

# **Vermont Citizen's Advisory Board**

to the

VT Department for Children and Families

Family Services Division

## **2019 - 2020 Report**

July 1, 2019 – June 30, 2020

### **Submitted by:**

Sally Borden, Co-Chair

## **Members (2019-2020)** (as of June 2020)

Sally Borden – KidSafe Collaborative; *Co-Chair*

Debra Taylor, PhD – Washington Central Unified Union School Dist.; *Co-Chair*

Rev. Stephen G. Berry – Foster/Adoptive Parent, Pastor

Amy Brady, Voices for VT's Children

Tom Fontana – University of Vermont, Center for Health and Wellbeing

Dr. Joseph Hagan, M.D. – Pediatrician, Lakeside Pediatrics

Linda Johnson - Prevent Child Abuse Vermont

Patiance Johnson – Community Member/Parent

Sally Kerschner/Kim Schwartz (*alternate*) – Vermont Health Department

Lt. Jason Letourneau – Vermont State Police\*

Raenetta Liberty/Tracey Wagner (*alternate*) – UVM Medical Center, Forensic Nursing

Judge Kathleen Manley, VT Judiciary \*

Dr. James Metz, M.D., Child Abuse Pediatrician, UVM Children's Hospital

Jennifer Poehlman/Wendy Loomis – Vermont Children's Alliance (*alternate*)

Michele Olvera – VT Network Against Domestic and Sexual Violence

Laurel Omland/Dana Robson (*alternate*), VT Dept of Mental Health \*

Erinn Rolland-Forkey – foster parent, President VT Foster and Adoptive Parent Assoc.

Laura Schaller, VT Judiciary, Guardian Ad Litem \*

Cindy Seivwright/Kelly Dougherty\* (*alternate*), VT Health Dept., Alcohol and Drug Abuse Programs

Sgt. Edward Soychak – South Burlington Police Department

\* = new members FY19-20

*Inactive or resigned from VCAB FY19-20:*

Lt. Lance Burnham – Vermont State Police

Kimberly Ann Coe – Foster parent (*alternate*)

Lynn Granger - Kinship Care Provider

Dr. Karyn Patno (*alternate*), Pediatrician

### DCF Staff:

Ken Schatz – DCF Commissioner

Christine Johnson, DCF Deputy Commissioner, Family Services Division

Priscilla White – Child Victim Treatment Director

Luciana DiRuocco – Executive Assistant

Karen Shea – Deputy Commissioner, Family Services Division (*left position in 2019*)

## **Background**

- The *Child Protection Advisory Board* was established by DCF Family Services (then SRS) in 1998 per the federal Child Abuse Prevention and Treatment Act (CAPTA), continued under the CAPTA Reauthorization Act of 2010.
- In December of 2004, the Board adopted Bylaws and was renamed the *Vermont Citizen's Advisory Board* (VCAB).
- VCAB meets quarterly regarding a variety of issues related to child protection, to review and improve Vermont's child welfare system.

# **FY 19-20 VCAB Meetings**

Vermont Citizen's Advisory Board held four meetings in FY 2019-2020

- September 4, 2019
- December 4, 2019
- March 4, 2020
- June 3, 2020

## **VCAB Operations and Leadership**

VCAB Co-Chairs serve two-year terms, with elections scheduled biannually in March. Co-Chairs Debra Taylor and Sally Borden were re-elected in March 2020 to a two year term.

Dr. Taylor submitted her resignation as Co-Chair and VCAB member in June 2020, as she has accepted new employment out of state.

VCAB membership is staggered so approximately half of the members are up for re-election for two-year terms each year in March. In FY19-20, members were re-elected in June 2020.

VCAB is empaneled under the provisions of 33VSA4917. (Re)empanelment was submitted and authorized October 1, 2019.

VCAB welcomed new DCF Deputy Commissioner Christine Johnson, who started her position in June 2019.

DCF maintains the VCAB webpage, established in 2018 on the VT DCF website, in order to provide the public with more information about and access to VCAB. <https://dcf.vermont.gov/boards-councils/VCAB>

An agenda is sent to VCAB members prior to each meeting. Minutes are taken at each meeting and sent to all members prior to the following meeting. DCF contracts with KidSafe Collaborative, a community-based non-profit organization, to provide administrative support for VCAB.

## **Key Issues and Actions**

### **COVID-19**

- A. Parent Child Contact:** Families needed to shift from in-person to virtual contact. Assess and address capacity of families to have virtual parent-child contact. Also needed to address safety concerns in order to minimize the spread of COVID. Had a two-week window to put family time plans for approx. 1200 kids into place.
- Used neutral facilitator for meetings to address foster parent/parent/child/ needs.
  - Federal determination: Feb. through June, can count virtual platform for monthly face-to-face contacts. June: moving toward increased in-person parent-child contact with safety measures.
- B. Staff:** DCF has worked on an entirely new platform to engage with people. Some families easier to connect via on-line. Most staff working primarily remotely. Transportation staff furloughed. DCF Staff Safety Coordinator: focus on measures to ensure staff safety (PPE) and safe placement and staffing for covid+ youth.

**C. Child Maltreatment Reports:** Significant reduction in number of calls to child protection line. Vulnerable children are not being seen by childcare providers and teachers, accounts for fewer reports, concern that fewer reports does not mean reduction in child abuse/neglect.

**D. Child safety investigations/assessments:**

Utilized “assessment” response for most cases except most egregious. Some reports e.g. substantial child endangerment need to be “investigation” cases, have in-person response. Assessment track allowed Family Services to use option of meeting virtually to evaluate child safety and intervention in the majority of cases. Front end and supervisors were given discretion on assessments as to whether to go out in person or virtual.

**E. Family Court:**

- Challenges to parent-child contact orders heard by Family Court. Court closed except for emergencies and parent-child contact issues; other hearings delayed, affects timelines.
- Backlog of 150 TPR cases; June: starting to reschedule, move cases forward.

## **Anti-Racism**

June 2020 VCAB meeting:

- Need to look at policies and practices, staff training.
- Data on racial disparities in child protection system is lacking. IT system is unable to collect this data. Need to connect anti-racism work to the data showing overrepresentation of people of color in the system.
- DCF Family Services just started year two of strategic plan including how to become a more racially just division.

**Action:** VCAB to issue an anti-racism position statement with a press release. (Draft attached)

## **State Budget**

**A. FY19-20 budget - July 2019:** includes \$1.7M in new money for DCF. Initially DCF asked for \$5M; reduced to \$3M in Legislative Committee, further reduced to \$2M by the Governor’s office and finalized at \$1.7M.

- Includes a slight increase to foster care subsidies.
- FSD will be adding staff: 9 Family Service workers, including 7 new and 2 shifting from Economic Services; plus one new supervisor, three new Resource Coordinators.
- Case Aides: Switch over from 24 temporary part-time case aides (20 hrs/week), who have a high turnover rate, to full time with benefits, contracted. Will be around 9 positions, covering ½ the districts. RFP to be issued.

**Action:** 1. VCAB requested information from Commissioner Schatz about budget advocacy. VCAB members expressed support for increased staffing and foster care subsidies, especially as budgets are being reduced in other areas of state government. 2. VCAB requested information from DCF Family Services on how budget aligns with Strategic Plan.

**B. FY20-21 Budget - June 2020:** Legislature did not pass a budget this year for FY21, operating on a three-month extension. Previously, Governor’s strategic budget initiative asked all departments for 20% reduction in five years.

- Tax revenue is drastically reduced and will be a challenge going forward. There will be significant impact on General Fund dollars.
- Have been able to address overtime and other DCF expenses with federal COVID funds. Additional federal government stimulus package is unknown.
- Residential care reduced capacity due to VDH requirements for congregate care and concern for staff. Residential programs can apply for some of 1.2 million set aside and will be asking for more to address the needs. FSD is also doing a lot to address child care, homeless population, transition age youth.

**Action:** (*March 2020*): VCAB agreed to write a letter to Governor Scott and the Chairs of Senate Health and Human Services and the House Appropriations Committees. AHS Secretary Mike Smith and DCF Commissioner Ken Schatz will be cc'd. Sally Borden, Dr. Joe Hagan and Debra Taylor will draft the letter which will express a strong opinion that a level funded budget for DCF that doesn't take into account the state mandate of twelve cases per Family Services Worker is not acceptable. The letter will also recount the history of DCF proposed caseloads: VT statute mandates FSD caseloads of twelve. Current average caseload is fifteen.

**Followup** (*June 2020*): Letter was written and ready to send, however COVID-19 health crisis occurred shortly thereafter, and it was no longer relevant. VCAB will rely on communication from Commissioner's Office on how VCAB can best provide budget advocacy going forward.

## **IT System**

DCF's current IT challenges adversely affect children and families. Antiquated system, significant challenges; major issue affecting Family Services operations.

- FS staff currently use 11 separate data systems, and 30+ excel spreadsheets. Lack of integration between these (and other external systems) results in challenges. Duplication of work and risk of human error add to the workload; time spent on redundant information and data entry and retrieval = staff inefficiency and could affect child safety.
- Registry Review Unit: doesn't have an electronic data system and uses spreadsheet and hand calculation.
- Federal funding opportunity offers all states a 50:50 match, would help to replace DCF's old system with a new Comprehensive Child Welfare Information System. DCF plans to ask the Legislature for \$11 million in funding for IT which would be matched by federal funding; the \$22 million could be spread over five years.

**Action:** VCAB requests that Christine prepare an executive summary of DCF's IT needs in order for VCAB to work with Voices for Vermont's Children (Voices) to incorporate the IT needs into its advocacy for funding to support for multiple departments in working together.

## **Registry Review Unit**

VCAB requested and received presentation from DCF Registry Review Unit.

- Upon substantiation, DCF sends a letter including information about the person's right to request a review within 14 days. Current appeal statute doesn't include a process to speak to the victim. Nine independent contractors, non-state employees make up the Registry Review Unit (RRU) and determine eligibility and risk of harm if a review is requested.

- The reviewers considered 457 substantiation determinations involving 367 grievants and 625 victims between January-November 2019. Of the appealed substantiations, 41% involve risk of harm and physical injury. The RRU has upheld just over 86% of the substantiation determinations and has been consistently for three years. Handout “Data Collected by CRRU Reviewers and Directors-January-November 2019”. The Registry doesn’t track the number of people who have been removed from the Registry.

**Action:** VCAB statement: supports due process, including DCF’s process for substantiation and putting people on the Registry during appeal.

## **Lawsuit**

Summary: Two issues 1) removal of a child without authority 2) substantiation appeal process.

Removal allegation: DCF removed a child from the mother without authority. As DCF was determining whether the case met the substantiation standard, a voluntary discussion took place about who would be the best person for the child to live with and where. Child was then placed with other parent.

Due Process: The substantiation decision was appealed. Question was raised: does appeal process = due process?

- Discussion: When DCF accepts a case based on intake, DCF has 60 days to substantiate and to inform the client of a determination. The client has 14 days to appeal. If not appealed, the person is put on the Child Protection Registry. While under internal appeal, no name is put on the Registry. If the RRU assesses the appeal and upholds substantiation, then the name goes on the Registry. The Registry Review Unit has had an increased number of appeals of substantiation and requests for expungements. Decisions can take 6-7 months. When the Unit upholds substantiation, names stay on the list.

**Action:** Dr. Joe Hagan moved that VCAB inform the Legislature that persons substantiated by DCF for child abuse and neglect who appeal their substantiation will not appear on the Child Protection Registry for a period of 6-7 months due to the average length of time of the Registry Review Unit appeal process. This capacity issue prolongs the period of vulnerability to other Vermont children. We further request that adequate resources be provided to shorten this process to no more than 90 days. Seconded by Erinn Rolland-Forkey. The motion was unanimously approved.

## **Juvenile Justice**

### **Woodside Juvenile Rehabilitation Center**

Summary/Discussion: AHS Secretary Mike Smith, Commissioner Ken Schatz and Deputy Commissioner Christine Johnson proposed to close Woodside Juvenile Rehabilitation Center by end of June 2020. For the last four to five months the census has been 0-5 youth. Focused on youth rehabilitation and costing six million dollars per year, Woodside historically has provided a secure facility for youth for whom the state does not have adequate or appropriate alternative sites available. Youth of color are disproportionately housed at Woodside, in comparison to the general population in Vermont (for example, recent Woodside census: 3 of 5 youth [60%] are non-white; 2010 VT Census: 92.6% White, non-Latino/Hispanic). While there is still a need for a secure detention facility, DCF places its emphasis on the need for children and youth to be with their families or with fictive families; DCF will seek to contract with a private provider for a locked, 3-5 bed facility to address capacity.

**Action:** Discussion/advisory:

- Need for a secure environment for youth to feel safe and ensure safety until they move to a less restrictive setting.
- Need to have a trauma informed environment, do trauma informed work.
- Need to focus on prevention; where do we go with prevention?

## **Legislation**

VCAB discussed various pieces of pending and proposed legislation

### **A. Office of Child Advocate (OCA)**

- Legislation proposed by Voices for Vermont's Children.
- First proposed five years ago, concerns about adding layers when DCF is underfunded; how do we shore up systems we already have? Office to oversee child welfare policies and practices; not a "complaint line" but case reviews would inform policy. Since then research has shown that other states' OCAs have been successful, advocated for DCF funding.
- DCF Family Services continues to have concerns about current OCA proposal.
- OCA needs to be resourced first; funding should not come from the DCF budget.
- House Human Services Committee: Model OCA after WA, CO and NH OCAs.

**Action:** VCAB requested and Voices agreed to keep VCAB updated on the proposal for an Office of the Child Advocate. VCAB agreed to send out information through KidSafe Collaborative, and that Voices can call on individual members for help.

### **B. Registry Review Unit, due process**

**Action:** VCAB requested additional information from DCF Family Services if a DCF is proposing legislation related to the Registry Review Unit.

**C. Judicial Master:** Legislature approved new position; will serve in Chittenden and Franklin Counties, Family Treatment Court starting up. Most other CHINS Work Group proposals not approved.

**D. Youth Justice:** Age of jurisdiction, phasing in 18-19 year-olds for all but most serious offenses.

## **Other Key Issues and Activities Reviewed**

- **Staff Safety:** Average 3 threats to staff per week; recent serious threat, coordinated response with law enforcement. Staff Safety Manager; staff training.
- **Caseload/workload:** 16.8 assuming every position is filled with experienced worker. Factoring in unfilled positions or newer staff who begin with ½ the cases, average becomes 23.4 cases (which equates to 84 percent capacity)
- **Custody Re-entry** remains high: younger children and children exiting custody within three months that are coming back into care.
- **Child Safety Assessment:** Where DCF has an open case and there is a new pregnancy, assessment may now start as soon as worker is aware of pregnancy rather than 30 days prior to birth. Allows for building family support as long as possible before birth.
- **New Risk Assessment Checklist** tool developed.
- Review DCF Family Services **Strategic Plan**; review **Families First Prevention Services Act**.

## Case Review

- Case Review is conducted under the empanelment provisions of 33VSA4917.
- Case Review minutes are maintained separately from regular meeting minutes to ensure confidentiality and are encrypted before sending electronically.
- Continued discussion about roles of VCAB and Child Fatality Review Team (CFRT), which cases are reviewed by each, and case review process. Three VCAB members currently serve on CFRT.
  
- VCAB conducted four Case Reviews in FY19-20. Topic areas covered:
  - *Drowning*: most common accidental death in VT: CFRT Report 2016-18: 9 drownings, 4-5 last year. DCF may accept some accidental child death cases for investigation based on risk, and may substantiate. Discussion: What is an accident? What are the criteria? What are extenuating circumstances? What is normalcy? Are standards fair and consistent? Many bodies of water in the state; what can be done from a public health/prevention standpoint?
  - *Opioid ingestion*. Accepted for investigation under “serious physical injury,” considered poisoning. Substance Ingestion cases are on the rise; high need for lock boxes. Working with Dr. James Metz UVM Children’s Hospital, establishing improved guidance for hospital reporting. Assessment of circumstances, history, supervision to determine: accidental ingestion?
  - *Prenatal substance exposure*: Family Assessment response prior to birth.
  - *Infant fatality* following judicial “Conditional Custody” order, despite high level of DCF involvement and home visits, where DCF’s initial request for emergency custody upon discharge from hospital was denied. Discussion: No recourse re initial court order. DCF is represented by AGO, but each Co.’s State’s Attorney’s office brings the case to family court – could/should this be a more streamlined system?