

**STATE OF NEW HAMPSHIRE  
JUVENILE JUSTICE SERVICES  
PRE-ADJUDICATED PLACEMENTS**

**PERFORMANCE AUDIT REPORT  
FEBRUARY 2013**

*To The Fiscal Committee Of The General Court:*

We conducted a performance audit of juvenile justice services as administered by the Department of Health and Human Services to address the recommendation made to you by the joint Legislative Performance Audit and Oversight Committee. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions. The evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The purpose of the audit was to answer questions regarding juvenile justice and the impact of the change to the Children in Need of Services law on school districts.

*Office of Legislative Budget Assistant*

Office Of Legislative Budget Assistant

March 2013

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**ABBREVIATIONS**

|       |  |
|-------|--|
| BJA   | Federal Bureau Of Justice Assistance       |
| CHINS | Children In Need Of Services               |
| DCYF  | Division For Children, Youth, And Families |
| DHHS  | Department Of Health And Human Services    |
| DOJ   | U.S. Department Of Justice                 |
| JDAI  | Juvenile Detention Alternative Initiative  |
| JPO   | Juvenile Probation And Parole Officer      |
| LBA   | Legislative Budget Assistant               |
| SFY   | State Fiscal Year                          |
| SYSC  | Sununu Youth Services Center               |
| RSA   | Revised Statutes Annotated                 |

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**EXECUTIVE SUMMARY**

Overall, New Hampshire's juvenile justice system, consisting of local law enforcement, the Circuit Courts, the Department of Health and Human Services (DHHS), and service providers, is focused on placing juveniles in the least restrictive, most appropriate placement while ensuring the safety of the child and the community. Each part of the system plays an important role. The DHHS' role in determining placements prior to the adjudicatory hearing is limited, as statutes place the authority over these decisions with the courts. While juveniles may experience out-of-home placements during pre- and post-adjudication, our report focuses primarily on placements prior to adjudication (before the court's ruling regarding a juvenile's delinquency status or whether the child is determined to be in need of services).

Consistent with national trends, we found the approach used by the DHHS and the courts focuses on maintaining children in their homes when possible and seeking alternatives to pre-adjudicated placement options, while moving juveniles to other more restrictive placements only when necessary. While pre-adjudicated juveniles in the State are generally placed in the least restrictive placement, there are limited assessment tools to ensure this happens in all cases and to ensure a juvenile is not placed in *less* restrictive placements than appropriate.

2011 amendments to laws governing Children in Need of Services (CHINS), a reduction in juvenile petitions, State and national trends in juvenile justice services, and a shift in service delivery by the DHHS have caused a period of transition for the system particularly regarding the availability of placement options. These changes have caused a ripple effect throughout the system resulting in decreased numbers of children entering the system and creating excess bed capacity at shelters and the Sununu Youth Services Center (SYSC), the State's only locked juvenile detention facility. While shelter care utilization has declined, the DHHS has not developed a method for determining shelter care or other placement needs throughout the State.

Due to the declining utilization, the SYSC may lend itself to alternate uses, including shelter care for the southern part of the State. Consistent with the DHHS' and the courts' focus, this may help to reduce the distance some juveniles are placed outside of their communities. Declining census numbers have also presented the DHHS with opportunity to explore alternate uses for the facility to address other system needs, including supports for *post*-adjudicated juveniles and their families, as well as increased supports for those transitioning out of the juvenile justice system.

Amendments to the CHINS law have also negatively impacted local school systems. With fewer juveniles qualifying for services, and a new statutory requirement to obtain DHHS consent prior to filing a CHINS petition, school systems we surveyed reported increased truancy and inability to address it, increased disruptions for teachers and other students, and increased time and costs to file CHINS petitions. While the new requirement has been in place for a year and all its effects have yet to be assessed, the DHHS could increase transparency surrounding this process by developing administrative rules about criteria to obtain DHHS consent.

As the juvenile justice system continues to evolve, all interested parties, including the Legislature, should routinely reassess its needs and ensure capacity and flexibility to accommodate the needs of all the juveniles it is intended to serve.

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**RECOMMENDATION SUMMARY**

| <b>Observation Number</b> | <b>Page</b> | <b>Legislative Action Required?</b> | <b>Recommendation</b>   | <b>Agency Response</b> |
|---------------------------|-------------|-------------------------------------|---|------------------------|
| 1                         | 11          | No                                  | Consider establishing risk-based guidelines for placing juveniles within the continuum of placement options.  | Concur                 |
| 2                         | 18          | No                                  | Adopt rules to determine shelter care and detention beds needed as required by Chapter Law or seek legislation amending the requirement. If seeking an amendment or repeal of the legislation, develop a formal process for determining and regularly assessing shelter care needs. | Concur                 |
| 3                         | 24          | No                                  | Formally assess alternate uses of the Sununu Youth Services Center, including shelter care, to determine the most appropriate and beneficial options to maximize utilization of the facility and minimize costs.  | Concur                 |
| 4                         | 29          | No                                  | Develop administrative rules outlining the process, and criteria, for obtaining Department of Health and Human Services' consent to file a Children in Need of Services petition.   | Concur                 |

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**BACKGROUND**

New Hampshire established a juvenile justice system separate and distinct from the adult criminal justice system in 1937. Prior to 2001, juvenile justice was administered through the Division for Children, Youth, and Families (DCYF); however, in 2001, the Department of Health and Human Services (DHHS), under the direction of the Legislature, created the Division of Juvenile Justice Services. In May 2012 the Legislature repealed statutes that required a specific juvenile justice entity and the Division again merged with the DCYF under the direction of the DCYF Director.

Nationally, the concept of a separate justice system for juveniles dates back to 1899 and focuses on rehabilitation in lieu of punishment. However, by the 1980s and 1990s, as juvenile crime rates and violence increased, there was a tendency for states, including New Hampshire, to move toward more punitive systems. The past decade has seen a decline in juvenile crime rates and a shift back towards a focus on rehabilitation in lieu of punishment, diversion away from the formal juvenile justice system, and the use of evidence-based prevention methods within the juvenile's community.

New Hampshire's juvenile justice system operates primarily under RSAs 169-B (delinquency) and 169-D (Children in Need of Services). State laws encourage maintaining juveniles in their homes and favor diversion from courts rather than involvement in the juvenile justice system.

*The Juvenile Justice System*

Multiple entities are involved in the State's juvenile justice system, including the DHHS through the DCYF, law enforcement, the Circuit Courts, school districts, and service providers.

Local law enforcement officers are empowered to investigate crimes and violations occurring within their jurisdictions. Law enforcement officers have authority to arrest and take juveniles into custody, refer juvenile offenders to community diversion programs, and prosecute juvenile cases before the courts. Although anyone in New Hampshire can file a juvenile petition alleging a delinquent act in the State, as a practical matter, most are filed by local law enforcement agencies and prosecuted by local police officers. In larger towns and cities, a city attorney or police department attorney may prosecute cases.

The DCYF provides supervision, case management, and rehabilitative services through its staff of juvenile probation and parole officers (JPPO) and its network of community-based providers. The DCYF is also responsible for securing institutional services for detained and committed juveniles at the Sununu Youth Services Center (SYSC) in Manchester. Although the DCYF's role is minimal during the pre-adjudication phase, JPPOs are present for all arraignments when juveniles are petitioned as delinquents, and initial hearings when juveniles are petitioned as Children in Need of Services (CHINS). The juvenile remains on the JPPO's caseload until the case is resolved or the juvenile reaches the age of majority. JPPOs are required to make monthly in-home or school visits, and monitor the juvenile's adherence to court orders.

The Circuit Courts play a significant role in the juvenile justice system. According to statutes, the courts have exclusive jurisdiction over all CHINS and delinquency proceedings. State laws authorize placement decisions, including whether a juvenile is removed from the home and where a juvenile is placed, to be exclusively within the purview of the court. The amended definition of CHINS, effective October 2011, increases the role of the DHHS as no petition can be filed with the courts without the DCYF's consent.

### *Process For Alleged Delinquents*

When law enforcement alleges a juvenile committed a delinquent act, through investigation or catching the juvenile in the act, they may counsel and release the child, require the child participate in a diversion program in lieu of a formal charge, or choose to pursue the charge through a delinquency petition.

Law enforcement must contact a judge for any pre-adjudicatory placement outside of the home or to hold a child for longer than four hours. If seeking placement in secure detention, the police department must complete the *Detention Assessment Screening Instrument*. If the child scores 12 points or more on the instrument, law enforcement may request the child be placed in detention at the SYSC pending arraignment. However, if the child scores less than 12 points but, based on the child's circumstances or history, the police determine the SYSC is the most appropriate place for the child, they may request the judge override the instrument. The court has complete discretion on whether or not to approve the request. In these cases the DHHS has no role.

If the screening instrument shows the child does not have enough points to be detained at the SYSC (i.e., the child scored less than 12 point) and the judge has not granted an override, but there are circumstances which warrant the child be placed out of the home, the police will contact the on-call JPPO administrator who will provide available placement options. The police then contact the judge with the available placements and the judge provides a placement order for the juvenile. In this instance, the JPPO's role is only to provide placement availability. The DHHS and the JPPO become actively involved in a delinquent petition at the arraignment proceeding.

After the arraignment, the child may still require placement while awaiting the adjudicatory hearing. At this point the JPPO, prosecutor, or family may provide input to the court on the most appropriate placement. The JPPO gathers information from the juvenile, the juvenile's family, local police department, lawyers, and the juvenile's school to determine out-of-home placement options, if necessary. At the arraignment, the child will enter a plea of "True" or "Not True" to the charge. If the child enters a plea of Not True, the judge schedules an adjudicatory hearing and the child may be ordered released to the parents or be ordered into placement pending the adjudicatory hearing. If the court orders placement, the JPPO may be asked to offer an opinion about placement options. If the child enters a plea of True, the judge may make an immediate ruling.

The adjudicatory hearing is similar to a trial in adult criminal court. If a child is found "True" of the charges, the JPPO is ordered to conduct a pre-disposition investigation to determine the extent of the child's issues and determine service options for the child and the family and, if

necessary, placement options for the child. After the completion of the investigation, the child will appear for a dispositional hearing, which is similar to a sentencing hearing in adult court. The judge, based on information in the pre-disposition investigation, will order services for the child and family, and placement for the child if appropriate. The same array of placement options is available to the child; however, children sentenced to the SYSC after adjudication are considered to be committed instead of detained. Appendix C illustrates a process flow for a delinquency case.

### *Process For Alleged Children In Need Of Services*

Under RSA 169-D:5, I, the DHHS must consent before a CHINS petition can be filed with the court. If a juvenile is identified as a potential CHINS, parents, guardians, custodians, school, or local law enforcement officials can submit an authorization form for DHHS approval. If approved, a CHINS petition can be filed with the court and the case scheduled for an initial appearance. Pending the initial appearance, the child may be released to his or her parents or put into placement. Statute requires the court place CHINS in the “least restrictive and most appropriate placement” pending the initial hearing. It is very unlikely a child would be placed outside of the home prior to the initial hearing in a CHINS case.

State law governing CHINS emphasizes community contact, family unity, and placing juveniles in the least restrictive placement option. Among its other purposes, RSA 169-D identifies keeping children in contact with their communities whenever possible, as well as preserving and strengthening family unity. In keeping with this purpose, statute states children should only be removed from their parents when it is necessary for their welfare or the interest of public safety, and when it can be clearly shown to benefit the child. Juveniles petitioned under CHINS are prohibited from being placed in the SYSC, or other locked or structurally secure facility. After the initial hearing and pending the adjudicatory hearing, RSA 169-D:13 authorizes the court to order conditions of release including all placement options available during the pre-initial hearing phase.

The initial appearance for a CHINS petition is similar to the arraignment for children petitioned as delinquents and the child enters a plea to the charges. The process after arraignment is the same for CHINS as for delinquents except the SYSC is not a placement option. Appendix C illustrates a process flow for a CHINS case.

### *Report Focus*

This report primarily addresses the pre-adjudicated placement of juveniles in out-of-home placement prior to the adjudicatory hearing. The remainder of the report provides background information and recommendations to addresses the questions we were asked to consider:

- 1) Are children in the juvenile justice system, both Children in Need of Services (CHINS) and delinquents, placed in more restrictive placements than needed? If so, is this due to decisions made by the DHHS?
- 2) Is the DHHS continuing to fund the three shelter care service providers consistent with the directives of Chapter 224:357, Laws of 2011?

- 3) Has shelter service utilization declined? If so, what are the contributing factors?
- 4) Given the Sununu Youth Services Center's (SYSC) low occupancy rate, would providing shelter care services be an appropriate use of that facility?
- 5) Have the changes to RSA 169-D (CHINS) impacted school districts?

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**LEAST RESTRICTIVE PLACEMENT**

**Are children in the juvenile justice system, both Children in Need of Services (CHINS) and delinquents, placed in more restrictive placements than needed? If so, is this due to decisions made by the DHHS?**

Overall, New Hampshire’s juvenile justice system is focused on ensuring children are not placed in more restrictive placements than needed prior to adjudication. In the past, juveniles could have been placed in more restrictive placements due to the lack of available placement options. Further, the Department of Health and Human Services (DHHS), Division for Children, Youth, and Families (DCYF) does not make placement decisions; State laws place these decisions exclusively within the purview of the court.

When a child allegedly commits a delinquent act or is petitioned as a CHINS, local law enforcement officials are generally the first point of contact with the juvenile justice system and must make the decision to take the juvenile into custody or pursue a delinquency petition. If circumstances warrant a juvenile be placed outside of the home, the courts, with information and recommendations from local law enforcement and information from the DCYF regarding available placement options, make placement decisions prior to adjudication. Typically, juvenile probation and parole officers (JPPO) play a limited role prior to arraignment (in delinquency cases) and initial appearance (in CHINS cases); and therefore, have little to no input on placement decisions. While JPPOs are present at the arraignment or initial hearing, they only offer a recommendation on whether a child should be placed out-of-the-home and provide available placement options for the court to consider. State laws assign the final placement decision with the courts.

*Statutory Guidance For Pre-Adjudicated Placements In New Hampshire*

Statutes identify two pre-adjudicatory phases when juveniles may be placed outside of the home including: 1) prior to arraignment or the initial appearance and 2) pending an adjudicatory hearing. State laws governing CHINS, RSA 169-D, specifically identifies keeping juveniles in contact with their communities whenever possible and preserving and strengthening family unity as purposes of the law. In keeping with this purpose, juveniles should only be removed from their parents when it is necessary for their welfare or the interest of public safety, and when it can be clearly shown to benefit the child. While statute requires the court place CHINS in the “least restrictive and most appropriate” placement pending the initial hearing, the same is not required for alleged delinquent children (RSA 169-B) pending arraignment. Statutes also do not specify this requirement for out-of-home placements while an alleged CHINS or delinquent is awaiting an adjudicatory hearing after the initial hearing or arraignment. Theoretically, the lack of statutory guidance on pre-arraignment placements for delinquents and pre-adjudication placements for delinquents and CHINS, allows the court to order the child into any placement, whether or not it is the least restrictive.

### *Trends In Juvenile Placements*

National trends, federal guidelines, and internal changes at the DCYF have moved towards treating the family unit, shifted away from detention and out-of-home placements, and have focused on a community-based treatment model and maintaining juveniles in their communities. Safety and permanency are primary drivers in determining out-of-home placements for juveniles petitioned as CHINS or delinquents. According to DCYF personnel, the requirement to place juveniles in the least restrictive and most appropriate placements extends not only to juveniles petitioned as CHINS but also those petitioned as delinquents. For at least the past five years, the DHHS has advocated for keeping juveniles connected with their communities and placing them in the least restrictive placement options available, while at the same time balancing the safety of the juvenile and the public.

According to DCYF personnel and judges presiding over juvenile justice cases, the first option for pre-adjudicated juveniles is to maintain the juvenile in the home. If this is not possible, the next best option is an appropriate relative or friend with whom the juvenile can be placed temporarily. If the juvenile requires placement outside the home, the DCYF considers options including: shelter care, a short-term emergency bed in residential facilities across the State (Appendix D), or placement at a residential facility, keeping in mind the proximity of the placement to the juvenile's community. Detention at the Sununu Youth Services Center (SYSC) is considered the most restrictive placement, is generally viewed as the last resort, and can only be used for a juvenile allegedly committing a delinquent act.

DHHS personnel reported prior to the change to the statutory definition of CHINS in October 2011, it was possible for a juvenile to be placed in a more restrictive placement due to the lack of available placement options. However, the change to the CHINS statute reduced the number of juveniles served and produced excess capacity in the shelter care system.

### *Detention Assessment Screening Instrument*

The New Hampshire Circuit Courts implemented the *Detention Assessment Screening Instrument* in 2008. This tool was based on an initiative of the Annie E. Casey Foundation, a private charitable organization, to decrease the number of juveniles placed in secure detention and is applicable only to juveniles petitioned as delinquents. The instrument contains information to help the judge determine when a juvenile should be placed in secure detention and includes risks and mitigating and aggravating factors. A child must score 12 or more points to be eligible for secure detention. According to DHHS personnel and judges, the instrument has decreased the number of juveniles entering the most restrictive pre-adjudicated placement: detention at the SYSC.

While the *Detention Assessment Screening Instrument* helps to determine whether a juvenile should be placed in secure detention, it would not ensure the juvenile is placed in the least restrictive placement along the continuum of out-of-home placements (e.g., shelter care versus residential or other options). The DHHS does not have formal assessment guidelines to aid in determining the least restrictive out-of-home placements other than detention. While it has "guiding principles" (safety, permanency, and well-being) which require a juvenile be placed in

the least restrictive placement option available, there are no objective, risk-based criteria against which to apply the juvenile's specific situation.

### **Observation No. 1**

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#### ***Consider Establishing Guidelines For Placing Juveniles In The Continuum Of Out-Of-Home Placements***

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Neither the DCYF nor the courts have formal assessment guidelines to aid in determining the least restrictive, most appropriate out-of-home placement options other than secure detention. While it has "guiding principles" which require a juvenile be placed in the least restrictive placement available, there are no objective, risk-based criteria against which to apply each specific situation.

DCYF and police department personnel we interviewed reported, with the focus on permanency and maintaining juveniles in the home, juveniles are more likely to be placed in *less* restrictive placements than appropriate or may be maintained at home even though the JPPO or the police department had advocated for a placement.

Pending an initial hearing, RSA 169-D:10, II requires the court to release the juvenile to, in the court's opinion, "the least restrictive and *most appropriate*" placement. [emphasis added] While statute only applies to release prior to the initial appearance for a juvenile petitioned as a CHINS, DCYF, court, and law enforcement personnel report the "least restrictive and most appropriate" concept is applied universally to all out-of-home placements.

Without risk-based assessment guidelines, the DCYF, law enforcement, and the courts risk juveniles being placed in a less or more restrictive environment than appropriate.

#### **Recommendation:**

**We recommend the DCYF, courts, and law enforcement consider establishing risk-based guidelines similar to the *Detention Assessment Screening Instrument* for placing children within the continuum of placement options.**

#### **Auditee Response:**

*WE CONCUR with the recommendation and will seek to establish risk based guidelines for the placement of children in CHINS and delinquent cases.*

*The department recognizes the potential value of risk based guidelines to inform placement and programmatic decision and it is actively working to establish such guidelines for CHINS and delinquents.*

*In March of 2011, the department commissioned a process evaluation of the juvenile justice system. The overarching purpose of the evaluation was to support enhancements to the ongoing formulation of a long-term plan for comprehensive juvenile justice system improvement. Among*

*the recommendations of that evaluation were the development and implementation of a comprehensive statewide and empirically validated risk-needs-responsivity approach to JJS case management. In response to that recommendation, the department has evaluated several risk-needs models, selected one and is actively engaged in discussions with the provider on how (and at what cost) to implement that model in New Hampshire. The department anticipates that it could have such a model in place by 2014.*

*As the observation notes, however, the implementation/application of risk-based guidelines to pre adjudicatory placements in CHINS and delinquent cases will require the cooperation and support of both the courts and law enforcement. The department's role prior to arraignment, and at arraignment or initial hearing, is limited and state law assigns the final placement decision to the courts.*

*In the absence of guidelines, however, the department would note that the CHINS and delinquent statutes do provide a hierarchy of pre-adjudicatory placement options. From less restrictive to more restrictive, those placement options are: release to a parent, guardian or custodian, release to a relative or friend, release to the custody of the department for placement in a foster home, group home, crisis home or shelter care facility or detention. The criteria for selection of the placement option (explicit in CHINS and implicit in delinquent cases) is, "the least restrictive and most appropriate" placement. As evidenced by the observation's survey results, in practice, the application of this standard would seem to err, if at all, in favor of **less** restrictive placements for children and youth, not more restrictive ones.*

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**DECLINING SHELTER CARE CENSUS AND UTILIZATION**

*Is the DHHS continuing to fund the three shelter care service providers consistent with the directives of Chapter 224:357, Laws of 2011?*

Chapter 224:357, Laws of 2011 requires the Department of Health and Human Services (DHHS) “continue to fund the following shelter care services: 12 beds for boys at the Midway Shelter in Bradford, 13 beds for girls at the Antrim Girls Shelter in Antrim, and 12 beds at the co-educational North Country Shelter in Jefferson...” during State fiscal years (SFY) 2012 and 2013. We found the DHHS maintained contracts with the three shelter care facilities while they were in operation. However, it is unclear if the law required the DHHS to continue paying the shelters even if the courts did not place children in them. Had the DHHS continued to pay the shelter care providers it would have been paying for services not rendered, unavailable, and not needed.

The DHHS contracted with Midway Shelter in Bradford and North Country Shelter in Jefferson during SFYs 2012 and 2013 and with the Antrim Girls Shelter in Antrim during SFY 2012. However, the DHHS could not maintain its contract with Antrim for SFY 2013 due to the shelter’s closure in October 2011. Based on the shelters’ daily rates, which are approved by DHHS, the shelters required 95 percent occupancy to remain viable. The shelters’ occupancy rates have been declining since SFY 2008, with no shelter reaching a 95 percent occupancy rate between SFYs 2008 and 2012 (Table 1).

**Table 1**

**Shelter Care Facility Occupancy**

| State Fiscal Year | Antrim<br>(capacity: 5,475 bed days) |                | Bradford & Jefferson <sup>1</sup><br>(capacity: 10,950 bed days) |                |
|-------------------|--------------------------------------|----------------|--|----------------|
|                   | Bed Days Used                        | Occupancy Rate | Bed Days Used  | Occupancy Rate |
| 2008              | 4,774                                | 87%            | 9,830  | 90%            |
| 2009              | 4,188                                | 76%            | 8,625  | 79%            |
| 2010              | 4,228                                | 77%            | 8,731  | 80%            |
| 2011              | 3,496                                | 64%            | 7,795  | 71%            |
| 2012              | 366 <sup>2</sup>                     | 27%            | 6,462  | 59%            |

Notes: <sup>1</sup> Shelters located in Bradford and Jefferson are operated by the same entity and provided combined data.

<sup>2</sup> Represents one quarter of SFY 2012 as the shelter closed in October 2011.

Source: LBA analysis of Lutheran Social Services (Antrim), NFI North (Bradford & Jefferson) data.

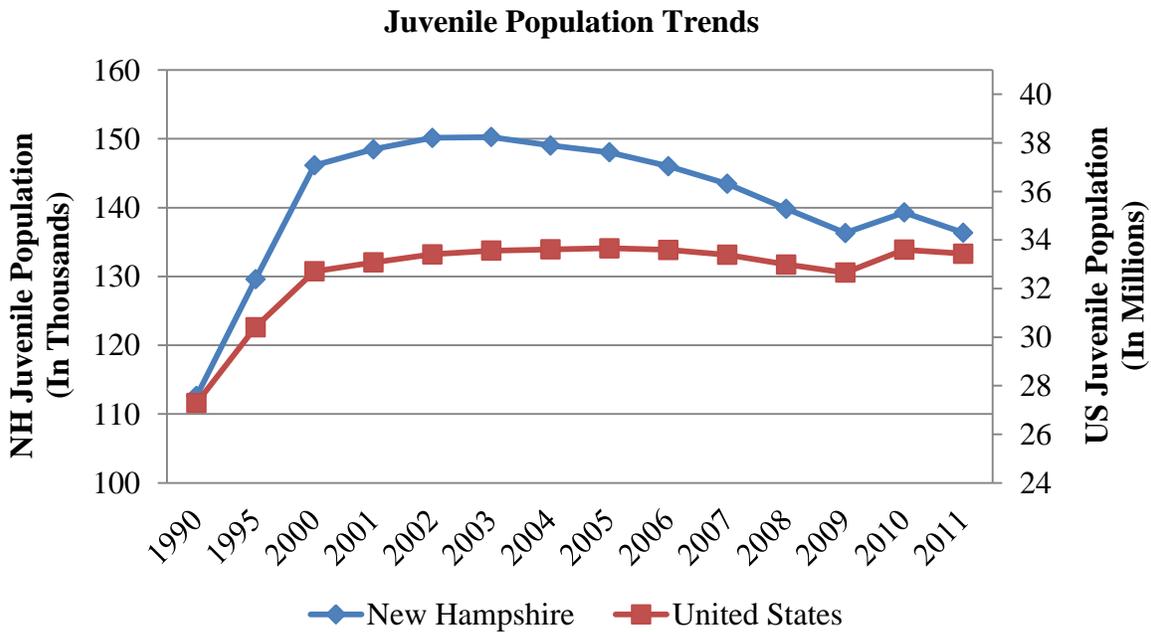
**Has shelter service utilization declined? If so, what are the contributing factors?**

As discussed, shelter service utilization has been declining since SFY 2008 and continues to decline. This is due to several factors including a decreasing juvenile population in the State, an overall decrease in Children in Need of Services (CHINS) and delinquency petitions filed, a statutory change to the definition of CHINS, trends in national and best practice, a change in DHHS philosophy from putting juveniles in placement towards a focus on maintaining juveniles in their homes and communities, and alternative options to shelter placements and secure detention.

*Decreasing Juvenile Population in the State*

Excluding 2010, the population of juveniles (aged 10 to 17) in New Hampshire has decreased every year between 2004 and 2011. During that period, New Hampshire’s juvenile population declined at a faster rate than that of the nation as a whole, decreasing by eight percent compared to one percent nationally. This reversed the previous trend of growing juvenile populations in both New Hampshire and the nation. Between 1995 and 2003, New Hampshire’s juvenile population had increased 16 percent and the nation’s had increased by 10 percent. Figure 1 shows the trends in both New Hampshire and the U.S. juvenile populations.

**Figure 1**



Source: LBA analysis of US Census Bureau data.

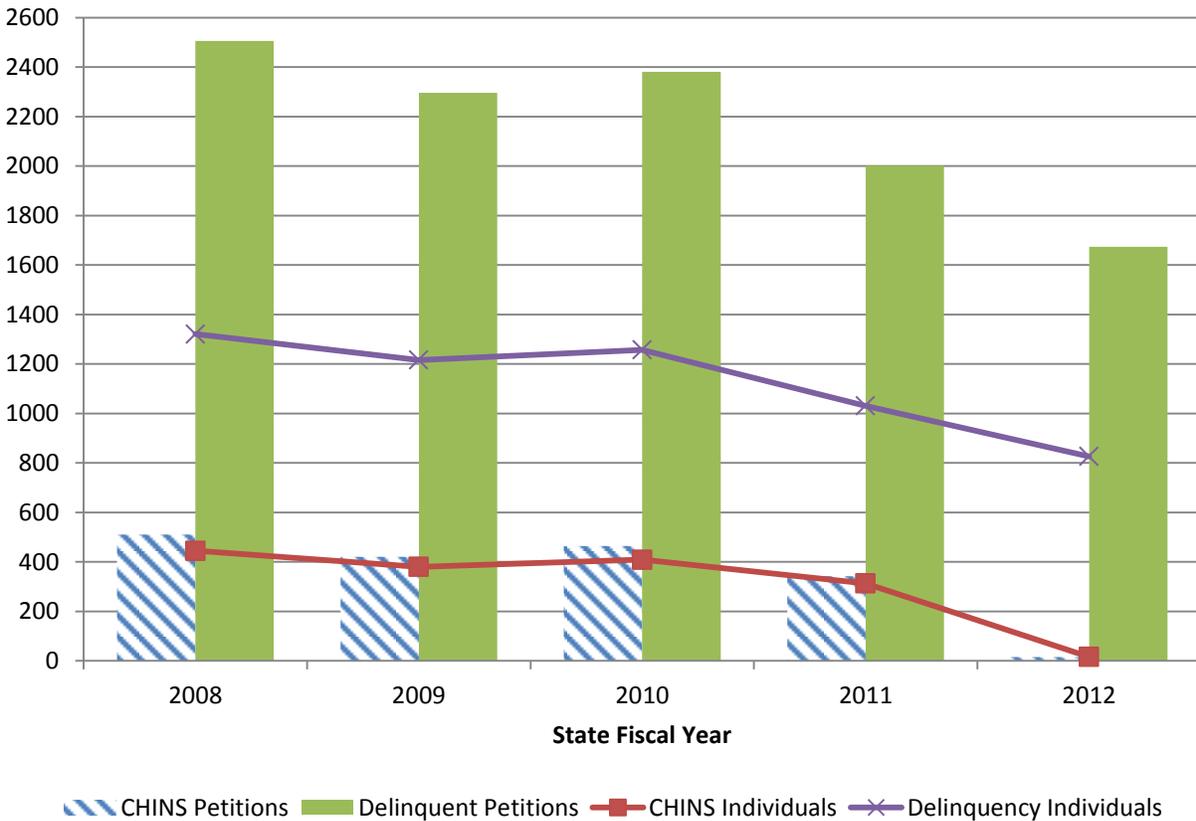
*Declining Juvenile Petitions And Changes To CHINS Laws*

As shown in Figure 2, the number of petitions filed for juveniles, as well as the number of individual juveniles petitioned (each juvenile may have more than one petition), has generally

been decreasing. Between SFYs 2008 and 2012, the number of CHINS petitions fell by 97 percent while the number of delinquency petitions fell by 33 percent. The number of individual juveniles petitioned also declined, indicating a decrease in the number of children entering the juvenile justice system. In total, delinquency and CHINS petitions filed between SFYs 2008 and 2012 fell by 44 percent. These trends are also reflected nationally; according to a 2009 U.S. Government Accountability Office report, the juvenile arrest rate nationally was near its lowest point in two decades.

Figure 2

Juvenile Petition Trends



Source: LBA analysis of DHHS data.

This decrease in the CHINS population directly affected shelter occupancy. DHHS data show, between SFYs 2008 and 2011, 52 percent of juveniles placed at Antrim, 33 percent at Bradford, and 37 percent at Jefferson were petitioned as CHINS. When the number of CHINS petitions fell, the number of juveniles requiring placement in shelters also fell, affecting more than half of Antrim’s overall placements and more than a third of Bradford’s and Jefferson’s. This trend parallels data reported by each of the shelter care providers.

The decrease in the number of juveniles petitioned as CHINS was primarily due to a statutory change which narrowed the definition of CHINS, limiting the designation's applicability. According to our surveys, the majority of juvenile probation and parole officers (68 percent, or 49 of 72 respondents) and Circuit Court, Family Division Judges (86 percent or 19 of 22 respondents) reported the change in the legal definition of CHINS has contributed to the decline in shelter care usage.

*Best Practice, National Trends, And DCYF Philosophy Shift*

National trends have shifted away from juvenile out-of-home placements and focus on maintaining juveniles in their homes and communities, while using evidence-based practices to provide treatment services for both youths and their families. Research has questioned the effectiveness of juvenile correction and residential treatment facilities. The Annie E. Casey Foundation, a charitable organization headquartered in Baltimore, Maryland, has been a national leader in promoting the *Juvenile Detention Alternatives Initiative* (JDAI) which attempts to reduce the use of secure detention and instead focuses on maintaining youth in the least restrictive placements possible within their communities. The Annie E. Casey Foundation has also focused on implementing family-focused interventions.

The DCYF's philosophy for treating juveniles in the system coincides with these national trends. According to the DCYF Director, juveniles cannot be treated in isolation in an institution; the family and community must be involved. Based on federal and national best practices, the DHHS philosophy focuses on rehabilitation, restoring the community's sense of safety, focusing attention on the victims, and understanding that with effective intervention, juveniles are capable of becoming productive members of society. The DCYF has reported the focus of juvenile justice is safety (both the juvenile's and the public), permanency (focusing on the long-term placement of the child), and well-being (family-focused intervention that helps to treat the root cause of the juveniles' problems). Part of this philosophy is maintaining juveniles in the least restrictive placements available; preferring placements with parents, relatives, or friends and only moving up the continuum of placement options if less restrictive placements are unavailable or inappropriate. The majority of juvenile probation and parole officers (75 percent, or 54 of 72 respondents) and Circuit Court, Family Division Judges (55 percent, or 12 of 22 respondents) responding to our survey reported this change in philosophy has contributed to the decline in shelter care usage. As part of this focus, the number of juveniles placed in the Sununu Youth Services Center (SYSC) has also generally been declining (Figure 3).

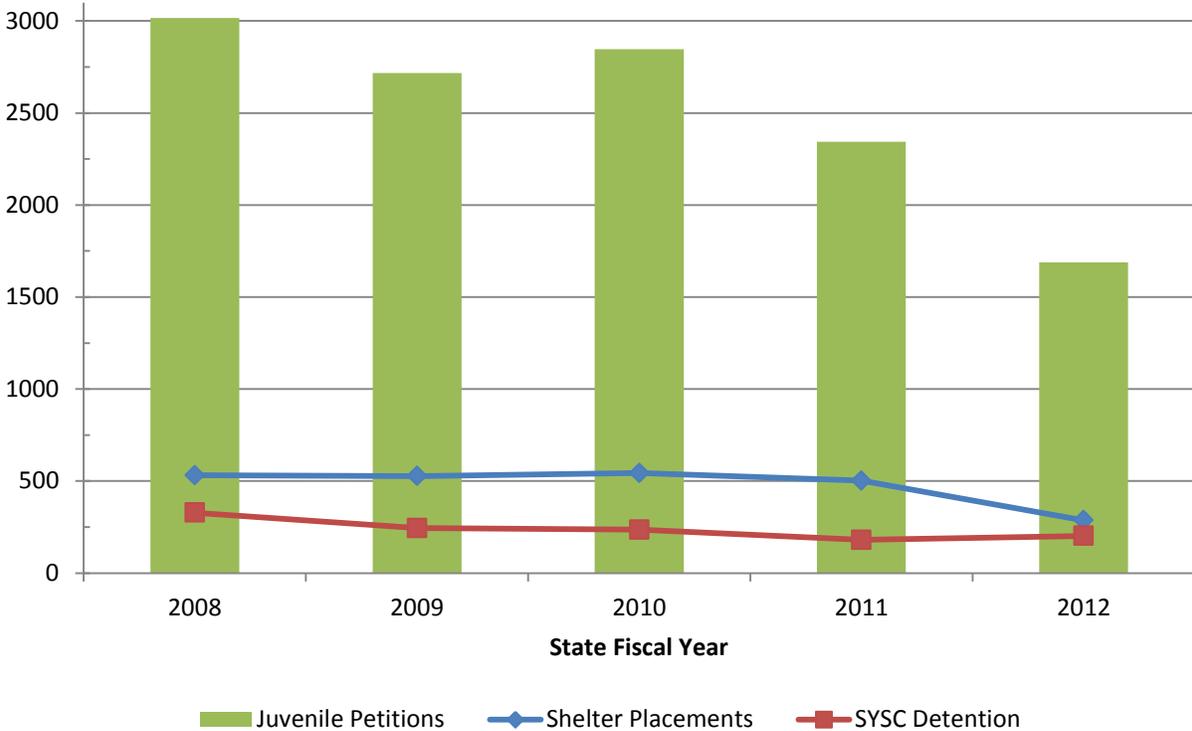
This philosophical shift also led to the adoption of the *Detention Assessment Screening Instrument* which is completed prior to placing an alleged juvenile delinquent in secure detention. Since the instrument was implemented, the number of juveniles placed in detention at the SYSC decreased by 38 percent from 328 juveniles in SFY 2008 to 202 in SFY 2012.

In an attempt to keep juveniles in the least restrictive placements, the DHHS has worked with service providers to develop alternatives to shelter care and secure detention, including JDAI beds, by using residential facilities across the State for short-term emergency placement options. The DHHS contracted with residential facilities to provide a specific number of short-term (five days or less) beds, which may be converted to a long-term placement option if the child requires

continued placement after adjudication. During SFY 2012, there were ten JDAI providers throughout the State. This initiative addresses the DCYF’s focus on permanency by limiting the number of physical moves a juvenile experiences while in the juvenile justice system, and enables juveniles to be placed closer to their communities.

**Figure 3**

**Juveniles Petitioned And Placed In Shelters Or The SYSC**



Source: LBA analysis of DHHS and shelter care facilities data.

*Vulnerability Of The Antrim Girls Shelter*

Based on DHHS petition data, girls were 70 percent more likely to be petitioned as CHINS than boys. Based on SFY 2008 through 2011 averages, CHINS petitions accounted for 26 percent of all petitions filed each year for girls, compared to 12 percent of all petitions filed for boys. When identifying individual juveniles petitioned, girls were petitioned as CHINS 34 percent of the time, compared to 20 percent of the time for boys.

Data received from the Antrim Girls Shelter confirm this trend. Antrim had a larger percentage of admissions from CHINS than the Bradford or Jefferson shelters. This may have made the Antrim Girls Shelter more susceptible to the statutory change to the definition of CHINS, possibly contributing to the shelter’s declining occupancy rates and subsequent closure.

## Observation No. 2

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### *Determine Shelter Care Needs*

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The DHHS does not have rules detailing a formula or other methods for determining shelter care needs in the State.

According to statute<sup>1</sup>, “the *division* shall maintain an appropriate number of shelter care/detention beds, based on the certificate of need formula as established in rules....” [emphasis added] We noted this issue in our 1998 Juvenile Justice performance audit recommending the DHHS develop rules relative to a certificate of need formula for shelter care and detention beds. The DHHS stated it did not have statutory authority to develop certificate of need rules. According to DHHS personnel, it is currently attempting to repeal this requirement.

In 1998, the number of shelter care options was insufficient to meet the needs of the system. Currently, the number of shelter care beds appears more than the actual need and one shelter has closed.

Despite the lack of a formal process for determining shelter care needs and the declining need for shelter care, the Legislature required the DHHS to fund 37 shelter care beds in the State for SFYs 2012 and 2013.

### **Recommendations:**

**We recommend the DHHS develop and adopt rules relative to a certificate of need formula for shelter care and detention beds in accordance with statute or alternatively seek legislation amending these laws.**

**If seeking an amendment or repeal of the legislation, the DHHS should develop a formal process for determining and regularly assessing shelter care needs in the State.**

### *Auditee Response:*

*WE CONCUR with the recommendation and will seek legislation to amend or repeal of the chapter law in the upcoming legislative session.*

*As noted by the observation, the chapter law dates from 1988 (some 25 years ago) and was enacted at a time when the number of shelter care beds was insufficient to meet the needs of the system. For the reasons noted in the observation, the current number of shelter care beds substantially exceeds the need for shelter care and the current law’s requirement for a fixed number of shelter care beds no longer makes practical or fiscal sense.*

*The department has an existing formal process for determining and assessing shelter care needs as well as other service needs throughout the state. The department’s Division for Children*

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<sup>1</sup> Chapter 197:12, Laws of 1988 as amended by Chapter 201:16, Laws of 1990.

*Youth and Families regularly conducts case practice reviews in all of its district offices as part of its quality improvement process. These reviews are modeled after the Federal Child and Family Service Reviews and regularly assess the service needs (including the need for shelter care) in each district office. Based on the findings in these reviews, each district office is required to develop and implement a program improvement plan, which in the case of shelter care, may involve the identification of the need for more short term, emergency or shelter care beds. Based on the identified the need, the department can then reach out to appropriate service providers and request that they provide the necessary services.*

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**ALTERNATE USES OF THE SUNUNU YOUTH SERVICES CENTER**

**Given the Sununu Center's low occupancy rate, would providing shelter care services be an appropriate use of that facility?**

Since at least 2008, the Sununu Youth Services Center (SYSC) has been underutilized and can potentially be used for other options, including shelter care. While opinions vary among Division for Children, Youth, and Families (DCYF) personnel and judges on the appropriateness of this option, we are not aware of any prohibitions on using the facility for shelter care. While the DCYF Director stated there is no need for additional shelter care beds in the State, we found there may be benefits to providing shelter care in the southern part of the State, especially for girls.

The SYSC provides long-term secure care for committed juveniles and short-term secure detention for detained juveniles. There are three units for committed juveniles and a separate unit for detained juveniles. The SYSC has a capacity of 144 juveniles: 120 beds for committed juveniles and 24 beds for detained juveniles. Juveniles committed to, or detained in, the SYSC range in age from 11 to 17 years old. The SYSC provides committed juveniles with the following services: psychiatric services, treatment plans, individual and group counseling, self-change counseling, family counseling, family therapy, juvenile probation and parole contacts, crisis intervention and stabilization, weekly recreational services, 12-step programs, tutoring and skills building, community reintegration programs, and spiritual awareness and growth programs.

The SYSC census has been significantly below capacity. At the end of each fiscal year between 2008 and 2012, the detention unit for pre-adjudicated juveniles was operating at 17 percent of capacity or less and the commitment unit was operating at 66 percent or less (Table 2).

**Table 2**

**End-Of-Year SYSC Census Data**

| End Of SFY | Detention<br>(Capacity: 24 beds)   |                   | Commitment<br>(Capacity: 120 beds) |                   |
|------------|------------------------------------|-------------------|------------------------------------|-------------------|
|            | Juveniles<br>Detained <sup>1</sup> | Occupancy<br>Rate | Juveniles<br>Committed             | Occupancy<br>Rate |
| 2008       | 4                                  | 17%               | 79                                 | 66%               |
| 2009       | 0                                  | 0%                | 63                                 | 53%               |
| 2010       | 2                                  | 8%                | 41                                 | 34%               |
| 2011       | 3                                  | 13%               | 54                                 | 45%               |
| 2012       | 3                                  | 13%               | 48                                 | 40%               |

Note: <sup>1</sup> Pre-adjudicated juveniles.  
Source: DCYF end-of-year occupancy data.

The total number of bed days used for detention has also been decreasing since SFY 2008. During the audit period, on average, ten juveniles were detained at the SYSC daily (Table 3).

**Table 3**

**SYSC Detention Occupancy By State Fiscal Year**

| SFY  | Detention<br>(Capacity: 8,760 bed days) |                |                         |
|------|---|----------------|-------------------------|
|      | Bed Days Used                           | Occupancy Rate | Average Daily Occupancy |
| 2008 | 5,956                                   | 68%            | 16                      |
| 2009 | 4,757                                   | 54%            | 13                      |
| 2010 | 5,122                                   | 58%            | 14                      |
| 2011 | 3,831                                   | 44%            | 10                      |
| 2012 | 3,690                                   | 42%            | 10                      |

Source: LBA analysis of DCYF Juvenile Detention Alternative Initiative information.

DHHS admissions data also show the overall number of juveniles served at the SYSC for both detained and committed juveniles is generally trending down. Between SFYs 2008 and 2012, juveniles served decreased by 30 percent while committed admissions declined by 48 percent. The largest change occurred between 2008 and 2010 with little change to admissions between 2010 and 2012 (Table 4).

**Table 4**

**Number Of Juveniles Served<sup>1</sup> By SYSC**

| SFY  | Detained | Committed |
|------|----------|-----------|
| 2008 | 282      | 235       |
| 2009 | 196      | 171       |
| 2010 | 198      | 123       |
| 2011 | 186      | 120       |
| 2012 | 197      | 122       |

Notes: <sup>1</sup> Includes juveniles who were admitted in a prior fiscal year but continued to receive services.  
Source: LBA analysis of SYSC admissions data.

*Using The SYSC As A Shelter Care Facility*

As discussed in the previous section, there are currently two shelters operating in the State; one located in Jefferson in southern Coos County and one in Bradford in the western part of Merrimack County. Only the shelter in Jefferson is currently authorized to accept girls for placement. The lack of geographic distribution of available shelter beds may cause juveniles in the southern part of the State to be placed further away from their community than if there were a shelter located at the SYSC.

The DHHS considered using the SYSC for transitional services and shelter care and presented the initiative during the SFY 2012 and 2013 budget process. However, the plan (which would have established shelter care in one unused wing of the SYSC, required termination of the contracts with the shelter care providers, required hiring additional staff, and required some building modifications to ensure the shelter was not locked) was not approved by the Legislature in favor of maintaining contracts with the three existing shelter care facilities. The DHHS has not pursued shelter care at the SYSC since that time.

While the DHHS has not sought formal guidance from the federal government on the use of SYSC as a shelter care or transitional housing facility, informal communication from the federal government noted the facility must be unlocked to be eligible for Medicaid reimbursement. Additionally, the SYSC was built using federal Department of Justice (DOJ), Bureau of Justice Assistance (BJA) formula grants which require the facility be used as a correctional facility or jail. BJA guidance requires grantees “to continue using DOJ-funded property, equipment, or facilities for the originally authorized purposes, for as long as they are needed for those purposes.” However, this guidance also states “the need for the correctional facility dictates the length of the federal requirement for continued use...” and allows grantees to seek permission for a change in structure or use of the facility. Further, the BJA notes it has a general policy “of granting all reasonable facility-use requests...” as long as alternate uses of a facility “serve[s] a criminal justice purpose, as a general matter, and that it must be made available for the originally authorized purpose, if the need should arise again.”

Although federal requirements do not appear to prohibit alternate uses of the SYSC, making a *wing* staff-secured may not meet New Hampshire statutory requirements for placing Children in Need of Services (CHINS) there. RSA 169-D:9-b states, “no child detained under this chapter shall be held for a period of time in a public or private facility, which includes construction fixtures designed to physically restrict the movements and activities of persons in custody, including but not limited to locked rooms and buildings, fences, or other physical structures. This section shall not be construed to prohibit detention in facilities where physical restriction of movement or activity is provided solely through facility staff.” Although the shelter care wing may be unlocked, in order to take advantage of economies of scale and utilize the entire facility, it seems likely CHINS placed in shelter care would need to use dining, medical, and educational facilities located in locked sections of the SYSC.

The DCYF Director stated the need for shelter care in the State is declining and using the SYSC for this purpose is not needed because it does not address permanency which is a goal of the federal Administration for Children and Families’ - Children’s Bureau. Permanency focuses on

the juvenile's long-term placement and attempts to minimize the number of moves a juvenile makes while in the system, because each move disrupts the juvenile's life. Shelter care, by definition, is a short-term placement and contradicts the concept of permanency. The Director further stated vacant areas of SYSC could be better used as housing for juveniles transitioning out of SYSC commitment or as a parent services center which would help juveniles maintain contact with their families.

Other opinions varied regarding the appropriateness of using the SYSC as a shelter care facility. According to our survey of juvenile probation and parole officers (JPPO) and their supervisors, 42 of 74 respondents (57 percent) reported using the facility for shelter care was appropriate, while twenty (27 percent) reported it was not appropriate and 12 (16 percent) were unsure. Ten JPPOs commented while the SYSC could be used as shelter care, it is appropriate only for the southern region of the State and the North Country would still need its own shelter care facility. Our survey of Circuit Court, Family Division Judges was less conclusive with eight of 25 respondents (32 percent) responded using the facility for shelter care was appropriate, while seven (28 percent) responded it was not appropriate. Three DHHS and court personnel we interviewed also commented the SYSC was not appropriate as a shelter because of the stigma attached to the facility; however, two noted it may be practical due to cost savings.

None of the other New England states combine shelter care and detention in the same facility; however, Utah uses multi-use facilities which combine detention and shelter care in the same facility with separate wings devoted to each. These facilities are only used in rural areas where it is more beneficial to take advantage of economies of scale. Although in the same building, these juveniles do not intermingle and while they are in structurally similar wings, the detention area is locked while the shelter care area is unlocked. Further, shelters in Utah are not used for pre-adjudicated juveniles; they are used primarily in child protection cases (i.e., abuse and neglect) or for juveniles who have not committed a delinquent offense, but are truant or runaways.

### **Observation No. 3**

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#### ***Formally Assess Alternate Uses Of The Sununu Youth Services Center***

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The SYSC has been underutilized, and the DHHS has not formally assessed alternate uses for the facility. As a result, State resources are not being fully utilized. Additionally, the two existing shelter care facilities are not geographically distributed throughout the State and are particularly limited for girls. This creates an inequity for girls in shelter care placement as they are placed further from their home communities than boys, on average. Placements at a shelter at the SYSC, if it were available, would decrease the average distance juveniles are placed from their communities.

The SYSC has been operating below capacity since at least SFY 2008 and admissions continue to decline. As noted previously, the DHHS has identified potential alternative uses of the SYSC as a way to improve overall service delivery to the juvenile population. DHHS personnel have stated they are no longer considering using the SYSC for shelter care as the demand for shelter care has decreased significantly.

Although the overall demand for shelter care has decreased due to a declining juvenile population and a decline in CHINS petitions, during the audit period, juveniles were removed from their communities and placed in shelters located in Antrim, Bradford, and Jefferson. While, in some instances, removing a child from negative influences within his or her community is appropriate, we found from July 2010 through October of 2012:

- 85 percent of juveniles placed in shelter care (461 of 540 juveniles) were from the southern part of the State;
- more than 70 percent of the 540 juveniles placed at each contracted shelter care facility would have been closer to their communities if they had been placed at shelter care at the SYSC;
- on average, after the Antrim girl's shelter closed in October 2011, 73 girls were placed 104 miles away from their communities, while 137 boys were placed 59 miles away;
- 88 percent (64 of 73) of girls placed in the shelter in Jefferson after Antrim's closure would have been, on average, 67 miles closer to their communities if placed in shelter care at SYSC.

Consistent with national best practice, the DHHS has identified maintaining children in their homes or home communities as best practice and the preferred approach.

**Recommendation:**

**We recommend the DHHS formally assess alternate uses of the SYSC, including shelter care, to determine the most appropriate and beneficial options to maximize utilization of the facility and minimize costs.**

**Auditee Response:**

*WE CONCUR with the recommendation and will formally assess alternate uses for the SYSC, including shelter care, to determine the most appropriate use of the facility.*

*While the department recognizes that SYSC is underutilized and that there is a need to formally assess alternate uses for the facility, the department questions both the need for additional shelter care services at this time and the appropriateness of using SYSC to provide this service.*

*As the observation points out, there has been a steady decline in the need for shelter care services in the state. This decline is due in part to changing demographics, declining crime rates, changes to the CHINS statute and a departmental shift in philosophy over the past few years that focuses on placement stability and permanency for the child whenever possible.*

*With its emphasis on placement stability and permanency, the department has developed and expanded the availability of emergency and short-term placements with its existing residential service providers. These placements are able to provide the evaluative and treatment-planning services traditionally done in shelter care while maintaining the child in their home community. Unlike shelter care, these placements also offer the possibility of longer-term placement in the same facility should the need arise. As the use of short-term and emergency placements*

*increases, the department anticipates that the need for shelter care services will continue to decline.*

*In addition, there are a number of potential challenges/barriers to the use of SYSC to provide shelter care. The department would have to seek approval from the Department of Justice for the change of use. The facility would have to be unlocked in accordance with state law and in order to maintain Medicaid and IV-E eligibility for federal reimbursement. The department would have to hire appropriate staff. The department would have to insure that shelter care youth are kept separate from detained or committed youth at the facility, and to determine how, if at all, it could provide access for shelter care youth to the dining, medical and educational facilities located in the locked sections of SYSC.*

*Given the declining need for shelter care and the challenges to providing this service at the SYSC, it may prove more cost effective and programmatically sounder to provide this service through emergency and short-term placements in the community with existing, geographically disperse residential service providers, than it would be to renovate the SYSC facility, expand the number of shelter care beds (for which there is no current need) and centralize their location at SYSC.*

*Other alternative uses for SYSC under active consideration and which would be assessed by the department are: the use of the center to provide transitional housing for juveniles who have been released on parole or who have aged out of the system and as minors are unable to obtain appropriate housing; and, the creation of a parent service center that would be used to encourage and facilitate ongoing family contact and involvement with the youth while the youth is committed to the center.*

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**CHILDREN IN NEED OF SERVICES IMPACT ON SCHOOL DISTRICTS**

**Have the changes to RSA 169-D, Children In Need Of Services (CHINS), impacted school districts?**

School superintendents we surveyed overwhelmingly reported changes to the CHINS laws had a negative impact on their school districts including;

- 86 percent reported fewer service options for juveniles,
- 79 percent reported increased truancy,
- 70 percent reported increased disruptions for teachers,
- 66 percent reported increased disruptions for other students, and
- 57 percent reported increased costs to the school district.

*Law Changes Affecting The CHINS Population*

During the 2011 legislative session, the Legislature amended RSAs 169-D and 189:36, II governing CHINS, including changing the definition of CHINS and requiring Department of Health and Human Services (DHHS) consent before a CHINS petition can be filed with the Circuit Court.

The most significant change redefined juveniles eligible for services. In the past, a CHINS was defined as a juvenile who was habitually truant from school; habitually ran away from home or disregarded the reasonable commands of the parent, guardian or custodian and placed himself or others in unsafe circumstances; or repeatedly committed offenses which would be violations under the criminal code if committed by an adult, or violations under the motor vehicle code; and was found to be in need of care, guidance, counseling, discipline, supervision, treatment, or rehabilitation.

The 2011 amendment narrowed the definition to a “child under the age of 18 with a diagnosis of severe emotional, cognitive, or other mental health issues who engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others and who is otherwise unable or ineligible to receive services under RSA 169-B [Delinquent Children] or RSA 169-C [Child Protection Act].”

According to Division for Children, Youth, and Families (DCYF) personnel, RSA 169-D is now meant to serve juvenile delinquents who are incompetent to stand trial. This is a departure from the previous CHINS model intended to provide children and families with services and supports to manage truancy and difficult behavior. Used previously as an intervention for wayward juveniles, the program now serves a more narrowly defined population.

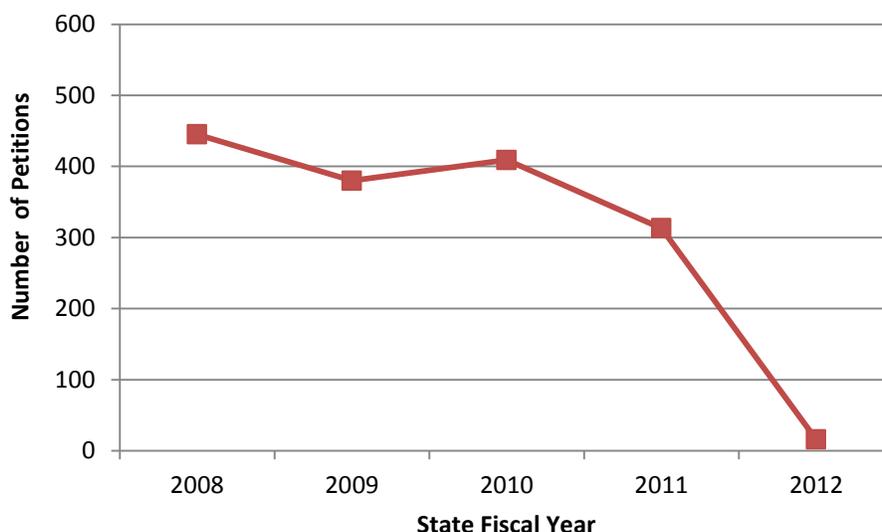
*Effects Of The Law Changes*

The change to the definition of CHINS reduced the population of juveniles eligible for services. During the year following the statutory change, 13 juveniles were petitioned to the court as

CHINS, a significant decrease from 313 and 409 juveniles petitioned in the prior two fiscal years (Figure 4). Additionally, Juvenile Probation and Parole Officers (JPPO) were required to petition the courts to close existing cases which no longer met the definition, resulting in the termination of services for 460 juveniles who were receiving services at the time the definition of CHINS changed.

**Figure 4**

**CHINS Petitions**



Source: LBA analysis of DHHS data.

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According to 84 percent of school superintendents, the requirement to obtain DHHS consent has resulted in a lengthier process, with 76 percent reporting it required more time for administrators, specifically. As a result of the change, an overwhelming majority (82 percent) indicated they no longer or rarely seek CHINS petitions. While the law was amended, the DHHS could still develop more transparency and consistency around its internal process to providing its consent for CHINS petitions.

Seventy-one percent of school superintendents reported their communities lacked services for juveniles who previously qualified as CHINS, especially tracking services, shelter care placement options, mental health, counseling services, and family interventions. Schools also reported no recourse for truancy, with 79 percent reporting increased truancy in their district and 66 percent reporting children were emboldened to misbehave due to the lack of recourse.

**Observation No. 4**

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***Establish Administrative Rules For Obtaining DHHS Consent To File CHINS Petitions***

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The DHHS does not have administrative rules outlining the process for obtaining consent to file a CHINS petition. According to the DCYF Director, to qualify for services under CHINS, the person filing the petition must provide a diagnosis of a severe mental disability by a mental health professional and must document the child is dangerous to themselves or others. Alternatively, the police department may file a delinquency petition after the child has committed a delinquent act and ask the court to rule the child is incompetent to stand trial.

The Administrative Procedures Act requires an agency to adopt administrative rules related to its operations and practices, as well as formal and informal procedures. Administrative rules are intended to communicate policies, procedures, and practices binding on persons outside the agency, including members of the general public.

According to the DCYF Director, the statute is clear on the steps needed to obtain consent for filing a CHINS petition. However, these processes are not explicitly described in statute or administrative rules. Law enforcement personnel report DHHS' internal criteria for approving a CHINS petition are unclear. According to law enforcement officials they are unsure what type of juvenile would qualify for services under the amended definition as some juveniles they feel met the requirement were denied by the DHHS. During the one-year period between October 1, 2011 and September 30, 2012, the DHHS denied consent for 36 percent of approvals sought (18 of 50).

The lack of administrative rules outlining the approval process has contributed to confusion regarding the type of behaviors qualifying a juvenile for services under the CHINS law.

**Recommendation:**

**We recommend the DCYF develop administrative rules outlining the process, and criteria, for obtaining DHHS consent to file a CHINS petition.**

**Auditee Response:**

*WE CONCUR with the recommendation and will seek to adopt administrative rules outlining the criteria and the process for obtaining the department's consent to the filing of a CHINS petition.*

*The department would note, however, that following the statutory change, it made substantial efforts to explain the criteria and process for obtaining departmental consent to affected stakeholders.*

*The department distributed informational materials to police chiefs and school principals throughout the state. Those materials clearly identified the criteria (the criteria tracks the statutory definition of CHINS and requires that the petitioner make a prima facie showing that the child meets that definition) and outlined the process (including who to contact and what*

*information would be helpful in order for the department to evaluate the referral) for obtaining the department's consent. In addition, the department held informational sessions for stakeholders at its district offices and has presented on the topic at schools, conferences and workshops throughout the state.*

*It is not clear that the department has the necessary authority under the CHINS statute (RSA 169-D) to promulgate the recommended rule. To the extent, however, that that additional rule making authority is necessary, the department will seek it from the legislature.*

*The department would also note that there are several pending legislative initiatives that would repeal or amend various sections of the CHINS statute. If these initiatives pass, they may alter the need for, or the content of the recommended administrative rule. Accordingly, the department would plan to address the implementation of this recommendation at the close of the current legislative session.*

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**APPENDIX A  
OBJECTIVES, SCOPE, AND METHODOLOGY**

**Objectives And Scope**

In July 2012, the Fiscal Committee of the General Court approved a joint Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of Juvenile Justice Services. We held an entrance conference with the Department of Health and Human Services (DHHS) on September 6, 2012. In October 2012, the joint Legislative Performance Audit and Oversight Committee approved our proposed scope statement. Our audit sought to answer the following questions:

- 1. Are children in the juvenile justice system, both Children in Need of Services (CHINS) and delinquents, placed in more restrictive placements than needed? If so, is this due to decisions made by the DHHS?**
- 2. Is the DHHS continuing to fund the three shelter care service providers consistent with the directives of Chapter 224:357, Laws of 2011?**
- 3. Has shelter service utilization declined? If so, what are the contributing factors?**
- 4. Given the Sununu Youth Services Center's (SYSC) low occupancy rate, would providing shelter care services be an appropriate use of that facility?**

We were further asked to consider:

- 5. Have the changes to RSA 169-D (CHINS) impacted school districts?**

The audit period was State fiscal years (SFY) 2011 and 2012; however, we provided some analysis of information dating back to SFY 2008 for trending purposes. Because the juvenile justice “system” spans across two branches of State government, local governments, and the business and non-profit sectors, this audit focused on pre-adjudicated placements provided or supported by the DHHS and excluded detailed examination of diversion programs or other services.

**Methodology**

To gain an understanding of the New Hampshire juvenile justice system and national trends in juvenile justice we:

- Reviewed State laws; Administrative Rules; examples of CHINS and delinquent case files; prior LBA audit findings, other states’ audit reports; reports from the National Conference of State Legislatures, U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention, and child welfare advocacy groups; staffing and organizational charts, job descriptions, and classifications; financial information and contracts; DHHS policy memoranda; program summaries.

- Visited the SYSC and a DHHS district office.
- Interviewed Division for Children, Youth, and Families personnel; shelter care providers; a residential care provider; Circuit Court, Family Division judges; police department representatives; a school district superintendent; and representatives of the Disability Rights Center and the School Administrators' Association.
- Created flow charts describing the juvenile justice process.

To determine if juveniles were placed in a more restrictive placement than needed, we:

- Analyzed Bridges (the DCYF's case management system) data, *Juvenile Detention Alternative Initiative* (JDAI) database, and shelter providers' data and reviewed DHHS placement information to determine the trends in juvenile placements.
- Identified best practice and conducted research related to juvenile justice services and state and national trends.
- Interviewed DCYF management and field workers, local police departments, a school district superintendent, judges, and other relevant stake holders to determine their opinions on restrictiveness of placements.
- Reviewed State laws pertaining to placement requirements for CHINS and delinquent juveniles.
- Surveyed Juvenile Probation and Parole Officers (JPPO), JPPO supervisors, and Circuit Court, Family Division judges regarding pre-adjudication placements.
- Identified State programs in place to redirect juveniles from the courts or maintain juveniles in their communities.

To determine whether the DHHS was continuing to fund the three shelter care service providers consistent with the directives of Chapter 224:357, Laws of 2011, we:

- Reviewed the contracts with the three shelter care facilities, Governor and Council minutes, shelter care occupancy information.
- Interviewed shelter care providers, DCYF management and field workers.
- Identified best practice and conducted research related to juvenile justice services and state and national trends.
- Interviewed DCFY management; field workers; local police departments; a school district; judges; and other relevant stake holders.
- Surveyed JPPOs, JPPO supervisors, and Circuit Court, Family Division judges regarding pre-adjudication placements.

To determine whether shelter service utilization has declined and contributing factors, we:

- Reviewed New Hampshire and U.S. Census youth demographic information to establish trends in the New Hampshire and national youth population.

- Reviewed Bridges case management system and shelter care providers' data to establish trends in juvenile petitions and the shelter facilities' census, and to determine the types of children utilizing shelter care services.
- Researched best practices and federal, national, and state trends related to juvenile justice services.
- Interviewed local law enforcement officials and identified State programs in place to redirect juveniles from the courts or maintain juveniles in their communities.
- Interviewed DCYF management and field personnel, shelter care providers, stakeholders, and judges to determine the causes in the decline of shelter care utilization.
- Surveyed JPPOs, JPPO supervisors, and Circuit Court, Family Division judges to gather their opinions on the cause in the decline of shelter care utilization.

To determine whether providing shelter care services at the Sununu Youth Services Center (SYSC) was an appropriate use of that facility, we:

- Toured the SYSC to observe space utilization and vacant areas of the facility.
- Reviewed the DCYF proposal to the Legislature on alternate uses of the SYSC.
- Reviewed Bridges and JDAI database information to determine SYSC occupancy rates; shelter care data to determine shelter occupancy rates; and Bridges information to determine the distance of children placed in shelter care from their communities.
- Researched practices in other states and contacted juvenile justice entities in the other New England states to determine whether they house detention and shelter care children in the same facility.
- Contacted federal government agencies to determine restrictions on the use of the SYSC.
- Surveyed JPPOs, JPPO supervisors, and Circuit Court, Family Division judges to determine their opinions on using the SYSC as a shelter care facility. We sent a web-based survey to all 93 JPPOs and JPPO supervisors and 38 judges presiding over juvenile justice cases. Our return rates of the surveys were 80 percent (74 of 93 JPPOs and JPPO supervisors) and 66 percent (25 of 38 judges), respectively.
- Interviewed DCYF management, field workers, judges, stakeholders to determine their opinions on the use of the SYSC as a shelter care facility.

To determine the impact of the amendments to the CHINS statute on school districts we:

- Interviewed a school district superintendent and school district support staff, a representative from the School Administrators' Association, and local law enforcement officials.
- Sent a web-based survey to all 89 school district superintendents in the State; we received a return rate of 72 percent.

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STATE OF NEW HAMPSHIRE  
JUVENILE JUSTICE SERVICE  
PRE-ADJUDICATED PLACEMENTS

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APPENDIX B  
AGENCY RESPONSE TO THE AUDIT



Nicholas A. Toumpas  
Commissioner

Maggie Bishop  
Director

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN  
SERVICES  
OFFICE OF HUMAN SERVICES  
DIVISION FOR CHILDREN, YOUTH & FAMILIES

129 PLEASANT STREET, CONCORD, NH 03301-3857  
603-271-4451 1-800-852-3345 Ext. 4451  
FAX: 603-271-4729 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

January 15, 2013

Richard Mahoney, Director  
LBA-Audit Division  
107 N. Main Street  
Concord, NH 03301

Re: Juvenile Justice Performance Audit Report

Dear Director Mahoney:

I want to thank you and your auditors for the work that you did on this performance audit.

Your auditors were professional, personable and diligent and conducted their work with minimal interruption of DCYF's ongoing activities. They were able to quickly overcome a steep learning curve and to achieve a level of understanding of our programs and policies that enabled us to have meaningful conversations with them about the issues.

The observations in the audit report are thoughtful and well supported and we concur with the recommendations.

From our perspective, it was a job well done and we will look forward to the presentation of the audit report before the Joint Legislative Fiscal Committee.

Sincerely,

A handwritten signature in cursive script that reads "Maggie Bishop".

Maggie Bishop  
Director

cc Nicholas A. Toumpas, Commissioner  
Mary Ann Cooney, Associate Commissioner

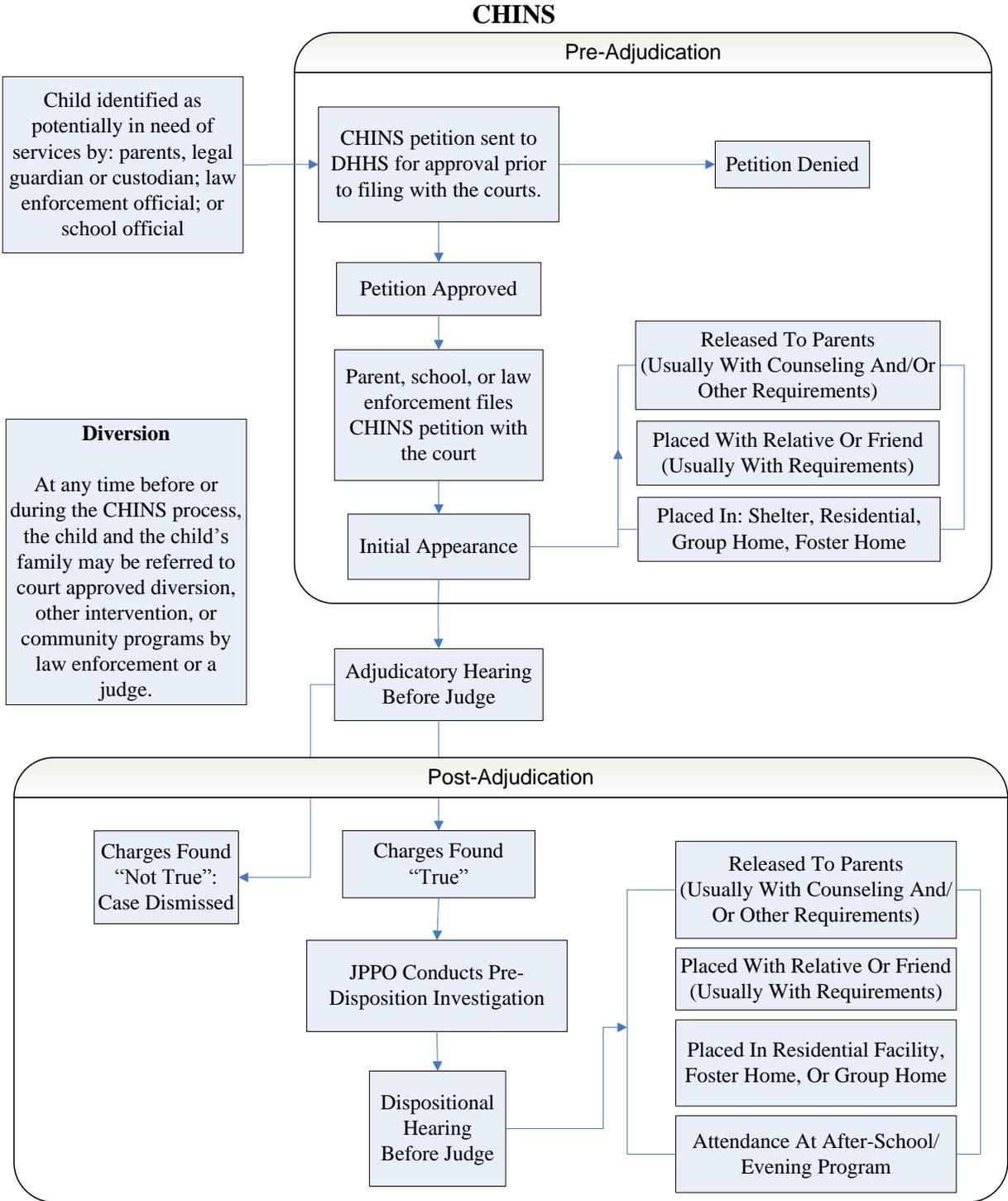
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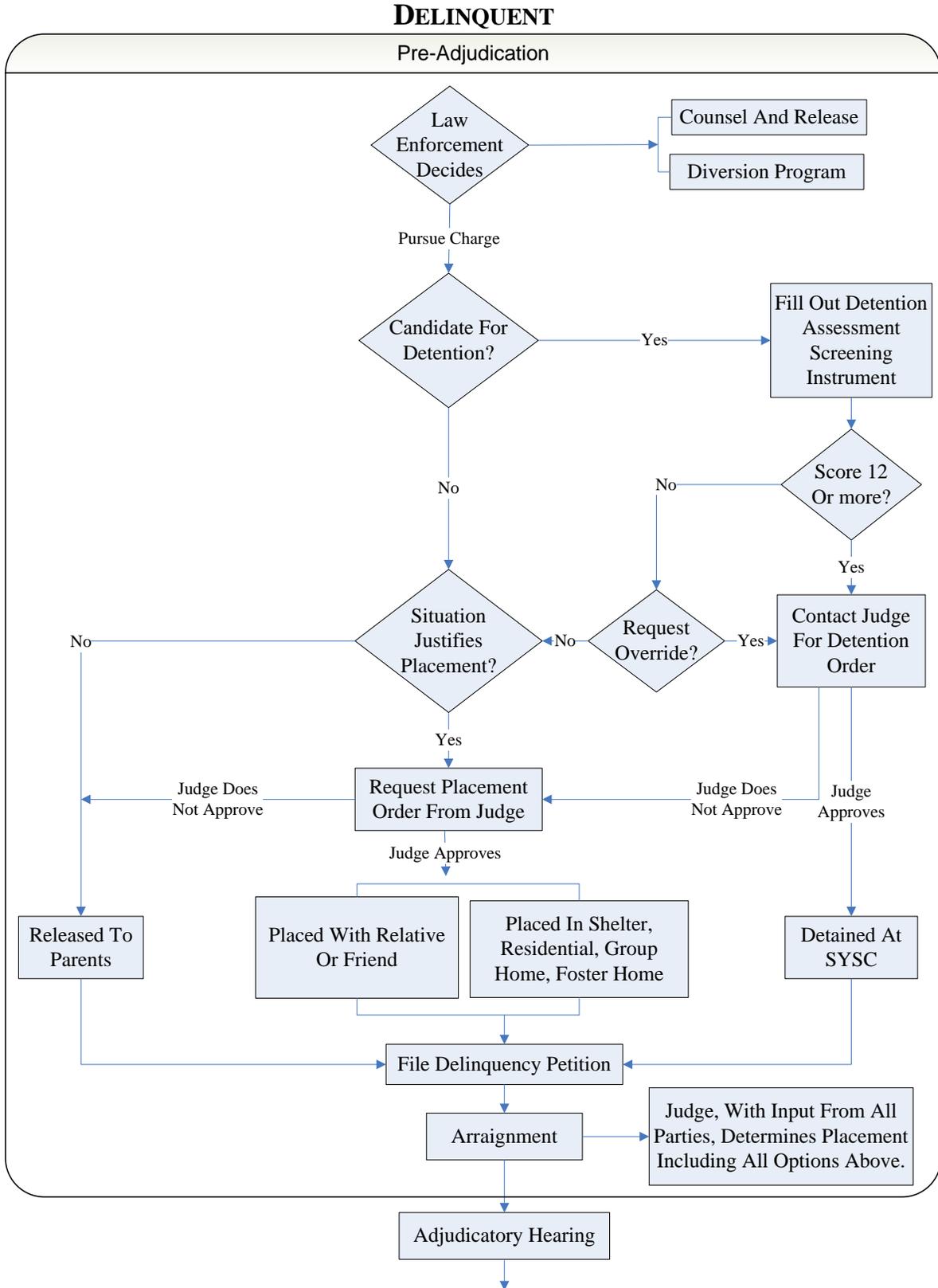
*The Department of Health and Human Services' Mission is to join communities and families  
in providing opportunities for citizens to achieve health and independence.*

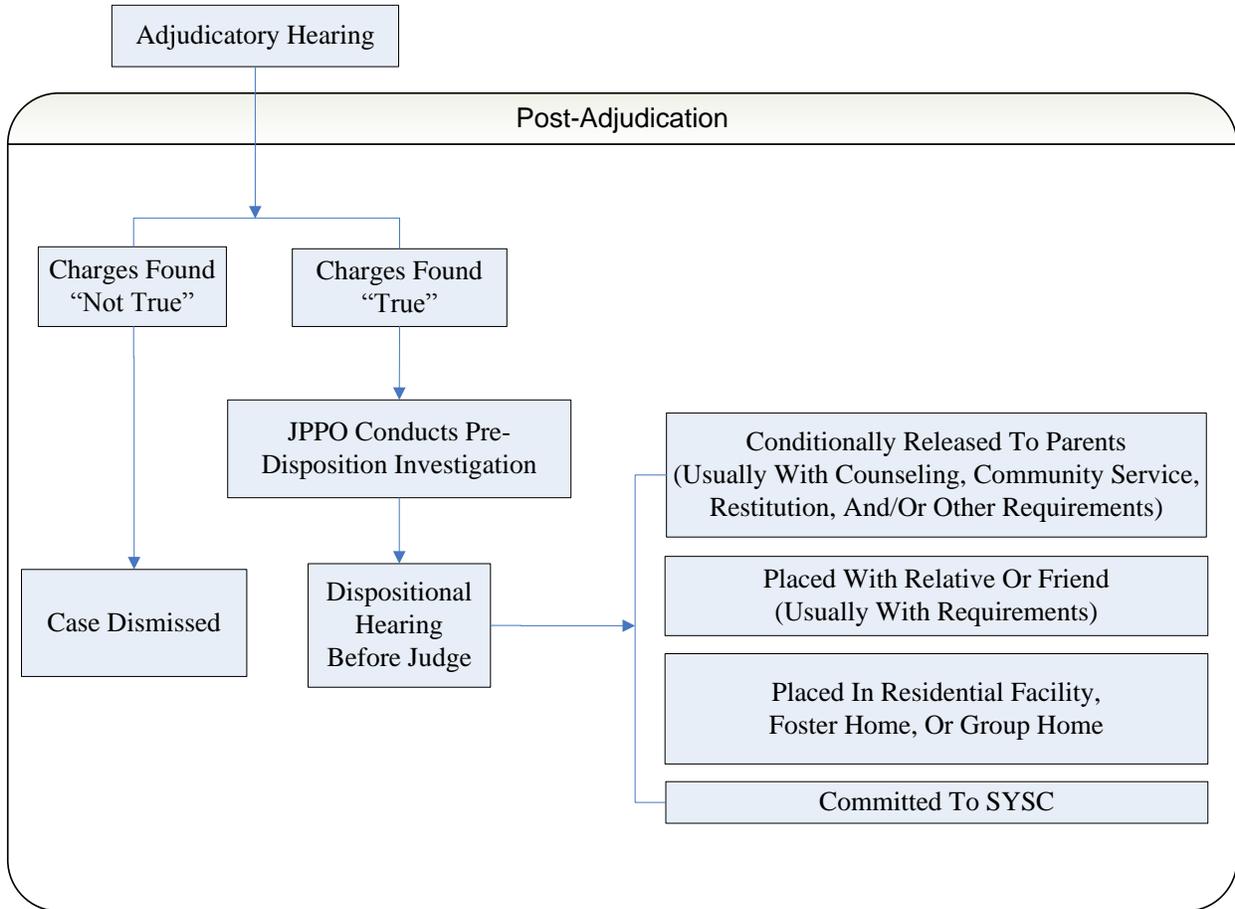
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**STATE OF NEW HAMPSHIRE  
JUVENILE JUSTICE SERVICES  
PRE-ADJUDICATED PLACEMENTS**

**APPENDIX C  
CHINS AND DELINQUENT PROCESS FLOW CHARTS**







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**STATE OF NEW HAMPSHIRE  
JUVENILE JUSTICE SERVICES  
PRE-ADJUDICATED PLACEMENTS**

**APPENDIX D  
IN-STATE JUVENILE JUSTICE PLACEMENT OPTIONS**

| <b>Provider</b>  | <b>Services</b>                          | <b>Location</b> | <b>Certified Beds<sup>1</sup></b> |
|--|--|-----------------|-----------------------------------|
| NFI North – North Country Shelter  | Shelter Care                             | Jefferson       | 15                                |
| NFI North – Midway Shelter   | Shelter Care                             | Bradford        | 15                                |
| Youth Development Services   | Secure Treatment Bed                     | Manchester      | 120                               |
| Youth Services Center  | Secure Detention Bed                     | Manchester      | 24                                |
| Phoenix Academy at Dublin  | Residential Treatment Facility (level 4) | Dublin          | 14                                |
| The Chase Home for Children, Inc. <sup>2</sup>   | Intermediate Group Home (level 2)        | Portsmouth      | 18                                |
| Child and Family Services Group Home <sup>2</sup>  | Intermediate Group Home (level 2)        | Concord         | 10                                |
| Dover Children’s Home <sup>2</sup>   | Intermediate Group Home (level 2)        | Dover           | 12                                |
| Hannah House, Inc.   | Intermediate Group Home (level 2)        | Lebanon         | 6                                 |
| Malley Farm Boys Home, Inc.  | Intermediate Group Home (level 2)        | Somersworth     | 12                                |
| Orion House, Inc. <sup>2</sup>   | Intermediate Group Home (level 2)        | Newport         | 16                                |
| Saint Charles Children’s Home  | Intermediate Group Home (level 2)        | Rochester       | 20                                |
| Webster House, Inc. <sup>2</sup>   | Intermediate Group Home (level 2)        | Manchester      | 19                                |
| Crotched Mountain Foundation   | Intensive Group Home/Ed Fac (level 3)    | Greenfield      | 5                                 |
| Easter Seals NH, Inc. <sup>2</sup>   | Intensive Group Home/Ed Fac (level 3)    | Manchester      | 62                                |
| Easter Seals NH, Inc.  | Intensive Group Home/Ed Fac (level 3)    | Lancaster       | 6                                 |
| Mount Prospect Academy <sup>2</sup>  | Intensive Group Home/Ed Fac (level 3)    | Plymouth        | 70                                |
| Nashua Children’s Home <sup>2</sup>  | Intensive Group Home/Ed Fac (level 3)    | Nashua          | 46                                |
| NFI North Davenport School <sup>2</sup>  | Intensive Group Home/Ed Fac (level 3)    | Jefferson       | 15                                |
| Pine Haven Boys Center, Inc. <sup>2</sup>  | Intensive Group Home/Ed Fac (level 3)    | Suncook         | 20                                |
| Spaulding Youth Center   | Intensive Group Home/Ed Fac (level 3)    | Northfield      | 26                                |
| Wediko Children’s Services   | Intensive Group Home/Ed Fac (level 3)    | Windsor         | 28                                |
| NH Hospital - Philbrook Center for Children <sup>3</sup>   | Inpatient Psychiatric                    | Concord         | NA                                |
| Casey Family Services <sup>4</sup>   | Individual Service Option - Foster Care  | Concord         | NA                                |
| Independent Services Network <sup>4</sup>  | Individual Service Option - Foster Care  | Manchester      | NA                                |
| Cedarcrest, Inc. <sup>5</sup>  | Pediatric Nursing Home                   | Keene           | NA                                |
| New England Salem Children’s Trust   | Intermediate Group Home (level 2)        | Rumney          | 5                                 |
| Notes: <sup>1</sup> The number of certified beds also serves the abuse and neglect population.<br><sup>2</sup> Short-term emergency beds (referred to as Juvenile Detention Alternative Initiative beds).<br><sup>3</sup> The number of beds at the NH Hospital are not certified by the DCYF.<br><sup>4</sup> Service providers place juveniles in foster homes.<br><sup>5</sup> Certified DHHS placement option; however, no placements in SFY 2011 or 2012. |  |                 |                                   |

| <b>Providers Closed During SFY 2011 and 2012</b> |   |                 |                       |
|--|---|-----------------|-----------------------|
| <b>Provider</b>                                  | <b>Service</b>  | <b>Location</b> | <b>Certified Beds</b> |
| Lutheran Community Services                      | Shelter Care/Individual Service Option                      | Antrim          | 12                    |
| Our House for Girls, Inc.                        | Intermediate Group Home (level 2)                           | Dover           | Unknown               |
| Eckerd Wilderness                                | Intensive Group Home/Ed Fac (level 3)/Wilderness Experience | Colebrook       | Unknown               |

Source: DCYF placement information.

**STATE OF NEW HAMPSHIRE  
JUVENILE JUSTICE SERVICES  
PRE-ADJUDICATED PLACEMENTS**

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**APPENDIX E  
JUVENILE PROBATION AND PAROLE OFFICERS SURVEY RESULTS**

We surveyed all 93 juvenile probation and parole officers and their supervisors. Seventy-four responded to the survey for a response rate of 80 percent.

| <b>Q1. Are youth petitioned as CHINS or delinquents ever placed in more restrictive placements than needed prior to adjudication?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Yes   | 9.5                     | 7                     |
| No  | 84.0                    | 62                    |
| Unsure  | 6.8                     | 5                     |
| <i>answered question</i>  |                         | <b>74</b>             |

| <b>Q2. How often are youth petitioned as CHINS or delinquents placed in more restrictive placements than needed prior to adjudication?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Very Frequently  | 0.0                     | 0                     |
| Frequently   | 0.0                     | 0                     |
| Occasionally   | 14.3                    | 1                     |
| Rarely   | 85.7                    | 6                     |
| Very Rarely  | 0.0                     | 0                     |
| <i>answered question</i>   |                         | <b>7</b>              |

| <b>Q3. Why are youth petitioned as CHINS or delinquents placed in more restrictive placements than needed prior to adjudication? (check all that apply)</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Someone requested an override of the Detention Assessment Screening Instrument  | 83.3                    | 5                     |
| There were no appropriate placement options in a less restrictive environment   | 83.3                    | 5                     |
| The judge determined a more restrictive placement was appropriate   | 100.0                   | 6                     |
| Other (please specify) <sup>2</sup>   |                         | 3                     |
| <i>answered question</i>  |                         | <b>6</b>              |

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<sup>2</sup> Q3 comments not summarized as there were no common themes.

| <b>Q4. Is the Detention Assessment Screening Instrument effective for determining pre-adjudicated detention placements?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Yes   | 16.2                    | 12                    |
| No  | 73.0                    | 54                    |
| Unsure  | 10.8                    | 8                     |
| <i>answered question</i>  |                         | <b>74</b>             |

| <b>Q5. Why do you believe the Detention Assessment Screening Instrument is not effective? (check all that apply)</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| The instrument is too subjective   | 26.9                    | 14                    |
| The instrument does not provide the full story   | 96.2                    | 50                    |
| The instrument is outdated   | 36.5                    | 19                    |
| The instrument is too vague or overly broad  | 59.6                    | 31                    |
| The result is typically overridden by judges   | 36.5                    | 19                    |
| Other (please specify)   |                         | 17                    |
| <i>answered question</i>   |                         | <b>52</b>             |

| <b>Q5. Comment Summary Other (please specify)</b> |                         |                      |
|---|-------------------------|----------------------|
| <b>Description</b>                                | <b>Response Percent</b> | <b>Comment Count</b> |
| Improper weights or considerations                | 47.0                    | 8                    |
| Too long/confusing/lack of information            | 29.4                    | 5                    |
| Other   | 23.5                    | 4                    |
| <i>total comments</i>                             |                         | <b>17</b>            |

| <b>Q6. How often are you likely to request or recommend an override to the Detention Assessment Screening Instrument?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Very Frequently   | 9.6                     | 7                     |
| Frequently  | 35.6                    | 26                    |
| Occasionally  | 35.6                    | 26                    |
| Rarely  | 12.3                    | 9                     |
| Very Rarely   | 4.1                     | 3                     |
| Never   | 2.7                     | 2                     |
| <i>answered question</i>  |                         | <b>73</b>             |

| <b>Q7. For what reason would you request or recommend an override to the Detention Assessment Screening Instrument? (check all that apply)</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Based on law enforcement recommendation or request   | 54.3                    | 38                    |
| Based on parent/guardian recommendation or request   | 50.0                    | 35                    |
| Based on your knowledge, judgment, or prior experience   | 98.6                    | 69                    |
| Other (please specify)   |                         | 18                    |
| <i>answered question</i>   |                         | <b>70</b>             |

| <b>Q7. Comment Summary Other (please specify)</b> |                         |                      |
|---|-------------------------|----------------------|
| <b>Description</b>                                | <b>Response Percent</b> | <b>Comment Count</b> |
| Other   | 20.0                    | 4                    |
| JPPO may have specific knowledge                  | 15.0                    | 3                    |
| Tool is not effective                             | 30.0                    | 6                    |
| Safety for child and community                    | 35.0                    | 7                    |
| <i>total comments</i> <sup>3</sup>                |                         | <b>20</b>            |

| <b>Q8. Do you typically agree with the judge's placement decision for the child prior to adjudication?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 82.4                    | 61                    |
| No   | 6.8                     | 5                     |
| Unsure   | 10.8                    | 8                     |
| <i>answered question</i>   |                         | <b>74</b>             |

| <b>Q9. When you disagree with (but do not necessarily raise a formal objection to) the judge's pre-adjudicated placement decision, is it typically because:</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| The placement is too restrictive  | 0.0                     | 0                     |
| The placement is not restrictive enough   | 100.0                   | 4                     |
| Other (please specify) <sup>4</sup>   |                         | 3                     |
| <i>answered question</i>  |                         | <b>4</b>              |

<sup>3</sup> Although only 18 respondents, some respondents left more than one comment.

<sup>4</sup> Q9 comments not summarized as there were no common themes.

| <b>Q10. What factors contribute to the recent decline in pre-adjudicated shelter care placements? (check all that apply)</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Change to the legal definition of CHINS  | 68.1                    | 49                    |
| Decrease in the overall juvenile population (youth age 10 to 17)   | 31.9                    | 23                    |
| Decrease in juvenile crime rate  | 15.3                    | 11                    |
| Change to RSA 169-B requiring consideration for diversion in lieu of court and justification when diversion is not sought    | 20.8                    | 15                    |
| Change in philosophy focusing on maintaining children in the community   | 75.0                    | 54                    |
| Other (please specify)   |                         | 19                    |
| <i>answered question</i>   |                         | <b>72</b>             |

| <b>Q10. Comment Summary Other (please specify)</b> |                         |                      |
|--|-------------------------|----------------------|
| <b>Description</b>                                 | <b>Response Percent</b> | <b>Comment Count</b> |
| Law enforcement frustrated/giving up/diverting     | 31.6                    | 6                    |
| Community group homes                              | 15.8                    | 3                    |
| Community focus                                    | 26.3                    | 5                    |
| Other  | 26.3                    | 5                    |
| <i>total comments</i>                              |                         | <b>19</b>            |

| <b>Q11. Have the changes to the CHINS law, including the definition of CHINS and requiring DHHS approval to file a CHINS petition, negatively affected school districts?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 67.6                    | 50                    |
| No   | 10.8                    | 8                     |
| Unsure   | 21.6                    | 16                    |
| <i>answered question</i>   |                         | <b>74</b>             |

| <b>Q12. How have recent changes to the CHINS statute affected school districts? (check all that apply)</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| There are fewer options to manage children in need   | 92.0                    | 46                    |
| Children do not receive needed services  | 72.0                    | 36                    |
| Children are emboldened by the lack of CHINS   | 56.0                    | 28                    |
| There are more disruptions in schools  | 64.0                    | 32                    |
| There are more costs for schools   | 56.0                    | 28                    |
| There is more truancy  | 92.0                    | 46                    |
| Other (please specify) <sup>5</sup>  |                         | 10                    |
| <i>answered question</i>   |                         | <b>50</b>             |

| <b>Q13. Given the Sununu Youth Services Center's low occupancy rate, would providing shelter care be an appropriate use of that facility?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Yes   | 56.8                    | 42                    |
| No  | 27.0                    | 20                    |
| Unsure  | 16.2                    | 12                    |
| Why do you feel the Sununu Center should or should not be used for shelter care?  |                         | 41                    |
| <i>answered question</i>  |                         | <b>74</b>             |

| <b>Q13. Comment Summary</b> Why do you feel the Sununu Center should or should not be used for shelter care? |                         |                      |
|--|-------------------------|----------------------|
| <b>Description</b>   | <b>Response Percent</b> | <b>Comment Count</b> |
| SYSC has a quality facility and staff  | 7.8                     | 4                    |
| Good use of resources to use SYSC  | 13.7                    | 7                    |
| Many options to consider   | 3.9                     | 2                    |
| Mental health wing instead   | 5.8                     | 3                    |
| Appropriate for youth in region, but not for up North  | 19.6                    | 10                   |
| As long as separate youth and not locked   | 11.7                    | 6                    |
| Too costly to use SYSC   | 3.9                     | 2                    |
| No, need separation and too secure   | 7.8                     | 4                    |
| Other  | 25.4                    | 13                   |
| <i>total comments</i>  |                         | <b>51</b>            |

<sup>5</sup> Q12 comments not summarized as there were no common themes.

| <b>Q14. Please provide any other thoughts, concerns, or comments you would like to share.</b> |                              |                      |
|---|------------------------------|----------------------|
| <b>Description</b>  | <b>Response Percent</b>      | <b>Comment Count</b> |
| Other   | 54.5                         | 12                   |
| Mental health issues/competency issues  | 13.6                         | 3                    |
| Review CHINS  | 18.2                         | 4                    |
| Detention Assessment Screening Instrument is bad  | 13.6                         | 3                    |
|   | <b><i>total comments</i></b> | <b>22</b>            |

**STATE OF NEW HAMPSHIRE  
JUVENILE JUSTICE SERVICES  
PRE-ADJUDICATED PLACEMENTS**

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**APPENDIX F  
CIRCUIT COURT, FAMILY DIVISION JUDGES SURVEY RESULTS**

We surveyed 38 Circuit Court, Family Division Judges. Twenty-five responded to the survey for a response rate of 66 percent.

| <b>Q1. Are youth petitioned as CHINS or delinquents ever placed in more restrictive placements than needed prior to adjudication?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Yes   | 20.0                    | 5                     |
| No  | 56.0                    | 14                    |
| Unsure  | 24.0                    | 6                     |
| <i>answered question</i>  |                         | <b>25</b>             |

| <b>Q2. How often are youth petitioned as CHINS or delinquents placed in more restrictive placements than needed prior to adjudication?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Very Frequently  | 0.0                     | 0                     |
| Frequently   | 0.0                     | 0                     |
| Occasionally   | 60.0                    | 3                     |
| Rarely   | 40.0                    | 2                     |
| Very Rarely  | 0.0                     | 0                     |
| <i>answered question</i>   |                         | <b>5</b>              |

| <b>Q3. When youth are held in more restrictive placements than needed prior to adjudication, is this because: (check all that apply)</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Someone requested an override of the Detention Assessment Screening Instrument   | 60.0                    | 3                     |
| There were no appropriate placement options in a less restrictive environment  | 80.0                    | 4                     |
| Other (please specify) <sup>6</sup>  |                         | 1                     |
| <i>answered question</i>   |                         | <b>5</b>              |

| <b>Q4. Is the Detention Assessment Screening Instrument effective for determining pre-adjudicatory detention placements?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 76.0                    | 19                    |
| No   | 20.0                    | 5                     |
| Unsure   | 4.0                     | 1                     |
| <i>answered question</i>   |                         | <b>25</b>             |

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<sup>6</sup> Q3 comments not summarized as there were no common themes.

| <b>Q5. Why do you believe the Detention Assessment Screening Instrument is not effective? (check all that apply)</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| The instrument is too subjective   | 0.0                     | 0                     |
| The instrument does not provide the full story   | 100.0                   | 5                     |
| The instrument is outdated   | 0.0                     | 0                     |
| The instrument is too vague or overly broad  | 60.0                    | 3                     |
| Police departments or JPPOs typically request an override of the results   | 60.0                    | 3                     |
| Other (please specify) <sup>7</sup>  |                         | 2                     |
| <i>answered question</i>   |                         | <b>5</b>              |

| <b>Q6. How often are you likely to override the Detention Assessment Screening Instrument?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Very Frequently  | 0.0                     | 0                     |
| Frequently   | 0.0                     | 0                     |
| Occasionally   | 66.7                    | 16                    |
| Rarely   | 25.0                    | 6                     |
| Very Rarely  | 8.3                     | 2                     |
| Never  | 0.0                     | 0                     |
| <i>answered question</i>   |                         | <b>24</b>             |

| <b>Q7. For what reason would you override the Detention Assessment Screening Instrument? (check all that apply)</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Based on JPPO recommendation  | 45.8                    | 11                    |
| Based on law enforcement recommendation   | 41.7                    | 10                    |
| Based on parent/guardian recommendation   | 25.0                    | 6                     |
| Based on the specifics of the case  | 87.5                    | 21                    |
| Based on knowledge, judgment, or prior experience   | 75.0                    | 18                    |
| Other (please specify) <sup>8</sup>   |                         | 4                     |
| <i>answered question</i>  |                         | <b>24</b>             |

| <b>Q8. Do you typically agree with the juvenile probation and parole officer's opinion for pre-adjudicatory placement?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 84.0                    | 21                    |
| No   | 4.0                     | 1                     |
| Unsure   | 12.0                    | 3                     |
| <i>answered question</i>   |                         | <b>25</b>             |

<sup>7</sup> Q5 comments not summarized as there were no common themes.

<sup>8</sup> Q7 comments not summarized as there were no common themes.

| <b>Q9. Do you typically agree with the prosecutor's opinion for pre-adjudicatory placement?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Yes   | 56.0                    | 14                    |
| No  | 16.0                    | 4                     |
| Unsure  | 28.0                    | 7                     |
| <i>answered question</i>  |                         | <b>25</b>             |

| <b>Q10. What factors contribute to the recent decline in pre-adjudicated shelter care placements? (check all that apply)</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Change to the legal definition of CHINS  | 86.4                    | 19                    |
| Decrease in the overall juvenile population (youth aged 10 to 17)  | 4.5                     | 1                     |
| Decrease in juvenile crime rate  | 9.1                     | 2                     |
| Change to RSA 169-B requiring consideration for diversion in lieu of court and justification when diversion is not sought    | 13.6                    | 3                     |
| Change in philosophy focusing on maintaining children in the community   | 54.5                    | 12                    |
| Other (please specify) <sup>9</sup>  |                         | 2                     |
| <i>answered question</i>   |                         | <b>22</b>             |

| <b>Q11. Given the Sununu Youth Services Center's low occupancy rate, would providing shelter care services be an appropriate use of that facility?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 32.0                    | 8                     |
| No   | 28.0                    | 7                     |
| Unsure   | 40.0                    | 10                    |
| Why do you feel the Sununu Center should or should not be used for shelter care?   |                         | 13                    |
| <i>answered question</i>   |                         | <b>25</b>             |

| <b>Q11. Comment Summary Why do you feel the Sununu Center should or should not be used for shelter care?</b> |                         |                      |
|--|-------------------------|----------------------|
| <b>Description</b>   | <b>Response Percent</b> | <b>Comment Count</b> |
| Yes, but need separation between the categories of children and need an unlocked area                        | 23.1                    | 3                    |
| No, should not mix delinquents and non-delinquents   | 23.1                    | 3                    |
| Wrong impression to child/community  | 15.4                    | 2                    |
| Other  | 38.5                    | 5                    |
| <i>total comments</i>  |                         | <b>13</b>            |

<sup>9</sup> Q10 comments not summarized as there were no common themes.

| <b>Q12. Please provide any other thoughts, concerns, or comments you would like to share.</b> |                       |
|---|-----------------------|
| <b>Answer Options</b>   | <b>Response Count</b> |
| Comments <sup>10</sup>  | 7                     |
| <i>answered question</i>  | 7                     |

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<sup>10</sup> Q12 comments not summarized as there were no common themes.

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**APPENDIX G  
SCHOOL DISTRICTS SURVEY RESULTS**

We surveyed 89 school superintendents. Sixty-four responded to the survey for a response rate of 72 percent.

| <b>Q1. Has your school district had any experience with children involved in the juvenile justice system under RSA 169-D Children in Need of services, commonly known as CHINS?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Yes   | 95.3                    | 61                    |
| No  | 4.7                     | 3                     |
| <i>answered question</i>  |                         | <b>64</b>             |

| <b>Q2. In 2011, the Legislature narrowed the definition of a CHINS, in effect reducing the number of children eligible for CHINS services. Did the change to the definition of CHINS have an impact on your school district?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 91.8                    | 56                    |
| No   | 3.3                     | 2                     |
| Unsure   | 4.9                     | 3                     |
| <i>answered question</i>   |                         | <b>61</b>             |

| <b>Q3. Was the impact on your school district positive, negative, or are you unsure?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Positive   | 0.0                     | 0                     |
| Negative   | 100.0                   | 56                    |
| Unsure   | 0.0                     | 0                     |
| <i>answered question</i>   |                         | <b>56</b>             |

| <b>Q4. What negative impact(s) has the change to the CHINS definition had on your school district (check all that apply)?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| More truancy  | 78.6                    | 44                    |
| Fewer service options for children  | 85.7                    | 48                    |
| Increased costs to the school district  | 57.1                    | 32                    |
| More disruptions for other students   | 66.1                    | 37                    |
| More disruptions for teachers   | 69.6                    | 39                    |
| Embolden students who identify the limited options for recourse   | 66.1                    | 37                    |
| Increased out of district placements  | 39.3                    | 22                    |
| Increased home schooling  | 26.8                    | 15                    |
| Need for more special education teachers/aides  | 28.6                    | 16                    |
| Other (please specify)  |                         | 14                    |

|                          |           |
|--------------------------|-----------|
| <i>answered question</i> | <b>56</b> |
|--------------------------|-----------|

| <b>Q4. Other (please specify)</b>                           |                         |                      |
|---|-------------------------|----------------------|
| <b>Description</b>  | <b>Response Percent</b> | <b>Comment Count</b> |
| Lack of tools, resources, or services to address the issues | 50.0                    | 7                    |
| Other   | 50.0                    | 7                    |
| <i>total comments</i>                                       |                         | <b>14</b>            |

| <b>Q5. Who is negatively affected by the change to the CHINS definition (check all that apply)?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| School administrators   | 78.6                    | 44                    |
| Teachers  | 87.5                    | 49                    |
| CHINS youth   | 96.4                    | 54                    |
| Other students  | 80.4                    | 45                    |
| Taxpayers   | 82.1                    | 46                    |
| Other (please specify)  | 30.4                    | 17                    |
| <i>answered question</i>  |                         | <b>56</b>             |

| <b>Q5. Other (please specify)</b>       |                         |                      |
|---|-------------------------|----------------------|
| <b>Description</b>                      | <b>Response Percent</b> | <b>Comment Count</b> |
| Parents, family members and/or siblings | 70.6                    | 12                   |
| The community                           | 17.6                    | 3                    |
| The police                              | 11.8                    | 2                    |
| Other                                   | 17.6                    | 3                    |
| <i>total comments<sup>11</sup></i>      |                         | <b>17</b>            |

| <b>Q6. Please describe the positive impacts to your school district as a result of the change to the CHINS definition.</b> |                       |
|--|-----------------------|
| <b>Answer Options</b>  | <b>Response Count</b> |
|  | 0                     |
| <i>answered question</i>   |                       |
|  | <b>0</b>              |

| <b>Q7. After a change in 2011, the CHINS law now requires the consent of the Department of Health and Human Services before a CHINS petition can be filed with the court. Has this change had an impact on your school district?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 80.3                    | 49                    |
| No   | 9.8                     | 6                     |
| Unsure   | 9.8                     | 6                     |
| <i>answered question</i>   |                         | <b>61</b>             |

<sup>11</sup> 17 respondents provided 20 comments

| <b>Q8. How has this change impacted your school district (check all that apply)?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| More paperwork is required   | 57.1                    | 28                    |
| Reduced opportunity for services   | 89.8                    | 44                    |
| More time required by administrators to complete the process                         | 75.5                    | 37                    |
| We no longer or rarely seek CHINS  | 81.6                    | 40                    |
| Takes longer to work through the process   | 83.7                    | 41                    |
| Increased costs to the school district   | 61.2                    | 30                    |
| Other (please specify)   | 12.2                    | 6                     |
| <i>answered question</i>   |                         | <b>49</b>             |

| <b>Q8. Other (please specify)</b>       |                         |                      |
|---|-------------------------|----------------------|
| <b>Description</b>                      | <b>Response Percent</b> | <b>Comment Count</b> |
| Downshifting costs and responsibilities | 33.3                    | 2                    |
| More truancy with limited resolution    | 33.3                    | 2                    |
| Other                                   | 33.3                    | 2                    |
| <i>total comments</i>                   |                         | <b>6</b>             |

| <b>Q9. After a 2011 change to education laws, schools are now prohibited from filing a CHINS petition with the court until all steps in its truancy intervention process have been followed. Has this change had an impact on your school district?</b> |                         |                       |
|---|-------------------------|-----------------------|
| <b>Answer Options</b>   | <b>Response Percent</b> | <b>Response Count</b> |
| Yes   | 77.0                    | 47                    |
| No  | 18.0                    | 11                    |
| Unsure  | 4.9                     | 3                     |
| <i>answered question</i>  |                         | <b>61</b>             |

| <b>Q10. Please describe how this change impacted your school district.</b> |                         |                      |
|--|-------------------------|----------------------|
| <b>Description</b>   | <b>Response Percent</b> | <b>Comment Count</b> |
| No recourse for truancy  | 45.6                    | 21                   |
| Reduction in intervention options or services available                    | 34.8                    | 16                   |
| Increased responsibility for schools                                       | 32.6                    | 15                   |
| The process takes longer   | 21.7                    | 10                   |
| Increase in truancy  | 17.4                    | 8                    |
| Other  | 28.3                    | 13                   |
| <i>total comments</i> <sup>12</sup>  |                         | <b>46</b>            |

<sup>12</sup> 46 respondents provided 83 comments.

| <b>Q11. Does your community lack any services for CHINS youth?</b> |                         |                       |
|--|-------------------------|-----------------------|
| <b>Answer Options</b>  | <b>Response Percent</b> | <b>Response Count</b> |
| Yes  | 70.5                    | 43                    |
| No   | 11.5                    | 7                     |
| Unsure   | 18.0                    | 11                    |
| <i>answered question</i>   |                         | <b>61</b>             |

| <b>Q12. What types of services for CHINS youth are lacking in your community (e.g., shelter care, tracking, etc.)?</b> |                         |                      |
|--|-------------------------|----------------------|
| <b>Description</b>   | <b>Response Percent</b> | <b>Comment Count</b> |
| Tracking   | 58.5                    | 24                   |
| Shelter  | 39.0                    | 16                   |
| Limited or no services available   | 24.4                    | 10                   |
| Mental health services   | 17.1                    | 7                    |
| Counseling   | 17.1                    | 7                    |
| Family or parent support   | 14.6                    | 6                    |
| Court ordered action   | 12.2                    | 5                    |
| Other  | 34.1                    | 14                   |
| <i>total comments<sup>13</sup></i>   |                         | <b>41</b>            |

| <b>Q13. Please provide any other thoughts, concerns, or comments related to CHINS you would like to share.</b> |                         |                      |
|--|-------------------------|----------------------|
| <b>Description</b>   | <b>Response Percent</b> | <b>Comment Count</b> |
| Limited school's ability to address truancy  | 16.3                    | 7                    |
| Not addressing problems now can lead to worse problems later   | 4.7                     | 2                    |
| Services are needed but not available  | 37.2                    | 16                   |
| Puts a strain on other resources   | 7.0                     | 3                    |
| Should revert back to old definition of CHINS  | 9.3                     | 4                    |
| Other  | 41.9                    | 18                   |
| <i>total comments<sup>14</sup></i>   |                         | <b>43</b>            |

<sup>13</sup> 41 respondents provided 89 comments.

<sup>14</sup> 43 respondents provided 50 comments.

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**APPENDIX H  
COURT-APPROVED DIVERSION PROGRAMS**

|  |   |
|--|---|
| Family Mediation and Juvenile Services<br>16 Academy Avenue<br>Atkinson, NH 03811  | Merrimack County Juvenile Diversion Program<br>4 Court Street, 2 <sup>nd</sup> Floor<br>Concord, NH 03301       |
| Greater Derry Juvenile Diversion<br>A Program of the Upper Room,<br>a Family Resource Center<br>36 Tsienneto Road<br>Derry, NH 03038 | Northern Strafford County<br>Juvenile Court Diversion<br>356 Main Street<br>Farmington, NH 03835                |
| UpReach Therapeutic Riding Center, Inc.<br>153 Paige Hill Road<br>Goffstown, NH 03045  | Office of Youth Services<br>61 West Main Street, PO Box 550<br>Hillsboro, NH 03244                              |
| City of Keene - Youth Services<br>3 Washington Street<br>Keene, NH 03431   | Belknap County Youth Services<br>64 Court Street<br>Laconia, NH 03246   |
| Office of Youth Services<br>City of Manchester<br>1045 Elm Street, Suite 204<br>Manchester, NH 03101                                 | The Youth Council<br>112 West Pearl Street<br>Nashua, NH 03060  |
| Community Alliance of Human Services<br>P.O. Box 188<br>Newport, NH 03773  | Youth Assistance Program of<br>Northfield, Sanbornton and Tilton, Inc.<br>P.O. Box 3068<br>Northfield, NH 03276 |
| Peterborough Police Department<br>Juvenile Diversion Program<br>73 Grove Street<br>Peterborough, NH 03458                            | CADY Restorative Justice<br>94 Highland Street<br>Plymouth, NH 03264  |
| Rochester Police Department<br>Juvenile Diversion Program<br>23 Wakefield Street<br>Rochester, NH 03867                              | Seacoast Youth Services<br>867 Lafayette Road<br>Seabrook, NH 03874   |
| Valley Court Diversion Programs, Inc.<br>211 North Main Street, PO Box 474<br>White River Junction, Vt. 05001                        | Youth Alternatives<br>A Tri-County Community Action Program<br>30 Exchange Street<br>Berlin, NH 03570           |

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**APPENDIX I  
RECENT LAW CHANGES AFFECTING JUVENILE JUSTICE**

The following table shows significant statutory changes affecting Children in Need of Services (CHINS) and delinquency since the beginning of the audit period.

| Effective Date        | RSA/Chapter Law                     | Amendment  |
|-----------------------|-------------------------------------|--|
| May 29, 2012          | Chapter 110,<br>Laws of 2012        | Repealed RSA 126-A:4, II-a and II-b which required a specific juvenile justice entity (Division of Juvenile Justice Services) within the Department of Health and Human Services (DHHS).   |
| September 30,<br>2011 | Chapter<br>224:279, Laws<br>of 2011 | Amended RSA 169-D:2, II to revise the definition of CHINS to: a child under 18 “with a diagnosis of severe emotional, cognitive, or other mental health issues who engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others” and is ineligible for services under the juvenile delinquency or child protection acts.<br><br>[Note: Previously, CHINS was defined as a child who was habitually truant from school; habitually ran away from home or, disregarded the reasonable and lawful commands of the parent, guardian or custodian and placed himself or others in unsafe circumstances; or habitually committed offenses which would be violations under the criminal code if committed by an adult, or violations under the motor vehicle code; and was expressly found to be in need of care, guidance, counseling, discipline, supervision, treatment, or rehabilitation.] |
| September 30,<br>2011 | Chapter<br>224:280, Laws<br>of 2011 | Amended RSA 169-D:5, I by requiring the consent of the DHHS before a CHINS petition could be filed and also added a requirement the CHINS petition include a notice of liability for parents and other individuals chargeable by law for the child’s support and necessities.  |
| July 1, 2011          | RSA 170-G:4,<br>XVI                 | Amended in 2010 and repealed in 2011 removing financial support from cities and towns for the development and maintenance of prevention and court diversion programs.  |
| June 29, 2011         | RSA 170-G:4-<br>a, IV               | Amended in 2011 to remove the advisory board on children and youth services role in the appeals process.   |

| Effective Date  | RSA/Chapter Law        | Amendment   |
|-----------------|------------------------|---|
| January 1, 2011 | RSA 169-B:10, I-a      | Prior to filing a delinquency petition, now requires the arresting agency or prosecutor to consider diversion and must identify why diversion was not appropriate prior to seeking court involvement. |
| January 1, 2011 | RSA 169-D-9, II (c)    | Now requires parental consent before evaluating a child who is suspected of needing special education, where in the past the consent was not obligatory.  |
| January 1, 2011 | RSA 169-D:29, I(a) (2) | Added a requirement parents or guardians will be responsible for diversion service costs if the program is ordered by the courts.   |

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**APPENDIX J  
STATUS OF PRIOR AUDIT FINDINGS**

The following is a summary of the status of observations applicable to this performance audit found in prior performance audit reports of juvenile justice including the;

- Foster Family Care Performance Audit Report (September 2001),
- Juvenile Justice Organization Performance Audit Report (November 1998).

Copies of audits issued prior to 1999 may be obtained from the Office of Legislative Budget Assistant Audit Division, 107 North Main Street, State House, Room 102, Concord, NH 03301-4906. Audit reports issued after 1999 may be obtained online at our website <http://www.gencourt.state.nh.us/LBA/audit.aspx>

**Status Key**

|                        |       |   |
|------------------------|-------|---|
| Fully Resolved         | ● ● ● | 1 |
| Substantially Resolved | ● ● ○ | 0 |
| Partially Resolved     | ● ○ ○ | 1 |
| Unresolved             | ○ ○ ○ | 1 |

***Foster Family Care Performance Audit Report (September 2001)***

| <b><u>No.</u></b> | <b><u>Title</u></b>   | <b><u>Status</u></b> |
|-------------------|---|----------------------|
| 5.                | The DCYF Needs To License Homes Specifically For Delinquents And Children In Need Of Services | ● ● ●                |

***Juvenile Justice Organization Performance Audit Report (November 1998)***

| <b><u>No.</u></b> | <b><u>Title</u></b>  | <b><u>Status</u></b> |
|-------------------|--|----------------------|
| 9.                | DHHS Lacks Comprehensive Juvenile Services Administrative Rules  | ● ○ ○                |
| 12.               | DCYF Lacks Administrative Rules For Shelter and Detention Bed Formula<br>(See current Observation No. 2) | ○ ○ ○                |

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