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THE ROLE AND FUNCTION OF THE OFFICE OF JUVENILE OFFENDER REVIEW

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TABLE OF CONTENTS

	<u>Page</u>
I. Background and Organizational Structure	1
A. Current Staffing	1
B. OJOR's Responsibilities	2
II. Is OJOR Meeting It's Expected Goals?	2
III. To What Extent Does the Current Administrative Process Facilitate OJOR's Attainment of Organizational Goals?	4
A. The Initial OJOR Review: Information Needs	4
1. Administrative Rule Requirements	4
2. Current Practice	4
B. Criteria for Making Decisions	8
1. Administrative Rule Requirements	8
2. Current Practice	8
C. EAS Placements Prior to Initial Reviews	12
IV. Summary	13

THE ROLE AND FUNCTION OF THE OFFICE OF JUVENILE OFFENDER REVIEW

The purpose of this paper is to identify organizational issues and make recommendations to assist the Office of Juvenile Offender Review (OJOR) to better meet its program goals and legislative responsibilities. The review was requested by the Administrator of the Division of Youth Services in conjunction with the creation of the Division of Youth Services and the transfer of the Office of Juvenile Offender Review to that Division. In conducting this review we interviewed each OJOR staff member, institutional staff, county representatives and state aftercare staff. We also observed OJOR reviews at each juvenile correctional facility and reviewed case files.

The review was conducted within the context of current statutory and administrative rule requirements. It did not include a review of the overall juvenile justice system or of how case planning and release functions might be performed in alternative juvenile justice systems in which commitment, assessment, classification, case planning and release functions might be performed quite differently. That is an issue that the Division of Youth Services plans to address in the near future.

I. BACKGROUND AND ORGANIZATIONAL STRUCTURE:

In 1976, the Department received funds from the Wisconsin Council on Criminal Justice for the purpose of conducting reception, progress (at regular 90 day intervals) and release reviews to determine appropriateness of placement and/or retention of youth in the juvenile correctional institutions. Initially the program was called the "Child Monitoring Unit," then in 1978 the "Juvenile Offender Review Program" (JORP) and finally in 1990 the "Office of Juvenile Offender Review" (OJOR).

OJOR was statutorily created by 1989 Act 31 and amended by 1989 Act 107, s.46.03(7)(e). The statute reads: "Administer the juvenile offender review program in the division of youth services in the department. The program shall be responsible for decisions regarding case planning and the release of juvenile offenders from juvenile correctional institutions to aftercare placements." Between 1976 and 1989, the program was located in the Office of the Secretary. As the above statutory reference indicates, during 1989 the unit was moved to the newly created Division of Youth Services.

A. Current Staffing. The Office of Juvenile Offender Review has a staff of eight full-time employees. Two social service specialists and a half-time clerical are housed at each of the two juvenile correctional institutions. Another social service specialist (project position) acts as a "floater" between the two institutions and fills in for OJOR staff as schedules demand. This staff person is housed in central office and also works on projects assigned by the OJOR Director. The OJOR Director and a Program Assistant work out of central office.

Administrative Rule HSS 331 identifies members of the Joint Planning and Review Committee (JPRC) which makes placement and planning recommendations. Voting members include: an institution representative, a representative of a county department or agent representing field staff or both, and an OJOR representative.

B. OJOR's Responsibilities. HSS 331 identifies three major decision-making responsibilities for OJOR:

- 1) To decide if a youth should be placed in an institution, alternate care, foster care or own home;
- 2) To decide whether a recommendation should be made to the court concerning extension of dispositional orders; and
- 3) To establish program goals and objectives.

Consistent with Chapter 48, The Joint Planning Review Process Handbook states that a goal of OJOR decisions is "to place youth in the least restrictive setting consistent with their needs and the protection of the public."

The Department established the Juvenile Offender Review process as a joint planning and decision-making partnership among Joint Planning and Review Committee (JPRC) participants. While all participants in the decision-making process are responsible for making recommendations, if the JPRC does not reach a consensus, the Department has delegated final decision-making authority to OJOR. Originally, JPRC participants were allowed to appeal OJOR decisions to the OJOR Director. Since the beginning of 1990, decisions on all appeals are made by the DYS Division Administrator. Earlier policy papers endorsed the concept of final decision-making authority finding that "[t]here is a need to have a single unit responsible for the parole decision making component of plan development...to ensur[e] that there is sufficient procedural regularity to allow for the consistent application of specific criteria...and that fiscal or institutional management concerns do not unduly influence plan development, and that the quality of the case plan is assured."

II. IS OJOR MEETING IT'S EXPECTED GOALS?

In conducting this review, there were few negative comments relative to OJOR's ability to meet their organizational responsibilities, as described above. In addition, there were no complaints about OJOR's ability to make decisions. There was criticism pertaining to the lack of consistency and occasional institutional biases on the part of OJOR staff in their decision-making.

There was a general consensus among persons interviewed that there is a need for a decision-making authority. Persons we interviewed typically viewed the current process

as an effective means for drawing together all interested parties, ensuring adequate input into the decision-making process and building consensus. Several persons felt that the OJOR staff was instrumental in facilitating the decision-making by consensus process.

The process, whereby OJOR has decision-making authority is viewed, by most persons interviewed, as an effective means for balancing the often conflicting political and organizational pressures that might influence review recommendations. For instance, the decisions of county representatives may be influenced by diminishing local Youth Aids budgets that might be further strained by a youth remaining in the institution or by placing the youth in a costly child care institution; the increasing caseloads of aftercare field agents might affect their desire to release a youth to aftercare; or institutional staff may want a youth to finish his treatment program, rather than receive the same service in the community or conversely they may be pressed to reduce the institution population and release a youth before it is appropriate. The OJOR process is generally viewed as a means of mediating these conflicting interests, which might not always be in the best interest of the youth.

One concern raised repeatedly during this review relates to the extent that OJOR staff will be able to make independent decisions under the current organizational structure that places OJOR under the administrative oversight of the Division of Youth Services. The concern is that OJOR staff could be subject to pressures from the Division Administrator's office. For instance, OJOR staff may be pressured to increase the number of youth released from an institution or placed in short-term (30-45 days) programming to accommodate overcrowding, although these practices may not meet the treatment or security needs of a number of youth. Many of those interviewed felt that having OJOR under the DYS organizational structure gives an appearance of conflict of interest and that it is essential to have the review body outside of the administrative unit responsible for managing the program. These concerns are reflected in the original policy papers concerning the administrative location of OJOR. "...it is important to note that most national advisory standards emphasize the need for the parole decision authority to be separate from the organizational unit which administers the correctional program (e.g. institutional and community programs)."

Because of the above concerns, the Department should consider organizational and procedural modifications that help to ensure that OJOR functions as an independent decision-making body and that its credibility is not undermined.

III. TO WHAT EXTENT DOES THE CURRENT ADMINISTRATIVE PROCESS FACILITATE OJOR'S ATTAINMENT OF ORGANIZATIONAL GOALS?

A. The Initial OJOR Review: Information Needs

A.1. Administrative Rule Requirements.

According to HSS 331.04, one purpose of the reception examination, conducted at a designated reception center at each juvenile institution, is "to conduct a comprehensive assessment of the youth's social background, court disposition, court report and academic and vocational achievements." Reception center staff are required to submit a reception center admissions report (RCAR), that includes a recommendation for education, treatment and placement, based on the youth's assessed needs, to the JPRC.

Under HSS 331.07, a state aftercare or county worker, as appropriate, is also responsible for preparing a report for the JPRC that includes information on the youth's offense, school, prior placement, personal and family history. This required report must be submitted to the JPRC within 15 days after the date the youth is received at the reception center.

HSS 331.08 states that as soon as possible after the receipt of the above reports the JPRC should be convened to make planning recommendations. Specifically, the JPRC is responsible for establishing program goals and objectives, including recommendations about services and intervention strategies, as well as make recommendations concerning placement of the youth (including placement outside of the institution).

HSS 331.19 states that the criteria for long-term planning, the transitional plan, and immediate placement of the youth should include information on "the nature and severity of the offense for which the youth was adjudged delinquent, including underlying facts and mitigating factors; prior offenses and behavioral history, including date of occurrence, judicial processing determination, other disposition, and consideration of underlying facts and mitigating factors; prior placement history; and treatment, education and medical needs."

A.2. Current Practice:

There is frequently insufficient information available to adequately prepare the above reports, and in turn provide suitable information on which to base treatment and placement decisions.

Availability of Court Information. Both the RCAR and the report submitted by state aftercare or county staff require information on a youth's offense history and court

disposition. According to OJOR and institution staff, this information is not consistently submitted by counties within the timeframe needed to complete the reports. As a result, it is not uncommon for reception center staff to base RCARs primarily on information reported by the youth. County representatives frequently bring offense and dispositional reports with them to the initial review. **Chapter 48.49 (3) requires that "[t]he court and all other public agencies shall furnish that department on request all pertinent data in their possession, including court reports, within five working days of the request."**

Milwaukee County in particular has frequent problems submitting data within the required timeframe. Milwaukee County reports are currently submitted to the Milwaukee County Juvenile Court Liaison and subsequently forwarded to the appropriate institution and to the Milwaukee County field office. According to Milwaukee County staff, there are times when court reports are not completed on youth (although this is a legislative requirement) and are consequently not available for forwarding. Staff also indicated that another problem in submitting reports is related to insufficient clerical staff and the need to make multiple copies of reports. According to a review of court reports submitted by Milwaukee County during the first three months of 1990, 25% of the reports were not submitted to the Liaison within the required 5 day reporting period. Seven percent of the reports were never received.

OJOR staff indicated a difference between counties in terms of the quality and completeness of information received from counties. Some counties do not submit a complete record of past adjudications, alternate care placements and treatment services, while others provide OJOR with complete records on youth. According to staff, there are times when information received from the county is limited to a series of checklists that give little information on the youth. At this time there are no guidelines describing the type of information, beyond the court report, that counties are required to submit to the institutions.

Recommendations:

DYS should develop guidelines for "pertinent data" that counties are required to submit to the institutions within the required timeframe.

DYS should consider using FAX machines to transmit required reports from Milwaukee County directly to the juvenile facilities and the Milwaukee field office. When information is received at the institution, copies should be made there and disseminated to JPRC participants at the institution.

Availability of Educational Information. Both institution and OJOR staff indicated that except for the educational section of the court report (which, as indicated above, is not always available) there is very little information available to JPRC participants, on the educational status of youth, prior to and at the time of the initial OJOR review. In

addition, several staff indicated that information submitted by some counties on the educational needs of youth is not always adequate and up to date. The reception center at Ethan Allen conducts math, reading and spelling tests to obtain planning data on youth.

HSS 331.08 states that OJOR is responsible for notifying the institution education representative of the initial review and that the criteria for planning should include consideration of the educational needs of the youth (HSS 331.09). According to OJOR staff at both institutions, the educational representative does not attend initial reviews. At one time, the educational representative at Lincoln Hills did attend the initial hearings but this practice was discontinued. Educational representatives at Ethan Allen have never attended initial hearings. The absence of relevant educational data and the input of an educational representative has implications for the degree to which coordinated treatment planning can occur.

Recommendation:

DYS should consider requiring that an institution educational representative be present at all initial reviews. Rather than expecting social work staff to interpret school reports and tests, it seems logical to draw on the resources of educational staff and include them in the planning process. At a minimum, the educational representative should be required to submit to OJOR, prior to the initial review, a summary of the youth's educational record and recommendations for treatment planning as they relate to the youth's educational needs. An educational representative should also be available for consultation and participation in the initial and subsequent reviews if determined necessary by the JPRC.

Availability of Initial Review Reports Prepared by State Aftercare Staff. The initial review reports are supposed to contain information on the youth's offense, school, prior placement, personal and family history. Much of the information contained in these reports is obtained from interviews with the youth's family. State aftercare staff also rely on information contained in the court records to complete the initial review report. Of course, the extent that counties submit court information within the required timeframe affects the timeliness of initial review reports submitted by state aftercare workers. State aftercare staff frequently do not submit initial review reports within the required 15 day timeframe and consequently these reports are often not available at the initial reviews. It is not uncommon for state aftercare workers to give their initial review reports verbally. One purpose of submitting the report prior to the initial hearing is to permit JPRC participants enough time to review the document and formulate recommendations based on the report. As a result of not having court documentation and initial review reports submitted in a timely manner, it is not unusual that an inordinate amount of time, during the initial hearing, be spent verbally reviewing information that should have been available well in advance of the meeting.

The inadequacy of information available to prepare reports for the initial review and the frequent practice of not submitting required reports prior to the initial review brings into question the ability of the JPRC to make quality and informed placement and treatment planning recommendations and decisions.

State Aftercare Attendance at Reviews. State aftercare workers do not consistently attend initial reviews. Lincoln Hills OJOR attendance data for the first seven months of 1989 indicates that state aftercare workers participated in the initial reviews 73% of the time, and that 40% of this participation was done over the telephone. Similarly, there was a 78% participation rate at formal progress reviews, with 45% of this participation conducted over the telephone. (Attendance by counties that provide their own aftercare was almost 100%, during the same time period.)

The absence of state aftercare workers during reviews has implications for the degree of their and the families' involvement in aftercare planning. During 1990, DYS management instructed state aftercare workers to give priority to attending initial reviews and reviews where discharge planning was discussed. Some state aftercare staff assigned to Milwaukee County attend only the initial reviews in person and participate in discharge reviews by telephone. According to DYS management, this is not preferred practice but rather a necessity because of workload demands. It is understood by DYS management that by not going to OJOR reviews state aftercare workers are abdicating some of their influence in developing case plans and further weakening the OJOR review process. The role of state aftercare workers in developing aftercare plans will be discussed later in this paper.

Recommendations:

DYS management should require that all initial review reports completed by state aftercare workers be submitted within the required timeframe.

DYS state aftercare workers should attend all initial and subsequent formal progress reviews.

Provided that required information is submitted in advance of the initial review, these reviews could be limited to one hour, rather than the current practice of having reviews last one and one-half hours.

In connection with the above recommendations, DYS should review the adequacy of current staffing levels for state aftercare workers.

B. Criteria for Making Decisions

B.1. Administrative Rule Requirements.

HSS 331.01 details the statutory goals for planning for youth in Wisconsin juvenile institutions. These goals provide for placing youth in "the least restrictive setting consistent with their needs and the protection of the public."

HSS 331.08 requires that the JPRC establish program goals and objectives and make recommendations to the institution concerning services and interventions and special program needs.

HSS 331.09 details the criteria for long-term, transitional and immediate placement planning. The JPRC is responsible for developing initial recommendations, based on these criteria and consistent with the above goals, concerning the placement of youth and extensions of dispositional orders.

HSS 331.13 states that every youth who remains at an institution shall be reviewed and evaluated by OJOR or by the full JPRC. Progress reviews should occur not more than 90 days from the initial review conference or previous review. Purposes of the progress review are to "provide systematic review of the youth's needs and progress toward fulfillment of the goals of the treatment plan; and recommend institution program placement, changes in placement and release recommendations consistent with the original plan."

HSS 331.14 requires the institutional OJOR representative to make written recommendations to the JPRC as to appropriate immediate and long-term action, prior to the progress reviews.

B.2. Current Practice.

Criteria for Making Decisions. Most interviewees felt that the current review process promotes consistent application of standards for making objective decisions. Rather than having 72 different county standards for making placement decisions, under the present system five staff are responsible for applying established release/retention criteria. However, several county representatives noted that OJOR staff were not consistent in applying standards for determining retention/release and that decisions were at times influenced by the individual beliefs of OJOR staff, rather than specific criteria. For example, one county representative noted that some OJOR staff tend to be very protective of youth and have supported an extension, not because a youth was a danger to the public, but rather because the youth had a "bad" family environment and it was felt they were better off in the institution than at home. Several county representatives suggested that some OJOR staff are not always willing to refer youth to available

community resources, preferring instead to treat the youth in the institution. It was suggested that the location of OJOR staff offices, within the institution, makes it difficult for OJOR staff to remain independent in their reviews and at times has led to an institutional bias on the part of OJOR staff. Others suggested that because of increased pressure to reduce institution populations, it has become easier to obtain early releases for youth.

This review did not examine if placement standards were being applied consistently among the OJOR staff. However, the current OJOR process does not provide for a quality control system that monitors the consistent application of placement standards.

The OJOR handbook provides guidelines for applying the planning criteria described in HHS 331.09. These criteria continue to serve as a basis for initial review decision-making. The handbook indicates that the degree of weight given to each factor is based on the "professional judgement" of the OJOR staff. In 1989, OJOR staff began to pilot the use of the "Initial Review Assessment Numerical Rating Instrument," to be used as a guide to assist them in determining the appropriate placement of youth. This scale was developed by OJOR staff and based on the past practice of OJOR staff, rather than on any type of formal evaluation criteria. The "Initial Review Assessment Numerical Rating Instrument" is currently used only by OJOR staff. Institution and county staff may occasionally use separate rating instruments. There is currently no rating instrument that includes standards for releasing youth from the institution.

Recommendations:

To promote uniform decision-making, DYS should consider contracting for the development of a Risk Assessment Scale to be used by all JPRC participants at all reviews. The scale should include standards for releasing youth from the institution and the feasibility of various placement options.

DYS should initiate a Quality Control (QC) system to monitor the consistent application of placement criteria. In doing so, central office administrative staff should regularly conduct QC reviews of a sample of OJOR decisions and use the results of the reviews as a basis for further refining standards and training OJOR staff.

DYS and OJOR staff should exchange information about new and ongoing institution and community programming.

DYS could consider moving OJOR offices out of the juvenile institutions and into the Rhinelander and Waukesha regional offices.

Setting Goals and Objectives and Using Them to Make Decisions. According to the OJOR handbook, progress reviews should address the attainment of goals and the advisability of placing the youth in a less structured setting, which is also consistent with community expectations/protection.

At Lincoln Hills, OJOR staff complete goals and objectives for each youth which become part of the Department Order. At Ethan Allen, the social worker in the cottage in which the youth is assigned completes cottage-specific goals and objectives. In both cases, those completing the goals and objectives select them from a standardized list of options. A review of these goals and objectives indicates that in general they are not specific behavioral statements which can be understood by the youth; they are not specific to the individual treatment needs and offense behaviors of youth; they are not objective and measurable; they are not designed in increments so that they are achievable with a consistent effort by the youth by the next review date; and the youth and their family are not actively involved in establishing the goals and objectives.

In addition, goals and objectives are not specifically addressed and updated during the progress reviews. OJOR staff review goals and objectives in general terms, but do not systematically review a youth's progress toward achieving each of their goals and objectives. Several JPRC participants noted that it is not uncommon for a considerable amount of time during the reviews to be spent "counseling" the youth, rather than reviewing pertinent facts. In addition, completion of each specific goal and objective is typically not used as a condition for release. Also not included as a specific criteria for determining the feasibility of release is the extent to which a youth has been involved in behaviors, within the institution, that would pose a threat to the community. A number of county representatives expressed concern over the fact that release decisions were made on the basis of "institutional rules" and a youth's compliance with rules within an "artificial setting," rather than taking into account the degree to which these rule violations pose a threat to the community.

Finally, the treatment plan does not establish specific tasks that JPRC participants need to complete before a youth will be eligible for release, i.e. aftercare planning. In cases where the plan is for family reunification, the treatment plan typically does not include goals and objectives for family members.

Recommendations:

Since OJOR staff have final decision-making authority regarding a youth's release from the institution, goals and objectives should be written by OJOR staff.

DYS should provide OJOR staff with training on how to write goals and objectives.

JPRC participants should limit the amount of time spent "counseling" youth during the JPRC reviews. OJOR should systematically review each youth's progress in achieving

his/her individual goals and objectives during reviews and update goals and objectives, as appropriate. Achievement of goals and objectives should be a condition of release from the institution.

Treatment plans should consistently include educational and vocational goals and objectives.

DYS should establish criteria for release that pertains to consideration of a youth's behavior within the institution relative to if it might pose a threat to the community.

Treatment plans should establish specific tasks that JPRC participants need to complete before a youth will be eligible for release.

Informal Reviews. Every other progress review is typically an informal review attended by the youth and an OJOR staff, as opposed to a formal review attended by the full JPRC. As indicated above, the institutional representative is required to submit a written recommendation prior to each progress review. This written recommendation contains a review of the youth's progress in attaining his/her goals and objectives. If the review occurs 90 days from the last review, the institutional recommendation and related treatment information typically includes only information on the youth's behavior during the first 60 days of the review period. Information on the last 30 days of the review period is not included in the written recommendation because of the lag between the time the report is written, typed and distributed to JPRC participants. OJOR staff receive updates on the last 30 days in treatment verbally from the cottage social worker. The written recommendation and other information obtained from cottage social workers is used as the basis for the informal reviews. According to the JPRC Handbook, a written progress review is also supposed to be submitted by the party providing aftercare services. These reports are rarely, if ever, submitted to JPRC participants. Informal reviews can take anywhere from 5 to 15 minutes to complete, or 45 minutes to an hour, depending on the OJOR reviewer.

Recommendation:

Informal progress reviews should be used to systematically review a youth's progress in meeting specific goals and objectives and should be used to make adjustments in treatment and aftercare plans. Written progress reviews should be submitted by the institution representative and the party responsible for providing aftercare. DYS should consider restructuring the informal review process to include, at a minimum, an institution representative who is responsible for the youth's treatment plan.

Aftercare Planning. Aftercare planning is initiated when a youth is considered for release eligibility. There was a consensus among those interviewed that aftercare

planning should be initiated at the initial review. By doing so, all parties, including the youth's family, the institution and the aftercare staff, are included in the aftercare plan and all parties are aware of specific criteria that need to be met prior to a youth's release. Early aftercare planning assists in avoiding release delays that occur because appropriate community resources are not available. It is not uncommon for youth to be placed on the alternate care waiting list for over 30 days.

Recommendation:

Aftercare planning discussions should be initiated at the initial hearing. Aftercare goals and responsibilities should be incorporated in the treatment plan. Aftercare plans, including a recommendation for community placement, should be submitted by the agency responsible for monitoring the youth's aftercare, within 30 days of the initial hearing. Aftercare plans should be updated at formal reviews and should reflect any changes in the youth's treatment needs/progress.

C. EAS Placements Prior to Initial Reviews

At LHS most youth are in the reception center for approximately 30 days and all initial reviews occur before the youth is transferred out of the reception center and, if appropriate, to a cottage. In contrast, at EAS most youth are transferred out of the reception center and placed in a cottage prior to the initial hearing. According to EAS staff this practice has become necessary because the number of youth entering the institution in a given month is typically greater than the number of reception center beds available. Therefore, youth are being placed in cottages while they are in reception status. (OJOR is responsible for transferring youth into institutional status, by means of a Department Order.)

According to one EAS social worker, the high volume of youth entering the reception center also necessitates that initial assessments and Reception Center Admission Reports (RCARs) be completed within the first week of a youth's arrival at the institution. Thus, the behavior of youth, during the remainder of time they spend in the reception center, is usually not reported at OJOR conferences. Typically the cottage social worker rather than the reception center social worker, who completes the RCAR, attends the initial hearing. Therefore, the person making the initial assessment and making recommendations to OJOR is not necessarily the same person representing the institution at the review.

Because youth are placed in a treatment cottage prior to the initial review, the results and recommendations agreed upon at the initial hearing may be in conflict with the current placement. One staff noted that this type of practice pre-judges the result of the hearing and that youth feel "set up" if the results of the hearing are different than they were led to believe as a result of a cottage placement. In addition, one staff noted that

the JPRC participants may be less inclined to release a youth if they are already placed in a cottage and have begun a treatment program. One staff suggested that because a youth continues to be in reception status after he is placed in a cottage, no one has assumed "ownership" of the youth and consequently responsibility for his treatment while he is in reception status.

Recommendation:

DYS should delay placing youth in EAS cottages until after the OJOR review. This would permit reception center staff to conduct an adequate assessment of youths' needs and allow the same staff, that conduct the initial assessment, to participate in the OJOR review. To deal with the high number of youth that enter the reception center, DYS should consider using a "generic" cottage at EAS to expand the reception center capacity.

IV. SUMMARY:

The Department originally established OJOR as an independent body that would make decisions about the placement and treatment planning of youth in juvenile institutions, void of any fiscal or institutional pressures and based on the "consistent application of specific criteria." Based on this original intent, this review found concern that the current organizational structure, which places OJOR under the administrative oversight of DYS, may undermine the credibility of OJOR as an impartial review body. The review also found that there is frequently inadequate information on which to base placement and treatment decisions, and that under the current process specific placement criteria are not consistently applied and used as a basis for decision making.

We indicated that the Department should consider organizational and procedural modifications that help ensure OJOR's independence and credibility. We recommend that DYS consider housing OJOR staff at the regional offices, rather than at the institutions. DYS should initiate actions to assure that required court, educational and treatment information is available to the JPRC. We also recommend that DYS establish specific criteria for determining the placement of youth referred to juvenile correctional facilities, and that they use the accomplishment of specific goals and objectives as a condition of release. In order to monitor the progress of youth in achieving goals and objectives and to make necessary adjustments to the treatment plans, an institution representative, who is responsible for the youth's treatment plan, should attend informal progress reviews. Aftercare planning should be initiated at the initial review and incorporated into the treatment plan. Finally, we recommend that DYS examine the possibility of using an existing cottage to expand the reception capacity at Ethan Allen, so that youth are not placed in cottage treatment programs prior to the initial review to determine placement and treatment needs.