

Federal Fiscal Year 2020: Three-Year New York State Plan Addendum

- **Describe how the state plan is supported by or takes account of scientific knowledge regarding adolescent development and behavior and regarding the effects of delinquency prevention programs and juvenile justice interventions on adolescents; 34 U.S.C. § 11133(a):**

New York State (NYS) makes a concerted effort to ensure that adolescent development and behavior are embedded in as much of its juvenile justice and child welfare work as possible. Some ways in which adolescent brain development have been integrated into the system in NYS include:

- The implementation of Raise the Age, which was a two-year tiered process to increase the age of criminal responsibility from 16 to 18 in NYS beginning in 2018. A large impetus for this legislation was the recognition of adolescent brain development and the necessity to offer age-appropriate services to 16 and 17-year-old offenders, including tailored probation adjustment services, rehabilitative services, discharge planning, and supervision and treatment services,
- The Youth Justice Institute (YJI), a partnership between Division of Criminal Justice Services (DCJS), Office of Children and Family Services (OCFS) and University at Albany School of Criminal Justice, has been established to ensure the integration of scientific knowledge and evidence-based interventions throughout the system. Evidence-based interventions that are identified and endorsed by the YJI should incorporate components of adolescent development and behaviors,
- The Office of Probation and Community Alternatives (OPCA) has incorporated a module on adolescent development to their fundamentals curriculum for all

probation officers. The module overviews adolescent brain development and function with an emphasis on considering these things while interacting with juveniles, and

- The NYS Juvenile Justice Advisory Group (JJAG) ensures that funding priorities consider adolescent brain development, such as Strategies for Youth: Policing the Teen Brain, for law enforcement officers.

- **Contain a plan to provide alternatives to detention for status offenders, survivors of commercial sexual exploitation, and others, where appropriate, such as specialized or problem-solving courts or diversion to home-based or community-based services or treatment for those youth in need of mental health, substance abuse, or co-occurring disorder services at the time such juveniles first come into contact with the juvenile justice system; 34 U.S.C. § 11133(a)(7)(B)(iv):**

In conjunction with Person in Need of Supervision (PINS) reform in Article 7 of the Family Court Act, NYS Office of Children and Family Services (OCFS) Administrative Directive, 19-OCFS-ADM-22, prescribes that, “In any PINS case where the petition is filed on or after January 1, 2020, the respondent youth cannot be placed in detention.”

Further, “The PINS reform legislation reflects the spirit of the broad youth justice reforms in New York State as well as the federal Family First Prevention Services Act. Emphasis is placed on the use and delivery of services safely in the community to exhaust all diversion efforts prior to court intervention, to avoid all unnecessary out-of-home placement, and to safely and swiftly return youth back to their communities if placed.”

Finally, “For youth who do require out-of-home placement related to an Article 7 petition, the reform legislation limits the settings in which these can occur, and outlines

mandated, time-limited placements requiring immediate and focused permanency planning.”

NYS enacted the Safe Harbour for Exploited Children Act in 2008, becoming the first state to recognize that sexually exploited children are victims of crime and should be treated as such. Section 447-B of Social Services Law, SOS § (447) (b), requires that local social service districts make crisis intervention, respite services or community-based programs available for sexually exploited children as funding permits.

- **Contain a plan to reduce the number of children housed in secure detention and corrections facilities who are awaiting placement in residential treatment programs; 34 U.S.C. § 11133(a)(7)(B)(v):**

There are statutory requirements on how long a youth may remain in detention awaiting placement- 10 days for Juvenile Offenders (JO) and 15 for Juvenile Delinquents (JD). OCFS monitors and holds the detention administering agency accountable for the movement of JD youth into residential treatment in the foster care system. Localities must seek approval for the youth to be held beyond the 15 days.

- **Contain a plan to engage family members, where appropriate, in the design and delivery of juvenile delinquency prevention and treatment services, particularly post-placement; 34 U.S.C. § 11133(a)(7)(B)(vi):**

All aspects of the child welfare and youth justice systems in NYS recognize the importance of family engagement when serving youth. In recognition of the important contribution of family voice to inform the youth justice system, a Youth and Family Voice

workgroup has been established to design and implement a mechanism for ongoing family contribution to statewide initiatives across the child welfare and youth justice systems. The Office of Youth Justice (OYJ) at DCJS has identified family engagement as a priority area for the coming year and intends to build a portfolio specifically focused on this component.

Family engagement remains a priority along the entire continuum of services from diversion to post-placement. According to the Family Court Act, 735, "Diversion services shall include documented diligent attempts to engage the youth and his or her family in appropriately targeted community-based services," FCT § 735(d). With the passage of RTA, family engagement early in placement became an elevated priority through the requirements of aggressive permanency and aftercare planning that must begin within the first week of the youth's placement in an RTA facility (18-OCFS-ADM-24). The plan for family engagement falls to the reserment agencies but must be consistent with funding and program requirements that are reviewed through Annual Plans submitted to OCFS (20-OCFS-LCM-04).

- **Contain a plan to use community-based services to respond to the needs of at-risk youth or youth who have come into contact with the juvenile justice system;**
34 U.S.C. § 11133(a)(7)(B)(vii):

Pursuant to FCT § 735(d)(i-iii), "Diversion services shall include documented diligent attempts to engage the youth and his or her family in appropriately targeted community-based services," The Act continues to further require that lead agencies provide and

exhaust diversion services before they may file a Persons in Need of Supervision (PINS) petition to the court.

- **Contain a plan to promote evidence-based and trauma-informed programs and practices; 34 U.S.C. § 11133(a)(7)(B)(viii):**

There are multiple ways that NYS promotes evidence-based and trauma-informed programs and practices. Some examples include:

- The establishment of the YJI, which is currently in the process of developing a publicly available electronic database of evidence-based youth justice interventions and intends to offer evaluation support to localities to assist them with demonstrating the effectiveness of interventions through research and evaluation,
- The Regional Youth Justice Teams (RYJTs) are also used as a vehicle to infuse evidence-based and trauma-informed programs and practices across the state.
 - Teams are provided with ongoing technical assistance to ensure that their work is data informed and programs that are implemented are demonstrated to be effective,
 - Many of the RYJTs have specifically chosen to focus on creating a more trauma-informed service system or implement an evidence-based intervention using grant funds provided by the Juvenile Justice Advisory Group (JJAG),
- DCJS has established a statewide Trauma Informed Care Collaborative (TICC), an interagency workgroup of state employees that are dedicated to advance the integration of a trauma-informed (as defined by the Substance Abuse and Mental

Health Services Administration) approach within their organizations and throughout the State, and

- Funding requests that are submitted to the JJAG are strongly encouraged to support evidence informed interventions or contribute to the development of a more evidence based or trauma informed youth justice system.

- **Contain a plan that shall be implemented not later than December 21, 2020, to—**
 - I. **eliminate the use of restraints of known pregnant juveniles housed in secure juvenile detention and correction facilities during labor, delivery, and post-partum recovery, unless credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others.**

 - II. **eliminate the use of abdominal restraints, leg and ankle restraints, wrist restraints behind the back, and four-point restraints on known pregnant juveniles, unless—**
 - (a) credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others; or**
 - (b) reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method; 34 U.S.C. § 11133(a)(7)(B)(ix):**

New York State has had specialized provisions for pregnant youth in detention since 2009 (PPM 3243.37). Per policy, all female residents are tested for pregnancy upon

placement in a facility. If pregnant, staff should avoid physical restraint whenever possible and shall use a modified sitting technique when restraint is unavoidable. At no point during transport should belts or foot cuffs be used for pregnant residents and mechanical restraints are not permitted during labor and delivery. In 2017, an additional mandate was released (PPM 3247.04) stating that pregnant youth can only be transported with mechanical restraints when deemed necessary by an individualized assessment and in these instances the only approved mechanical restraint is handcuffs that must be secured in front of the body.

- **Describe policies, procedures, and training in effect, if any, for the staff of juvenile state correctional facilities to eliminate the use of dangerous practices, unreasonable restraints, and unreasonable isolation, including by developing effective behavior management techniques; 34 U.S.C. § 11133(a)(29):**

OCFS developed a trauma-responsive approach to care and custody incorporating extensive pre-employment and on the job training and coaching with a robust quality assurance program. The training includes de-escalation techniques, physical restraint intervention with a policy regarding the oversight of restraints and specific safety requirements, for all staff regardless of involvement in the restraint, and reporting and review of restraint incidents. OCFS has an Office of the Ombudsman that has unfettered access to youth in facilities and the state also has the Justice Center for the Protection of Special Needs (Justice Center) that has oversight and investigatory powers for detention and placement facilities. Room isolation is prohibited and there is a policy in place outlining the limited circumstances under which a youth can be confined to their rooms for short specified lengths of time with extensive work focused on getting the youth back into program as quickly as possible.

- **Describe:**

(A) The evidence-based methods that will be used to conduct mental health and substance abuse screening, assessment, referral, and treatment for juveniles who—

(i) request a screening;

(ii) show signs of needing a screening; or

(iii) are held for a period of more than 24 hours in a secure facility that provides for an initial screening; and

(B) How the state will seek, to the extent practicable, to provide or arrange for mental health and substance abuse disorder treatment for juveniles determined to be in need of such treatment; 34 U.S.C. § 11133(a)(30):

The Office of Probation and Community Alternatives (OPCA) will implement a mental health screen at the initial conference for youth cases opened for adjustment services this year. The screening will be used to determine the necessity for further evaluation and link youth with appropriate mental health services. In addition to the statewide roll out of the mental health screen, a trauma screen pilot was implemented for juvenile delinquents on probation in six counties with an ongoing discussion to implement the trauma screen statewide based on the success of the pilot. Youth who screen positive on the trauma screen will be referred for a full trauma assessment and appropriate trauma specific services.

Per the OCFs Manual, *Working Together: Health Services for Children in Foster Care*, when a youth enters the foster care system, it is required that a comprehensive initial

health evaluation is administered. Within this evaluation, a mental health assessment is recommended within 30 days and a substance abuse assessment is encouraged within 45 days of the youth entering the system. Further, if a youth requests a screening at any of the child welfare system touch points, the presentment agency is required to administer an assessment and provide a referral to services as necessary.

- **Describe how reentry planning by the state for juveniles will include—**
 - (A) A written case plan based on an assessment of needs that includes—**
 - (i) the pre-release and post-release plans for the juveniles;**
 - (ii) the living arrangement to which the juveniles are to be discharged; and**
 - (iii) any other plans developed for the juveniles based on an individualized assessment:**

(i) Upon placement in an OCFS residential facility, each youth is assigned a facility (FCM) and community case manager (CCM). Each OCFS youth has a support team meeting (STM) every 30 days from the date of admission until the youth is discharged from OCFS. While in residential placement the assigned case managers work in close collaboration with the other members of the multi-disciplinary support team to identify the risks, needs, and protective factors of the youth and family.

The youth's progress in program and towards treatment goals are memorialized each month in the youth's Integrated Support Plan (ISP) notes. Further, during the first 120 days of residential placement a risk and protective factor grid that is organized into five domains (individual, family, school, peer group/community, and vocation/ employment) is submitted for discussion at each STM.

Once the known risk and protective factors are prioritized following the 120-day STM, effective community-based strategies are identified to address those areas. It is at this time that the youth' Community Re-entry Plan (CRP) is initiated. The CRP builds on the individual treatment goals the youth achieves in placement and aligns them to community strategies that target the identified areas of high risk through a cadre of primary and secondary community supports. The CRP is reviewed and finalized prior to the youth's transition back to the community under the supervision of the Community Multi-Service Office (CMSO) and the CCM.

While in the community, the youth's community support team reviews the progress towards executing the strategies within CRP and whether they are still viable. All progress in the community or the adjustment to goals and strategies that support the youth are recorded in the Community Support Plan (CSP) notes.

(ii) While family engagement and release readiness are constantly being evaluated during residential placement, the Family Engagement and Assessment Tool (FEAT) and the Pre-Release Assessment (PRA) are two specific tools that are utilized by OCFS to assist in this process.

The FEAT is a vital component of the community re-integration for OCFS adjudicated youth and is completed within the first 27 days of the youth's OCFS facility placement. The FEAT is a tool utilized by the CCM to provide a more in-depth analysis of the circumstances that resulted in a youth being placed with OCFS. The tool also provides a mechanism for CCMs to report service needs, familial needs and goals, as well as, past services the youth and family received prior to OCFS placement. Some of the information derived from the FEAT assists the CCM in completing the pre-admission section of the risk and protective factor grid. The FEAT is comprised of two section, the Parent Interview and the Youth Interview, both interviews make up much of the

information that constitutes a completed FEAT. The last portion of the FEAT focuses on establishing goals and services for the OCFS placed youth and his/her family.

No later than thirty days following initial facility placement, and as part of the development of the Initial Support Team, the youth's CCM conducts a home assessment, usually in conjunction with the FEAT: Caregiver Interview, to determine the current status of the home. The Pre-Release Assessment collects information on the current ability of the home to adequately support the youth upon return to the community and determines the availability of needed services in the youth's home community. This is an on-going assessment as the viability of the home and the determination and availability of needed services may change based on the monthly Support Team Meetings. Thus, beginning at Intake and continuing until discharge, youth and community factors are continuously assessed and programs modified to produce maximum impact of those factors related to successful re-integration and decrease the possibility of recidivism. Additional PRAs may be requested by the FCM as necessary during a youths residential placement, however, a final PRA must be requested no later than 60 days prior to an eligible youths agreed upon release date.

(B) Review processes; 34 U.S.C. § 11133(a)(31):

See responses above.

- **Describe policies and procedures, if any, to—**
 - (A) Screen for, identify, and document in records of the state the identification of victims of domestic human trafficking, or those at risk of such trafficking, upon intake; and**

(B) Divert youth described in subparagraph (A) to appropriate programs or services, to the extent practicable; 34 U.S.C. § 11133(a)(33):

NYS has committed to respond to the unique needs of sexually exploited children through the Safe Harbour for Exploited Children Act of 2008, which was the first Act in the country to recognize youth who have been sexually exploited as victims of crime that should be provided with specialized services. The Safe Harbour: NY program, which will be implemented in all 62 counties of NYS by the end of 2020, is the vehicle through which the state provides specialized comprehensive and specialized services to youth survivors. OCFS, through 15-OCFS-ADM-16, provides training on the red flags that may indicate that a child is trafficking victim and requires that all youth under the supervision of the Local Department of Social Services (LDSS) be screened for sex trafficking using a rapid indicator tool that is provided by OCFS. If indicated by the rapid screen, a comprehensive trafficking screen must be administered. If the comprehensive screen indicates trafficking victimization, it must be reported to law enforcement within 24 hours and documented in the youth's file. If the child is identified as a victim or at-risk of becoming a sex trafficking victim, referrals to appropriate individualized services must be made. Screening for trafficking should occur on an ongoing basis for the duration of an open case.