And Concerns (Continued)**

#### **3.2 Juvenile Services Assistants Need Authority In Statute (Continued)**

The Legislature may wish to consider whether juvenile services assistants should have the same powers granted to juvenile services officers.

#### AUDITEE RESPONSE:

*DHHS concurs in part. For the complete text of DHHS's response, see Appendix B, page B-1.*

#### **3.3 Juvenile Justice Information System Needed**

Currently, juvenile justice data is maintained in a number of ways. Within DCYF, a computer system known as NH BRIDGES is used by juvenile services officers and juvenile services assistants to enter data for case management and payment authorization. Five of the seven (71 percent) juvenile services supervisors we interviewed stated NH BRIDGES was not helpful in the type of work that juvenile services officers and juvenile services assistants perform. They most commonly stated NH BRIDGES is social work oriented rather than juvenile justice oriented, duplicative, or time consuming. Six of the supervisors stated that they use manually based information systems to maintain cases within their offices.

DYDS uses paper files to maintain case information on juveniles. Since 1997, the department has had a NH BRIDGES terminal located at the youth detention services unit. However, this terminal provides read-only access to the data. DYDS staff fax information to the NH BRIDGES administrator who enters the information into the system for the department. This effectively blocks DYDS from fully utilizing the computer system intended as the State's juvenile justice case management system. According to a DYDS official this has led to billing problems with the counties as DCYF has not timely entered invoices into the system.

We suggest the Legislature consider authorizing the development of a computer system capable of supporting the State's juvenile justice functions including case management, financial activities, and programmatic data collection.

#### AUDITEE RESPONSE:

*DHHS concurs in part. For the complete text of DHHS's response, see Appendix B, page B-1.*

#### **3.4 Eligibility Guidelines Need Examination**

The juvenile services officers and judges use an instrument known as the eligibility guideline to determine whether a juvenile should be committed to the youth development center. The eligibility guideline is intended to provide objective criteria on whether a youth poses a risk to the community. However, our review of 60 case files of youths committed to

### 3. Other Issues And Concerns (Continued)

#### 3.4 Eligibility Guidelines Need Examination (Continued)

the youth development center during the audit period found that the instrument was overridden by the judge in 59 percent of the cases. According to some familiar with the process, this may result in the loss of balance between professional judgment and objective criteria. Inappropriate placements at the youth development center also occur according to State employees familiar with the process.

Studies on the State's detention practices at the youth detention services unit indicate that there is no measure to uniformly assess the level of risk that each juvenile potentially eligible for detention poses. The result may be inappropriate placements at the youth detention services unit as well, leading to unnecessary expense.

We suggest examination of the eligibility guideline instrument currently in use to determine whether it is a valid, objective, and effective tool and revise the instrument if necessary. There may also be a need for a similar instrument at the youth detention services unit.

#### AUDITEE RESPONSE:

*DYDS agrees. For the complete text of DYDS's response, see Appendix B, page B-3.*

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## STATE OF NEW HAMPSHIRE JUVENILE JUSTICE ORGANIZATION

### 4. CONCLUSION

The agencies involved in juvenile justice in the State provide a necessary and desired function. Numerous concerns regarding the adequacy of the State's juvenile justice system have been presented to us. Unfortunately, no source could offer a single standard for the organization and function of a juvenile justice system. In providing our conclusions and recommendations we have made in this report, we attempted to balance needs of many interests, however, in finalizing any changes in the State's system, the youths that the system is designed to serve must remain at the forefront of concerns.

Our analysis indicates that the State could be better served by creating a comprehensive juvenile justice agency with responsibility for all youths that have committed an offense, either status or delinquent. The State should consider wholesale reorganization of its juvenile justice agencies by combining the institutional functions of DYDS with the responsibilities of supervising CHINS and delinquent youth.

The issue of juvenile crime and need for services is not likely to wane. Some sources project growth in demand for juvenile justice-related services. While these projections may or may not come to fruition, we can be certain that there will always be a certain percentage of youths who commit offenses that will require action by the State.

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## APPENDIX A

### AUDITEE RESPONSES TO OBSERVATIONS

#### Observation No. 1: A Single State Agency Responsible For Juvenile Justice Services Should Be Created

##### DYDS Response

We concur in part. We strongly support the concept of a single agency responsible for consolidating the juvenile justice services. Similarly, we believe, as stated in the auditor's report that "many of the findings noted would be rectified by adequate communication between those responsible for the supervision, security, and aftercare [of] our State's most troubled youths." A signed Memorandum of Agreement, a product of an initiative between DYDS and DCYF following the inception of the DYDS in 1995, remains to be accomplished and would significantly alter the degree of collaboration and cooperation between the two agencies. Additionally, a Needs Assessment conducted under contract to determine the adequacy of existing programs and services for youths committed to the DYDS, recommends a unified case management system between the two agencies to increase program efficiency and communication.

Rather than creating a new state agency we believe that the findings and recommendations contained within the auditor's report can be achieved by the existing Department of Youth Development Services (DYDS). Legislation granting the DYDS rule making authority would greatly expedite this process.

##### DHHS Response

We concur in part. DHHS believes that the organizational structure that best provides for the effective and cost effective delivery of services to youth adjudicated as CHINS or delinquents and their families in a manner that is consistent with the legislature's directives set forth in RSA 169-B:1 and 169-D:1 is that structure which existed prior to July 1, 1995. Prior to July 1, 1995, jurisdiction for all services for children, youth and families, from prevention and intervention to secure care was provided within DHHS. A strategy that incorporates the broad range of prevention services (including health care, economic assistance, prenatal care, new infant home visiting, parental support and education and child care), intervention services (an array of community based services and a continuum of residential services from foster care through residential treatment) and secure care is widely recommended as a model for an effective juvenile justice system. See OJJDP, Guide for Implementing the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders.

We do not concur with the organizational recommendation contained in the audit because of the disruptive consequences of yet another restructuring and the fact that the proposed agency will have the jurisdiction and capacity to respond only to behaviors after they have occurred and will be without the capacity to address the critical component of prevention. DHHS believes that alternatively the present administrative structure can be effectively

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 1: A Single State Agency Responsible For Juvenile Justice Services Should Be Created (Continued)**

maintained with a series of corrective actions to address the specific deficiencies noted in the audit.

In a general statement on Page 32 (“The manner in which the two agencies have operationalized their perceived roles, responsibilities, and authority are unclear and inconsistent with law.”) and in numerous specific observations within the audit (See Observation Nos. 2, 6, 8, 10, 12 13, 15 and 16) the audit implies that DHHS and DYDS are intentionally or carelessly disregarding clear legislative mandates with regard to their respective responsibilities for youth involved with the juvenile justice system. In response DHHS notes that the most recent legislative directives with regard to juvenile justice have not infrequently been inconsistent or unclear. As a result the agencies involved are placed in the difficult position of how to implement such provisions. For example, how is DHHS supposed to respond when the statute creating DYDS expressly leaves rulemaking authority with the Commissioner of the Department of Health and Human Services or when a chapter law discussing shelter beds refers to the certificate of need process which, by its statutory terms, is inapplicable to shelter care beds.

By way of further response, DHHS observes that the statutory problems derive principally from the process by which DYDS was created in 1995. A brief history of this process follows:

The process began with the introduction of HB 59 in 1995. HB 59, introduced at the request of the governor, included a proposal to privatize the operations of the Youth Development Center, the Detention Unit at the Youth Services Center and to close the Tobey School. As amended by the House, HB 59 addressed the privatization issue by authorizing a study with a reporting date of October 1, 1995. HB 59 was killed in the Senate.

Also in 1995, a bill (SB 159) was introduced to transfer YDC and YSC to the Department of Corrections. The public hearings focused on whether the current structure was “tough enough” on juvenile offenders and on the issue of privatization. The Senate amended SB 159 to provide for the creation of a new department of Youth Development Services. The House voted to re-refer SB-159 to enable consideration of all issues concerning YDC and YSC. In May of 1995, the Senate, without further public hearings, took SB-159 and added it as an amendment to an unrelated bill (HB-179 - “an act relative to the reconstruction of the railroad overpass on N.H. Route 135 near the John’s river in the town of Dalton and making an appropriation therefore.”) expressly stating that its intention in so doing was to protect YDC and YSC from privatization or other action by DHHS pursuant to the Department’s reorganization bill (HB-55). HB-179, which was signed on June 5, 1995, became effective July 1, 1995, leaving less than 30 days to implement the creation of a new department. Given this process, it should come as no surprise that DHHS and DYDS have been struggling since then to implement the structure contemplated by HB-179. It should

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 1: A Single State Agency Responsible For Juvenile Justice Services Should Be Created (Continued)**

also come as no surprise that three years is not very much time in which to successfully implement such significant changes.

#### **Juvenile Parole Board Response**

The Juvenile Parole Board concurs with this observation. The Juvenile Parole Board did not provide additional comments to this response.

#### **State Advisory Group Response**

The State Advisory Group concurs with this observation and recommendation. The responding members were unanimous in their support of this observation. While no action of the State Advisory Group is necessary for accomplishment of the recommendations, our support for it will be included within the annual report to the Governor and Legislature.

### **Observation No. 2: Administrative Attachment For The Juvenile Parole Board Should Be Changed**

#### **DYDS Response**

We concur in part. We believe as recommended in the report that "In the absence of changes to the current organizational structure we recommend the Juvenile Parole Board be administratively attached to DYDS and develop its own budget and submit it along with DYDS' biennial budget."

#### **DHHS Response**

We concur in part. We concur that the Juvenile Parole Board should be administratively attached to the agency with physical custody of juveniles subject to the parole process and that within this agency the Board should develop its own budget. We note that prior to July 1, 1995, when DHHS had jurisdiction for YDC and YSC there was a budget line in the DHHS budget for the operations of the Board.

We note that under the terms of RSA 170-G:13, III, a DHHS is to provide support to the board "if mutually agreed to in writing." DHHS has not been approached by DYDS for administrative assistance and when DHHS inquired of DYDS about the need for support DHHS was informed that DYDS would provide the support required by the Board.

#### **Juvenile Parole Board Response**

The Juvenile Parole Board concurs with this observation. The Juvenile Parole Board did not provide additional comments to this response.



## Appendix A - Auditee Responses To Observations (Continued)

### Observation No. 3: Administrative Attachment For The State Advisory Group Should Be Changed

#### DHHS Response

We concur in part. The State Advisory Group should be administratively attached to the state agency which has been designated as the state agency for administration of Juvenile Justice and Delinquency Prevention Act funding. DHHS/DCYF is the designated state agency for the Formula Grant Program under Part B of the Juvenile Justice and Delinquency Prevention Act, 42 USC 5633, Section 223. Further, in 1997 DHHS, Juvenile Services was chosen by the Governor's Office as the designated agency for the Juvenile Accountability Incentive Block Grant Program. The Formula Grant program is to make grants to the states for projects for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

DHHS has been researching and clarifying the role of the State Advisory Group and the designated State agency in compliance with requests from OJJDP. We concur that the authority, duty and responsibilities of the State Advisory Group should be clearly established, at the state level, by either Executive Order or legislation.

Given the express provisions of 42 USC 5633, §223 we do not concur that the State Advisory Group can be attached to any agency except DHHS/DCYF. Because we do not concur with the creation of a new juvenile justice agency, we do not support administrative attachment of the State Advisory Group to such an agency. DHHS provides prevention funds affecting many areas of youth development, including delinquency prevention through the incentive program.

Coordination of prevention activities through grant awards is essential to the effectiveness and efficiency of these efforts. These SAG's activities can be more effective in conjunction with these efforts with the SAG administratively attached to DHHS.

#### SAG Response

The State Advisory Group concurs in part with the observation and recommendation. The SAG has provided additional information contained within a letter from the Office of Juvenile Justice and Delinquency Prevention to DCYF regarding grant awarding authority. However, the members responding concurred with the observations and recommendations with that minor exception.

The State Advisory Group also acknowledges that it shares in the responsibility to alleviate the confusion of its members and others as to its purpose and authority. While new member training has progressed in the last year, much more is needed. This need was reflected in the recommendations of the site review from the Office of Juvenile Justice and Delinquency Prevention from its May, 1998 site visit. The State Advisory Group will

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 3: Administrative Attachment For The State Advisory Group Should Be Changed (Continued)**

continue to obtain training for its members in the next year. Some progress has occurred with the most recent training attendance on November 14.

Further, the State Advisory Group has made an official request (11/13/98) of the Governor's Office to issue an Executive Order authorizing the State Advisory Group. While this action was recommended by the Office of Juvenile Justice and Delinquency Prevention in its December 15, 1993 communication to DCYF, we can find no official action on this recommendation. The SAG reorganization that occurred in 1994 was clearly a response to this assertion by OJJDP. However, without the existence of a "continuously maintained broad based law enforcement and criminal justice supervisory board" the SAG must be the supervisory board under the provision of the JJDP Act.

### **Observation No. 4: Juvenile Justice Specialist And Jail Compliance Monitor Positions Should Be Transferred To The Department Of Justice**

#### **DHHS Response**

We do not concur. As noted in the DHHS Response to Observation No. 3, DHHS/DCYF is the designated agency for a number of Juvenile Justice and Delinquency Prevention Act grants. The separation of those positions from the State Advisory Group and DHHS would disrupt the exchange of information and hinder the development of a comprehensive juvenile justice system.

These positions serve, carry out and fulfill the functions of the Formula, Challenge Activities and Title V, Delinquency Prevention grants. They demand a knowledge of the juvenile justice system and the changing trends in adolescent behaviors, delinquency prevention, delinquency causation factors and effective treatment alternatives. This information is readily available within the State agency providing the juvenile delinquency prevention, supervision and treatment programs. The State Advisory Group relies upon these positions in the development of the State's three (3) year plan and the annual report. Separating the positions from the SAG would again disrupt the effectiveness of the efforts of both entities.

We do not concur with statements that DHHS has jeopardized federal JJDP grant funding. On its own initiative, DHHS took corrective action regarding the administration of the OJJDP Formula Grant programs to address areas that were of concern to DHHS. The State Advisory Group was revitalized, including the appointments of several current members and training regarding their roles & responsibilities was initiated. DHHS personnel were re-assigned to the Juvenile Justice Specialist and the Jail Compliance Monitor's position and provided with additional supervision.

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 4: Juvenile Justice Specialist and Jail Compliance Monitor Positions Should Be Transferred To The Department Of Justice (Continued)**

The delay of OJJDP grant funds in 1997 was contingent upon the filing of reports of activities from prior years which the DHHS personnel were able to accomplish and all OJJDP funds were awarded to New Hampshire.

During the November, 1997 field audit, the full extent of the program monitoring and reporting requirements were jointly recognized. A subsequent review of OJJDP files in Washington, D.C. established the number and type of program reports missing for prior years. DHHS has been working diligently with OJJDP to eliminate all over due reports. OJJDP has expressed its recognition and appreciation of the current efforts of DHHS personnel in these efforts.

We do not concur with the statement at p. 37 that “the Department of Justice contains the institutional capacity and knowledge to promptly manage JJDPA grants.” The audit contains no information to support this statement.

#### **Department of Justice Response**

We concur that both the JJDPA and the JAIBG grants and the two positions supporting the JJDPA grant are assigned to the Department of Justice.

### **Observation No. 5: Inadequate Juvenile Justice Data Collection**

#### **DYDS Response**

We concur. DYDS will continue to collect data pertinent to its responsibilities and share such information with appropriate agencies.

#### **DHHS Response**

We concur in part. We concur in the first part of this recommendation, that the legislature require comprehensive juvenile justice data collection. We do not concur in the second part of the recommendation, that a single entity should be responsible for collecting and distributing the information. Because several entities (including courts, law enforcement, DCYF, and DYDS) at different levels of government collect different types of detailed case management data on different systems for different purposes, mandating collection of all data by a single entity may not be the most efficient way to make necessary information available to decision makers. DCYF will continue its efforts to share data with other agencies. By legislative direction, BRIDGES is a case management system. It focuses on managing those activities inherent to the process of managing the care of children and youth while they are in state custody or under state supervision. Two principles which guided the building of NH BRIDGES were that it be built to industry standard specifications (to allow maximum interchange with other data tracking systems) and that

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 5: Inadequate Juvenile Justice Data Collection (Continued)**

as a by-product of case management data would be collected which would allow identification and analysis of significant events or elements during the course of such management.

While much of DCYF's efforts in enhancement of BRIDGES has been directed to implementing a conversion of our legacy claims payment system to the new environment (thereby placing these important data elements in the same technical platform as case management data), we have focused as well on developing our ability to track significant information about the children, youth and families served by DCYF programs. We recognize that, particularly in the case of juvenile justice, critical data are collected by several different state agencies. Even within the Department of Health and Human Services, services to a youth can be traced across several different state systems - eligibility, child support, Medicaid, and child welfare. The department has initiated a data warehousing project to facilitate tracking data on individuals or classes of clients more effectively. In addition, DCYF has pursued cooperative projects with other state agencies, most recently inviting the Administrative Office to the Courts to participate in a joint effort to share data on juveniles currently being tracked separately by our respective automated systems.

We would welcome an initiative which would identify the goals of a cooperative data warehouse project among the various state agencies currently collecting different pieces of the juvenile justice information whole. We would recommend that a careful analysis produce a model of what data are needed and where those data are currently collected, as well as identifying the most effective site for a central repository.

#### **Juvenile Parole Board Response**

The Juvenile Parole Board concurs with this observation. The Juvenile Parole Board did not provide additional comments to this response.

#### **State Advisory Group Response**

The State Advisory Group concurs with this observation and recommendation. The responding members were unanimous in their support of this observation. While no action of the State Advisory Group is necessary for accomplishment of the recommendation, our support for it will be included within the annual report to the Governor and Legislature.

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 6: Clarification Of DYDS Rulemaking Authority Needed**

#### **DYDS Response**

We concur. DYDS sought clarification through the Attorney General's Office regarding contradictory language contained in RSA 621 (rule making authority). DYDS will draft legislation for the 1999 biennial session to allow the Commissioner rule making authority for the Department of Youth Development Services. Legislation submitted for the 1999 biennial session may, if approved be enacted on July 1, 1999.

### **Observation No. 7: Tobey Special Education School Surplus**

#### **DYDS Response**

We concur. DYDS will revise its current billing and rate-setting system to more accurately reflect the actual costs needed to educate children at the Tobey Special Education School. Billing rate calculations will also include adjustments for over or under billings. Revisions to the billing system will be in place prior to the billing rates being set for FY 2000. Billing rates are currently set annually between May and July. The department will work toward determining the appropriate disposition of the surplus in this account. The Department of Administrative Services will be enjoined in this process as well as the Legislative Fiscal Committee. Discussions in regard to this issue will begin within the next month.

### **Observation No. 8: DYDS Lacks Statutory Authority To Petition Courts To Extend Jurisdiction**

#### **DYDS Response**

We concur. DYDS will draft legislation for the 1999 biennial session to amend RSA 169-B:19, III-a (a) "to give the DYDS commissioner authority to petition the courts to extend jurisdiction when necessary." Legislation submitted for the 1999 biennial session may, if approved, be enacted on July 1, 1999.

### **Observation No. 9: DHHS Lacks Comprehensive Juvenile Services Administrative Rules**

#### **DHHS Response**

We concur in part. DHHS acknowledges that it has not adopted rules in every area in which it has the authority to do so. Given the staff resources and the time consuming nature of the rulemaking process, DHHS has made a conscious effort to adopt rules in these areas that affect the greatest number of our clients and service providers and have the most significant financial impact. To this end rules related to certification standards for residential service providers are in place. Such rules are crucial to the health and safety of children and youth placed outside their homes and are also important because of

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 9: DHHS Lacks Comprehensive Juvenile Services Administrative Rules (Continued)**

the substantial cost of residential services. We note that DHHS will soon be submitting ancillary service rules to the rulemaking process.

Currently, DHHS has adopted the following rules, all of which relate to the provision of services to juveniles and their families: Part He-C 6350, Certification for Payment Standards for Residential Facilities; Part He-C 6380, Enrollment and Billing Requirements; Part He-C 6420, Medicaid Covered Services in Residential Facilities; Part He-C 6443, Residential Placement of Educationally Disabled Children; Part He-C 6446, Foster Family Care Licensing Requirements; and Part He-C 6450, Experiential/Wilderness Facility Licensing Requirements.

We note that one of the functions assigned to the program specialist position added to the juvenile services administrative structure of DCYF is the drafting of policy and administrative rules.

### **Observation No. 10: Clarification Needed In Arrest Powers**

#### **DHHS Response**

We concur. Juvenile Service Officers need to be fully aware of their powers, duties and responsibilities as dictated by statute.

DHHS initiated an effort to address this issue in 1996. These efforts have included the formation of work groups with Juvenile Service Supervisors and Officers, a survey of other States regarding their organizational structure, powers of arrest and procedures, and training issues. Consultations were held with the Department of Justice on legal questions and with the Department of Corrections and the N. H. Police Standards and Training Council on relevant standards and training issues.

Issues identified in this process included:

- the physical and psychological fitness of personnel;
- development of testing standards and training programs;
- liability for acts and omissions;
- liability related to training;
- equipment selection and training; and
- annual testing and training program development.

To address these concerns, the following steps have occurred:

- policy on the power of arrest and arrest procedures has been drafted;
- policy on juvenile services personnel physical and psychological fitness for duty has been drafted which includes medical waivers, unfit to test, and re-testing processes;

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 10: Clarification Needed In Arrest Powers (Continued)**

- physical agility and performance standards and testing procedures are under development, based on professionally recognized standards, appropriate for the current work force;
- a psychological testing instrument, appropriate to this field, has been obtained and is being evaluated;
- legal training has been initiated; and
- a trainer for handcuffing techniques has been selected and retained.

DHHS will:

Continue the development of policies regarding arrests, handcuffing, searches, evidence, self defense, physical and psychological fitness for duty.

Continue the training initiatives in these same areas.

Continue with review of liability issues in these areas.

Provide equipment to trained personnel.

### **Observation No. 11: Juvenile Services Officer Workload Formula Needed**

#### **DHHS Response**

We concur in part. DCYF recognizes the need for workload guidelines. As recognized by RSA 170-G:3(III) the practical value of any workload guidelines is determined by available funding. While DCYF has not undertaken the exact exercise of developing workload guidelines it has repeatedly made efforts to acquire additional funding and positions to address increased juvenile services caseloads. In State Fiscal Year 1996-1997, DCYF requested an additional 60 positions in juveniles services to no avail. In 1996 State Division of Personnel approved sixteen juvenile service assistant positions. Although authorized for sixteen, DCYF was able to fund only ten.

DCYF has received a proposal for a workload analysis project. The intent is to review all current workload functions of DCYF case managers for the purpose of determining other possible business configurations. It is anticipated that this review will begin early in 1999. This analysis will provide important information for the development of caseload guidelines. DCYF will be developing these guidelines for all service areas in conjunction with seeking accreditation through the Council on Accreditation of Services for Families and Children, Inc. DCYF is currently in the process of hiring a Project Director to initiate this process.

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 12: DCYF Lacks Administrative Rules For Shelter And Detention Bed Formula**

#### **DYDS Response**

We concur in part. The adoption of administrative rules and a signed memorandum of agreement between DYDS and DHHS would satisfy this deficiency. It is apparent that a critical shortage of shelter and detention beds often leads to inappropriate residential placements.

#### **DHHS Response**

We do not concur. We do not concur because regardless of the provisions of Chapter 197:12 of the Laws of 1988 as amended by Chapter 201:16 of the Laws of 1990, DHHS has no statutory authority to develop certificate of need rules. Pursuant to RSA 151-C, the authority to develop such rules is in the Health Services Planning and Review Board, which is independent of DHHS. Further, the Health Services Planning and Review Board is without the jurisdiction to issue rules for shelter care or detention facilities because such facilities are not within the definition of health facilities contained in RSA 151-C.

### **Observation No. 13: DCYF Juvenile Services Officers Lack Statutory Authority To Supervise Youth Paroled From The Youth Development Center**

#### **DYDS Response**

We concur. We believe that "The lack of field services personnel in DYDS prevents the department from carrying out statutorily required duties and providing continuous supervision to paroled youths. Continuity of care for committed youths is compromised by current practice as youths in the custody of DYDS are supervised by DCYF juvenile services officers." We are highly supportive of transferring an increased number of juvenile service officers from DCYF to DYDS supervision. Accordingly, this department is supportive of SB 479 which calls for the transference of 53 juvenile services officers from DCYF to DYDS. A memorandum of agreement has awaited final signature between both departments since 1997.

DYDS will initiate the review and formal approval of the Memorandum of Agreement between DCYF and the Juvenile Parole Board. Formulization of responsibilities should be enacted by March 1, 1999. Furthermore, DYDS will seek clarification of contradictory language contained within RSA 621 (rule making authority).

#### **DHHS Response**

We concur in part. DHHS concurs in part with the recommendation that DYDS, DHHS, and the Juvenile Parole Board sign a memorandum of agreement to formalize the current



## Appendix A - Auditee Responses To Observations (Continued)

### Observation No. 13: DCYF Juvenile Services Officers Lack Statutory Authority To Supervise Youth Paroled From The Youth Development Center (Continued)

responsibilities of DHHS Juvenile Service Officers for supervision of juveniles paroled from the Youth Development Center.

DHHS believes that a number of statutory provisions establish authority for juvenile services officers to supervise juveniles on parole. RSA 170-G:16 authorizes JSOs to take charge of and provide supervision of juveniles, attempting to assist them in establishing law abiding lives while monitoring their behavior through school, home, work, office, and other contacts. This is an apt summary of the parole function performed currently by DHHS JSOs under authority of the Juvenile Parole Board and DYDS. It would be desirable for DYDS, DHHS, and the Juvenile Parole Board to formalize this arrangement by a written agreement.

RSA 621:3, VIII defines "parole" as a conditional release of a committed child from YDC under the supervision of a "juvenile parole officer." In 1988 all "juvenile parole officers" of YDC became "Juvenile Service Officers of the Division for Children and Youth Services, Department of Health and Human Services (of which YDC was then a part). During 1990-91, DHHS gradually consolidated its JSO parole and non-parole functions by reassignment of all but one of its YDC JSOs to field units. Caseloads were consolidated to include both parole and non-parole functions for all JSOs. The reassignment of staff and consolidation of functions provided for more equitable distribution of cases throughout the state, and resulted in JSOs being in closer proximity to the paroled delinquents whom they were supervising.

DHHS also recognizes, however, that the various statutory provisions might be less than clear and may in fact be inconsistent. In 1995, when the Youth Development Center was transferred to the then newly created Department of Youth Development Services, no new statutory provisions were established to alter the supervision authority for paroled delinquents. With the exception of one JSO retained by YDC, all JSOs continued to be employed by DHHS and to perform the parole supervision function. Effective March 26, 1997, DHHS promulgated policy for its JSOs entitled "Supervision of Juvenile Parolees". Effective July 30, 1997, DHHS promulgated documents in its Forms Manual entitled "Conditions of Parole", "Parole Supervision Plan" and "Parole Violation Report". These policies and the related forms were formulated and developed by DHHS in collaboration with the Juvenile Parole Board and administrators of DYDS, and were implemented with their approval. As evidenced by the language contained in the "Conditions of Parole" signed by each juvenile parolee and witnessed by the Juvenile Parole Board Chair, the JSO acts upon authority of the Board in supervising paroled delinquents and in enforcing the conditions of parole. The "Conditions of Parole" document sets is the "parole agreement" specified in RSA 621:3, VIII.

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 13: DCYF Juvenile Services Officers Lack Statutory Authority To Supervise Youth Paroled From The Youth Development Center (Continued)**

Given that the practice of juvenile services officers supervising parolees continued after the separation in 1995, we concur with the recommendation that these entities sign an agreement to formalize this practice.

#### **Juvenile Parole Board Response**

The Juvenile Parole Board concurs with this observation. The Juvenile Parole Board did not provide additional comments to this response.

### **Observation No. 14: DCYF Child Protective Social Workers Are Handling CHINS Cases Without Statutory Authority**

#### **DHHS Response**

We concur in part. In State Fiscal Year 1996-1997, DCYF requested sixty additional field staff for juvenile services to no avail. Faced with increased caseloads, limited staff resources and no concurrence by the legislature to fund a request for additional new field staff, DCYF sought to address the issue.

In attempting to respond to staff's growing concerns DCYF utilized child protective service workers for the purpose of CHINS case management in two field offices. The field offices chosen exhibited high numbers of CHINS cases. A review of the statutes at that time determined that there was no specific provision prohibiting the use of CPSWs.

In 1997 DCYF requested an amendment to pending legislation (HB 606) to include a provision clarifying the authority of DCYF to use child protective service workers in case managing CHINS cases. In 1998 HB 606 was sent to interim study. DCYF will continue to seek new statutory language expressly authorizing the use of child protective service workers in CHINS cases.

### **Observation No. 15: Investigative Reports Do Not Always Accompany Committed Youths**

#### **DYDS Response**

We concur. We agree that, as stated in the auditor's report "Without adequate information regarding a youth's offense history and special needs [including medical release forms, medical insurance information, copies of birth certificates and social security number cards and authorization for medical treatment] DYDS does not have all the information it needs to make appropriate and timely decisions on how to program a youth for rehabilitation and education, or on how to classify a youth for appropriate security precautions." Also, the report states that approximately 30% of youths committed to the Youth Development

## Appendix A - Auditee Responses To Observations (Continued)

### **Observation No. 15: Investigative Reports Do Not Always Accompany Committed Youths (Continued)**

Center during the past 5 years lacked Pre-Dispositional Investigations (PDIs) or other summary information completed by DCYF juvenile services staff. We believe that this number is a conservative estimate. Additionally, Dispositional Guidelines have not been consistently submitted to the Youth Development Center upon a youth's commitment. A Needs Assessment, conducted under contract to determine the adequacy of existing programs and services for youths committed to the DYDS determined that 33.5% of committed youth arrived at YDC with no dispositional guidelines.

DYDS will review with DCYF the necessary relevant information expected upon a youths' admission to the YDC. Submission of all necessary and relevant information is anticipated by February 1, 1999.

#### DHHS Response

We concur in part. We note that such an agreement will not result in a Predispositional Investigation and commitment order accompanying a youth in every case. Investigative reports regarding delinquent children committed to YDC are only prepared by DHHS JSOs when authorized by court order. RSA 170-G:16 authorizes JSOs to "investigate at the request of any justice of the district courts which they serve". Courts do not always authorize DHHS JSOs to conduct such investigations. In a significant number of cases, the presiding justice accepts a plea of "true" from the juvenile and orders an immediate disposition, one negotiated and agreed upon by the prosecutor and defense attorney, without ordering an investigation report by a DHHS JSO or anyone else.

Further, it must be noted that the commitment order is an order of the court. RSA 170-G:8-a provides that DHHS staff will not, on their own authority, release copies of court records to any party outside the Department. It may be of assistance in this matter if DYDS approached the administrative justice of the district and family division courts to discuss a memorandum to ensure that a copy of the commitment order will accompany each juvenile committed to YDC.

### **Observation No. 16: DHHS Hearing Officers Hold Parole Violation Hearings Without Authority**

#### DYDS Response

DYDS Concur. DYDS did not provide additional comments to this response.

#### DHHS Response

We concur in part. In any parole revocation proceeding, there is a constitutional obligation to provide two separate hearings. First, there must be a preliminary hearing, as promptly as convenient after the juvenile is taken into custody. The preliminary hearing is to

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 16: DHHS Hearing Officers Hold Parole Violation Hearings Without Authority (Continued)**

determine whether there is probable cause or reasonable ground to believe that the parolee has committed acts that would constitute a violation of parole conditions. The hearing may be informal, and the decision maker needs to be independent of the JSO but need not be the Parole Board. The current practice of holding this preliminary hearing within 72 hours is consistent with this requirement that the hearing be held promptly. As the Juvenile Parole Board meets twice monthly, a decision was made, prior to 1995, to use DHHS staff for these hearings. If the preliminary hearing results in a finding that there is reasonable grounds or probable cause to believe that the juvenile has violated the terms of parole, the juvenile may be held until the Juvenile Parole Board conducts a revocation hearing. The revocation hearing before the Board is more formal than the preliminary hearing, and the parolee has more procedural rights than at the preliminary hearing. The constitutional requirements for the preliminary hearing and the revocation are spelled out in Morrissey v. Brewer 408 US 471 (1972).

At present, a DHHS hearings officer is the independent decision maker who conducts the preliminary hearing in parole revocation cases. There is nothing in case law or statute that prevents use of some other individual to conduct the preliminary hearing. It is, however, necessary that such a hearing be conducted, separately from the revocation hearing before the Juvenile Parole Board. Gerstein v. Pugh, 420 US 103, and State v. Williams, 115 NH 437, require that finders of probable cause be persons who are neutral and detached from the proceedings. DHHS Fair Hearings Officers meet this requirement. DHHS will continue this practice until an orderly transition of responsibilities can be achieved. To cease this practice arbitrarily, would cripple the parole revocation process. DHHS would be happy to review with other concerned parties whether the responsibility to conduct the preliminary hearing should be allocated elsewhere.

### **Observation No. 17: DCYF Unable To Timely Provide Needed Information**

#### **DHHS Response**

We concur in part. DHHS is currently complying with requests for information from both OJJDP and the State Advisory Group.

On its own initiative, DHHS took corrective action regarding the administration of the OJJDP Formula Grant programs to address areas that were of concern to DHHS. The State Advisory Group was revitalized, including the appointments of several current members and training regarding their roles & responsibilities was initiated. DHHS personnel were re-assigned to the Juvenile Justice Specialist and the Jail Compliance Monitor's position and provided with additional supervision.

The "delay" of OJJDP grant funds in 1997 was contingent upon the filing of reports of activities from prior years which the DHHS personnel were able to accomplish and all OJJDP funds were awarded to New Hampshire.

## **Appendix A - Auditee Responses To Observations (Continued)**

### **Observation No. 17: DCYF Unable To Timely Provide Needed Information (Continued)**

During the November, 1997 field audit, the full extent of the program monitoring and reporting requirements were jointly recognized. A subsequent review of OJJDP files in Washington, D.C. established the number and type of program reports missing for prior years. DHHS has been working diligently with OJJDP to eliminate all over due reports. OJJDP has expressed its recognition and appreciation of the current efforts of DHHS personnel in these efforts.

SAG requests for information are complied with to the best of the ability of DHHS staff.

### **Observation 18: Juvenile Parole Board Does Not Comply With RSA 91-A, Access To Public Records And Meetings**

#### **Juvenile Parole Board Response**

The Juvenile Parole Board concurs with this observation. The Juvenile Parole Board did not provide additional comments to this response.

### **Observation 19: Current Juvenile Parole Board Administrative Rules Needed**

#### **Juvenile Parole Board Response**

The Juvenile Parole Board concurs with this observation. The Juvenile Parole Board did not provide additional comments to this response.

### **Observation 20: Juvenile Parole Board Needs Updated Statute**

#### **Juvenile Parole Board Response**

The Juvenile Parole Board concurs with this observation. The Juvenile Parole Board did not provide additional comments to this response.

## APPENDIX B

### AUDITEE RESPONSES TO OTHER ISSUES AND CONCERNS

#### **3.1: Juvenile Probation And Parole Office Locations**

##### DHHS Response

We concur in part. Experience has shown that locating Juvenile Service offices within district court buildings offers great convenience during court business hours. However, this arrangement restricts the use of the office during non-court hours and restricts the availability of the Juvenile Services staff to the community to court business hours. DHHS is pursuing arrangements that locate these offices in close proximity to the courts whenever possible. Consideration should be given to allowing for payment of a high lease rate for this consideration by the Legislature.

#### **3.2: Juvenile Services Assistants Need Authority In Statute**

##### DHHS Response

Observation No. 11 fails to mention juvenile service assistants. However, we concur in part. The Legislature needs to consider the appropriate staffing level for juvenile service personnel at all levels. However, staffing levels are directly dependent upon budget appropriations. Attendant to this should be the expected job responsibilities, liabilities, knowledge base required, the job classification, salary and benefits structure. DHHS will provide relevant information on these issues.

DHHS wants to establish and maintain a career path in Juvenile Service which will allow for entry level positions in accordance with Department of Personnel regulations.

#### **3.3: Juvenile Justice Information System Needed**

##### DHHS Response

We concur in part. The report essentially raises two concerns:

1. BRIDGES is a child welfare, not a juvenile justice, system. As such, it does not meet the needs of juvenile justice case management.
2. Lack of access to BRIDGES for DYDS staff produces inefficiencies in their ability to document placement of youth in DYDS facilities.

It is true that BRIDGES started out as a child welfare case management system. This in part reflects the reality that, in New Hampshire, juvenile justice is managed within the context of the state's child welfare plan, and services which are fragmented in other states (e.g., management of group home placement facilities vs. probation supervision) are unified in New Hampshire. A not insignificant benefit of this unification is the fact that nearly

## **Appendix B - Auditee Responses To Other Issues And Concerns (Continued)**

### **3.3: Juvenile Justice Information System Needed (Continued)**

60% of hardware costs of automating juvenile justice case management was reimbursed by 75% federal child welfare funding.

It is true that in the short time allotted for the implementation of BRIDGES (less than one year from project kickoff to statewide implementation - a very aggressive schedule by industry standards) we did not address as many juvenile justice data management needs as would have been ideal. Nevertheless, significant modifications were made to court processing, restitution collection, and intake subsystems; and further work continues into the current state fiscal year. We are currently in the middle of a major re-design of court information processing, including a proposed interface with the Administrative Office of the Courts, which will serve both child welfare and juvenile justice needs.

It is not surprising that a majority of Juvenile Services Supervisors have been disappointed by BRIDGES. As noted, the application was implemented within a very aggressive schedule. In addition, immediately upon the completion of case management implementation, project resources were dedicated to conversion of the Department of Health and Human Services (DHHS) legacy claims payment system. The old system, built nearly two decades ago and without reasonable hope of being made Year 2000 compliant, had to be replaced. Wrapping the claims payment function together with case management has a lot of advantages, not the least of which is that much of case management is the administration of paid services on behalf of clients. Nevertheless, this development cycle drained resources needed to manage the sea change wrought by the introduction of a sophisticated automated system in what had been a largely manual system. As a result, field staff (juvenile services as well as child protection) did not receive ongoing support they needed, as well as refresher training which would have helped them to optimize their use of the new system. Moreover, many needed changes to the application, based on feedback from the field as well as the observations of project staff, have had to be deferred so that claims payment work can continue. To address this need, DCYF has negotiated an extension of its agreement with the prime project contractor through June, 1999, so that further development of case management functions can continue, and to provide needed support to the field. An intensive round of staff training is about to begin and will continue through the remainder of the state fiscal year. In addition, further ongoing training in the use of BRIDGES is being written into the division's training plan for upcoming fiscal years. With all these diversions of resources, it is not unusual for as massive a cultural shift as has taken place in DHHS automated systems in the past two years to result in considerable staff disruption. The benefits from such development take longer to become apparent. We anticipate significant gains in this area in the next year to 18 months.

As to the difficulties experienced in documenting DYDS placements in BRIDGES, there is no denying that the current system is awkward and inefficient. BRIDGES was first conceived and designed while DCYF and DYDS were a single organizational entity. As such, current steps to process this information are temporary and *ad hoc*. In the short term, we have increased management oversight of this process and expect to keep entry of these data current. We are actively exploring ways to increase the efficiency of the manual

## **Appendix B - Auditee Responses To Other Issues And Concerns (Continued)**

### **3.3: Juvenile Justice Information System Needed (Continued)**

data interchange currently in place, including use e-mail, increasing use of electronic exchange of data, and identifying data elements which will help us to determine how placements should be entered. In addition, we are taking steps to have more of this information entered by DCYF field staff.

As a longer term solution, we are defining a level of security access to BRIDGES which will allow non-DHHS, non-DCYF staff (e.g., DYDS staff) the ability to enter data directly into BRIDGES. This would be the first time non-DHHS staff (or directly responsible contractors) have been given such access. We expect this ability to be on line within the next few months. As a longer term solution, we are exploring development of broader DYDS access to BRIDGES which would allow increased use of BRIDGES to track case management activities while youth are placed in DYDS facilities. Even longer range plans include access to BRIDGES over the internet, which would allow still broader use of BRIDGES as a tool for managing these cases.

In sum, we anticipate seeing BRIDGES grow into a key piece in the overall automated management of juvenile justice cases in New Hampshire. No one state system can be expected to manage all aspects of juvenile justice. The various aspects of such management involve state and local police jurisdictions, several branches of the courts, DCYF, DYDS, private service providers, and Medicaid reimbursement, to mention but a few. Essential parts of these systems, however, can be linked into an overall model of data management such that it is possible to develop a view of the entire system. Such data integration does not come easily or cheaply, but it can be done. We believe that BRIDGES and other DHHS automated systems are poised to be part of such an effort.

### **3.4: Eligibility Guidelines Need Examination**

#### **DYDS Response**

DYDS agrees with the suggestion that an examination of this instrument is necessary, however not because inappropriate placements have resulted from its application. Indeed, the instrument was designed to provide a uniform measure of assessing youth's appropriateness for committal to the YDC. The authors of this instrument included the override mechanism to allow for the subjective determination of the justice to decide on any other human variables and life circumstances that are reflection of New Hampshire's diverse geographical districts then they are an indication of the instruments failure. Interestingly, if one were to arbitrarily reduce the eligibility criteria for admission to the YDC from 15 to 10 points, nearly 75% of the admissions to the YDC would meet the criteria for potential admission to the YDC and the instrument would be viewed as a success.

An examination of the Eligibility Guidelines instrument may simply reveal that the information provided is insufficient to determine admission eligibility, but useful in



## **Appendix B - Auditee Responses To Other Issues And Concerns (Continued)**

### **3.4: Eligibility Guidelines Need Examination (Continued)**

revealing and comparing the varying levels of local community tolerance for juvenile behaviors across regions of the state.



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

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Terry L. Morton  
Commissioner

November 30, 1998

Catherine A. Provencher, CPA  
Director  
Audit Division  
State of New Hampshire  
Office of Legislative Budget Assistant  
State House, Room 102  
Concord, NH 03301

Dear Ms. Provencher:

The Department of Health and Human Services (DHHS) believes that the organizational structure that best provides for the effective and cost efficient delivery of services to youth adjudicated as CHINS or delinquents and their families in a manner that is consistent with the legislature's directives set forth in RSA 169-B:1 and 169-D:1 is that structure which existed prior to July 1, 1995. Prior to July 1, 1995, jurisdiction for all services for children, youth and families, from prevention and intervention to secure care was provided within DHHS. A strategy that incorporates the broad range of prevention services (including health care, economic assistance, prenatal care, new infant home visiting, parental support and education and child care), intervention services (an array of community) based services and a continuum of residential services from foster care through residential treatment) and secure care is widely recommended as a model for an effective juvenile justice system. See OJJDP, Guide for Implementing the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders. However, DHHS recognizes that the General Court acted in 1995 to restructure the delivery of services to juveniles at the Youth Services Center and the Youth Development Center by creating the new Department of Youth Development Services. DHHS believes alternatively that the present administrative structure can be effectively maintained with a series of corrective actions to address the specific deficiencies noted in the audit.

To the extent that the central recommendation of this audit is an organizational structure that is not consistent with DHHS' above stated convictions, DHHS must voice its strong disagreement. In addition, DHHS wishes to identify a number of other general concerns. First, the audit overlooks the most obvious solution to the problems identified: The maintenance of the present administrative structure with the following corrective actions taken to address the identified deficiencies: (1) Corrective legislation, supported by DHHS, DYDS, Juvenile Parole Board and the State Advisory Group, to correct those deficiencies requiring legislative action; (2) A completed interagency agreement between DHHS and DYDS to address all outstanding issues of effective collaboration; and (3) A commitment by all involved entities to complete necessary administrative rule making within a specified time frame. Maintaining the current organizational structure with a plan to address its deficiencies spares the youth and families served by DHHS and DYDS and the employees of these agencies the disruption that history shows will undoubtedly attend yet another reorganization. The apparent lack of consideration given to this solution is of significant concern to DHHS.

Catherine A. Provencher, CPA  
Page 2  
November 30, 1998

DHHS' second general concern is the lack of reference to the reality of the legislative process that gave rise to the creation of DYDS on July 1, 1995, and the difficulties for both DHHS and DYDS created by this process.

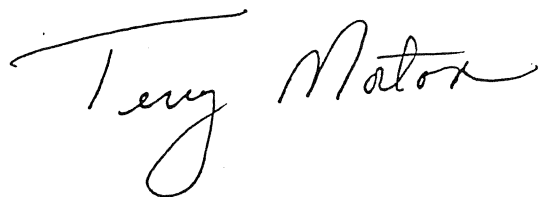
DHHS' third concern is the inclusion of only three (3) of thirteen (13) significant accomplishments submitted by DCYF. The audit does not include such accomplishments as agency efforts to address high delinquency and CHINS caseloads by hiring Juvenile Service Assistants and the Governor's selection of DCYF as the State's designated agency to administer OJJDP Juvenile Accountability Incentive Block Grant. These accomplishments demonstrate the agency's management expertise and professionalism.

DHHS' fourth concern is that the audit did not recognize those administrative, management, and financial resources attributed to juvenile services through its organizational position within DCYF and DHHS. These resources include, but are not limited to, Business Administration, Financial Administration, Legal Department, Licensing and Certification, and Information Systems. The creation of a separate entity would result in the significant duplication of effort, the need for substantial additional resources, and the inefficient use of a limited pool of experienced and dedicated staff.

Finally the fact that this audit was "fast tracked" and requests for additional time were denied, DHHS had less than the normal amount of time for review. We are concerned that despite our most diligent efforts, we may not have identified all the factual errors and inconsistencies.

DHHS concerns about specific observations are, pursuant to your instructions, set forth in our responses. Thank you for the opportunity to respond.

Sincerely,

A handwritten signature in cursive script that reads "Terry Mattox". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

**State of New Hampshire  
State Advisory Group on Juvenile Justice**

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November 19, 1998

Catherine Provencher, CPA  
Director of Audits  
State of New Hampshire  
Office of Legislative Budget Assistant  
State House, Room 102  
Concord, NH 03301

Dear Ms. Provencher:

The members of the State Advisory Group on Juvenile Justice have reviewed the performance audit of New Hampshire's juvenile justice system organization. The draft audit report was reviewed at the State Advisory Group's monthly meeting on November 12 during an executive session.

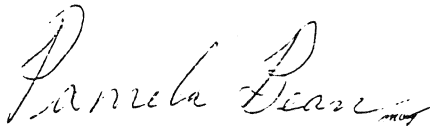
The comments attached here are a response of the State Advisory Group as a whole. Members reviewed the draft report and submitted individual responses to the Chair and Vice-Chair for incorporation and reporting. Some members of the Group excused themselves from this process due to their position within the agencies also required to respond to the report.

The State Advisory Group wishes to commend the auditors and your office for its work. It is our hope that this report will stimulate the kind of positive change needed within the State of New Hampshire and its juvenile justice system.

Sincerely,



Michael Torch, Chair  
New Hampshire State Advisory Group on Juvenile Justice



Pamela Bean, Vice-Chair  
New Hampshire State Advisory Group on Juvenile Justice

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**PERFORMANCE AUDITS  
ISSUED BY  
OFFICE OF LEGISLATIVE BUDGET ASSISTANT**

<u>NAME OF REPORT</u>	<u>DATE</u>
<u>Hazardous Waste Management Program</u>	June 1989
<u>Mental Health Services System</u>	January 1990
<u>Department of Administrative Services, Division of Plant and Property Management, State Procurement and Property Management Services</u>	June 1990
<u>Developmental Services System</u>	April 1991
<u>Prison Expansion</u>	April 1992
<u>Workers' Compensation Program for State Employees</u>	January 1993
<u>Child Settlement Program</u>	March 1993
<u>Property and Casualty Loss Control Program</u>	November 1993
<u>State Liquor Commission</u>	July 1994
<u>Managed Care Programs for Workers' Compensation</u>	November 1995
<u>Multiple DWI Offender Program</u>	December 1995
<u>Child Support Services</u>	December 1995
<u>Job Opportunities and Basic Skills Training Program</u>	May 1997
<u>Economic Development Programs</u>	October 1997
<u>Health Services Planning and Review Board</u>	January 1998
<u>Marine Patrol Bureau Staffing</u>	March 1998

Copies of the above reports may be received by request from:

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Office of Legislative Budget Assistant  
107 North Main Street, Room 102  
Concord, New Hampshire 03301-4906  
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