

**New York City Administration for Children's Services  
Testimony to the New York City Council  
Committees on Juvenile Justice and General Welfare  
January 26, 2011**

Good morning Chair Gonzalez, Chair Palma and members of the Juvenile Justice and General Welfare Committees. I am Laurence Busching, Executive Deputy Commissioner of the Division of Youth and Family Justice at the New York City Administration for Children's Services.

Thank you for giving me and my colleague, Commissioner Vincent Schiraldi from the City's Department of Probation, the opportunity to talk about the City's plan to realign juvenile justice services from the State to the City. I will discuss the City's recent successes in juvenile justice reform, and Commissioner Schiraldi will speak about how realignment will allow us to go much further in realizing our vision of an integrated system of services and care for at-risk youth that protects communities, strengthens families and promotes rehabilitation.

We want to note at the outset that the Council has been an invaluable partner in reforming the city's services for at-risk youth. We are fortunate to have such dedicated advocates for young people as Chairs Gonzalez and Palma. With the Council's support we have been able to take critical steps forward in juvenile justice reform, including most recently, the merger of ACS and DJJ, which was passed by Council in November 2010 and signed by the Mayor last month. We know that there are many questions among Council and within the community about what a locally operated Juvenile Justice system would look like, and we expect to work closely with the Council as we further develop our plans for this overhaul, which at this point is still in its initial planning stages. We believe that the Council will enthusiastically support the development of a full continuum of City-based interventions for at-risk youth, ranging from effective diversion for

low level offenders to secure residential placements for youth who present the highest risks. We hope that the Council agrees that the City's at-risk youth should be served locally where they can further their education and remain connected to their families and communities. Furthermore, we expect that Council will agree that a City-run system will be more accountable to our communities and the Council's oversight will play an important role. We look forward to working together with the Council, community members, providers and advocates in successfully implementing this new direction for our youth and communities.

The City's vision for a realigned system draws on lessons learned through our own reforms in the detention and juvenile justice systems over the past few years. We have had the opportunity to speak to the Council at length about each of these initiatives, but it bears repeating here that they include: the creation of a risk assessment instrument, which gives stakeholders scientifically validated information about the risk level of individual youth to inform detention decisions; the launch of the Weekend/Holiday arraignment Initiative, which grants juveniles the opportunity to have their cases assessed for release by the Probation and Law Departments or presented to a judge every day of the year; and, the implementation of several well-regarded community-based alternatives –to-detention and alternatives to placement for juveniles. This work paved the way for the release of the City's detention reform plan in June 2010, which focused on more targeted use of detention and expansion of alternatives to detention. This plan was developed in collaboration with our partners at the Department of Probation and the Criminal Justice Coordinator's Office, and with assistance from the Vera Institute of Justice.

The City has already benefited from our efforts to assess risk and provide appropriate interventions for court involved youth, to maintain public safety while minimizing system involvement, and to strengthen youth and families through evidence-based, cost-effective alternatives to detention or residential placement where appropriate. From 2006 to 2008, New York City achieved a 22% reduction in detention at arraignment as well as a 35% reduction in recidivism. Since 2008, we have continued to make further gains in reducing our detention census. In Fiscal Year 2010, detention admissions were reduced by 8% and the average daily population in detention was reduced by 10%.

We are optimistic that with the additional programming currently being added to the City's continuum of detention alternatives, there will be even more options for youth who do not pose a serious risk to public safety but need services and intervention. I have spoken with the Council about two such new programs— Way Home and Ready Respite. Way Home, run by New York Foundling, serves families in the Bronx and Manhattan and has the capacity to serve 12 families at any one time with intensive evidence based services. Ready Respite, a small program also being implemented by the Foundling and by the Center for Court Innovation on Staten Island, allows youth to live with specially trained foster families while their cases are pending. These foster families supervise and support the youth until their cases are resolved or the court determines they are ready to go back home. This option helps to keep the community safe while also helping youth gain the skills and supports necessary to lead law-abiding lives, all while avoiding the negatives consequences that can be associated with detention. Further, after testifying here today, I will be meeting with Brooklyn judges and system stakeholders to introduce them to another alternative we are about to launch. The Boys Town stepdown program

targets youth who judges have previously released into the community on probation or to an alternative to detention. If youth violate the terms of their release, judges will continue to be able to remand them to detention, but will have the option of ordering an assessment and supervision plan to be prepared by Boys Town New York. If, after an assessment using validated assessment tools, youth are deemed eligible by Boys Town, they will inform the court of how they can support and supervise the youth in the community, using their nationally recognized programming.

On the preventive side, the City has also launched an innovative new model for its Family Assessment Program, which serves youth and families for whom a PINS (Persons in Need of Supervision) petition may be filed. Every year, over 6,000 families come to NYC Family Court seeking the Court's intervention with youth who are considered truant, runaway, incorrigible or otherwise beyond the control of their parents or guardians. Often these issues are precursors to delinquency. In 2009, we released a Request for Proposals (RFP) designed to enhance the continuum of therapeutic interventions available to adolescents and their families. We also developed an assessment instrument that allows us to match youth and family risk and needs with appropriate evidence-based interventions and therapies. After intense planning and work with the selected providers, program services were rolled out in November 2010 and referrals are being made to all the different intervention levels. FAP will continue to monitor the progress of these new programs to ensure that we are reducing PINS placements in foster care, reducing contact with the juvenile and criminal justice systems, improving school attendance and performance and improving family functioning. FAP is the only program in the country that is using this array of evidence-based programs for youth who are often referred to as "status

offenders” and using a tool to assist in making referral determinations. In the coming year, FAP will be evaluating the Screening and Assessment Tool to ensure that referrals are being made to appropriate service levels.

Now I want to turn my attention to the important issue of placement. This refers to youth at the deepest end of the continuum. Placements are facilities youth are ordered to live in for a period of time as the resolution for their cases. This gets to the heart of the rationale for realignment. As most acknowledge, even with a rich array of community-based services in place, there remain some youth who present too great a risk to public safety to permit them to be immediately released to the community. An important part of the City’s work these past several years has been developing a continuum of alternatives to placement so that whenever possible, youth who can be safely maintained in the community are diverted from costly, ineffective state placements. Through much collaboration and innovation, the City has been able to reduce state placements by 62% during the past ten years, while public safety has continued to improve. As the Council knows, the City has created therapeutic alternatives for placement bound youth so that Family Court Judges have viable options for these youth. We have had the opportunity to speak before about the Administration for Children’s Services’ Juvenile Justice Initiative (JJI) and the Department of Probation’s Esperanza Program. Both of these are therapeutic alternatives for youth that would otherwise be sent to state facilities. Together these programs have been providing about 1,000 youths with intensive in-home services or after-care programs. These programs also offer transitional and re-entry therapeutic services and are called “evidence-based” because the models upon which they are based have demonstrated decreases in developing youth competencies and reducing recidivism.

The Department of Probation's Esperanza program was the City's first home-based alternative placement for juveniles. Since the program's inception in 2003, more than 600 youth have successfully completed the program. Esperanza provides home based counseling through an intensive program that usually lasts four to six months. Esperanza's field counselors work in a complementary fashion with the youth's probation officer. Esperanza's services help youth and their family to communicate and solve problems using a variety of therapeutic approaches.

In 2007, ACS' launched its Juvenile Justice Initiative (JJI). As the City's largest alternative to placement program, JJI has played a key role in reducing the city's use of residential placements on juvenile delinquency cases. From the program's inception in 2007 to 2009, placements fell 12% and an even further reduction of 25% was achieved in 2010. Youth who participate in JJI's alternative-to-placement program, and their families, are provided with intensive counseling, services and supervision in their homes and linked to positive resources in their communities. These youth are also able to continue their schooling in City schools, rather than risk not receiving credits for school work they did in out-of-community placements, upon their return home.

The reductions in placements have been closely linked to public safety. When comparing placement rates with risk levels and charge severity, we have seen the reductions in placement have occurred across the board, with one notable exception—for the small number of youth who present with the highest risk and highest charge severity, we have actually increased placement rates, thus making sure the most dangerous youth are removed from the community. For the vast

majority of youth who do not present as serious threats to public safety youth, working with them using evidence-based interventions, and separating them from the most serious offenders, not only saves valuable resources, but promotes public safety by building up positive supports and supervision and limiting negative influences..

These programs were funded under the rationale that by serving youth in the community, rather than sending them to costly placements, the City would not only reduce recidivism, but would also save enough money to pay for the programs. And we have reduced placements—by 62% over the past ten years. The City, through our agency, pays half the cost of extremely expensive OCFS placements, at an average cost of more than \$200,000, and only 38% of the more cost effective community-based services, which cost an average of \$18,000. Yet, instead of paying less to the state as a result of sending much fewer youth to their facilities, we actually saw our costs increase due to the state’s inability to close unused facilities and insistence on including the costs of maintaining its vacant facilities in setting the rates we pay. As unbelievable as it sounds, we paid about \$17 million more last year than in 2002 for our share of the costs of state custody. So, because we are billed for keeping underused state facilities open, we are limited in our ability to expand our alternatives to serve more youth here. In 2010 alone, for example, JJI was unable to assess more than 150 youth for our program since we lacked capacity to accept them. This means we are turning away youth who might be served in a more effective, community based program -- one that costs an average of \$18,000 per youth-- because the vast majority of our resources are being funneled into the state system, where placements cost over \$200,000. Because the state placement system consumes so much of our resources, we are limited in our ability to build on the success we have achieved in the past several years.

We have learned a tremendous amount about creating and managing effective alternatives to detention and placement, and how to target interventions to youth depending on their risk profile. We have demonstrated our ability to operate cost-effective and therapeutic alternatives, but until we are able to realign the system to rein in costs and operate locally, we are constrained in how dramatic and effective these reforms can be. Our youth, and our communities, suffer as a result.

I will now turn this testimony over to my colleague Commissioner Schiraldi, who will speak about our vision and plans for realignment and how a more rational system will be more accountable for both public safety and youth development. I thank you for the opportunity to speak today, and I want to reiterate our appreciation for the Council's support and advocacy in changing our juvenile justice system for the better. I look forward to taking your questions after Commissioner Schiraldi has completed his testimony.



**TESTIMONY BEFORE THE CITY COUNCIL**  
**COMMITTEES ON GENERAL WELFARE AND JUVENILE JUSTICE**

**JANUARY 26, 2011**

Good morning Chairperson Gonzalez, Chairperson Palma, and members of the City Council. Thank you for giving me this opportunity to speak with you today regarding the Mayor's proposal to overhaul the New York State Juvenile Justice System. My name is Alfred Siegel and I am the Deputy Director of the Center for Court Innovation. As many of you know, the Center is a public/private partnership that is devoted to improving public confidence in the justice system. We do that through research, technical assistance, and, of course, through our demonstration projects, many of which focus on juvenile justice. We operate juvenile justice projects in each of the city's five boroughs. Among the Center's youth programs are alternatives to detention - we opened the city's first new ATD in 2007 in Queens; alternatives to placement; diversion programs for young people cited and arrested by the police; a unique mental health program in Queens, soon to be replicated in the Bronx; an anti-gun violence program in Crown Heights; a unique respite program in Staten Island that keeps young people in their schools and out of detention while their cases proceed through court; and community courts in Red Hook, Harlem, and, in the not-too-distant future, in Brownsville, Brooklyn. Our work with young people has given us a unique window into the workings of the State and City juvenile justice systems, and the need for long-overdue, comprehensive reforms.

I also asked to appear before you today as I was privileged to be a member of Governor Paterson's Task Force on Transforming Juvenile Justice, serving as the chair of the sub-committee on reentry and alternatives to confinement. My work on the Task Force served to

reaffirm my belief that the juvenile justice system is broken and badly in need of a dramatic make over. The Task Force's report, "Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State", offers twenty recommendations for vitally needed reform, including recommendations for restricting placement to only those young people who genuinely pose a threat to public safety; increasing the use and range of reliable community-based alternatives; dramatically improving conditions for those in residential placement; effectively preparing young people (and their families) for the return home after placement; and, insuring that there are sufficient protocols in place to hold the system accountable. The Task Force's year-long investigation confirmed what many who have worked in the system had long suspected - that the state's juvenile justice system was failing to provide for the public's safety, was failing the young people entrusted to its care, and was costing extraordinary amounts of public monies only to fail so miserably.

I come today not to simply echo calls for reform and system overhaul. I come because it is long past time for society to recognize that we have an obligation to do better for our young people.

We must take advantage of the overwhelming data and research that confirm that there are better, far more effective strategies to address the challenges posed by young people enmeshed in the justice system. There are demonstrated models operating both here in New York City and in other parts of the country that have been shown to be more effective, and far less costly, in working with young people charged with delinquency. And we do, in fact, know what works. Over the last several years, the City has introduced both alternative to detention and placement programs. The new ATD's have enrolled nearly 2000 young people. Fewer than 20% have been returned to court and remanded. Through the efforts of the ATD's and other

initiatives, the city's detention population has decreased significantly. The average daily detention population has declined 19% and the percentage of juveniles detained at arraignment has fallen by 28%. These reductions have not compromised public safety - re-arrest rates for young people with pending cases have dropped from 26 % to 17%. These programs are making a difference in the lives of young people and their families. Kids remain in their schools, with their families, and have access to a range of services that address factors that contribute to delinquency and future criminality. And the City's alternative to placement programs have helped reduce reliance on placement so that the number of young people in placement has been reduced by nearly two thirds. Right now there are only 400 young people from New York City confined in state facilities.

But we can't stop there. In the summer of 2009 the United States Department of Justice issued a scathing report cataloguing abuses in four New York State-run placement facilities, youth prisons, if you will. The report detailed physical beatings, chronic service deficiencies, and a woeful absence of preparation for the young people's reentry to their communities upon release. Most depressing was the revelation that so many of the young people in placement were placed there not because they represented public safety risks, but because they had mental health needs which family court judges mistakenly believed could only be addressed in confinement as appropriate mental health services did not exist in the community. As the federal report documented, the judges were operating under a massive misconception. The reality was that there were virtually no mental health services available in placement. In the entire system - which at that time consisted of more than forty facilities - there was only one (ONE!) psychiatrist. And, we know that recidivism rates for young people coming out of placement are well in excess of

80%. So here we had a situation where young people were being removed from their homes, placed in facilities hundreds of miles from their homes, not receiving the services they needed, and most likely being released in worse condition than when they entered the facilities. This is the most egregious example of a system in disrepair. Fully 80% of youths in state placement facilities have diagnosable substance abuse disorders, 64% have mental health disorders, and 65% have learning disorders. The young people in facilities are not receiving the care and treatment they require. We know that community-based programs have a proven track record of responding to young people's needs, are far less costly, and are better public safety investments.

Much of what is embodied in the Mayor's proposal reflects ideas and recommendations from the Task Force report. The plan is being introduced at a point where there is genuine momentum for meaningful reform. The state has already closed several of its facilities. It is embarking on a plan to pilot local residential placement in Brooklyn. Governor Cuomo has embraced juvenile justice reform, recognizing that maintaining underutilized, decaying placement facilities is both bad public safety policy and bad business practice. The City's merger of its Juvenile Justice and Child Welfare Agencies reflects an enlightened, comprehensive approach to managing the juvenile justice population. Coupled with the aforementioned ATD and alternative to placement programs, and new initiatives being spearheaded by the City's Department of Probation, the time is right for a robust partnership between the City and the State to help make New York a leader in juvenile justice reform, as it already is in so many other justice-related areas. For that to happen, there must be a commitment to redirect funding and other resources to localities to establish additional, reliable programs - including community-based residential facilities and day

placement programming - that will provide more flexible options to the courts, services for young people and their families, and, most importantly, increase the likelihood that these young people will receive the assistance and guidance they need to become law-abiding, contributing members of society. Sound public safety policy demands no less.

At the Center for Court Innovation we have spent considerable time the past several years studying failed criminal and juvenile justice system initiatives. We believe that there is much to learn from failure. Certainly, much like success, numerous factors contribute to an initiative's demise. Often, what we find is that failed projects do, in fact, originate with sound ideas that wither due to poor execution and developments that are often beyond the control of planners and practitioners. New York's juvenile justice system, on the other hand, requires little investigation to determine the roots of its cataclysmic failure - it is premised on a bad idea executed terribly. A system that regularly takes young people, so many of them charged with non-violent, lower-level offenses, out of their homes, away from their schools, communities and families, houses them in prison-like facilities with more serious offenders in remote, hard-to-reach locations, provides them with minimal services and educational support, neglects their families, and leaves the young people wholly unprepared to reenter society, is not a model that is designed to succeed. There's no real mystery here. The existing system is an abject failure. The time for dynamic, transformational reform is right now. It would be a tragedy to waste this opportunity.

Thank you for giving me this opportunity to speak. I would be happy to take your questions.



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## TESTIMONY

The Council of the City of New York  
Committee on Juvenile Justice  
Sara M. Gonzalez, Chair  
Committee on General Welfare  
Annabel Palma, Chair

“Oversight: The Mayor’s Proposal  
to Overhaul the New York State Juvenile Justice System”

January 26, 2011  
New York, New York

The Legal Aid Society  
Juvenile Rights Practice  
199 Water Street, 3rd floor  
New York, NY 10038

Presented by:  
**Tamara A. Steckler, Attorney in Charge of the Juvenile Rights Practice**

Good morning. I am Tamara Steckler, the Attorney in Charge of the Juvenile Rights Practice of the Legal Aid Society. I submit this testimony on behalf of the Legal Aid Society, and thank the Committee on Juvenile Justice and the Committee on General Welfare for inviting the Legal Aid Society to speak about this important topic and for holding this oversight hearing to address the mayor's proposal to overhaul the New York State juvenile justice system.

The Legal Aid Society is the nation's largest and oldest provider of legal services to low-income families and individuals. Legal Aid's Juvenile Rights Practice provides comprehensive legal representation to children who appear before the New York City Family Courts in all five boroughs, in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our Juvenile Rights staff represented some 34,000 children, including approximately 4000 in juvenile delinquency proceedings. At the same time, the Criminal Defense Practice represented clients in nearly 240,000 trial and post-conviction cases in the last year, many of whom are aged 14-21. Our Criminal Defense staff includes a special team of lawyers, social workers and investigators devoted to the unique needs of adolescents charged in adult court with certain enumerated crimes -- the Adolescent Intervention and Diversion Project. Our perspective comes from our daily contacts with children and their families, and also from our frequent

interactions with the courts, social service providers, schools, and State and City agencies, including the Police Department, Department of Probation, Administration for Children's Services, the Division of Youth and Family Justice (formerly DJJ) and New York State Office of Children and Family Services. In addition to representing many thousands of children each year in trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients.

As I am confident that the City has provided the Council members present with a detailed analysis of the economic savings their reform plan will produce, I will not reiterate those positive aspects of the reform effort. I will instead focus on what we at LAS know best, the day to day issues affecting our clients and the workings of the juvenile justice system. It should be noted that I am also a member of the New York City Dispositional Reform Committee which has been discussing the mechanics of the Mayor's plan to overhaul the juvenile justice system in New York State.

It is irrefutable that the children placed with the Office of Children and Family Services (OCFS) on delinquency petitions have not been well-served by their time in State facilities. Not only have these facilities or prisons failed these children in every basic way: by allowing endemic abuse, both physical



and emotional, failing to provide them with the most basic of necessary mental health services and providing a sub-standard education, they have also failed wholly in that an astonishing 81% of these children re-offended post-release. In no other segment of society would we allow a practice to continue that maintained a success rate of less than 20%: in other words, an abject social failure. But year in and year out, children are placed with OCFS when it has been determined by the court that they are unable to be treated or supervised within their own communities.

It is no surprise to anyone who works within the juvenile justice system that the vast majority of the children prosecuted and placed are children of color, from the poorest communities in New York City: children whose families are overstressed, underserved and in need of social service assistance to meet their most basic needs.

### **What Our Clients Experience**

Most of the children that pass through the Family Court system have been arrested for allegedly committing low level crimes such as shoplifting, trespass, marijuana possession, simple assaults, graffiti and the like. In the communities where our clients live a school fight quickly turns into a police matter, an argument among family members morphs into a matter for State

intervention and children observed in front of a building or on a corner are perceived as sinister and results in resisting arrest charges with no underlying crime. It is important in any conversation regarding the juvenile justice system to recognize the abomination when normative adolescent teen behavior becomes criminalized and more importantly, when children are jailed more readily than adults for exactly the same crimes.

Once the decision is made to arrest and process the juvenile, a door has opened that is difficult to close. Starting with the Probation Department that child's life is poked and prodded in an astonishing manner. In making the decision whether to adjust a case or not, the Probation Department, does not just look at the crime the child is alleged to have committed, it also looks at the child's school attendance and behavior, the caretaker's assessment of the child for better or worse, and the complainant's willingness to allow adjustment to occur. Whether the child committed a misdemeanor trespass or a burglary, this initial assessment will determine whether or not a case is referred for prosecution. So much riding on so little. As the case progresses and the child falls deeper and deeper into the system, every facet of that child's life becomes relevant, almost to the point of making the arresting event irrelevant. Social issues become of paramount importance, and all the issues that surround this child---a school that has failed to address learning issues, a waitlist for

services that has lasted for months, a family that is frustrated and looking for support---all fall to the wayside as the juvenile justice system places the blame squarely on the shoulders of the 14 year old. It is as if this child has developed and grown in a vacuum with no accountability placed on any system or adult that has neglected to provide the appropriate care and education.

In the end, it seems clear that the juvenile justice system which was put in place to rehabilitate children who truly needed rehabilitation has not only failed, it has become completely unfocused, expensive and dangerous to children. The negative impacts of confinement are too obvious to ignore: it increases recidivism, it does not meet the mental health and developmental needs of youth, it leaves youth educationally bereft and with fewer future employment opportunities, therefore robbing them of a productive adulthood, and it sanctions the disproportionate number of minority youth that are taken from their communities and families. And as if there are not enough negative effects to warrant a shift in the manner in which we treat children who are charged with committing a crime, the cost of incarceration in no way correlates with success. In fact, we spend an inordinate amount of funding to produce such negative results.

Thankfully, it appears the winds of change are beginning to blow in juvenile justice. This new wave of reform is a growing force based in two realities, both equally significant. First, there is a growing recognition that OCFS confinement is not getting the job done when it comes to achieving positive results for young people, and second, there is a growing body of evidence that a fundamentally different approach produces far better results, by favoring cost-effective, community-based youth development programming and, only when absolutely necessary, smaller, more child-friendly facilities for confinement only of children deemed a true public safety risk, a significantly smaller number than currently incarcerated.

### **LAS Supports the City's Reform Efforts**

While reform is clearly necessary, and while LAS supports the City's plan for realigning the system, three controlling questions must be answered when evaluating any juvenile justice system whether run by the State or by the City. One, do children need to be prosecuted or can the issues that arise from an arrest be addressed utilizing a non-court, family friendly, non-punitive method that employs youth-development informed thinking? Two, when children are prosecuted, do they need government intervention or can their issues be addressed within their communities, outside of the juvenile justice system,

utilizing instead the child welfare, social service and educational systems?  
Three, if children require confinement, what should these facilities look like, both physically, in terms of services provided and in terms of length of stay?  
As the City planning process continues it will be important to consider the following in order to effectuate meaningful reform.

**Reducing Confinement by Supporting Children and Families :**

**Alternatives to Prosecution, Detention and Placement**

While New York City has been working to improve its Probation adjustment numbers, what seems clear to LAS, which represents these children, is that many of the cases that end up being prosecuted, and not adjusted, could be handled in a variety of different ways. First and foremost, alternatives to arrest should always be explored to determine whether other programming could alleviate the issues giving rise to the troubling behavior. The police hold the key to whether a child is arrested and referred to court, and their decisions are discretionary and not subject to any external review. In any true reform effort there needs to be a system in place that monitors and measures the reasons why a child is arrested, processed and referred instead of being released. A child whose parents simply refuse to retrieve the child from the precinct should not be referred to Family Court absent any other reason for the referral.

There should also be a mechanism in place whereby families that are struggling with adolescent behavior can access assistance when it seems an arrest or referral to Family Court is imminent. In the same vein police decision-making during this process should be transparent to permit analysis of the issues that led to a Family Court referral so they can be alleviated through programming or other community options. One option that has gained some traction are the Youth Courts currently in place. These courts use peer involvement and decision-making as the tool for addressing negative behavior, and remove the matter from the realm of the juvenile justice system. It appears that this type of intervention has had a positive impact.

Once a child is referred to Family Court, he is then subjected to the Probation Department's adjustment process. For this process to be successful, it must be freed from the required consent of institutional complainants—many of the crimes for which children are arrested depend solely on police complainants or large retail shops like Macy's. Complainants such as these should rely on the Probation assessment rather than maintain control as to whether a child is prosecuted. A robust Probation adjustment process, or another assessment process, would best determine whether a child should be offered a chance to avoid prosecution. And while New York City utilizes the Probation Department to effectuate such assessments, they are not as valuable as they

could be since they involve a trip to the courthouse for the youth and his family, when a community-based assessment should be possible and would be more effective. If the purpose of adjustment is to determine whether a pre-prosecution alternative can be utilized, a community-based organization would be in the best position to effectuate a successful plan with both the family and the young person. Additionally, since most of the crimes committed by the juveniles arrested occur in their own communities, this process would be better placed within the communities where mediation or restorative justice practices would be best administered.

The majority of cases that are adjusted are done so successfully, illustrating the fact that prosecution has no added value, and that counseling or restorative action could or would be all that would be required to resolve the issue. Every child who enters into the system, regardless of the crime allegedly committed, should have an opportunity to be part of a true "adjustment" assessment that would result in a less punitive, quicker and more service-focused resolution. In the end, a successful "adjustment" process is far better not just for the young person charged, but for the victims as well. It would provide a speedy resolution in which court appearances would be unnecessary and could provide the type of accountability that is important to victims.

If a case is not adjusted and it proceeds in Family Court, the juvenile faces the possibility of detention while the case is going forward. Over the past few years with input from all stakeholders in the system, including LAS, the City has developed both an evidence-based Risk Assessment Instrument and a continuum of alternatives to detention in an effort to provide a mechanism to maintain young people in the community as well as provide them with services or supervision that match their risk level. Continued reform in this area would require an even more robust system of services, a constant and critical examination of the youth that are still being detained and the engagement of Judges who determine the status of youth at arraignment and are not bound by the RAI score. While the majority of children score low risk on the current instrument, thereby indicating they are not a risk for re-offense or flight (the two remand prongs of the Family Court Act) there is still a significant number of low risk children maintained in detention pending a trial. In an effort to address this issue, the Division of Youth and Family Justice created an additional screening instrument that would move children from secure detention to non-secure detention. While this type of screening will allow for the movement of children within the detention system, the goal of the system should be to ensure that no low risk child spends time in detention.



In some cases low risk children are consigned to detention when a parent is unwilling to take a child home as expressed to Probation during the initial questioning or to the Court at arraignment. While this is of serious concern, no child, particularly a child who would not otherwise be detained, should be jailed simply because a parent has decided to relinquish the responsibility of parenting that youth. A more robust alternatives system that works not only with the youth but with their families would be critical in deterring this type of detention. Moreover, the use of respite (short-term) placement should be considered when no other alternative exists. Additionally, while the RAI measures risk utilizing an evidence-based protocol, low risk children are still dispatched to detention when Judges are concerned with the severity of the crime, the young person's truancy or other reported information, even if those factors do not contribute to the risk score as presented. Any true system of reform would have to ensure that children that are deemed low risk for the statutory remand determination are not detained, but are released with or without an alternative program.

Building on the success of pre-trial alternatives to detention, one area that is being addressed by the New York City Dispositional Reform Committee is the area of alternatives to placement, which would include developing a validated risk assessment instrument and providing a continuum of dispositional or

sentencing alternatives for children post-adjudication. This is a critical piece of reform as it will prevent youth from further penetrating the juvenile justice system and maintain them close to their communities and homes. The plan currently being discussed would include a graduated response system, that would provide meaningful assessments that encourage behavior change. The current system of assessment, supervision, programming and monitoring, very simply, is ineffective and does not serve children or their communities.

Critical in this type of reform is a “success” mindset that focuses on family and youth strengths instead of the current weakness-based assessments. In any supervision or monitoring the agency responsible must be held accountable for youth failures, and must constantly reassess how and why youth are not succeeding. Only a model which focuses on success and not violations, and which takes into account all facets of the youth’s life including family support, financial hardships, educational obstacles, and adolescent brain development should be utilized.

### **Home Is Where the Help Is**

One of the most disturbing aspects of our current juvenile justice system is the complete lack of family and community partnerships when working with children. Children placed in facilities hundreds of miles away from home have

very little family or community contact, yet are expected to adjust smoothly when released home. Oftentimes, many of the issues that caused the placement to occur have not been resolved, leaving the child and family vulnerable to continued state or city intervention. If the goal of every placed child is to return to a home or family environment it is essential that families remain involved in the child's life and committed to his rehabilitation. Models that currently succeed in integrating family into a juvenile's treatment plan have been most successful at ensuring re-offense does not occur. It makes perfect sense. Ultimately children are the responsibility of their families and any system that purports to help children should ensure that family involvement is paramount. As soon as a young person is placed in a facility, whether temporarily or more long term, the family or a responsible adult connected to the child should be engaged. All treatment and services provided should be provided to both the young person and his family, and families and their children should be encouraged to take ownership of the issues and problems as active participants and not bystanders.

Families or other significant adults in the young person's life should also be involved in community based programs. No child is an island, or should be an island, and any good programming should include the adults that are going to take responsibility for a child's success long after the programming is

completed. Oftentimes, it is the family members themselves that need treatment and/or services, and community programming should recognize this fact as well. ACS' Juvenile Justice Initiative as well as the Blue Sky program both treat the entire family unit, recognizing the importance of helping the family to create a supportive environment for the youth to grow.

Moreover, one of the most beneficial aspects of a reformed system that maintains children close to their communities would be the involvement of the citizens, businesses, colleges or universities and community organizations within those communities to assist in a positive trajectory for these children. Placements away from home should be short and release-focused and these connections will be invaluable to youth and their families in helping to create opportunities for youth during and after confinement and to help youth see their value in the larger society. A good relationship between the facility personnel and the community partners will benefit both the youth and the communities, as each assumes responsibility for the other. If successful, these partnerships can help youth view themselves more positively and help them develop confidence about their future.

**Education: A Grade of F**

It must be said that one of the biggest issues for youth involved in the juvenile justice system is education. Almost all the youth in the New York City system come from the City's lowest-income communities and some of the most ineffective middle and high schools. Many of the youth that end up in court have significant educational delays or other educational needs that have not been met. Many have given up on the idea of earning a degree and have not been encouraged to remain in school; the tension between these adolescents who are having difficulties and the schools themselves has reached a fever pitch.

Illustrative of this fact is the way in which these schools utilize the police to resolve issues and provide discipline, and the manner in which the school safety agents interact negatively with youth in these schools. Critical to any reform plan is not only educational advocacy but the efforts of the school staff, rather than the police, to positively engage students who have difficulties and may require creative strategies. The education system has truly become a pipeline to the juvenile justice system. Simply placing these children in a class where they are unable to perform, a class where they are overage or a class where every student is suffering from similar issues is ineffective and

irresponsible. To hold the education system accountable for young people, especially those embroiled in the juvenile justice system, is not only key to youth success, but key to creating a population of young people who are able to succeed as adults.

While the school system continues to struggle to provide appropriate services to the youth who are not placed or detained, those children that are placed away from home actually fare even worse. As OCFS is not an accredited school district, and a young person's educational credits are often not transferable to their home school, there is little lasting value in an OCFS education. Children in placement deserve an education specific to their needs while in placement and a re-entry plan that allows for the smooth transfer of both school records and credits. The failure to provide both increases the odds that children will not attend, fail to graduate and narrow their options for their future considerably.

### **The Problem with Public Safety**

While the call for confinement is often couched in terms of public safety, a true look at the types of crimes with which these young people are charged does not suggest a real threat. By defining these young people in this way, we are not only doing them a disservice, but we also are not being honest with the

general public. A significant number of children prosecuted in Family Court are charged with low level crimes that do not truly put the public at risk. These children are, in large part, no different than their more affluent, white counterparts. They make the same mistakes, suffer from faulty adolescent decision-making and take risks that result in unintended consequences. The reality is that these children are just like any other children: they love their families, play sports, like to dance, write poetry, are filled with hope and promise, and want a chance to succeed.

The difference is we paint their transgressions with the broad brush of public safety and imply that these children are much more dangerous group of children than they actually are, and arrest and prosecute them for behaviors that are only charged as crimes when committed by an adolescent of color.

Why is it that Black and Latino youth are held accountable for poor adolescent behavior through the juvenile justice system, while white youth are held accountable in a more age appropriate, more-just and less prosecutorial ways? This discrepancy cannot be alleviated by simply not placing these children, this inherent discrimination must be addressed at the very front of this system, in other words, we must begin to judge low-income children of color by the same standards with which all children are judged.

Adding fuel to the fire is this notion that children in confinement are there because they are dangerous. A good number of the children confined are placed due to social issues: families that feel they are not in position to support the child at home, or are unable to support the child at home due to their own unresolved issues, truancy when schools fail to properly place, educate and encourage children to succeed, and a social services system that is overwhelmed with the myriad of issues that face these children and their families and only begins to scratch the surface of what needs to be addressed. When all these systems fail, and the child ends up at the courthouse door, somehow we see the child in need of placement as opposed to their support systems in need of reform or emergency care. The Family Court system is based on the recognition that a child who is getting in trouble requires a different kind of intervention than an adult because children do not live in a vacuum and do not create their own environments. Accordingly we should treat these cases as civil entities with the understanding that adolescents take risks, and need the support and guidance of adults to learn to better assess those risks, and that these children should not be subject to the adult correctional model which is punishment based. While public safety is an important consideration, it has been grossly overstated.



### **Homes not Prisons: Creating Community**

Although it is clear that community-based programming more successfully assists children and families and is more economically feasible, any plan to confine or jail children should follow three main principles:

1. Any institution for children should be small, with a home-like environment. Large, impersonal institutions such as Highland or Tryon are inappropriate for children no matter what their issues may be. These facilities must be close to home to encourage and allow meaningful family involvement. Caretakers should be seen and treated as partners in the process. From the moment a youth enters a facility, staff and parents or caretakers should be working together to facilitate a seamless reentry to the community. In order to ensure this occurs, any placement facility must be close to the home and community of the youth.

2. There must be a mandate that isolation and a correctional approach and hardware (i.e., handcuffs, razor wire, etc.) will not be used but that safety will be maintained through the use of relationship building and effective supervision of both staff and children. Children should receive extensive counseling when necessary and meaningful educational and/or vocational

skills. There is no better way to teach children appropriate behaviors and decision-making than by example.

3. Staff all facilities for children with youth development specialists who are culturally competent and specifically trained to work with children who share the range of issues that children in confinement manifest. A facility for children should not use a correctional model of supervision. Children in confinement should be free from physical abuse, but should also be free from humiliation and emotional abuse. Youth cannot meaningfully change if they are fearful of physical or sexual abuse, excessive use of force and isolation, teased, humiliated or ostracized by other youth. Paramount to the issue of safety is the abolishment of the use of prone restraints which have caused the death of youth and should be deemed completely unacceptable.

It is also clear that if we want smaller and more effective facilities, we need to reduce the number of children who are detained pending trial or ordered to be placed at disposition. One way to do this is through a more robust and effective system of diversion programs whether through community-based organizations or probation, and a better system or alternatives to incarceration. It has been shown that a rich continuum of effective alternatives is most successful in dealing with the issues that children present when involved in a

delinquency matters. Moreover, incarceration should be used sparingly, and only for those children who are deemed to be dangerous, not for children whose only transgression is a failure to go to school or attend a counseling program.

### **The More Eyes the Better**

In order to ensure the safety of the children in the care of any system, a robust structure of an independent oversight must be developed. It is not enough to trust in the rhetoric of reform as an antidote to the abuse and failures of the current system. While it certainly appears that the City plans a more child-friendly system, one with a focus on rehabilitation, certainly no system is immune from problems, no matter how well-intentioned.

Certainly, placing young people close to home is critical to any meaningful oversight. There is, very simply, nothing more chilling to possible abusers than the knowledge that family members or the youth's attorneys have access to youth on a regular basis and, at times, with short notice. While LAS sends teams of attorneys and social workers to visit with and interview confined youth upstate the distance is significant and affects our ability to do so. In the

same vein, many families of youth cannot travel the long distances to visit them, resulting in many issues that affect rehabilitation and also their ability to be watchful of their own children.

Additionally, even with the oversight being close to home will provide, and acknowledging that internal oversights are critical, there needs to be an objective, independent and comprehensive formal oversight system in place that allows for regular review of the policies and practices of the facilities to ensure the safety of these youth. Moreover, as New York moves forward with this continuing reform effort, all practices, policies and data related to these facilities and to the alternative programs should be available to the public for review and comment, including the various stakeholder groups who can provide a wealth of experience and knowledge.

### **Conclusion**

Juvenile justice reform is long overdue, and the City's plan, while still being developed, touches on some of the most important concerns. As the plan moves forward, the following must be considered strongly. First and foremost, children should be served and/or confined close to their homes and communities to maximize family participation and create a more seamless re-entry. Second, children should be served by a robust continuum of community

programming that adjusts accordingly to meet their needs and the needs of their families, there is no "one size fits all" remedy. Of primary importance is the engagement of the educational system in a meaningful and positive way. Third, if determined that a child should be confined, it should only be for a short period of time with the focus being substantive service provision and return to their community with supports in place. Once confined it must be made clear that abuse of any kind will not be tolerated. Fourth, there must be acceptance by every stakeholder that is involved in the juvenile justice system that a robust continuum of community programming will be the disposition of choice and that we will allow children to fail sometimes while they mature without revoking their freedom. Fifth, there must be a recognition that public safety concerns, while important, should not control the decision-making. And last but not least, there must be an true understanding that when normative adolescent development is criminalized children of color will be held to a different standard than their white counterparts and will be arrested, prosecuted and imprisoned at an unacceptable rate.

# Testimony of the Children's Defense Fund – New York

Avery Irons  
Director of Youth Justice Programs

Juvenile Justice and General Welfare Committees  
Oversight Hearing

New York City Council  
January 26, 2011

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Good morning. My name is Avery Irons and I am the Director of Youth Justice Programs at the Children's Defense Fund- New York (CDF-NY). The Children's Defense Fund Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. I would like to thank Chairs Gonzalez and Palma for holding this timely hearing on Mayor Bloomberg's plan to overhaul the New York State juvenile justice system.

Presently, both New York City and the New York State Office of Children and Family Services are formulating and/or implementing significant systemic changes that would result in New York City's court-involved youth remaining closer to their home communities. CDF-NY applauds both the state and local agencies for recognizing that children have better outcomes when they remain within or close to their home communities. However, such seismic system shifts rightfully raise numerous questions and concerns about system design, implementation timeline, adequacy and funding of services offered, and location of and conditions within residential placements facilities. Regardless of whichever agency ultimately operates post-adjudication juvenile justice for young people charged with crimes in NYC, there are several principles to which they should adhere:

- 1) Community members and advocates should be meaningfully involved in the system design and decision-making processes. It only makes sense to engage those who are expert by experience and intimate knowledge of the most-impacted communities in discussions regarding programs and services that will actually meet the needs of youth and stop the current cycles of youth incarceration and recidivism. The input and buy-in from community members will be critical to developing a truly community-based system that is supported by the community and not seen as another form of illegitimate government intrusion.
- 2) There should be effective, well-funded, external and independent oversight of the custodial agency. Juvenile justice facilities operated by privately contracted agencies should also be

within the jurisdiction of this oversight body. Youth are an inherently vulnerable population. They are often uncertain of their rights and what actions to take when those rights are violated. Placing children in their home communities will better enable families to monitor the treatment of their children, but local control does not make a system immune from the abuses that we have seen in state-operated facilities or even those that have historically been reported in both city-operated and private facilities.

- 3) Operation of an effective juvenile justice system will require significant investment in that system. As the cost of placement in OCFS operated facilities continues to escalate, a NYC-operated post-adjudication system will undoubtedly save NYC millions annually. CDF-NY urges the City and City Council to ensure that the spectrum of programs and services designed are adequately funded. New York State and the localities remain in the turmoil of a pro-longed economic crisis. Few, if any, programs and services have been spared cuts. However, the success of any system realignment or regionalization is contingent upon adequate funding and investment in programs and services. The current reform efforts will be undermined and eroded if there is a dearth of alternative program slots or residential programs that lack the funding to provide effective mental health and substance abuse services, family counseling, or positive youth development programming.
- 4) Now, across NYS, it is clearer than ever those facilities that operate based on an adult correctional model and uses punitive methods for control, damage young people and increases future involvement with the juvenile and criminal justice systems. Any City controlled system should build on the lessons learned and standards of care set in former Governor Paterson's Task Force on Transforming Juvenile Justice and the Department of Justice Settlement agreement and Master Action Plan.



- 5) Savings reaped from any realignment plan must also be reinvested into community-based organizations. This includes alternatives to detention and alternatives to incarceration, but also refers to preventive measures such as after-school programs, child care services, mental health services, and improvements to the educational services offered in NYC schools. A well-planned and implemented system is necessary, but the city must also be committed to investing in those measures that will keep children out of the system all together.
- 6) The City's overhaul plan must not include use of the Spofford Juvenile Detention Center (now known as Bridges) facility in any way. This facility is dark and depressing, was poorly designed, and has a documented history of abuse and scandal. It is an adult prison for children and it is antithetical to everything that the City says it hopes to build and accomplish by operating its own placement system. The Mayor's office has said that they will close the facility in the near future; however, they have not committed to never using it again as a jail or prison. There is an obvious reason for such a consistent omission. We urge Mayor Bloomberg and City Council members to work with the Hunt's Point and larger South Bronx community to repurpose or level the facility and find a community-positive use for the site.

CDF-NY envisions a system that is based on the needs and strengths of young people and their communities. Creating a more locally-based system is a step forward but we must not just replicate a failing system on a local basis. True reform is about more than just geography. It requires a focus on what works and a true understanding and recognition of what does not work. Whether the city or the state ultimately controls the system, it must be focused on providing quality services and programs that will put youth back on the path to success. Thank you for the opportunity to present this testimony. I welcome any questions that you may have.



**TESTIMONY OF MARSHA WEISSMAN, EXECUTIVE DIRECTOR  
THE CENTER FOR COMMUNITY ALTERNATIVES (CCA)  
NEW YORK CITY COUNCIL  
COMMITTEE ON JUVENILE JUSTICE  
COMMITTEE ON GENERAL WELFARE  
JANUARY 26, 2011**

Chairperson Gonzalez, Chairperson Palma and Members of the Council:

Thank you for giving me the opportunity to address the Council on behalf of the City's Alternative-to-Incarceration (ATI)/Reentry Coalition. The members of the Coalition are CASES, the Center for Employment Opportunities, the Fortune Society, EAC/TASC, the Legal Action Center, the Osborne Association, the Women's Prison Association, and the Center for Community Alternatives, of which I am the Executive Director.

We deeply appreciate the Council's longstanding support of ATI and Reentry programs, including CCA's Family Court Client Specific Planning Project.

I am speaking here in support of the Mayor's proposal to assume responsibility for the care and custody of youth in the juvenile justice system. As you know, there has been a great deal of attention to New York State's juvenile justice system over the past two years that call into question its current operation. The Task Force on Transforming Juvenile Justice (of which I was a member) criticized the out-of-home placement of youth who do not present a threat public safety (noting that 53 percent of youth placed are adjudicated for misdemeanor offenses). Even more significant was the Task Force's findings with respect to outcomes for youth placed in OCFS facilities evidenced by

astonishingly high rearrest, reconviction and replacement rates. By the time they reach age 28, 89 percent of the boys and 81 percent of girls have been rearrested.

Simultaneous to the Task Force's work, the U.S. Department of Justice issued its report on conditions of confinement in OCFS facilities. It documented numerous cases of the use of excessive force against children in OCFS care as well as the State's failure to provide adequate mental health services to young people in need of these services.

The Task Force made several key recommendations based upon "best practice" and successful reforms in other states. Chief among these recommendations are the expansion in the use of community-based services, limiting of out-of-home placements to those youth who posed serious threats to community safety, and, for those youth who are placed, keeping them in facilities close to their families and home communities.

In sum, recent studies of New York's juvenile justice system finds it to be a system out of sync with best practice research on what works in reducing juvenile crime, to have high recidivism rates, and, in some cases, to inflict harm on the vulnerable young people placed in its care. Moreover, the system is inefficient and extraordinarily costly. Right now there are less than 600 young people in OCFS facilities, about 400 of whom are from New York City. The majority of these youth are held in facilities that are located hours away from their homes and families. There are almost 380 vacant beds in State OCFS facilities. Despite the drop in the number of young people from New York City in OCFS placement, the City pays \$272,166 per youth per year, in part because the State charge includes costs of maintaining and staffing empty and underutilized facilities.

With the Council's leadership and support, New York City has implemented a variety of alternative-to-incarceration programs (ATIs) and innovative initiatives that produce better results at considerably lower costs. For example, CCA and CASES are part of the City's Alternative-to-Detention (ATD) initiative which has safely reduced the detention of juveniles. In the approximately three years since the ATD initiative was introduced, more than 3,000 youth who would have otherwise been held in detention were released to community-based and special probation programs. Seventy two percent (72%) of those young people have been successful and only 11 percent were rearrested during their time in their ATD program. As the research shows that being released during the pendency of a case reduces the likelihood of a custodial sentence, we have no doubt that ATD initiative has contributed to the decline in the numbers of New York City youth who are sent to OCFS placement. ATD programs give the youth a chance to redirect their lives and develop a track record to encourage an alternative-to-placement if they are adjudicated juvenile delinquents.

The Mayor, with the support of key Commissioners, has proposed that the care and custody of adjudicated juveniles become the responsibility of local government. The ATI/Reentry Coalition endorses this proposal for the following reasons:

1. A locally operated system will ensure that young people are kept close to their families and communities;
2. A locally operated system would likely be more accountable to the New York City taxpayers, community members and youth in the juvenile justice system and their parents;

3. New York City has a strong foundation of ATI programs and other juvenile justice services to build upon; and

4. A locally operated system will save money, of critical importance given the financial crises facing the City and State.

In the remainder of my comments, I will briefly address each point.

At the outset however, I wish to make clear that our support for local operation of the juvenile justice system is not a judgment on state capacity. We applaud Commissioner Carrion's efforts to improve the State system. Under her leadership, some underutilized facilities have closed and she has been working diligently to address the concerns identified in the Department of Justice report. Nevertheless, we do believe that there are affirmative reasons that locally operated systems can do better with young people.

### **Keeping Young People Close to Home**

Keeping young people close to home simply makes good sense. Community-based services, even those that include some out-of-home placement, is the only way to involve parents and other family members in services. For those young people who are placed out-of-home, keeping them in facilities in or near their neighborhoods will be allow families to be able to visit and will help staff plan for the return of the youth to his or her home. Even if a youth is in placement, keeping placement in or near home communities means that community-based after care services can begin to make connections to the youth and family even prior to release.

### **Increasing Accountability and Oversight**

It is well understood that local government is the level of government most accessible to its citizens. Citizens typically have more opportunity and ability to connect with local government and come to expect local government to be the "first responder" to their needs and concerns. Local control would allow for more flexibility in developing responses to juvenile crime - the ability to expand ATI and other community-based services that research shows are more effective in addressing delinquency. Local government - the Council and the Mayor- are concerned with the well-being of their citizenry, and the condition of youth in their care. They do not face competing interests of representation from jurisdictions that have no real connection to juvenile justice-involved children from New York City.

There are a number of states that have already taken such steps with early evidence indicating improved outcomes for kids and lower costs for taxpayers. In Wayne County Michigan, home to Detroit, assumed most of the control over their juvenile justice population. The number of youth sent to State facilities dropped from 800 in 1998 to about 40 now for a savings of \$50 million a year. Instead of paying their State for an ineffective system, the savings were reinvested in a comprehensive network of locally operated community based programs. This approach not only saved money, it improved community safety - evidenced by an 18 percent reconviction rate after two years, and helped young people possibly avert a lifetime of incarceration.

That said, local control alone does not guarantee accountability. It is for this reason that the ATI/Reentry Coalition also supports strong, independent oversight mechanisms to ensure that the juvenile justice system is transparent and accountable to elected officials and the public. We view oversight not as a "gotcha" mechanism but

rather a preventive tool that can identify problems before they become crises and work to resolve issues in a proactive manner.

### **Building on New York City's Successful ATI and Juvenile Justice Programs**

With the leadership and support of the Council, the City's ATI programs for juveniles are nationally recognized and admired. New York City has pioneered ATI programs that include services from community-based organizations such as CCA's programs that date back to 1987 as well as more city wide initiatives that include the Alternative-to-Detention Initiative and the Juvenile Justice Initiative. The programs and efforts are producing better outcomes for juvenile justice youth and their families. As I mentioned, the ATD have served 3,000 youth, with only 11% rearrest while in the ATD program. The Juvenile Justice Initiative works with youth as both an alternative-to-placement and as after care. It has been successful in averting placement for about 65 percent of the youth and families it works with.

### **Saving Money**

The results of ATI and other community-based programming are also very cost-effective. Last year, CCA's Council-supported Family Court Client Specific Planning program which serves as an alternative-to-placement for youth adjudicated as juvenile delinquents costs just under \$10,000 per year per child. Last year, 77 percent of the youth served by CCA's program successfully completed its requirements. The Blue Sky program, part of the Juvenile Justice Initiative has maintained nearly 70% rate of participants in their homes instead of placement. The savings to the City are estimated to be about \$100,000 per youth per year.

## **Conclusion**

New York City - the Council, the Mayor, and community partners- have made tremendous strides in improving the City's juvenile justice system. We have come a long way in our treatment of young people in who come into conflict with the law and now base our approach on research and evidence that combines accountability with family-focused, youth development approaches. We have made our communities safer and have allowed these very vulnerable young people a chance to get their lives back on track. On behalf of the City's ATI/Reentry Coalition, I want to thank you again for leadership and offer our continued commitment to work with you and City agencies to continue our progress.





Testimony of

Stephanie Gendell  
Associate Executive Director  
Citizens' Committee for Children

*Oversight: The Mayor's Proposal to Overhaul the  
New York State Juvenile Justice System*

Before the  
New York City Council  
Juvenile Justice Committee and General Welfare Committee

January 26, 2011

Good afternoon. I am Stephanie Gendell, the Associate Executive Director for Policy and Public Affairs at Citizens' Committee for Children of New York, Inc. (CCC). CCC is a 67-year old independent child advocacy organization dedicated to ensuring that every New York City child is healthy, housed, educated and safe.

I would like to thank Chairwoman Gonzalez and Chairwoman Palma and the members of the Juvenile Justice and General Welfare Committees for holding this hearing today regarding the Mayor's proposal to overhaul the State's Juvenile Justice System. The health, care, and well-being of the City's youth who come into contact with the juvenile justice system are of the utmost importance to CCC and we appreciate the City Council's continued interest in these young people.

CCC is also grateful to the current and former elected and appointed officials and policymakers who have openly recognized and acknowledged that the system we now have is a dismal failure and needs to be reformed as soon as possible. Specifically, CCC would like to thank Governor Cuomo, State Office of Children and Family Services Commissioner Gladys Carrion, Council Woman and Juvenile Justice Committee Chair Sara Gonzalez, Former Governor Paterson, Senator Montgomery, Assemblymember Scarborough, Mayor Bloomberg, NYC Criminal Justice Coordinator John Feinblatt, Administration for Children's Services Commissioner John Mattingly, ACS Executive Deputy Commissioner Laurence Busching, former NYC Probation Commissioner Horn and Probation Commissioner Schiraldi for both their recognition that New York deserves a better juvenile justice system and their efforts (past and present) to advance needed policy, programmatic and budgetary changes.

CCC would also like to recognize that there has been some progress over the past several years. Today, there are far fewer children incarcerated in the State's facilities than there were a decade ago. For instance, the number of youth admissions to OCFS placements decreased from 2,518 in 2000 to 1,680 in 2008.<sup>1</sup> Similarly, the number of NYC youth admitted to OCFS placements during that time period also decreased, from 1,575 in 2000 to 1,009 in 2008.<sup>2</sup> According to OCFS's Weekly Population Summary for January 18, 2011, there are currently 665 children in OCFS out-of-home residential placement facilities and 396 empty beds. This large number of empty beds exists despite the fact that OCFS has closed, consolidated or downsized 18 juvenile placement facilities since Commissioner Carrion was appointed. New York State has also made some efforts to better address the needs of children in their care including beginning to implement a therapeutic model in targeted placement facilities (i.e. the Sanctuary Model), hiring a psychiatrist and developing the Brooklyn for Brooklyn Initiative.

Similarly, New York City has made a significant multi-pronged effort to reduce the number of children entering detention and OCFS care through the development and strengthening of numerous alternative to detention and incarceration programs (such as Esperanza, the Juvenile Justice Initiative, the use of Blue Sky, MST and FFT), the creation and implementation of the Risk Assessment Instrument (RAI), the merger of DJJ and ACS, developing a detention reform plan, that includes closing the Spofford/Bridges Detention Center in April of this year.

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<sup>1</sup> *Charting a New Course: A Blue Print for Transforming Juvenile Justice in New York*, Governor David Paterson's Task Force on Reforming Juvenile Justice. December 2009.

<sup>2</sup> *Keeping Track of New York City's Children 2010*, Citizens' Committee for Children.

Despite the attention paid and efforts made by the State and the City, New York's Juvenile Justice System remains broken. The systems' failings were documented in CCC's 2009 report *Inside Out: The Experiences of Youth in State Juvenile Placement Facilities*. Furthermore, the 2009 Report by the Governor's Task Force on Reforming Juvenile Justice stated "At the most basic level, New York is investing enormous sums in a system that does not deliver what it promises."<sup>3</sup> Finally, the United States Department of Justice found that the conditions of care in state facilities violated the constitutional rights of the children and. Governor Cuomo passionately explained in his State of the State Address that it is a violation of children's civil rights to incarcerate them so that adults can have jobs upstate.

Specifically, the most major problems with the State's Juvenile Justice System are the following:

- **NY's Juvenile Justice System Does Not Protect Public Safety:** OCFS has found that the re-arrest rate for boys is over 80% after they leave their care.
- **NY's Juvenile Justice System Does Not Produce Good Outcomes for Youth:** In addition to the unacceptable recidivism rate, the health and mental health care needs of youth in placement facilities are often not met and their education credits do not always transfer, leaving them further behind in school. In addition, due to the abuse of the children in placement (documented by the US Department of Justice) and the criminogenic environment, youth outcomes post-release are actually worse, rather than better. Approximately 53% of the children incarcerated were convicted of misdemeanors, yet placed in an environment that not only fails to be rehabilitative, but too often puts them on a worse path.
- **NY's Juvenile System Typically Places New York City Youth Far From Their Families and Communities:** While the majority of youth in the system are from NYC, most youth are placed in facilities far from home in upstate New York, which makes it difficult for youth to maintain family ties, have regular visits with family members, engage in programming that strengthens families, and successfully transition back home to their communities.
- **NY's Juvenile Justice System Is Extremely Expensive:** While the State Juvenile Justice System is not meeting either of its goals (to protect the community and to rehabilitate youth) it is also extremely expensive. It costs approximately \$220,000-\$350,000 per year to incarcerate a child in a New York State facility. This system is extremely costly to the counties, as they have to pay 50% of the placement costs in these state facilities where the per diem rate per child continues to increase due to the decreased number of children placed. Counties also have to pay almost 100% of the cost of juvenile justice private placements since the state's 50% share for these placements actually comes out of the capped foster care block grant, most of which is used for its intended purpose, foster children. In addition, New York City is investing in various effective alternative programs, but not achieving any cost-savings given the state's funding formulas for placement.
- **NY's Juvenile Justice System is Inefficient:** Every night, there are over 350 beds in the State's Juvenile Justice system that are empty, but being paid for. Currently, when the State determines a facility is to be closed, State Law requires that it remain open for 12 months—even if there are no children there. In addition, significant state resources (\$169 million) are spent on this placement system, yet the state spends only \$6 million for the cost-effective alternatives that produce better outcomes for youth and communities (alternatives that cost between \$6,000 to \$17,000 per child annually.)

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<sup>3</sup> *Charting a New Course: A Blue Print for Transforming Juvenile Justice in New York*, Governor David Paterson's Task Force on Reforming Juvenile Justice. December 2009.

CCC agrees with many state and local officials that New York City's youth deserve a more humane system that not only is not abusive, but also meets their health, mental health and education needs and enables them to receive services at home when possible or in their communities when they need to be in placement. In addition, New York City's communities deserve a system that does a better job protecting their safety and New York City's taxpayers deserve a system that uses their money wisely, both by investing in programs and services that work and by not wasting their money on institutions that are failures and/or empty. To help achieve these ends, CCC has urged Governor Cuomo to produce an Executive Budget that includes facility closures, the elimination of the 12-month rule, and that reinvests savings into alternatives to detention and incarcerations programs. We have also emphasized to the state that we believe all youth should be able to be served their homes or communities.

As was clear in Mayor Bloomberg's recent State of the City address and in his announcement regarding his proposed realignment legislation, the City feels that it can do a better job of meeting the needs of its young people. "We will also work with Governor Cuomo and our partners in Albany to overhaul the State's juvenile detention system so we can keep more young offenders in supervised, secure programs close to their homes and families instead of hundreds of miles away upstate. We know we can do a better job of helping young offenders turn away from a life of crime, and if Albany will allow us, we will," said the Mayor in his State of the City Address.

According to the City proposal, the City is seeking Albany's approval for the juvenile justice system to be locally operated so that New York City youth can "stay close to home and receive the individualized services, supports and opportunities they need in the communities where they live."<sup>4</sup> The City's proposal also includes provisions to realign the financial aspects of the system so that a) counties would pay 50% of the cost per child, but this would not include the cost of the unused capacity and b) all juvenile justice placements costs would be shared 50/50 and there would no longer be a different funding mechanism for private placements and thus the foster care block grant would be used for foster children.

CCC has had conversations with both State and City officials about the City's proposal, and while CCC has some questions and concerns about the City's proposal, CCC believes that the City's vision has the potential to improve the outcomes for New York City's youth. Notably, the City's proposal seeks to engage more youth in alternative to placement and incarceration programs, which enables these youth to remain at home with their families or in their communities while they and their families receive needed services. In addition, the City's proposal would ensure that New York City youth in need of placement would be placed in a facility in New York City, which would enable more frequent family visits and ease the young person's transition home upon release. In addition, this locally operated system would prevent education disruptions that occur in the current system and ensure that credits earned in facility care would be retained by the youth. We believe that serving greater numbers of youth in alternative to detention and incarceration programs, ensuring that youth in placement are served close to their home sand communities and are able to retain their education credits are all steps in the right direction towards reforming the system.

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<sup>4</sup> New York City. *Juvenile Justice Realignment Fact Sheet*.

Conceptually, CCC does not have a preference with regard to whether juvenile justice systems are administered locally or by the state and we believe that Commissioners Carrion, Mattingly and Schiraldi all passionately care about the youth touched by the juvenile justice system and want to shape policy, budget and reform efforts so as to improve the conditions of care and the outcomes for the youth. But the children of New York, and for the purposes of this hearing, the children of New York City in particular, cannot wait for reform. As we sit in this hearing today, children are being arrested, brought to detention, referred to a limited number evidence-based alternative programs, and sentenced to private placement or OCFS care. These children cannot wait any longer for politicians, policymakers and advocates to develop more plans, reports, budgets, or political deals—they need reform now. We have watched Commissioner Carrion work tirelessly to reform the state’s system, and make great strides in spite of the resistance she has received from the unions and many elected officials, particularly those from upstate counties wanting to maintain the jobs of those working in the facilities. Given these political realities, CCC is open to learning more about the City’s proposal and to supporting the components of the plan with which we feel comfortable. To that end, CCC greatly appreciates the City Council holding this hearing today so that we can learn more about the City’s plans.

To date, CCC supports the following elements of the City’s proposal for a locally administered juvenile justice system in New York City:

- Ensuring New York City youth who need to be placed in facility care are placed **close to their families and communities**.
- Better ensuring education outcomes for youth placed in facility care by more seamlessly enabling youth to re-enroll in **school** when discharged and to maintain their credits earned while in care.
- Better ensuring continuity of **Medicaid coverage** when youth leave facility care, which is currently an issue for youth returning from OCFS care.
- More rationally and reasonably **sharing the costs of placement** between the state and the city by no longer charging the city for the empty beds (currently causing the city to spend more money on state placements than it did when many more children were placed) and by no longer limiting state reimbursement for private placements (currently the state’s share of reimbursement for private placements relies on the capped foster care block grant for the state share, leaving the City paying for almost the full cost of these placements.) ).
- **Expanding the alternative to detention and alternative to incarceration programs** that have demonstrated success at reducing recidivism and improving youth outcomes such as school and employment (such as Way Home, JJI, Esperanza, etc.).
- Creating **better financial incentives**, through more rational state reimbursement, for downsizing the system and incarcerating fewer children.
- And importantly, **the vision for a more effective system** that a) does a much better job of keeping children safe while they are in facility care, b) provides youth with health, mental health, education and other needed supports while they are in care; c) uses a trauma-based therapeutic model rather than a corrections-based approach; d) makes use of smaller facilities (no more than 15 youth); and e) keeps the public safer by reducing crime and recidivism.

To date, CCC's largest concerns with the City's proposal are:

- **The impact this proposal would have on the youth in the other counties.** Notably, without the ability to close a significant number of state-operated juvenile placement facilities, the removal of New York City's youth from the state system would make the costs unaffordable for other counties, including Nassau, Suffolk and Monroe Counties who place the most youth aside from NYC. Ensuring that juvenile justice is improved for all New York youth will require the state to: regionalize placements so that all youth can be placed close to their homes; reinvest savings from facility closures into community based programs that prevent youth from needing to be incarcerated; assist the other counties in developing alternative to detention and incarceration programs; and ensure the fiscals work for all counties and the state (which in part will require closing facilities and eliminating the 12 month rule.)
- **The lack of clarity about where youth would be placed, particularly those who will be placed in secure facilities.** New York City's proposal does not yet offer specifics about where, in their locally administered system, youth would be placed—particularly youth who need to be placed in a secure facility. It seems likely to CCC that if realignment were to take place that the City could take over operation of many of OCFS's facilities located in the City, none of which are secure facilities. CCC feels very strongly that Spofford/Bridges must be off the table as a potential placement facility for New York City's incarcerated youth. These youth need small (no more than 10-20 youth) placement facilities modeled after Missouri's system, which will provide them with the rehabilitative services they need.
- **Oversight and Public Accountability:** Every Corrections system requires an independent oversight body. The City's statutory proposal includes no statutory language with regard to oversight. CCC is also unclear about what OCFS's role would be with regard to overseeing the City's system. While CCC is not prescriptive about what this oversight structure must look like, and does not want duplicative oversight systems that obscure who is ultimately accountable, we strongly believe that there must be a strong oversight system in place that enables the juvenile justice system to be publicly accountable.
- **Juvenile Offenders and 16-17 year olds:** Much of the discussions of juvenile justice reform, at both the state and city level, focus on Juvenile Delinquents. While meeting the needs of these youth, particularly those who have been incarcerated for low level crimes, is critical to reforming the system, full systemic reform will also require addressing the needs of juvenile offenders (13-15 year olds charged and tried as adults due to the severity of their crime) and 16-17 year olds charged in adult court due to New York's age of criminal responsibility laws.
- **The Details:** New York City's publicly available realignment proposal does not include many details of exactly how realignment would be implemented. While CCC is conceptually supportive of the City's plan, greater details are needed such as where youth will be placed, what services will be available, how large placement facilities will be, what types of staff will be in the facilities and what trainings will they receive, etc., before we can offer our full support.

CCC looks forward to working with the State and the City to bring true juvenile justice reform to New York. Thank you for this opportunity to testify.



**ADVOCATES FOR CHILDREN**  
*Helping children succeed in school*

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**TESTIMONY OF**  
**ADVOCATES FOR CHILDREN OF NEW YORK.**  
**JANUARY 26, 2011**

**NEW YORK CITY COUNCIL**  
**COMMITTEES ON GENERAL WELFARE AND JUVENILE JUSTICE**  
**HEARING CONCERNING "THE MAYOR'S PROPOSAL TO OVERHAUL**  
**THE NEW YORK STATE JUVENILE JUSTICE SYSTEM"**

**DELIVERED BY**  
**CHARISA SMITH, STAFF ATTORNEY**  
**[csmith@advocatesforchildren.org](mailto:csmith@advocatesforchildren.org)**

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Chairpersons Palma and Gonzalez and Members of the Council, thank you for the opportunity to speak before you today. I am a Staff Attorney in the Juvenile Justice Project (JJP) at Advocates for Children of NY, Inc. (AFC). AFC works to ensure a quality education for all students in New York City public schools, with an emphasis on students most at-risk of academic failure due to discrimination, exclusionary practices, or lack of political power. AFC's JJP uses direct service, policy advocacy, community outreach and education, and impact litigation to address the obstacles faced by court-involved youth who are struggling to obtain an education.

The city has taken positive steps in juvenile justice reform. The creation of the new Division of Youth and Family Justice holds long overdue promise. The Director of the Juvenile Justice Project (JJP) at Advocates for Children, Chris Tan, is a member of the Advisory Board for the Division of Youth and Family Justice.

Much work remains to be done, however. If the city is to overhaul the juvenile justice system and take charge of all levels of care for court-involved youth, education in detention and placement needs to be a key priority. Currently, youth in the care of DYFJ and OCFS are under-served educationally. Youth with special education needs are not provided with the level of educational support that they need, many teachers lack the necessary certifications, and students performing below grade level are not afforded sufficient interventions

to catch up. The city has a golden opportunity to remedy these shortcomings and provide young people in the system with the programs and services that will truly lead them to academic and general life success.

Realignment needs to include a focus on re-entry. Right now, youth returning home from OCFS placement need far more attention and service coordination in their home communities than they currently receive. With realignment, New York City has the chance to create a dedicated youth transition division comprised of professionals that truly understand the array of opportunities available and that partner with community-based organizations. It will be paramount that New York City transition workers—who would help youth reintegrate from the proposed city incarceration facilities into community schools, their families, and familiar peers—treat youth with the utmost respect and instill them with the confidence to face the challenges ahead.

Furthermore, the existing means of transition between OCFS schools, Passages Academy and community schools can be significantly improved by alleviating delays in records transfer, increasing communication between school officials, and enabling staff inside incarceration facilities to work on transition from the very start of a young person's incarceration period, which is the most proven way to assure effective re-entry.

Effective cross-system collaboration is also necessary to combat the intricate school-to-prison pipeline that propels youth of color away from our troubled

education system and streets and into the juvenile justice system in the first place. Young people become involved in the justice system through the policies and practices of multiple, distinct agencies that each play a role in the school to prison pipeline.

The National League of Cities' Youth, Education, and Family (YEF) Institute's working definition of cross-system collaboration for disconnected youth is when two or more public agencies commit and follow through on exchanging information, altering activities, sharing resources, and enhancing each other's capacity for common or overlapping groups of youth.<sup>1</sup> Without intensive collaboration between staff of agencies in the education, child welfare, law enforcement, juvenile justice, community and youth development, mental health and substance abuse services, and disabilities services arenas, the flood of youth coming into courts and jails will most likely not diminish despite improvements in the way youth are handled once they become court-involved. The pipeline starts with law enforcement agencies and overly aggressive policing of schools and low-income neighborhoods. The education system is another point of origin, as zero tolerance policies and unjust suspension practices create justice system involvement and disproportionately impact students of color and students with learning disabilities. African American youth in the US are three times as likely to get suspended as are white

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<sup>1</sup> National League of Cities' Institute for Youth, Education, and Families (YEF Institute). *Beyond City Limits: Cross-System Collaboration to Engage Disconnected Youth*. (2007).

youth.<sup>2,3</sup> Clearly, multiple factors feed into the pipeline, and collaboration among multiple agencies is needed to stop the flow.

With re-alignment, New York City can enable new cross-system collaboration between law enforcement and the education system. For example, a police – school protocol is a promising practice for stopping the streaming of young people into the justice system. Police and the schools should enter into a protocol to reduce unnecessary police intervention and to reserve school – based arrests for only the most severe cases. Such protocols have reaped marked success in other jurisdictions. As opposed to traditional school discipline and law enforcement crack-downs, elements of restorative justice should also be a major part of new cross-system collaboration. Restorative justice is a set of principles and practices grounded in the values of showing respect, taking responsibility, and strengthening relationships. When harm occurs, restorative justice focuses on repair of harm and prevention of re-occurrence, joining all stakeholders in a non-adversarial process.<sup>4</sup> In addition, our city needs to recognize the effectiveness of school – wide Positive Behavioral Interventions and Supports (PBIS) to turn the tide in our education system. PBIS applies evidence-based academic and behavioral practices for improving academic and behavior outcomes for all students. It is a crucial way

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<sup>2</sup>Losen, D. and Skiba, R. *Suspended Education: Urban Middle Schools in Crisis*. (2010).

<sup>3</sup>Special education students represent 8.6% of public school students, but 32% of youth in juvenile detention nationwide. NAACP Legal Defense and Educational Fund, Inc. *Dismantling the School-to-Prison Pipeline*, p. 5. (2005).

<sup>4</sup>Thelton E. Henderson Center for Social Justice, University of California, Berkeley, School of Law (Boalt Hall). *School-based Restorative Justice as an Alternative to Zero Tolerance Policies: Lessons from West Oakland*. (2010).

to help students succeed and to change punitive disciplinary measures that propel students towards jail.<sup>5</sup> The landscape of juvenile justice could look remarkably different if New York City effectuated such cross-system collaboration and more just practices.

We must persevere to ensure that New York City's most vulnerable youth are given the chance to succeed and lead, regardless of their skin color, economic situation, or brushes with the law. New York City can become a national leader in juvenile justice if we strengthen the developments at hand and remember the importance of education to any reform effort. Thank you for your continued efforts to care for youth in the juvenile justice system.

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<sup>5</sup> The US Department of Education, the American Psychological Association, and numerous other institutions have either implemented or promoted PBIS, and there is a growing body of research to bolster this work.

## Memorandum in Support

### COMMITTEE ON CHILDREN AND THE LAW

Children #14

September 16, 2010

S. 6877

A. 3233-B

By: Senator Parker

By: M. of A. Clark

Senate Committee: Children and Families

Assembly Committee: Children and Families

Effective Date: April 1, 2011

**AN ACT** to amend the executive law, in relation to the establishment of the independent office of the child advocate; and repealing certain provisions of such law relating to the office of the ombudsman

### THE COMMITTEE ON CHILDREN AND THE LAW SUPPORTS THIS LEGISLATION

The New York State Bar Association Committee on Children and the Law, strongly urges the Governor to sign S.6877/A.3233-B creating the independent office of the child advocate with chapter amendments as set forth below.

The Committee on Children and the Law supports the creation of the independent office of the child advocate for oversight of particular and systemic issues publicly funded juvenile justice programs overseen by the Office of Children and Family Services (OCFS) and multi-systemic issues that children in the juvenile justice system experience in accessing needed services across systems. The breadth of the purview granted to the child advocate would provide sufficient oversight over the current system, which is wholly reliant on OCFS employees to investigate other OCFS employees whether the investigation is of a complaint made to the OCFS Office of the Ombudsman from a resident youth about his or her treatment or a report to the OCFS Statewide Central Register of Child Abuse and Maltreatment concerning an incident regarding a resident youth investigated by the OCFS Institutional Abuse Bureau.

The purview of the office of the child advocate would also appropriately include youth in secure and non-secure detention programs throughout the state. The conditions of confinement at these detention centers are equally in need of independent oversight. Given the lack of a coordinated structure and requirements for juvenile probation and alternative programs in communities across the state, the difference in treatment of youth, and their chances for positive outcomes varies by crossing a county's border. The office of child advocate's greater purview to investigate these issues in individual communities and make reports and policy recommendations based thereon will help to create the sweeping change necessary to create a truly just juvenile justice system across the state.

There are two issues which should be addressed by chapter amendment. The bill repeals the current structure of the ombudsman office. Over the last few years, the OCFS office of the ombudsman has been restructured and the staff greatly increased. With this structure, the ombudsman office is able to provide the necessary in-person and immediate contact with youth in OCFS facilities to provide adequate protection for these youth. The office of the child advocate must be sufficiently staffed to be able to continue the good work begun by the office of the ombudsman. It is recommended that the OCFS office of the ombudsman be made part of the independent office of the child advocate to ensure truly independent investigations of resident youth concerns.

Secondly, because the treatment of youth in these facilities and programs is critical and needs many layers of safeguards to ensure appropriate treatment and services, it is also crucial that the attorney for the youth be apprised immediately when there is a report made to the Statewide Central Register of Child Abuse and Maltreatment or to a law enforcement agency, or the New York State Inspector General's Office for a youth in such facilities. Similarly, notification should also be made to the judicial hearing officer presiding over the youth's case in family court and should be addressed at any permanency hearing.

Based upon the foregoing, the Committee on Children and the Law strongly urges the Governor to sign S.6877/A.3233-B, to create the office of the child advocate which will have an enormous, vitally necessary impact on the system of juvenile justice in New York State.

Based on the foregoing, the New York State Bar Association's Committee on Children and the Law **SUPPORTS** this legislation.

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Chair of the Committee: Prof. Merrill Sobie

NYCLU

<http://www.nyclu.org/content/legislative-memo-act-amend-executive-law>

**Legislative Memorandum: Reforming the Juvenile Justice System**

**Subject: A3233-B/ Clark; S6877/ Parker**

(An ACT to amend the executive law, in relation to the establishment of the independent office of the child advocate; and repealing certain provisions of such law relating to the office of the ombudsman)

Position: Support

In response to the ongoing crisis in New York's juvenile justice system, this legislation would establish a watchdog entity to oversee the state's juvenile justice facilities operated by the Office of Children and Family Services (OCFS). This entity is critical to ensuring that the state's institutionalized children are free from abuse and provided with needed treatment and services.

This legislation charges the Child Advocate with investigating and reporting on particular and systemic issues and developing policy recommendations and solutions. The bill also empowers the Child Advocate through the following critical provisions:

- *Broad mandate to protect children:* the Child Advocate is mandated to protect the legal rights of children entrusted to the state's care and to serve as a voice for this population. Such a mandate is necessary to ensure that the interests of institutionalized children are specifically represented.
- *Independence:* A3233-B/ S6877 establishes the Child Advocate's independence of OCFS – an element which is essential to its ability to carry out its watchdog function – by holding the entity accountable to only the governor and the legislature.
- *Authority to hold subject entities accountable:* when the Child Advocate issues reports to and receives responses from identified agencies with problems, the Child Advocate is authorized to pass these reports and responses on to the governor and the legislature in order to hold OCFS accountable.
- *Access to records, facilities, staff, and children:* the Child Advocate is given authority to access any records necessary, as well as facilities, staff, and children.

The NYCLU believes that A3233-B/ S6877 would establish an oversight entity that is robust – and sufficiently independent to effectively advocate for institutionalized children.

The proposed Office of the Child Advocate is a missing, but essential component of the state's juvenile justice system, which has been in a state of crisis. Every year, more than 1,600 children enter institutional placement facilities to be rehabilitated.<sup>1</sup> Many of these institutionalized

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<sup>1</sup> New York State Task Force on Transforming Juvenile Justice, "Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State," December 2009, page 10.



children are subject to abuse and deprivation at the hands of the state. Reports have found that many are subject to sexual abuse, the use of excessive and disproportionate force, and lack basic rehabilitative services, including mental health treatment, which the majority of children require.<sup>2</sup> There is now a broad consensus among policymakers, scholars, and child advocates that this system is utterly broken, and that there must be a paradigm shift towards a more therapeutic, community-based, and rehabilitative model.

### **A. The Governor's Program Bill**

Governor Paterson's Program Bill 273 embraces this paradigm shift. Most important, the bill reserves institutional placement only for the most serious cases. Under Sections 3 and 4, placement will only occur when a child presents a significant risk to public safety and no less restrictive alternative is available to mitigate the risk. This provision is extremely important because under current practices children are institutionalized unnecessarily, in facilities where they are isolated from their families and communities.

### **What's Missing: A Robust and Independent Oversight Entity**

Although Program Bill 273 represents a significant policy advance, it fails to establish an oversight entity that can effectively represent children entrusted to the state's care. The bill creates an Office of the Juvenile Justice Advocate (JJA), but this office lacks the authority to represent the interests of institutionalized children.

Fundamentally, the JJA's mandate seems restricted to ensuring the "quality of care" in residential programs rather than broadly protecting the legal rights of institutionalized children. The JJA's ability to fulfill its duties is also compromised by its limited independence; the bill requires the JJA to not only report to the governor and the legislature, but also OCFS, thereby making the JJA accountable to the office that is responsible for overseeing. Furthermore, when the JJA issues a report and recommendations to OCFS in response to an identified problem, OCFS may respond as it sees fit. As a result, this bill fails to hold OCFS accountable. This legislation could also be interpreted to give the JJA access to only limited documents, even though the JJA would require broad access to records and documents to carry out its duties effectively.

The NYCLU supports the Governor's call for policy reform, particularly his proposal to place children in the least restrictive setting and in their home communities when possible. However, we also believe that in order to realize the objectives of the Governor's reform mandate, an Office of the Child Advocate must be established that reflects the elements contained within A3233-B/ S6877.

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<sup>2</sup> American Civil Liberties and Human Rights Watch, "Custody and Control: Conditions of Confinement in New York's Juvenile Prisons for Girls," September 2006; U.S. Department of Justice, Civil Rights Division, Letter to Governor Paterson and Report, "Investigation of the Lansing Residential Center, Louis Gossett, Jr. Residential Center, Tryon Residential Center, and Tryon Girls Center," August 14, 2009; New York State Task Force on Transforming Juvenile Justice, "Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State," Draft Copy issued in December 2009.



Jeanne Milstein  
Child Advocate

**STATE OF CONNECTICUT**  
**OFFICE OF THE CHILD ADVOCATE**  
999 Asylum Avenue, Hartford, Connecticut 06105

July 5, 2010

Honorable David A. Paterson, Governor  
State of New York  
State Capitol  
Executive Chamber  
Albany, NY 12224

Dear Governor Paterson,

I am writing to urge you strongly to support S6877, which would establish an Office of the Child Advocate for juvenile justice in the State of New York. While I sincerely appreciate that by signing this bill you risk being perceived as expanding government in difficult financial times, I am compelled to share with you the benefits, including substantial short- and long-term savings, provided to the State of Connecticut by its Office of the Child Advocate (OCA).

OCA was established in 1995 after the tragic death of an infant in state care. The child's death made clear that an independent agency with the power to investigate and issue public reports was necessary to ensure the well-being of children and provide transparency to government services otherwise shielded from public view by confidentiality laws intended to protect children and families.

Since 1995, the Office of the Child Advocate has harnessed its unique statutory and independent authority to investigate and evaluate state-funded and state-operated programs and services for children, identify areas in need of attention, and make recommendations to protect the rights of Connecticut's children.

The Office of the Child Advocate (OCA) operates as the office of accountability for Connecticut's children. For an expenditure of \$777,000, OCA provides taxpayers with independent, nonpartisan accountability and oversight by highly specialized and expert professionals of well over \$4 billion dollars of state funds, including:

- \$856,021,627 at the Department of Children and Families;
- \$3,004,916,541 at the State Department of Education;
- \$28,059,132 at the Department of Public Health;
- \$19,926,130 at Department of Mental Health and Addiction Services;
- \$116,962,348 at the Judicial Branch; and
- \$34,057,802 at the Department of Developmental Services.

OCA identifies ineffective and in many cases, harmful, expenditure of state funds for children's facilities, programs, and services. OCA brings it to the attention of the Governor,

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Legislature, Judicial Branch, and the public when the State and taxpayers do not get what they pay for children's institutions, programs and services, and when DCF spends funds ineffectively or is out of compliance with state law and policy. OCA frequently identifies children languishing in unnecessarily high levels of very costly care and advocates for the discharge of those children to more appropriate programs or placements. This ensures that state funds are used effectively and often results in substantial savings to state agencies' budgets. Several facilities have closed or undergone significant change as a result of OCA's investigations that uncovered ineffective or harmful practices:

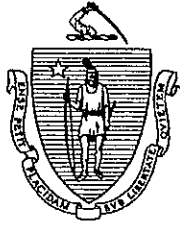
- Haddam Hills Academy
- Connecticut Juvenile Training School
- Lake Grove at Durham
- Stonington Institute
- Riverview Hospital
- St. Vincent's Special Needs Services (Group Homes)

The OCA is the safe haven for public officials, citizens, providers, and state employees to report system failures that affect the health and safety of children. Sometimes our work sheds an awkward light on the inefficiencies and inadequacies of state government. At times we have uncovered and made public abuse by staff, lack of treatment in costly treatment programs, inadequate medical care, lack of quality assurance, and a host of other inadequacies that directly affect the health, safety, and well-being of children. It takes great courage for a state to be committed to this level of transparency.

CT has learned a tremendous amount about the children served in our juvenile and adult justice systems through the OCA's unique access to information as well as our participation in very significant reform efforts across the executive, judicial and legislative branches. Signing S6877 into law will establish independent oversight and accountability for a broad array of state funded services to children. New York's children, their families, and all citizens who care deeply about their protection and well-being, stand to gain the only autonomous authority to investigate and intervene on their behalf.

Sincerely,

  
Jeanne Milstein  
Child Advocate



THE COMMONWEALTH OF MASSACHUSETTS  
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DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

GAIL GARINGER  
THE CHILD ADVOCATE

July 8, 2010

Hon. David A. Paterson  
Governor of the State of New York  
State Capitol  
Albany, New York 12224

*RE: Office of the Child Advocate*

Dear Governor Paterson:

I am writing to strongly support the establishment of an independent Office of the Child Advocate in New York as provided for in S6877/Parker and A03233B/Clark. While I appreciate that the current budgetary situation might create a reluctance to sign these bills, I firmly believe that the creation of this office would result in substantial benefits to New York's children and taxpayers.

In April 2008, I left my position as a Juvenile Court Judge, having served in that role for 13 years, to become the first Child Advocate for the Commonwealth. The Office of the Child Advocate (OCA) is an independent office, with subpoena powers, reporting directly to the Governor. The OCA's mandate is to review critical incidents involving children in the custody of or receiving services from executive child-serving agencies, to receive and address complaints regarding these agencies, and to make recommendations to the Governor and Legislature for improving services to children and families. More information regarding the OCA's activities and its enabling legislation as well as the OCA's Annual Report for Calendar Year 2009 just filed with the Governor and Legislature and may be found on our website at <http://www.mass.gov/chiladvocate>.

The OCA has begun to assume a key role in the overall child welfare/juvenile justice system in Massachusetts. Whenever possible, we work cooperatively with the executive child-serving agencies to identify opportunities for improved interagency collaboration in the delivery of services. When necessary, we examine deaths or other unfortunate outcomes to document what occurred and to suggest how agency practices might be improved. Our unique role as an

independent office not allied with any one agency allows us to critically examine the system as a whole, and in turn to make recommendations to the Governor and Legislature.

Operating with a modest budget, the OCA leverages its resources to provide Massachusetts taxpayers with independent oversight of the Commonwealth's executive child-serving agencies. Our office attempts to identify and eliminate costly duplicative services for children and families. In addition, the OCA attempts to assure that children participate in programs that provide the most appropriate level of services at the lowest cost to the state agencies.

I hope that the children and families of New York soon will reap the benefits of an independent office of the child advocate that would ensure the protection and promotion of legal rights for youth in juvenile justice facilities. If you or members of your staff would like more information about the Massachusetts OCA, please feel free to contact me.

With regards,



Gail Garinger  
The Child Advocate

Cc: Hon. Barbara M. Clark  
Hon. William A. Scarborough  
Hon. Kevin Parker

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**Children's Studies Center**  
For Research, Policy, and Public Service

Testimony of

Loretta Chin  
Research Coordinator  
Brooklyn College Children's Studies Center

New York City Council Juvenile Justice Committee  
and General Welfare Committee  
Public Hearing

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Oversight: The Mayor's Proposal to Overhaul the New York State  
Juvenile Justice System

January 26, 2011

Good Morning Chair Gonzalez, Chair Palma and members of the Juvenile Justice and General Welfare Committees. I am Loretta Chin, Research Coordinator at the Brooklyn College Children's Studies Center and I am here today with Professor Gertrud Lenzer, Director of our program and center. Prof. Lenzer established the American Sociological Association Section on the Sociology of Children and founded the interdisciplinary field of Children's Studies in 1991. She also established the Children's Studies Center for Research, Policy, and Public Service and is the Director of the only and may I add, very successful Children's Studies interdisciplinary academic program in New York State.

Prof. Lenzer has spearheaded our research and policy work concerning the subject of oversight and accountability of the many fragmented systems of child supervision and administration, including the juvenile justice system within New York City and State. I have worked by her side for over seven years during which time, Prof. Lenzer proposed for and received a grant in 2003 from the Carnegie Corporation to launch a policy symposium in order to provide a comprehensive view and assessment of the fragmented systems of child supervision and administration in New York and to explore solutions to problems that they present for the often "invisible children" who are predominantly of poor and minority backgrounds and are transported from one end of the system to the other, often resulting in involvement with the systems of child welfare, juvenile justice, and criminal justice.

The policy symposium, "Children and the Law in New York," held on March 11, 2004 resulted in the introduction of legislation for an independent Office of the Child Advocate (OCA) for New York, which has a long history that continues to this day. It has most currently been reintroduced by A.M. Barbara Clark as bill A00644. Last month, I was ready to present testimony at the New York City Council Public Hearing on oversight held on December 15, 2010. I brought some background materials and a summary of the history of the OCA legislation, which

has been posted to the New York City Council records for that date, but I was unable to make my presentation due to lack of time. I thank the chairs and members of the Committees of Juvenile Justice and General Welfare to bring this testimony today with Prof. Lenzer, who was unable to attend at that time. I have revised my testimony to supplement and support the testimony provided by Prof. Lenzer and to share my personal observations of what I have learned while working with her and through our policy research at Children's Studies.

As I began to testify last month, Children's Studies made a clarion call to key stakeholders and experts in the areas of child welfare, health/mental health, and education and reached out to city and state legislative branches, major New York child advocacy organizations, and child advocates from Connecticut, New Jersey, and Rhode Island to join us in providing a child-centered and human rights perspective on the major issues of child administration and supervision in New York. It is here where we first began to examine the dire need to promote the human, civil, legal, and constitutional rights of these children. We provide a public service through dissemination of our research and information on our website and in our daily communications and interactions with various involved stakeholder groups and key individuals. The website contains the complete transcript of the proceedings which led to the Independent Office of the Child Advocate legislation and a complete history of the child advocate legislation since 2003 up to the veto of the bill by Governor David Paterson in 2010. It also contains information about the myriad aspects of our work.

We have learned that the world of child caring institutions is a multi-billion dollar industry that is highly politicized and includes many well intentioned and hard working individuals who unfortunately must navigate a complicated maze of privatized and not-for-profit systems, institutional interests, special interests, political agendas, and a dysfunctional system that has changed very little for decades. To address these problems, we proposed a model that has worked in other states to establish an independent model of accountability and oversight in the form of an independent Office of the Child Advocate for New York.



The legislation itself had many ripple effects as others created or continued to reinforce their own iterations of oversight and accountability over themselves, while providing fierce opposition to the OCA legislation. This resistance to truly independent oversight and accountability has been what I view to be at the crux of what will continue to be serious unresolved issues and problems that detrimentally affect our children and youth.

It is good that Mayor Bloomberg and the New York City Council has taken a stand to not continue business as usual and to make major strides to reform our juvenile justice system, but we would like to bring attention to the fact that without truly independent oversight and accountability, many of the same problems will be with us for decades to come. There have been innumerable plans, testimonies, reports and changes made to address these problems, yet we have seen our systems fail our children over and over again. What has happened is that budgets, programs, and staffs have grown larger while services have diminished and lawsuits have increased resulting in exacerbating an already desperate budget crisis that faces our city and state.

Any kind of reform and change must be carefully researched and based upon reliable data and information, especially as it pertains to systems and short- and long-range cost analysis. Often, services are directly affected by resources and funding, which are vulnerable to fiscal exigencies, budget cuts, or other unexpected societal changes. We need to find proven and sustainable solutions by first establishing systemic changes that will address these issues and make our system accountable. Plans come and go, but the problem is always the same. How can we have a multi-billion dollar child industry that monitors itself?

Who is looking out for the best interests of the child? In a system as large and complex as New York City and State, we need many people who are doing that and are independent of this entangled system of child administration and supervision. Since budget seems to be the current driving force of the priorities

of our city and state, then perhaps we should consider the question of how much it would cost to provide services to a child once incarcerated or put in other forms of state care without independent monitoring and oversight vs. having an independent Office of the Child Advocate, which would make systemic changes that are cost-effective, sustainable, and in view of the best interests of the child. The cost to run an effective independent Office of the Child Advocate would be miniscule in comparison the costs associated with an inefficient and costly juvenile justice system.

The recent Department of Justice settlement with the Office of Children and Family Services as well as other lawsuits brought against the city over juvenile justice issues are only some examples of many other situations that may exist, but have not yet erupted into scandal or litigation.

To repeat what has been submitted in the materials provided at the last New York City Council public hearing on oversight held on December 15<sup>th</sup>, we take the position that children must come first, not special interests, not political agendas, not profit, and not budget constraints. Precisely at such times of fiscal crisis, systems of oversight, accountability, and transparency are more needed than ever and could save the state money. An OCA office would indeed help unify and streamline an overly large, unmanageable and fragmented system, and in so doing it will effectively serve children and youth in New York to better protect their human, civil, legal, and constitutional rights.

The Children's Studies Center policy research has shown that an independent Office of the Child Advocate has worked in many states that have experienced very similar problems to that of New York and it can also work here if it is implemented in a responsible manner and with adequate financial support.

Thank you for this opportunity to testify here today on behalf of the best interests of the children and youth of New York.

Testimony  
of

**Judge Michael A. Corriero (Ret.)**  
The New York Center for Juvenile Justice

Before

The New York City Council  
Committee on Juvenile Justice

Jointly with

The Committee on General Welfare

January 26, 2011

The term “the American Dream” was coined by the historian James Truslow Adams in 1931 and this is how he defined it:

“...It is not a dream of motor cars and high wages merely, but a dream of social order in which each man and each woman shall be able to attain to the fullest stature of which they are innately capable, and be recognized by others for what they are, regardless of the fortuitous circumstances of birth or position.”

My name is Michael Corriero. I am here to speak on behalf of the many children who are being denied an opportunity to participate in the American Dream because of poor choices made at a young age.

I am the Founder and Director of the New York Center for Juvenile Justice where, in collaboration with families, communities and diverse stakeholders in the Juvenile Justice System, we are promoting a model of justice for minors that treats children as children, and responds to their misconduct with strategies designed to improve their chances of becoming constructive members of society. I was a Judge for 28 years in the Criminal Courts of the State of New York. In the last 16 years of my tenure, I presided over Manhattan’s Youth Part, a court set aside within the adult court system to deal exclusively with the cases of 13, 14, and 15-year-olds who are charged with the most serious and violent crimes.

New York’s Juvenile Justice System is at a crossroads; some refer to it as a watershed moment, others a crisis. I prefer to view the situational context as a rare and valuable opportunity.

Efforts have already begun to improve the manner in which children are treated in the Juvenile/ Family Courts, and when they are in the custody of New York’s State’s Office of Children and Family Services.

In October, before his election as the governor of New York, Andrew Cuomo released an Urban Agenda which contained a plan to “Reform New York’s Broken Juvenile Justice system.” In this plan, the Governor acknowledged that our current Juvenile Justice system is failing. The plan calls for, among other reforms: the imprisonment of only those juveniles who are a risk to public safety, improvement of the conditions of confinement, and greater reliance on community-based programming.

New York City’s Juvenile Justice Plan includes proposals to give the City of New York the authority to operate juvenile justice facilities for placement of adjudicated juvenile delinquents and juvenile offenders from New York City; and to free up resources to fund local placement options, including these facilities, as well as community-based programs.

The Governor’s plan and the City’s plan are steps in the right direction but should be viewed in the context of an overarching strategy to transform Juvenile Justice in New York. Both encompass the general principles affirmed by Governor Patterson’s Taskforce on Transforming Juvenile Justice in New York, namely:

“...Institutionalizing young people should be the choice of absolute last resort, reserved only for those who pose such a serious threat that no other solution would protect public safety. For the small fraction of youth who do need to be placed in an institutional facility, the state should treat and rehabilitate them, not hurt and harden them. In all other cases, young people can be well served, and the public kept safe, by community-based supports and services that align with best practices in the field.”

Whatever differences exist between the City and State’s approach to Juvenile Justice Reform, they should be reconciled in a spirit of collaboration and

cooperation which moves us closer to attaining true systemic reform of our system, consistent with a model of Juvenile Justice that recognizes the true value of children in a democratic society.

In 2009, according to data provided by the New York State Division of Criminal Justice Services (DCJS), 46,129 children under eighteen years of age were prosecuted as adults in New York State's criminal justice system, 27,757 of these children were prosecuted in New York City's Adult Criminal Courts.

New York is one of only two states—North Carolina is the other—that draws the line for adulthood for criminal justice purposes at 16. Further, children as young as 13 may also be prosecuted as adults if accused of certain offenses defined by New York's Juvenile Offender Law. As a result, these children are not subject to the jurisdiction of the Family/Juvenile Court. They are statutorily deemed criminally responsible for their behavior as adults, their cases are adjudicated in Adult Criminal Courts, and they are subject to the same procedures and potential criminalization as adults. Moreover, they are denied the opportunity to participate in the array of social service programming available in the Family Court.

New York's procedure is incongruous with that of the overwhelming majority of states, as well as with current research demonstrating marked cognitive differences between adults and adolescents.

The societal and economic ramifications of prosecuting tens of thousands of children as adults must be scrutinized as part of any comprehensive Juvenile Justice Reform Agenda. If we are to adeptly confront juvenile crime in New York, we must productively intervene at the earliest opportunity in the lives of children who violate the law. This, in turn, requires a statewide shift in policy and legal practice from judging children as adults, to judging children as children.

Altering the policy of prosecution of minors is more than merely a matter of principle; it's about refining perceptions and, ultimately, values regarding the lives of New York's children. Increasing the age of criminal responsibility and opening the Family Court therapeutic services to all children under the age of 18 will essentially transform the culture of prosecution of minors from an intrinsically punitive approach to a rehabilitative-based model. This revision will have a complementary impact on the collateral consequences of juvenile misconduct by reducing unnecessary criminalization of many youth currently subject to adult court jurisdiction.

In sum, there cannot be true systemic reform of New York's Juvenile Justice System unless New York sets a fair, rational, and just age of criminal responsibility. This is a fundamental issue impacting, last year alone, a staggering 46,129 young New Yorkers (including 977 thirteen, fourteen, and fifteen year olds). 46,129 missed opportunities to intervene effectively—46,129 youth who could have benefited from developmentally sensitive alternative programs solely available in the family court.

We now have the opportunity to take an historic step to ensure that New York children are finally judged as children. It will not be easy, but if this is accomplished, I pledge to you that you will be supported by an insightful coalition of parents, community leaders, mental health specialists, students, and citizens who understand that treating children as adults in the criminal system is both profoundly wasteful, socially destructive, and in contradiction to what the American Dream is all about.



**Testimony at New York City Council Hearing  
Committee on Juvenile Justice  
Committee on General Welfare**

**January 26, 2011**

My name is Cynthia Armijo and I am the Executive Director of Boys Town New York. Our administrative offices are located at 444 Park Avenue South in Manhattan. We are an independent non profit organization, registered with the New York State Office of Charities. We are an affiliate site and one of 13 sites nationwide of Father Flanagan's Boys Home in Omaha, Nebraska founded in 1917.

Through our work with New York Administration for Children's Services, Boys Town Intervention and Assessment provides care for youth involved in the juvenile justice system by placing them in a safe environment, assessing their needs, creating a treatment plan, providing supervision and support so they can learn necessary skills. Our primary goal is the safety and well-being of these children. Nearly 500 youngsters, most ages 10 to 18, find help each year at our Dean Street and Bergen Street Intervention and Assessment Homes in Brooklyn, and our Richmond Hill facility in Queens. Youth are referred by the Family Courts from all five boroughs and stay for about 30 days, after which most are sent to placement or back home to their families.

We also provide private placement for the New York State Office of Children and Families Services at two group homes in Park Slope, Brooklyn to help youth achieve success in their families, at school and in the community. The youth live in a family style setting close to their home communities. So not only is the community kept safe but family participation in the young people's rehabilitation and therapy is high. We promote a sense of inclusion with the child and their parent or guardian within the community so that the family can again be restored intact.

An important element in our continuum of care is that Boys Town operates its own school that is part of the City Department of Education system. Youth start out at the Boys Town Passages Academy, but eventually transfer to what will be their home school before the placement ends, thus ensuring a better transition back to normalized life. This helps to ensure educational continuity, which is lost at upstate facilities, which are not Department of Ed schools and where students often do not receive credit for the school work that they do there.

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**Saving Children, Healing Families**



My message today is about New York City kids and the future we provide for them. In particular I am speaking about the kids who are in our courts and our juvenile justice system. Who are these kids? They sit next to you on the subway, they bag your groceries at the store, they go to school down the street from your house. These are our future citizens who will contribute in a meaningful way back to their communities when they become adults.

The message we want to send to them is that during a difficult time in their lives we understand the importance of family and community support. We understand that it takes time to learn new skills and that the best environment to promote positive change is in a home-like setting within their community. Some might say these are desperate times in America. Father Flanagan understood that in 1917, when the desperate times children faced then gave rise to his revolutionary concept that became Boys Town.

The Integrated Continuum of Care that we provide is a national model with evidence-based results. Boys Town developed its Integrated Continuum of Care as part of an ambitious, ongoing effort to expand the life-changing care we provide to children and families. The Continuum is unique to Boys Town and enables us to deliver the right treatment at the right time to troubled children and families who are edging toward crisis.

We support the proposal by Mayor Michael Bloomberg to reform the juvenile justice system, which calls for providing high-quality evidence-based services to youth involved in the juvenile justice system in New York City. The City has a demonstrated record of implementing programs that build on national models to promote public safety and reduce institutionalization.

I hope that the Council will join with the Mayor and let the Governor and Legislature know that it is time for juvenile justice reform. It is the right thing to do for our youth, our City and the State.



The New York Foundling  
Abandon No One

Testimony of Bill Baccaglino

Executive Director

The New York Foundling

Before the

New York City Council

General Welfare and Juvenile Justice Committees

Public Hearing on

*The Mayor's Proposal to Overhaul the New York State Juvenile Justice System*

January 26, 2011

Thank you Chair Palma, Chair Gonzalez and members of the General Welfare and Juvenile Justice Committees for this opportunity to testify in support of the Mayor's juvenile justice reform proposal. My name is Bill Baccaglioni. I am the Executive Director of the New York Foundling, one of the City's oldest and largest child welfare agencies.

Prior to joining the Foundling in 2003, I spent 21 years in various positions with the New York State Division for Youth (DFY) and its successor, The NYS Office of Children and Family Services (OCFS). I was Deputy Director of Program Development and Evaluation at the DFY from 1993 – 1998, and from 1998 – 2003, I was Director of Strategic Planning and Policy Development in the newly formed OCFS.

I have more than a passing interest in the State and City resolving their differences over a per-diem payment system that is limited on a good day and actually quite bizarre in an environment of under-utilization. My emphasis today will be on the substantive merits of the Mayor's reform proposal. It is critical that the per-diem issues be resolved; we are now at a point where approximately only 20% of the money the City pays to the State is related to the provision of care while the remainder supports administrative fixed costs.

Let me say this at the outset – the people I worked with at DFY and OCFS were among the smartest and most dedicated people you could imagine. They all wanted what was best for the youth remanded to their care. Yet, it was policy makers like me who failed them. The model of care we asked them to administer was, and always will be, fundamentally flawed.

There is simply little empirical support for placing adjudicated delinquents hundreds of miles from their homes in a residential program with other similarly situated adolescents. This is clearly borne out by no fewer than six recidivism studies that have been conducted over the last 25 years. All six studies showed that approximately 80% of those released from custody will be rearrested within three years.

The most remarkable feature of these studies is how consistent and stable the recidivism rates have been over time; strongly suggesting the problem is programmatic and is not based on the changing level of support or leadership. Through good times and bad, the system produced the same result! Think about it, it costs upwards of \$200,000 per year per bed for a system that has an 80% long-term failure rate.

For those who say just change the way facilities are currently organized and operated, I would say that at the end of the day, we are likely to be disappointed in the results such an undertaking is likely to produce. To be sure, more mental health service providers, teachers and child care staff are likely to improve outcomes for some kids, but overall probably only at the margins.

Improvements at the margins are the best you can do because you can't involve a youth's family directly in his rehabilitation when youth and family are separated by 200 miles of highway. With no practical way to engage the caregivers in the rehabilitative process, what has evolved over time is a juvenile system that, with its almost exclusive focus on the offender, looks more like adult corrections than one designed to treat and habilitate adolescents. The current structure simply does not permit any practical way to formally connect what happens in a facility

to what should happen upon release. For these reasons, facility care and aftercare, the extent to which it exists, are seen as two distinct episodes of care rather than existing on a single continuum of care.

We must examine our goals regarding the use of incarceration. If incarcerating kids to provide public safety is the goal, the evidence shows we have not succeeded – kids are returning and offending at a rate of 80%.

As Governor Cuomo said in his State of the State address, the incarceration of young people should not be justified simply to provide jobs – We are better than that!

Well, ladies and gentlemen, the first thing we could do to demonstrate that we are better than this is to support the Mayor's proposal. This proposal will create a system of care that views the youth in the context of the family and the family in the context of the community. It is one that engenders personal responsibility and accountability while at the same time recognizes that tomorrow can be brighter than today for these kids and their families.

Commissioner Carrion deserves a great deal of credit for recognizing the limitations of the state's system. She has worked assiduously to refocus our collective efforts on the community and reduce New York State's historical over-reliance on residential care. She has implored our judiciary to reserve residential placement for only the most dangerous offenders and has encouraged the use of evidence based practices. Unfortunately, because she will be unable to alter the actual structure of the State system, any real reform efforts must be locally organized and administered.

The plight of teens in the juvenile justice system has been overlooked for too long. You can't pick up newspapers without reading about this stuff. The City's proposal addresses our failings by keeping youth in or close to the communities where they will successfully retain their family bonds and re-integrate without repeat offenses. The communities will be safer and kids will have a better chance for a future.

For us in New York City the good news has begun. The city is well versed in testing alternative models. It has long embraced new approaches such as CASES, Esperanza, and Alternatives to Detention at organizations such as Center for Court Innovation and Center for Community Alternatives. In 2007 ACS jumped fully into the fray with the Juvenile Justice Initiative and the launching of its evidence based programming. ACS reached out to the developers of the models identified in a 1996 study by the University of Colorado at Boulder that identified specific treatments that reduce recidivism by an astounding 70%.

In the last four years, The New York Foundling successfully launched Blue Sky, which is the first juvenile justice program of its kind in the country and a part of ACS' Juvenile Justice Initiative. The Blue Sky project aims to improve clinical and cost-related outcomes for youth with serious antisocial behavior by developing a continuum of care that integrates three evidence-based treatments. Because the three treatment models differ in their levels of intensity, they can form an efficient continuum where services are titrated to clinical need. The focus isn't on

the individual adolescent but on the individual nested in the family and community context. Blue Sky models focus equally on the youth and caregiver creating a functional system without breaking family bonds.

Multidimensional Treatment Foster Care (MTFC), the most invasive model in the continuum, provides intensive and coordinated care while youths are in individualized foster placement for approximately 4.5 months. Multisystemic Therapy (MST) and Functional Family Therapy (FFT) provide intensive home-based services to youths who are at imminent risk of placement, but who can still be safely maintained in the home with program support. Blue Sky therapists provide 1-4 hours of home based services per week to youths and families. Our treatment procedures have resulted in extraordinarily high rates of participation and successful treatment completion for adolescents and families who historically don't benefit from traditional approaches.

Blue Sky serves a very high risk population comprised of 62% violent offenders, who four years ago would have been placed upstate for years, returned to their community and reoffended at astounding rates. About 80% of the Blue Sky families have prior child welfare involvement.

While in Blue Sky these high risk youth stay in their communities, and most stay in their homes through-out program involvement safely. Recent data collected by NYC would suggest that Blue Sky can do this with remarkable results. Blue Sky is maintaining a nearly 65% rate in preventing youth in the juvenile justice system from being removed from their homes. Remember folks, these are the kids who four years ago would have spent their adolescence in and out of upstate facilities. On average, intervention with Blue Sky costs the City approximately \$17,000, compared to \$228,000 annually to send a youth upstate.

The Foundling is preparing to launch a random assignment clinical trial to establish Blue Sky as a successful model to be replicated in other communities throughout the United States and abroad. Our success and the success of other providers in the New York City Area have laid the groundwork for our youth to be served safely in New York City.

There will always be some youth who are most appropriately detained for their own safety and the safety of the community. We already have strong residential treatment providers such as Jewish Child Care Association, Graham Windham and Children's Village, and others whose facilities are close to the city and actively engage families. If we continue to build on our success with evidence based programs we could better utilize our local facilities and place youth closer to home, where they could participate in an effective continuum of services. The



simple and commonsense fact is that local programming that actively engages families in the conduct of the youth's behavior is better in every regard.

I urge the City Council to go on record supporting the City's juvenile justice reform efforts. You have a large pool of strong executives – both public and private - with the knowledge and experience to lead this reform agenda. Give New York City the opportunity to protect its children's futures and Abandon No One.



The New York Foundling  
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Testimony of Bill Baccaglino

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Let me say this at the outset – the people I worked with at DFY and OCFS were among the smartest and most dedicated people you could imagine. They all wanted what was best for the youth remanded to their care. Yet, it was policy makers like me who failed them. The model of care we asked them to administer was, and always will be, fundamentally flawed.

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The most remarkable feature of these studies is how consistent and stable the recidivism rates have been over time; strongly suggesting the problem is programmatic and is not based on the changing level of support or leadership. Through good times and bad, the system produced the same result! Think about it, it costs upwards of \$200,000 per year per bed for a system that has an 80% long-term failure rate.

For those who say just change the way facilities are currently organized and operated, I would say that at the end of the day, we are likely to be disappointed in the results such an undertaking is likely to produce. To be sure, more mental health service providers, teachers and child care staff are likely to improve outcomes for some kids, but overall probably only at the margins.

Improvements at the margins are the best you can do because you can't involve a youth's family directly in his rehabilitation when youth and family are separated by 200 miles of highway. With no practical way to engage the caregivers in the rehabilitative process, what has evolved over time is a juvenile system that, with its almost exclusive focus on the offender, looks more like adult corrections than one designed to treat and habilitate adolescents. The current structure simply does not permit any practical way to formally connect what happens in a facility

to what should happen upon release. For these reasons, facility care and aftercare, the extent to which it exists, are seen as two distinct episodes of care rather than existing on a single continuum of care.

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Multidimensional Treatment Foster Care (MTFC), the most invasive model in the continuum, provides intensive and coordinated care while youths are in individualized foster placement for approximately 4.5 months. Multisystemic Therapy (MST) and Functional Family Therapy (FFT) provide intensive home-based services to youths who are at imminent risk of placement, but who can still be safely maintained in the home with program support. Blue Sky therapists provide 1-4 hours of home based services per week to youths and families. Our treatment procedures have resulted in extraordinarily high rates of participation and successful treatment completion for adolescents and families who historically don't benefit from traditional approaches.

Blue Sky serves a very high risk population comprised of 62% violent offenders, who four years ago would have been placed upstate for years, returned to their community and reoffended at astounding rates. About 80% of the Blue Sky families have prior child welfare involvement.

While in Blue Sky these high risk youth stay in their communities, and most stay in their homes through-out program involvement safely. Recent data collected by NYC would suggest that Blue Sky can do this with remarkable results. Blue Sky is maintaining a nearly 65% rate in preventing youth in the juvenile justice system from being removed from their homes. Remember folks, these are the kids who four years ago would have spent their adolescence in and out of upstate facilities. On average, intervention with Blue Sky costs the City approximately \$17,000, compared to \$228,000 annually to send a youth upstate.

The Foundling is preparing to launch a random assignment clinical trial to establish Blue Sky as a successful model to be replicated in other communities throughout the United States and abroad. Our success and the success of other providers in the New York City Area have laid the groundwork for our youth to be served safely in New York City.

There will always be some youth who are most appropriately detained for their own safety and the safety of the community. We already have strong residential treatment providers such as Jewish Child Care Association, Graham Windham and Children's Village, and others whose facilities are close to the city and actively engage families. If we continue to build on our success with evidence based programs we could better utilize our local facilities and place youth closer to home, where they could participate in an effective continuum of services. The



simple and commonsense fact is that local programming that actively engages families in the conduct of the youth's behavior is better in every regard.

I urge the City Council to go on record supporting the City's juvenile justice reform efforts. You have a large pool of strong executives – both public and private - with the knowledge and experience to lead this reform agenda. Give New York City the opportunity to protect its children's futures and Abandon No One.

Oversight Hearing:  
The Mayor's Proposal to Overhaul the New York State Juvenile  
Justice System  
The Correctional Association of New York

Juvenile Justice Project  
City Council Testimony, January 26, 2011

The fact that children currently in the custody of New York State are often placed very far from their families and homes is a significant problem and one that must be expeditiously addressed. The underlying principle of ensuring that children are placed in or very close to their home communities is one that I and many advocates have long supported. To be successful and sustainable, the following policy recommendations should be enacted by the city.

- 1- **The city should engage in a deliberative and publicly transparent planning process that meaningfully engages young people, their families, community members and advocates.**
- 2- **The city should create a legally enforceable and robust mechanism for independent external oversight.**
- 3- **The city should develop and publicly present a specific plan to address issues of racial disparities throughout the juvenile justice system including in those agencies already under City control.**
- 4- **The city should release to the public its projections regarding where any new residential facilities will be built including whether they plan to repurpose the Bridges Detention Center (Spofford) as a placement facility.**
- 5- **The city should create specific and legally enforceable mechanisms to ensure that the controlling agency(ies) cannot operate the juvenile justice system unilaterally or behind closed doors.**
- 6- **The city should provide additional details enumerating how, were local control to be effectuated, the controlling agency(ies) would divert less young people into residential facilities in a long-term and sustainable way.**
- 7- **The city should develop specific and legally enforceable plans for the reinvestment of cost savings into delinquency prevention, alternatives to detention and incarceration programs and into those communities most impacted by juvenile justice.**
- 8- **The city should develop a detailed plan analyzing and addressing the impact of local control on a statewide level.**
- 9- **The city's proposal should include specific and legally enforceable provisions to ensure that juvenile justice services and, in particular, placement facilities are not run by for-profit entities.**

- 10- The city's plan should be fully transparent to this Council, the State and the public including about a- true system costs and b- the contracts the controlling agency would enter into with private agencies including the non-profit "voluntary" agencies that are currently engaged in the juvenile justice system.**

In offering a proposal for reform, the Mayor has addressed an important issue, that of the long distance between many children in residential placements and their families and communities. The Mayor has also expressed support for increasing the continuum of alternative to detention and incarceration programs; this is also an important issue. The Mayor's proposal is not, however, a silver bullet and many substantial questions remain unanswered by the city. The city has promoted this proposal and is seeking the support of legislators, policy-makers, the public and other stakeholders prior to providing crucial details about their plans for the design, implementation and operation of the system.

The city should specifically address the following points/implement the following ten policy recommendations:

- 1- The city should engage in a deliberative and publicly transparent planning process that meaningfully engages young people, their families, community members and advocates.**

The Mayor has yet to publicly articulate an actual plan for local control. There are many significant issues that remain unanswered including but not limited to: which agency or agencies would operate the system; where those children in residential facilities would be housed; which agencies or organizations would run any new residential facilities; which agencies or organizations would run the alternative to incarceration programs; how precisely the city would realize their projected cost savings and whether any of those savings would be re-invested in the juvenile justice system and/or those communities most impacted by juvenile justice issues; and how, if at all, the city plans to address persistent issues of disproportionate minority representation in the juvenile justice system, including in contacts with those agencies and departments already under city control. Neither the Mayor nor any relevant city agency has yet, to the best of my knowledge, released an actual plan for assuming local control of the juvenile justice system. In order for the members of the City Council and other policy and lawmakers to meaningfully and accurately assess the city's proposal, far more details need to be articulated and publicly released. It is worth noting that other jurisdictions that have engaged in a transfer of authority from the state to localities have engaged in a lengthy and substantive planning process and that the transfer of authority has generally been at the request of the state. For example, in Wayne County, Michigan- a model the city has pointed to as an example for its proposal- the state of Michigan and Wayne County engaged in an on-going planning process that spanned many years-and the transfer of authority from the state to the county was initiated by the state.

In addition, many advocates working on juvenile justice issues are concerned that the current planning process, including the staffing and operation of the city's creation of

the New York City Dispositional Reform Committee (the city-run committee working on this issue), does not involve any members of the advocacy community outside of the defense bar nor does it include members of communities most impacted by the juvenile justice system, such as young people, members of their families or concerned community members. In addition, the city has yet to articulate a concrete plan to substantially engage youth, families, communities and juvenile justice advocates in any other aspect of the development and operation of any city-operated system.

As we have seen highlighted in the many issues arising from Mayoral control of the educational system, it is crucial that any city-operated system, particularly one that directly impacts children and families, include substantial and meaningful opportunities for public participation. As the Mayor's plan involves building a network of facilities across New York City, it is vital to ensure that members of all impacted communities are empowered to serve in decision-making roles at every step of the way. Communities are, after all, the place where the young people in the system come from and the place where those who are incarcerated will return after their release. In order for reform efforts to succeed and to transcend any particular agency or government head, they must be rooted in and supported by communities. It should be noted that the request for meaningful community participation transcends the mere existence of community councils, boards and/or hearings. In addition, the possibility of inviting a single member of a community to sit on a given committee or to speak at an event would similarly not fulfill the mandates of meaningful community participation.

The city should study the best practices of those jurisdictions and localities that are meaningfully engaged in communities. These city should draw on these best practices and on the knowledge of young people, their families, advocates, community members and community groups to develop a specific plan centered on principles and practices of community engagement. This plan should be made available to the City Council and other policy and Lawmakers as well as to the general public. Opportunities for public comment should be offered and the response of community members and other interested parties should be taken into account as revisions are made.

**2- The city should create a legally enforceable and robust mechanism for independent external oversight.**

The Mayor's proposal currently lacks any mechanism for independent external oversight. In a closed system and in particular for residential facilities for children, there is a serious need for independent external oversight. Children in detention and incarceration facilities are especially vulnerable. It is dangerous and irresponsible to suppose that an agency that in most cases forcibly removes--and by design, isolates from the general public--children does not need oversight. Governor Paterson's Task Force on Transforming Juvenile Justice key recommendations included the need to "(e)stablish and fund an independent, external oversight body to monitor and report on OCFS's juvenile justice policies and practices."<sup>1</sup> The Task Force was charged with looking at the state-

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<sup>1</sup> See *Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State*, A Report of Governor Paterson's Task Force on Transforming Juvenile Justice, December 2009, available at: <http://www.vera.org/project/governor-paterson-task-force>.

system; their analysis and conclusions regarding the need for an independent, oversight body are applicable to a city-run system as well.

Advocates including representatives of the Children's Defense Fund New York, The Institute for Juvenile Justice Reform, a project of the Center for NuLeadership, the Correctional Association of New York and other advocacy groups have met with City officials and urged the City to adopt a model of oversight premised upon monitoring and inspection. Instead of presuming wrongdoing, this is a preventive model that creates a proactive mechanism that ensures quality services and objective evaluation through regular facility inspections the consistent review of policies, programs, and services, and regular reporting.<sup>2</sup>

Robust oversight can play a role in improving conditions of confinement as well as facilitating systemic change. Effective and consistent monitoring and inspection empowers an agency to immediately address problems as they arise. This process can also help to highlight the good work that is being done in institutions and to ensure its sustainability. Independent oversight can also play a strong role in securing public accountability for systems of confinement. Publicly funded institutions need effective management -- guided by strong oversight -- in order to help ensure the well-being of the broader public in the long-term.

Studies that have evaluated the effectiveness of such oversight agencies have identified key principles for effectiveness. According to these studies, the overseeing entity must be:

- 1) Independent. To be specific, this means that it is not located within the agency it oversees and that it operates from a separate budget. The head of the agency should be allotted an appointment that outlives the term of the relevant executive, and this person should only be removed for cause.
- 2) Statutorily guaranteed the right to conduct unannounced and unfettered visits. These visits should include the ability to have confidential conversations with youth in the facilities and programs.
- 3) Granted the power to subpoena witnesses and documents and have the power to file suit against the controlling agency.
- 4) Assigned the power and duty to report its findings to the executive, legislative, and judicial branches, and also to the public.
- 5) Allocated adequate funding and appropriate staffing levels necessary for effectiveness. Many oversight agencies have increased the breadth of the

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<sup>2</sup> This section of testimony on independent oversight and monitoring draws heavily from a one-page memorandum that this group wrote and distributed to Department of Probation Commissioner Vinny Schiraldi, and, in slightly revised forms, to ACS Commissioner John Mattingly, Executive Deputy Commissioner Larry Busching, and the State Strategic Plan Steering Committee (of which I am a member). This memorandum was signed by Community Connections for Youth, the Correctional Association of New York, the Children's Defense Fund New York, the Institute for Juvenile Justice Reform and Advocacy and a project of the Center for NuLeadership. Riverside Church Prison Ministry later joined as a signatory.

knowledge and capabilities by including medical professionals and social workers in leadership positions within their agencies.

- 6) Guided by a strong rubric for what constitutes a healthy institution, which could include the need to ensure the safety of residents and staff, a recognition and respect for the dignity of the residents and staff, opportunities for purposeful activity, and preparation for return to the community.

The city should design and implement a mechanism for independent external oversight and monitoring consistent with these proven best practices.

Additionally, were the city to gain control of the juvenile justice system for New York City's young people, it should devise a "scorecard" system with clear and coherent standards for the voluntary agencies that will manage the care of the young people, akin to the scorecard system used by the city's Administration for Children's Services. Such a scorecard system should be available to Judges, defense attorneys, corporation counsel, children, families and the public. The scorecard system should be based on a clear rubric focusing on the safety, well-being, and health of children and staff in the facilities and should be tied in to standards developed through the DOJ settlement, especially with regard to the use of physical restraints and the provision of mental health care.

**3- The city should develop and publicly present a specific plan to address issues of racial disparities throughout the juvenile justice system including in those agencies already under City control.**

Although the police and prosecutorial agencies as well as the Department of Probation and Division of Youth and Family Justice are currently under city control, extreme racial and ethnic disparities exist and persist; the city's proposal fails to address this issue.

According to the 3-year comprehensive plan issued by the New York State Juvenile Justice Advisory Group ("JJAG") and DCJS: While African-American youth represented 18.5% of New York State's juvenile population, they accounted for 38.5% of juvenile arrests, 64.0% of juvenile secure detentions and 55.6% of secure juvenile corrections. A Relative Rate Index (RRI) comparison with white juveniles statewide shows that African-American youth were arrested 2.79 times more often, securely detained 6.79 times more often, and confined in secure juvenile correctional facilities 4.48 times more often. A Relative Rate Index (RRI) comparison with White juveniles statewide shows that Hispanic youth were arrested 1.26 times more often, securely detained 5.40 times more often, and confined in secure juvenile correctional facilities 4.54 times more often than white youth.

Racial disproportionality is endemic to New York City's current police, prosecutorial, detention and placement practices. As this body knows, since 2001, the New York Police Department (NYPD) has been required pursuant to Criminal Procedure Law § 140.50 to disclose to the City Council statistics on the number and race of the individual stopped by the Department. In the period between 2005 and the fall of 2010, the NYPD stopped approximately two and a half million people. "Of that group, 90%

were people of color and nine out of 10 persons stopped were released without any further legal action taken against them.<sup>3</sup>

Racial and ethnic disparities exist also in the type of stops used by the NYPD, including the level of force employed. Data analysis done by the Center for Constitutional Rights found that “officers frisked more people in 2009 than a year earlier but that the rate of frisks for blacks and Latinos was much higher than it was for whites. It found that the police used force in 24 percent of stops — drawing a weapon, say, or throwing people to the ground. The police used force in 19 percent of the stops involving whites but in 27 percent of stops against Latinos and in 25 percent of those involving blacks.<sup>4</sup>”

Additionally, African-American and Latino youth comprise 95% of the youth entering New York City-operated detention facilities.<sup>5</sup> White youth comprise 4% of detainees, while they comprise 26% of all children in New York City.<sup>6</sup>

In addition, New York City has historically failed to report additional police data that might shed light on police patterns and practices. For example, it is our understanding that the New York Police Department has failed since approximately 2001 to report its Uniform Crime Reports to the New York State Division of Criminal Justice Services.<sup>7</sup>

The city’s failure to share significant portions of NYPD data has inhibited the ability of elected officials including this body, advocates, the media and the public to clearly and fully assess the behavior, patterns and practices of the NYPD. It has also inhibited the opportunities for cross-agency tracking and data analysis and some types of meaningful comparisons between New York City and other jurisdictions. The city should, as part of its proposal, publicly commit to these three measures:

- 1- significantly increased data sharing and increased public transparency of NYPD data, including data related to the racial and ethnic representation of individuals who come into contact with the Department.
- 2- specific mechanisms for increased data sharing and for increased public transparency of aggregated data related to racial and ethnic representation in the juvenile justice system. This data should be compiled from across the system including from the offices of the Corporation Counsel, the Department of Probation, the Division of Youth and Family Justice, the Administration for Children’s Services, the Office of Mental Health and other relevant city agencies.
- 3- The city should explicitly address in its proposal the issues of policing, prosecution and juvenile justice decision-making that underlie the juvenile justice system’s disproportionate impact on children of color and should

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<sup>3</sup> Judge Barry Kamins, *New Criminal Justice Legislation*, NYSBA Journal, November/December 2010. Judge Kamins is Administrative Judge for Criminal Matters for the 2d Judicial District.

<sup>4</sup> Al Baker, *New York Minorities More Likely to be Frisked*, N.Y. Times, May 13, 2010, at A1.

<sup>5</sup> NYC Department of Juvenile Justice (now the Administration for Children’s Services Division of Youth and Family Justice), 2009.

<sup>6</sup> *Ibid.*

<sup>7</sup> <http://criminaljustice.state.ny.us/crimnet/ojsa/crimreporting/index.htm>, last accessed January 25, 2011.



formulate clear, measurable and legally enforceable mechanisms for addressing this disproportionality.

In its recently released Strategic Plan, the Division for Youth and Family Justice (DYFJ) has articulated that its “primary method for addressing DMC will be to better target the use of detention rates and reducing length of stay for all youth.” While reducing the use of detention and the average length of stay is an important step (and ones appropriately within the DYFJ’s purview), it in no way fully addresses issues of DMC at every decision making point in the juvenile justice system and, in particular, at the system entry point. Were this to be the city’s primary mechanism for decreasing DMC, the result would not be a significant reduction in disproportionate contact by children of color. Instead, the result would be that children of color would remain disproportionately represented in the system and, in particular, at the “deeper” ends of the system although the less children of color would be detained and those that were detained would remain in facilities for shorter periods of time.

The city should develop comprehensive and inter-agency (including but not limited to the NYPD, Corporation Counsel, the Department of Probation, the Office of Mental Health, and the Administration for Children’s Services) legally enforceable mechanisms for addressing racial and ethnic disproportionality at every point in the system, including initial entry.

**4- The city should release to the public its projections regarding where any new residential facilities will be built including whether they plan to repurpose the Bridges Detention Center (Spofford) as a placement facility.**

In its “Juvenile Justice Realignment Roadmap,” the City has articulated its desire “to take over all secure placements by opening new local facilities with a proven program model and aftercare services” by July of 2012, approximately 1.5 years from now. The city has not publicly stated where it plans to build any such facilities. In particular, many advocates are concerned that the city’s plans to repurpose the Bridges Detention Center, previously and alternately known as Spofford, as a secure placement facility. The United to Close Spofford Campaign comprised of community members and advocates have been working to close Bridges and to ensure that it is never again used as a jail or prison.

Closing Bridges would mean keeping an old promise: in the 1990s, New York City promised to close Spofford once the city’s juvenile detention centers were built. Community residents were told the building would be turned into a community center of youth recreation facility. Spofford was closed for a mere six months. The city reopened the building, renamed it Bridges and failed to deliver the Hunt’s Points community with a community-based space or services. Bridges is now owned by the Administration for Children’s Services (ACS). ACS has repeatedly announced its intention to close Bridges although a string of potential closure dates have been postponed. ACS has yet to announce its plans for the site post-closure (should the facility actually close) and there is reason to believe that, should Bridges be closed, the city is contemplating repurposing the

site for a secure youth facility. It is time for New York City to keep its promises to the under-resourced residents of the Bronx to close Bridges, invest in programs that help the community, and publicly commit to never again using the Bridges land as a jail or prison.

**5- The city should create specific and legally enforceable mechanisms to ensure that the controlling agency(ies) cannot operate the juvenile justice system unilaterally or behind closed doors.**

The city's proposal does not include any provisions for built-in checks and balances. There is a need for an on-going and durable provision to ensure that the agency or agencies that would ultimately control New York City's juvenile justice system cannot operate unilaterally or behind closed doors. As with the operation of any government agency, there is a need for substantive oversight<sup>8</sup> by a regulatory body or agency as well as for public transparency. The city has not articulated what its relationship with New York State would be were it to gain control of the system. The city should issue a detailed plan including a discussion of the role New York State and any other relevant bodies would play with regard to oversight and transparency. For example, will the licensing of residential programs become a city function? What, if any, additional oversight functions will New York State play? What, if any, requirements will there be for the city to publicly report on youth outcomes in its system? If there are any such requirements, who will determine which outcome measures the city must collect and report on? These are only a small number of the many unanswered questions. Moving forward, the city should develop and make available to this body and to the general public a detailed proposal addressing how it will ensure on-going transparency, how it will create and maintain sufficient systemic checks and balances and what its proposed relationship to New York State will look like.

**6- The city should provide additional details enumerating how, were local control to be effectuated, the controlling agency(ies) would divert less young people into residential facilities in a long-term and sustainable way.**

The Mayor has spoken publicly about how the state system does not work and how many young people who pose little to no threat to community safety are needlessly sent to upstate OCFS facilities. This analysis does not fully account for the fact that many of the stakeholders responsible, at least partially, for the placement of young people in OCFS facilities are currently under the city's control. In the status quo, the New York Police Department, the Probation Department and the Corporation Counsel all have the power, at various decision points, to divert young people from prosecution. These agencies also have the power, at various decision points, to divert young people from pre-trial detention; it is important to note that pre-trial detention seems to be directly correlated to a young person's chance of residential placement into the state system at a later point in the trajectory of their legal case.

In addition, a judge's decision to place a young person into state custody is greatly influenced by the position taken by the city's Department of Probation in that

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<sup>8</sup> This oversight mechanism is distinct from that previously articulated with regard to the oversight and monitoring of residential facilities.

young person's case. The city's Department of Probation prepares the "Investigation and Report," including a recommendation for disposition. Judges making dispositional decisions generally heavily rely upon this report, along with the recommendation of the city's Corporation Counsel and, in some cases, the recommendation of the city's Office of Mental Health.

The city has made laudable efforts in recent years to reduce detention and placement levels and their progress in these areas is important and should be noted. The city's creation and use of programs such as Esperanza and the Juvenile Justice Initiative and the creation of the Department of Probation's "Detention Reform Plan" are important steps to reducing unnecessary and harmful detention and incarceration for a significant number of children. Much, however, remains to be done and any city plan for juvenile justice reform should include specific and enforceable provisions for how the city will continue to appropriately and sustainably reduce detention and incarceration rates, particularly for those young people deemed "low" and "medium" risk. Although, again, this is one area where the city has made progress, it is important for this body to pro-actively ensure that the city's proposal does not morph, perhaps sometime down the line when new agency leaders or administrators are in place or sometime after one or more high-profile juvenile crimes, into a plan that simply shifts the location of incarcerated youth from upstate to the city.

In addition, the city should specifically outline to this body and to other policy and law makers as well as to the public the ways it is engaging and/or will engage the New York Police Department, Corporation Counsel, the defense bar and the judiciary in the development and implementation of their reform plan.

There is also a need to ensure that juvenile offenders--those 13, 14 and 15 year olds charged as adults due to the severity of the offense they allegedly committed--are pro-actively accounted for in the city's proposal. The city and this body should investigate the legal and/or policy shifts that would be required in order to include juvenile offenders in the city's reform proposal and to ensure that juvenile offenders receive the same protections and range and quality of services as juvenile delinquents. All too often, juvenile offenders are an afterthought to reform efforts and their needs, which are often quite serious, are not adequately addressed. Juvenile offenders young people comprise a small fraction of the young people in the system (approximately 5%) but a significant portion of the young people in detention (approximately 25%). Juvenile offenders may also have serious mental health, educational and other needs including, for some young people, the need for sex offender and other forms of intensive treatment.

As with other aspects of their proposal, the city has not yet provided details as to how they would provide services to juvenile offenders. It is important to note that, in New York State, juvenile offense cases are heard in criminal court and juvenile delinquency cases are heard in Family Court and there are significant differences in the legal practices, funding streams and service providers who work with these two populations. Juvenile offenders should be included in reform efforts and explicit, careful, specific attention should be paid to their inclusion.

- 7- The city should develop specific and legally enforceable plans for the reinvestment of cost savings into delinquency prevention, alternatives to**

**detention and incarceration programs and into those communities most impacted by juvenile justice.**

The realization of cost-savings is not sufficient to bring about improved long-term outcomes for youth and for public safety. Significant and sustainable reform of the juvenile justice depends on the creation of durable funding streams for: early childhood programs such as high-quality early education programs and child abuse and neglect prevention that have been shown to have an inverse correlation to later delinquency; targeted and evidence informed delinquency prevention programs for older children; alternatives to detention and incarceration and programs; and services for those communities most impacted by juvenile justice.

The Mayor's proposal has thus far focused on the savings to New York City were the city to gain control of the juvenile justice system; the proposal has not outlined what, if any, mechanisms, the city would create to ensure a durable funding stream for alternative programs and to recapture costs savings and redirect them to the juvenile justice system and to the children most impacted by the system and most at-risk of system involvement. Such mechanisms should be a clearly defined and legally enforceable<sup>9</sup> part of the city's plans moving forward.

**8- The city should develop a detailed plan analyzing and addressing the impact of local control on a statewide level.**

It is crucial that the Mayor's proposal be analyzed by this body in light of its statewide impact. There are currently approximately 648 young people placed in OCFS-operated facilities. Approximately 349 of these young people are from New York City, the remaining 299 young people are from the rest of New York State. It is important to note that the aforementioned 648 young people represent approximately 40% of the young people in out of home juvenile justice placements; the remaining 60% are placed through contracts with non-profit providers.

There is a real and serious concern that pulling all of the city's young people out of the state system will harm children, communities and counties outside of the city. Under current New York State law, no juvenile justice facility can be defunded and closed absent a one year waiting period. In addition, under the current state formula--which is the subject of a pending lawsuit by New York City against New York State--the total cost of operating the juvenile justice system is split 50/50 between the state and counties including the New York City.

The city has indicated its intent to support legislation to reduce the aforementioned one-year notice rule. This is a positive and important step. Were the city to stop sending young people to state-operated placements, the state's inability to expeditiously close underused or empty juvenile justice facilities would have an even more extreme impact on counties outside of New York City than it currently does. The city must do more to ensure that the children of other counties and their families and communities are not significantly harmed by its proposal. The city should pro-actively and comprehensively work with other counties and with New York State to ensure that its

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<sup>9</sup> Other jurisdictions have successfully created "fiscal realignment" strategies to recapture cost savings and redirect resources into delinquency prevention and into alternative programs.

proposal does not have adverse consequences for children and communities elsewhere; as stated in the beginning of this testimony, the city has thus far failed to engage in a thorough planning process with a diverse group of stakeholders. A broader process that includes members of upstate communities and agencies is necessary to ensure the safety and well being not only of the city's youth and communities but also those of children and communities throughout New York State.

**9- The city's proposal should include specific and legally enforceable provisions to ensure that juvenile justice services and, in particular, placement facilities are not run by for-profit entities.**

The city has not yet released any written plan outlining which agencies would serve its young people in community based programs and which agencies would operate residential facilities so it is a challenge to comprehensively respond to this area of their proposal. Although the city has not articulated a plan to contract with for-profit providers, given the increased movement across the country to do so, there is a real need to proactively legally limit this possibility. For-profit corporations are driven by a profit motive that can directly trade-off with successful outcomes for youth; a focus on profit has direct implications for the level and quality of programs and services for youth that an organization needs to provide. Horrible and abusive treatment of youth has systemically occurred in jurisdictions that have allowed for-private juvenile justice facilities. For example, the Southern Poverty Law Center, American Civil Liberties Union (ACLU) and Jackson, and a civil rights attorney recently filed a federal lawsuit on behalf of children residing in Mississippi's Walnut Grove Correctional Facility (WGYCF). A private company, Geo Group, Inc., the nation's second largest private prison company, operates WGCYF. The Geo Group, Inc. states that they "offer our clients high-quality, cost-effective services with state-of-the-art designs, innovative programs and ground-breaking treatment approaches" and that "GEO understands the vital role of quality control within a correctional setting; and works diligently in order to maintain the highest level of compliance. GEO's Quality Control Plan (QCP) is designed specifically for each facility in order to identify deficiencies in the quality of services throughout the entire scope of the contract and implement corrective action before the level of performance becomes unsatisfactory."<sup>10</sup> Despite these assurances, the lawsuit "describes a facility well known for its culture of violence and corruption –a culture that is perpetuated by WGYCF's incompetent management. Some prison staff exploit youth by selling drugs inside the facility. Other staff members abuse their power by engaging in sexual relationships with the youth in their care. Many youth have suffered serious and permanent physical injuries as a result of the WGYCF's deficient security policies and violent staff members. Youth who are handcuffed and defenseless are kicked, punched and beaten all over their bodies. Youth secure in their cells are blinded with chemical restraints... According to the lawsuit, as a result of the unlawful conditions at WGYCF, youth suffer serious harm that can result in life threatening injuries. One young man was tied to his bunk for almost 24 hours, brutally raped and sexually assaulted after prison staff failed to heed his pleas for protection. Other youth suffered multiple stabbings and

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<sup>10</sup> <http://www.thegeogroupinc.com/>, last accessed 1/25/2011.

beatings—including one youth who will live with permanent brain damage as a result of an attack in which prison staff were entirely complicit.<sup>11</sup>”

Although the city has not indicated that it plans to contract with for-profit providers, an agreement to that end should be written and legally enforceable. This will ensure that such harmful for-profit facilities do not become a reality in New York City, including under future agency and government officials who may have different plans than the current administration.

**10- The city’s plan should be fully transparent to this Council, the State and the public including about a- true system costs and b- the contracts the controlling agency would enter into with private agencies including the non-profit “voluntary” agencies that are currently engaged in the juvenile justice system.**

**a- the need for the proposal and any subsequent plans to be fully transparent to this Council, the State and the public including about true system costs**

The city has yet to publicly disclose an accurate and detailed cost comparison of its potential system and that of New York State. The Mayor and other city officials have been quoted in the press as comparing \$5,000 to \$17,000 for community based alternative program and approximately \$220,000 for an OCFS placement.<sup>12</sup> This is, at best, an oversimplification and at worst, a distortion of reality. Alternative community based programs costing approximately \$5,000 to \$17,000 per child exist in the status quo absent city control of the juvenile justice system. The City itself is currently operating programs such as *Esperanza* and the *Juvenile Justice Initiative* (JJI). The city may be able to use cost-savings from reducing state placements to increase the number and type of community based programs and the range and quality of services offered by these programs, thus increasing the confidence of judges and other stakeholders in their outcomes. This would be a positive outcome and that possibility should be accounted for. At the same time, a full comparison between community based programs and state placements is a more complex one. As stated previously in this testimony, the reason children are placed in state custody at, according to an average cost of approximately \$265,000 a year is because they are ordered by judges to be there- very often at the strong recommendation of the city’s prosecutors and the city’s Department of Probation. The Mayor’s proposal does not specifically indicate how the city will work with judges to ensure that a significant number of those children currently being sent to costly state

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<sup>11</sup> <http://www.splcenter.org/get-informed/news/federal-lawsuit-reveals-inhumane-conditions-at-for-profit-youth-prison>, last accessed 1/25/2011.

<sup>12</sup> See for example, Bob Hennessey, *City Wants More Control Over Juvenile Justice*, WNYC, December 21, 2010. <http://www.wnyc.org/articles/wnyc-news/2010/dec/21/city-wants-more-control-over-juvenile-justice/>, last accessed 1/26/2011; Samuel Goldsmith, *Bloomberg Wants Control of City’s Expensive, Ineffectual Juvenile Justice System*, Daily News, 12/21/2010. [http://www.nydailynews.com/ny\\_local/2010/12/21/2010-12-21\\_bloomberg\\_wants\\_control\\_of\\_citys\\_expensive\\_ineffectual\\_juvenile\\_justice\\_system\\_.html](http://www.nydailynews.com/ny_local/2010/12/21/2010-12-21_bloomberg_wants_control_of_citys_expensive_ineffectual_juvenile_justice_system_.html), last accessed 1/26/2011.

facilities will, in the new city-run system, be placed into community based alternative programs. The city has also failed to provide a realistic comparison of the projected cost to the city of operating its own secure placement facilities (as the city has indicated they plan to do by July of 2012) and the state's current facilities. In its "Juvenile Justice Realignment Roadmap," the city does clearly state that the "annual cost of community-based non-residential programs ranges from \$5,000 to \$18,000." The city also stated that the "state would continue to provide a 50% match to the city for residential services." The city does not, however, project the cost of operating its own secure facilities. The cost to the city of operating a secure facility within its borders will almost certainly exceed \$5,000 to \$17,000 a child and to use that figure as a comparison point is misleading; as a more accurate comparison point, according to the Mayor's Management Report for FY 2009, the average annual detention cost for one bed in city-run secure detention facilities in FY 2009 was \$226,320.<sup>13</sup>

Also in its Juvenile Justice Realignment Roadmap, the city states that the State Legislature should enact legislation to "(a)llow more expeditious closing of state-run facilities to generate the savings required to fund the realigned system envisioned in this memorandum." The city does not articulate how they will recapture savings, many of which will occur at the state level, particularly if the state were also to enact rate reform, and ensure that they are redirected to fund realignment.

It is important to note that this point is raised as a means of calling attention to the fact that a more thorough, transparent and accurate cost comparison should be offered to policy-makers and the public. This cost comparison should also include a realistic assessment of the costs related to building new programs and facilities.

The position of many advocates, including myself, is that while cost effectiveness may be a necessary factor for this body and other policy-makers to consider, the design and delivery of juvenile justice services, programs and systems must ensure, above all else, that youth, communities and the general public are safe, that the well-being of youth is promoted, that the system itself does not further engender delinquency or crime, and that young people's chances for rehabilitation--if rehabilitation is necessary--and for durable success are the foundation of decision-making. It is also important to note that generating better outcomes for youth and increasing public safety is not necessarily cheaper, particularly in the short-term, although it may be more cost-effective. There will be a real need, if the system is redesigned as a city one and new services are developed and new facilities built, for a significant outlay of money. Although some, perhaps even a lot, of this money may be recaptured in the long-term through cost-savings, it is critical to youth success that the desire to save money is not the engine driving the train and not the main center-point of analysis.

Also, it has long been the position of the Correctional Association and other advocates that increasing the continuum of alternative based programs is a necessary part of juvenile justice reform and that alternative based programs generally produce better outcomes for youth, better safety outcomes for communities and are more cost-effective. The City's focus on building more alternative based community programs is a good one

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<sup>13</sup> Mayor's Management Report, Fiscal Year 2009, p. 144. The annual cost of secure detention is based on a *per diem* cost of \$620.

and should be supported; the point of this policy recommendation is simply to encourage more precise and accurate fiscal comparisons to inform policy-makers and the public as they analyze the Mayor's proposal and to ensure that hidden costs do not later derail reform efforts. It would be detrimental for young people and communities were, for example, the city to gain local control and were there to then be an unwillingness (on behalf of the city, other lawmakers, the public) to spend the significant amount of money required to design and build new secure facilities in New York State consistent with nationally recognized best practice models such as the Missouri Model.

**b- the contracts the controlling agency would enter into with private agencies including the non-profit 'voluntary' agencies that the juvenile justice system currently contracts with**

The provision of juvenile justice services is a multi-million dollar and ultimately multi-billion dollar industry. The city's contract process, including for all non-profit providers should: be transparent; include opportunities for competitive bidding by smaller community-based programs; should be based on clearly defined measures collaboratively designed by a range of stakeholders including community members and advocates; should include a meaningful opportunity for public and community input prior to the award of contracts; and should include a mechanism for the regular and robust reporting of data related to the contract awards.

**Conclusion**

True meaningful reform of the juvenile justice system must be planned with detailed care and thought. Youth, families, and communities are critical stakeholders who must hold a meaningful place in the planning and implementation of such a system. Plans for independent oversight and monitoring and community engagement should be explicitly written into the city's proposal and should be legally enforceable. There is an opportunity at this dynamic moment of reform to address some of the issues of policing and prosecution that underlie some of the root problems with the juvenile justice system, including its disproportionate impact on children of color. Plans to address these issues should be clearly articulated as part of the city's plan moving forward and should be legally enforceable. Furthermore the city's plan must include specific and legally enforceable plans for the reinvestment of cost savings into alternatives to detention and incarceration and into those communities most impacted by juvenile justice. Above all it is critical that no individual or agency be allowed to run a juvenile justice system behind closed doors and absent community transparency and engagement. The city's plans should include detailed and legally enforceable mechanisms for continued community engagement, comprehensive public transparency and collaboration with a diverse range of stakeholders including from those communities most impacted by juvenile justice.



**Testimony**

**Gertrud Lenzer, Director, Children's Studies Center for Research, Policy and Public Service, Brooklyn College, The City University of New York  
"Oversight: The Mayor's Proposal to Overhaul the New York State Juvenile Justice System"**

**City Council Committees on General Welfare and Juvenile Justice  
January 26, 2011 – 10 am**

Good morning Chair Palma, Chair Gonzales, and members of the Committees on General Welfare and Juvenile Justice. I am Gertrud Lenzer, Professor of Children's Studies and Sociology, and Director of the interdisciplinary Children's Studies Program and Center for Research, Policy and Public Service. May I state, however, that I am testifying here in my own capacity as a bi-partisan policy researcher and in no way intend to convey to you that my testimony represents the official position of Brooklyn College and The City University of New York. Thank you for giving me the opportunity to speak about the need for oversight in the New York State Juvenile Justice System.

Before anything else, however, may I preface my remarks by welcoming and adding my appreciation to all those who have been working so steadfastly on bringing youth, detained far away from New York City, back to their communities and to make alternatives to detention and placement programs available to them. Not only Mayor Bloomberg, members of New York City Council together with numerous colleagues in the New York State Assembly and Senate as well as community advocates have spearheaded this change. There clearly are many unresolved issues such as whether all detained youth should be returned from state facilities to their own localities – a development I would call a "devolution" of state authority to the counties very similar -- it appears -- to what we are seeing in

California and Arizona --, and in particular the roles played in all of this by OCFS and ACS to name only a few such central issues.

Since the overarching topic, however, concerns “Oversight” in the “overhaul of the New York State Juvenile Justice system,” I would like to bring to your attention that the circumstance that in the numerous documents, hearings and discussions of the last two years about the transformation of the New York juvenile justice system, virtually no mention has been made as to how to safeguard and promote the civil, constitutional and human rights of these many juveniles – either detained upstate or back at home.

My remarks and recommendations are based on almost ten years of research and bipartisan advocacy efforts by the Children’s Studies Center to establish independent “oversight” over the child welfare and juvenile justice systems by instituting in New York State an independent Office of the Child Advocate, similar to the Child Advocate Offices as they exist in such states as Connecticut, Massachusetts and Rhode Island, to cite only a few. . The main purpose of our efforts has been to give children (0 – 18), who are the wards of the state in our child welfare and juvenile justice systems, an independent voice in order to guarantee their civil, constitutional and human rights and to promote their general welfare.

As you are considering today the topic of “Oversight,” I would like to draw special attention to the need of our present or future juveniles in the city’s secure or non-secure facilities for the establishment of a truly independent agency – such as an Office of the New York City Child Advocate for youth in our juvenile justice systems. As an example, such an office could be similar to the publicly funded Independent Budget Office (IBO) of the City of New York. In short, I am proposing an **Independent Office of the Child Advocate for New York City (NYC - OCA)** that would provide independent and external oversight and

transparency to the juvenile justice facilities and develop a system of effective advocacy measures to ensure that complaints by detained youth and their families are in fact addressed.

In light of the recent merger of DJJ and ACS with its combined responsibilities for children in the New York child welfare and juvenile justice systems, such a NYC-OCA would be equally beneficial and serve all the children in the ACS foster care system and the agencies to which ACS contracts out these children.

According to ACS Commissioner John Mattingly, the goal of the merger “was to ‘gradually reduce the use of detention and upstate placements and develop more family and community based options aimed at better outcomes and increased public safety.’”<sup>1</sup> It follows NYC-OCA would be even more essential as these developments move forward. According to the amended Chapter 24-B of the New York City Charter with its added new sections 618 and 619, the role of the Commissioner of ACS now includes comprehensive powers.

According to para. 618. The commissioner shall, in addition:

- a. establish, initiate, control, maintain and operate secure secure and non-secure facilities for the temporary care and maintenance away from their homes only of children alleged to be or adjudicated as juvenile delinquents and only of children alleged, adjudicated or convicted as juvenile offenders in detention as defines in subdivision one of section five hundred ten-a of the executive law.

These powers of the commissioner are further detailed and enumerated in sections b. through f. <sup>2</sup>

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<sup>1</sup> Testimony of John Mattingly before the New York City Council’s Committees on Juvenile Justice and General Welfare joint hearing, February 16, 2010.

<sup>2</sup> See City Council document of November 12, 2010.

The only other provision of interest here is para.619 for the establishment of an Advisory board. a. There shall be in the department a juvenile justice advisory board consisting of eleven members.<sup>3</sup>

Nowhere in this City Council document of November 12, 2010, nor -- for that matter -- in any other related documents, has there been a reference to or recommendation for the establishment of an independent city agency, such as the one recommended earlier, for an independent NYC-OCA, to safeguard the civil, human and constitutional rights and immunities of children and young people in this complex and now unified system of child welfare and juvenile justice. Indeed the question again arises: "who will guard the guardians themselves" or as Juvenal's asked 2000 years ago *Quis custodiet ipsos custodes?*

You are all familiar with the decisions, *Martarella v. Kelley*, 349 F.Supp. 575 (S.D.N.Y. 1972) and *Maratella v. Kelley*, 359 F.Supp. 478(S.D.N.Y.) which resulted in the establishment of the ombudsman program, which was initiated as a result of those decisions. These decisions and the history of this ombudsman program were addressed in the reports of the City Council Committees of Juvenile Justice and General Welfare of September 15 2010 on the topic of "Oversight: The DJJ/ACS Integration and Its Effect On In-Detention Services." I am referring to Section "d. Ombudsman Services/Residence Advocacy Program.

In this document the "dismantling of the ombudsperson program" and the "disbandment of the Ombudsperson Review Board (ORB)" by Commissioner on June 30, 2008 by Commissioner Neil Hernandez are

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<sup>3</sup> Ibid.

discussed. There is also specific reference to “the issues raised by advocates concerning the dismantling of the ombudsperson program.” Such developments further emphasize the need for the establishment of an independent NYC-OCA.

In this connection, I would like to make reference to the Report of Governor Paterson’s Task Force on Transforming Juvenile Justice, *Charting a New Course. A Blueprint for Transforming Juvenile Justice in New York State*, published in December 2009.<sup>4</sup> It represents a major milestone to be considered in the current discussions and developments. In particular, its Recommendation 19 in chapter 5, “Creating A System of Accountability and Transparency”<sup>5</sup> is of significant relevance to today’s discussion of oversight of the Juvenile Justice System. Recommendation 19 states explicitly to “Establish and fund an independent, external oversight body monitor and report on OCFS’s juvenile justices policies and practices,” and it lists in particular an ABA report of August 2008 the “Essential Elements for Effective Independent Oversight Bodies.”<sup>6</sup> The very historical circumstances of this Task Force Report are of signal importance for today’s discussion.<sup>7</sup>

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<sup>4</sup> See Recommendation 19 of the Report of Governor Paterson’s Task Force on Transforming Juvenile Justice, *Charting a New Course. A Blueprint for Transforming Juvenile Justice in New York State*, December 2009

<sup>5</sup> *Ibid.*, pp. 79 – 87.

<sup>6</sup> *Ibid.*, p.88

<sup>7</sup> The Task Force, established in September 2008, came into existence after the commencement of the investigations by the Civil Rights Division of the U.S. Department of Justice into the conditions at four OCFS facilities (“Lansing,” “Gossett,” “Tryon Boys,” and “Tryon Girls” and the on-site inspections of these facilities on June 2-5, June 30 –July 3, November 12-14, and November 24-26, 2008. Governor Paterson had been notified by the DOJ on December 14, 2007 of its “intent to conduct an investigation of the juvenile facilities pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 (‘CRIPA.’)” In short and by way of a historical perspective, it becomes only too evident that in light of an impending civil action instituted by the U.S. Attorney General and upon the receipt of the “findings letter” on August 14, 2009, the Task Force Report represented an important vehicle in the negotiations that ensued between New York State and the DOJ, which eventually led to a Settlement and consent decree. At the same time, the Task Force members must have been familiar of the DOJ requests for “the appointment of special monitors or panels to assist with implementing and evaluating compliance with CRIPA consent decrees. All of the CRIPA consent decrees involving juvenile facilities have this type of independent oversight. See also: <http://www.offdp.gov/pubs/walls/sect-01.html> *Civil Rights of Institutionalized Persons Act in Juvenile Correctional Facilities*

By way of explanation, let me add that the Ombudsperson Program established as a result of the *Martarella v. Kelley* decisions, did not enjoy an independent status much like the current office of the Ombudsman in OCFS. In the course of considering its reinstatement, I would like to point to the relevant arguments in the Governor's Task Force Report when it emphasizes that the New York State Office of the Ombudsman (OOTO) "is also not an independent body...." Moreover, the Report continues,

The Task Force recommends that the State establish – and adequately fund – a separate entity that has unrestricted access to oversee all juvenile placement facilities, including both state-operated and private facilities. The entity should provide regular reports to the governor, the legislature, and the general public on OCFS's juvenile justice practices and policies to ensure that they comply with the law and reflect best practices in the field. This entity should also carefully review the grievance process used

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within facilities to ensure that youth have meaningful opportunities to report unsafe conditions.

**Summary:**

**In light of the foregoing discussions, we would like to recommend for the consideration of the Committees the establishment of an independent agency – as for example a New York City Office of the Child Advocate – as an entity of oversight for the protection of the civil, constitutional and human rights of all the children and youth in the systems of dependency and juvenile and criminal justice. We are recommending that such efforts will be aligned with the continuing efforts of an independent Office of the Child Advocate in New York State.**



**Margo Hirsch**

*Executive Director*

July 17, 2010

Honorable David A. Paterson, Governor  
State of New York  
State Capitol  
Executive Chamber  
Albany, NY 12224

Dear Governor Paterson:

I am writing to strongly urge you to support S6877/A03233B, which would establish an independent office of the child advocate to ensure the protection and promotion of rights for youth in juvenile justice facilities and promises to realize Recommendation 19 of your "Task Force on Transforming Juvenile Justice," published in December 2009 to "Establish and fund an independent, external oversight body to monitor and report on OCFS's juvenile justice policies and practices."

Empire State Coalition of Youth and Family Services is a statewide consortium of agencies working on behalf of homeless, runaway and street-involved youth. A disproportionate number of our young people have been in state care including the juvenile justice system. Our youth are likely to have been abused or maltreated by their parents/guardians and often suffer from a mental health disorder. Far too many left care with educational, social and emotional deficits greater than when they entered into the system and many were discharged to homelessness.

The creation of a truly independent and powerful Office of the Child Advocate would help ensure a statewide system of care that meets the needs of youth. As an outside entity the OCA would be in the best position to identify both systemic and individual issues and to advance policies and practices to continually improve our system of care. The OCA as written into S6877/A03233B would have the power and tools necessary to carry out its mandate. In addition, by insuring full and complete reporting back to the legislature, the OCA would itself be held accountable to the people of the State of New York.

I urge you to protect some of our state's most vulnerable children by signing into law this important legislation.

Sincerely,

Margo Hirsch, Esq.

cc: Hon. Barbara M. Clark  
Hon Kevin Parker  
Hon. William Scarborough





July 14, 2010

The Hon. David A. Paterson, Governor  
State of New York  
State Capitol Executive Chamber  
Albany, NY 12224

Dear Governor Paterson:

I am writing in strong support of S6877/Parker; A03233B/Clark, which would establish an independent office of the child advocate to ensure the protection of legal rights for youth in juvenile justice facilities in New York State. I join with Child Advocates Gail Garringer of Massachusetts and Jeanné Milstein of Connecticut to ask you to sign this important bill, which would put into effect Recommendation 19 of your "Task Force on Transforming Juvenile Justice," published in December 2009, to "[e]stablish and fund an independent, external oversight body to monitor and report on OCFS' juvenile justice policies and practices."

As the founder and Executive Director of Children's Rights, I have been involved in efforts to reform the child welfare systems of approximately 20 states around the country, and I have seen the important impact that independent offices of the child advocate can have on those systems. Children's Rights has worked closely with the Child Advocates of Rhode Island, New Jersey, Connecticut, and Georgia, among others, and those Offices have produced critical information and reports that have led to vital reforms in those states.

Independent Child Advocates play a unique role in state child welfare systems. Because they typically report only to a state's governor and legislature, they have the ability to investigate exactly what is going on within a system and to hold that system responsible for any problems that may be occurring. Transparency, accountability, and ongoing quality review are necessary to ensure the proper functioning of these large, complex systems and to protect the rights of the children involved with them. Individuals working within child welfare systems, however well intentioned they may be, cannot provide the sort of safety net that children need because their voices are simply not independent. I urge you to sign these bills and to create an independent office of the child advocate in New York State to protect the rights of children in juvenile justice facilities so that our juvenile justice system can be opened to public scrutiny and held to the high standards our children deserve.

Sincerely,

Marcia Robinson Lowry  
Executive Director  
Children's Rights

cc: The Hon. Barbara M. Clark  
The Hon. Kevin Parker  
The Hon. William Scarborough

Marcia Robinson Lowry  
President &  
Executive Director

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Howard M. Muisel

Jordan Seaman

James Stanton

New York City Department of Probation  
Testimony to the New York City Council  
Committees on Juvenile Justice and General Welfare  
January 26, 2011

Good Morning, Chairpersons Gonzalez and Palma, and members of the Juvenile Justice and General Welfare committees. I am Vincent Schiraldi, Commissioner of the New York City Department of Probation. Thank you for the opportunity to testify today on *Mayor Bloomberg's Proposal to Overhaul the New York State Juvenile Justice System*. I am pleased to be testifying with my colleague Laurence Busching, Executive Deputy Commissioner of the Division for Youth and Family Justice at the Administration for Children's Services.

A Unique Opportunity to Undertake Watershed Juvenile Justice Reform

I would like to start out by saying, right from the beginning, that we anticipate three significant outcomes as a result of the proposal we are discussing today:

- 1) *Improved Public Safety;*
- 2) *Increased Positive Outcomes for Youth;* and
- 3) *Significant Costs Savings for the City and State*

As the City Council is aware, the call for comprehensive juvenile justice reform has gained momentum over the last several years. Due to the efforts of the Council, advocates and community organizations, many of whom are here today, there is now greater public attention to the need for New York State to move away from a punitive, institution-based system to a community-based system that emphasizes alternatives to incarceration and positive youth development. This is the same approach that was strongly endorsed by the Governor's Taskforce for Transforming Juvenile Justice in its December 2009 report. And as Commissioner Busching has just testified, the City of New York has played an important role in these reform efforts by overhauling local juvenile detention practices and partnering with non-profit organizations to create alternatives to detention and placement for young people involved in the delinquency system. As a result of all of these forces pushing for reform, including a Federal report that found the state had violated the constitutional rights of the young people in their care, New York State's juvenile justice system has reached a tipping point.

On December 21<sup>st</sup> of last year, Mayor Bloomberg unveiled a proposal to create a new, locally operated system that will allow New York City to take responsibility for our young people involved in the juvenile justice system. We believe that this “realignment” of juvenile justice services from the state to the City will result in watershed reform and reap enormous benefits for justice-involved youth and their families, as well as for the City and state as a whole. Before I discuss the City’s juvenile justice realignment proposal in more detail, I would like to outline the current conditions of the state-run system and why we need local control of juvenile justice to remedy the endemic problems with the current system.

Overview of New York’s Juvenile Justice System

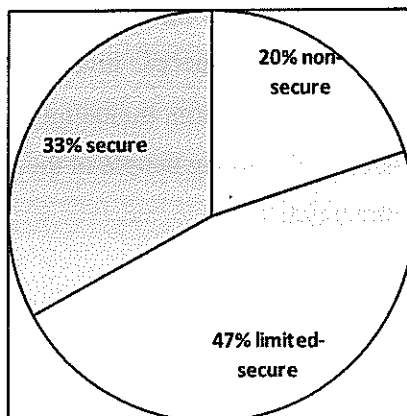
The New York State Office of Children and Family Services (OCFS) operates a system of secure, limited-secure and non-secure residential facilities for youth who are adjudicated (in other words, found guilty) in Family Court as juvenile delinquents (JDs) or convicted in adult court as juvenile offenders (JOs). The majority of JD youth who are sentenced to state placement are confined in limited-secure facilities, while JO youth are confined in secure facilities.

As of January 24, 2011, there were 604 youth confined in OCFS facilities statewide. OCFS reports that as of September 30, 2010, their facilities held 375 youth from New York City – over half of all youth in OCFS residential facilities statewide. As the chart below indicates, out of the 375 NYC youth in OCFS facilities,

- 20 percent were in non-secure facilities,
- 47 percent were in limited-secure facilities, and
- 33 percent were in secure facilities, respectively.

**Breakdown of placement for the 375 NYC youth in OCFS facilities,**

as of September 10, 2010



Despite the fact that nearly 90 percent of young people confined in OCFS facilities are from New York City, Long Island and Rochester (Monroe County), the vast majority of OCFS facilities are located in rural areas far from the communities where the young people and their families live. The locations of these facilities pose a remarkable burden on families, and because of this burden, some are never able to visit their children and family members in OCFS placement. As you can see from the attached OCFS facility map, of the 23 OCFS facilities statewide, there are only five facilities located in New York City (Brooklyn Residential Center, Bronx Residential Center, Ella McQueen Reception Center in Brooklyn, Staten Island Residential Center, and the Staten Island Group Home). These five facilities have a combined capacity of 124 beds.

The most glaring evidence of failures within the state system is the recidivism data for young people released from OCFS custody. A recent study funded by the National Institute of Justice found that nearly 90% of boys and over 80% of girls released from OCFS facilities were re-arrested by age 28. The outcomes are not much better when we examine the re-arrest rates for young people two years after release from state custody, when 63% of them will have been arrested, 43% for felonies.<sup>1</sup> **I want to pause for a moment on these recidivism numbers.** They are staggeringly high and a big reason why the Mayor wants to overhaul the juvenile justice system so that we stop sending our young people to a system that is largely unable to help them turn their lives around and avoid future re-arrest.

For decades, there was virtually no public scrutiny of a juvenile placement system in which young people are shipped hundreds of miles away from their families and communities to remote institutions that are now relics of a bygone era. In November 2006, the death of 15-year-old Darryl Thompson, after he was physically restrained by two staff members at the Tryon boys facility, generated the first widespread press coverage of the conditions inside OCFS facilities.

In August 2009, the conditions inside those facilities received further attention when the U.S. Department of Justice released the findings of a two-year investigation of four facilities. The Justice Department found that New York State had violated the constitutional rights of young people in these four facilities, by routinely using excessive force, including unnecessary use of full prone restraints with handcuffs for infractions such as refusing to stop laughing or trying to

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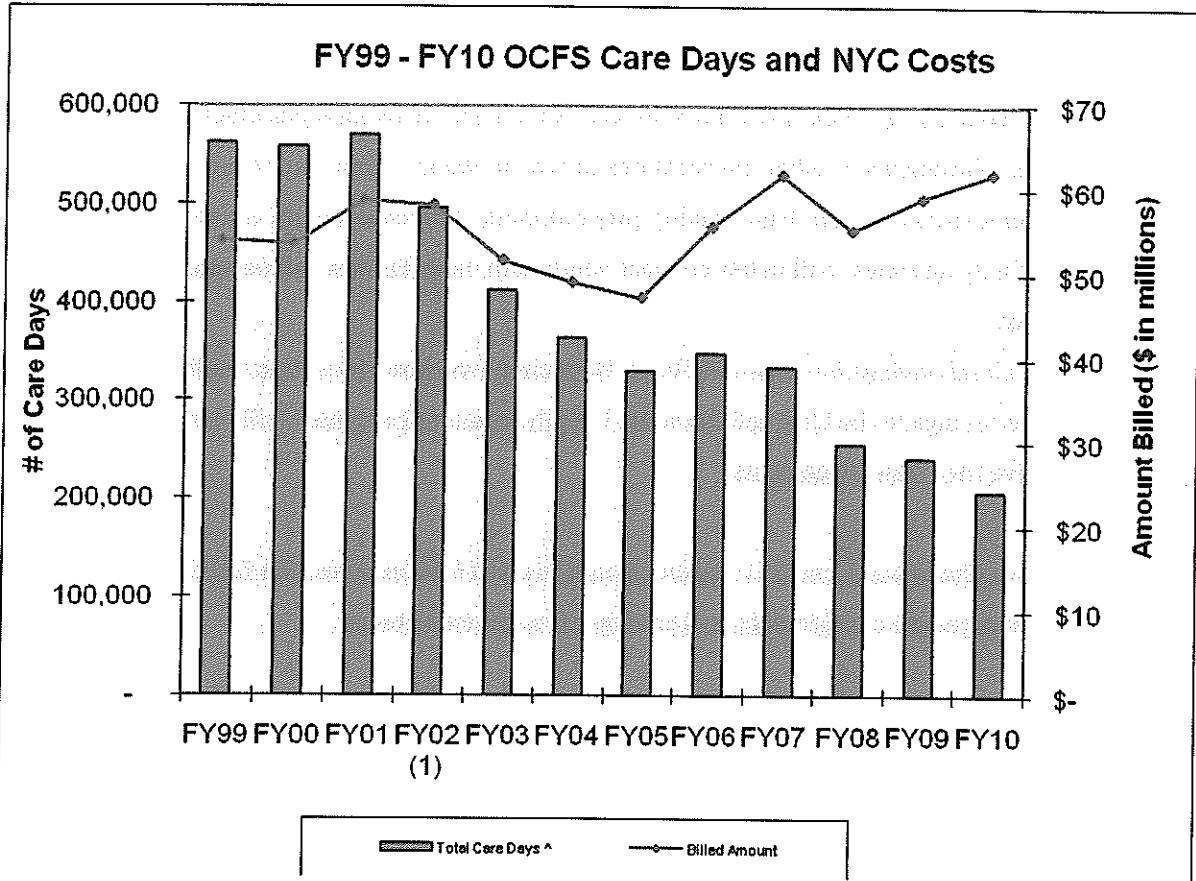
<sup>1</sup> Susan Mitchell-Herzfeld, Vajeera Dorabawila, Leigh Bates, and Rebecca Colman, "Juvenile Recidivism Study: Patterns and Predictors of Re-Offending Among Youth Reentering the Community From OCFS Facilities and Voluntary Agencies," PowerPoint presentation. At the New York State Division of Criminal Justice Services, April 27, 2010.

take an extra cookie during snack time. The DOJ investigation also found that OCFS had failed to provide adequate mental health services to youth confined in the four facilities it investigated.

The current system also presents major educational roadblocks. Removing a young person from their community school and sending them to a state-run facility disrupts a child's education. Because OCFS schools are not even accredited, youth released from state-run facilities often do not receive academic credit for the school work they completed while in state custody. Young people come back home only to find out that their local school system can't recognize the time they spent in the classroom, increasing the likelihood they will drop out.

Over the last several years, New York City has created programs that provide Family Court judges with a viable alternative to sending young people to OCFS facilities. The ACS Juvenile Justice Initiative and Probation's Esperanza program, which both feature intensive, home-based counseling services, have helped to significantly reduce the number of young people sent to state placement. In fact, the number of New York City youth in OCFS has plummeted by 62% since 2002.

However, despite the City's remarkable success in keeping youth out of state facilities, the City has actually been paying *more* in overall placement costs to the state as shown in the chart below. I won't belabor this point because Commissioner Busching already spoke about it, but I just have to reiterate that last year the City paid the State over \$62 million for OCFS placement and aftercare services for approximately 570 City youth – \$62 million for a system that separates our kids from their families and fails to help them avoid getting re-arrested.



Mayor Bloomberg’s Proposal to Overhaul the New York State Juvenile Justice System

Given the state of the juvenile justice system, the Mayor recognizes that the City cannot continue to send its young people to a troubled and wasteful state system. As Mayor Bloomberg stated in his State of the City address just last week,

We will launch a comprehensive new effort to prevent young people from getting off track and keep them connected to family, school, and job opportunities. We will work with Governor Cuomo and our partners in Albany to overhaul the state’s juvenile detention system so we can keep more young offenders in supervised, secure programs close to their homes and families instead of hundreds of miles away upstate. We know we can do a better job of helping young offenders turn away from a life of crime, and if Albany will allow us, we will.

To that end, the Mayor has proposed a comprehensive overhaul of the current juvenile justice system that will address the shortcomings of the state system. We anticipate that a major transfer

of juvenile justice services from the state to the City will achieve the following three outcomes:

- 1) *Improved Public Safety*: Youth will be redirected from ineffective state placements toward local placements or other interventions proven to reduce crime and recidivism.
- 2) *Positive Outcomes for Youth*: High-quality programming, delivered locally and under the auspices of City agencies, will better connect youth with their families, schools and communities.
- 3) *Significant Costs Savings for City and State*: Reducing overcapacity at state facilities will provide savings to the City and the state. Locally-operated programs will be more cost-effective than state placements.

Our ability to achieve Outcomes 1 and 2 is reason enough to enact this proposal, the fact that the City and state will also realize considerable cost savings is an obvious bonus.

This comprehensive proposal builds on New York City's success in reducing the use of pre-trial juvenile detention and expanding the use of effective community-based alternatives to detention and placement as Commissioner Bushing has described. The plan also draws on the success of realignment efforts in other jurisdictions and states, including California and Wayne County (Detroit), Michigan. Under this new model for juvenile justice, New York City will provide a continuum of community-based services and residential programming, including the operation of residential placement facilities. The range of locally-operated services will include rigorously-studied alternatives to placement that show better outcomes than incarceration. Additionally, the City will operate secure (locked) and limited-secure (not locked but rendered secure by sufficient staffing) residential programs offering services and supports.

The reform package contains the following elements:

- Legislation giving New York City the authority to operate secure and limited-secure facilities;
- An end to the one-year notice requirement for the closure of OCFS facilities;
- A reform of the OCFS rate structure in order to free up resources for local placements and community-based intervention programs and end the City's subsidies of OCFS's excessive vacancies; and
- An equal state reimbursement system for both publicly and privately operated local placement facilities.

### Benefits of a Locally Operated Juvenile Justice System

Transferring the responsibility for juvenile services will empower the City to provide effective programming for adjudicated youth close to home, helping the youth develop and maintain positive ties with families, schools and communities. It also helps reverse the skewed incentive system whereby the state subsidizes (and requires the City to subsidize) deep-end, often counterproductive commitments to OCFS while the cost of community-based, in-home services—which are often more effective—fall to the City. Rather than wasting money on empty beds in state facilities, localities will be able to invest in youth development programming that provides young people with the long-term supports and opportunities they need to become successful adults and agents for positive change in their communities. Local schools districts will be able to provide continuous schooling in order to minimize disruption in education and to ensure that youth receive academic credit for their work in custodial settings. Finally, realignment promotes public safety by redirecting City and state resources toward programs that have been proven to reduce recidivism.

A number of states, including California, Michigan, Ohio, Illinois, Wisconsin and Pennsylvania and many others have reduced their reliance on costly and ineffective placement facilities by creating fiscal incentives for their respective localities to invest in locally-operated, community-based programs. The shift from centralized state-run facilities to local continuums of care has yielded extremely positive results, including reductions in crime and recidivism, improved outcomes for justice-involved youth and their families, and a net reduction in expenditures for states and localities. In fact, juvenile justice realignment in California has been so successful that Governor Jerry Brown has proposed a full realignment of juvenile justice services to the counties and the complete dismantling of the California Department of Juvenile Justice (formerly known as the California Youth Authority). Gov. Brown offered this succinct assessment of why realignment provides for a better provision of services:



Realignment of government in California will allow governments at all levels to focus on becoming more efficient and effective, facilitating services to be delivered to the public for less money. ...Generally, local elected officials, acting with direct citizen input, can better determine program structure and local priorities while maintaining statewide goals and objectives. Where necessary, the state will retain oversight and provide technical assistance, but duplication of services will be eliminated along with staffing at the state level. The goal is to find the level of government where a service can best and most cost effectively be delivered and then provide a permanent funding source.

The Governor's full realignment proposal in California builds on past legislative initiatives that were extraordinarily successful in safely and effectively reducing the population in the state's training schools. Since 1996, the average daily population of youth in California's Department of Juvenile Justice has dropped from over 10,000 youth to about 1,300 youth today, a significant 87% reduction.<sup>2</sup> Notably, during this same period, juvenile felony arrests in California declined by 44%.<sup>3</sup> I am not suggesting that California's realignment in itself drove down the crime rate, but is important to note that the significant downsizing of their centralized state juvenile justice bureaucracy in favor of local control over juvenile justice did not contribute to a rise in youth crime.

Juvenile justice realignment in Wayne County, Michigan also dramatically cut the number of youth in state placement facilities while improving public safety and reducing incarceration costs. In 2000, Wayne County officials negotiated with the State of Michigan to obtain responsibility and funding to provide locally operated services to adjudicated youth. After contracting with community-based providers, Wayne County reduced the average daily population of youth in state-run juvenile facilities from 731 youth in 1998 to only 2 youth by 2010.<sup>4</sup> Likewise, the county has gone from having 200 youth in out-of-state placements to 0 today.<sup>5</sup> During this period, the overall crime rate fell by 38% in Detroit<sup>6</sup> while the total residential care costs dropped from \$113 million to \$73 million per year.<sup>7</sup> New York City has organized several site visits to learn more about Wayne County's locally operated system – involving officials from the highest level of City and state government including Deputy Mayor Linda Gibbs, Elizabeth Glazer, the

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<sup>2</sup> Ibid, 2.

<sup>3</sup> Ibid, 9.

<sup>4</sup> *Comprehensive Fiscal Report Through Fiscal Year 2009: Juvenile Justice Services Wayne County Care Management System*, Wayne County Office of Children and Family Services, 2010

<sup>5</sup> *Comprehensive Fiscal Report Through Fiscal Year 2009: Juvenile Justice Services Wayne County Care Management System*, Wayne County Office of Children and Family Services, 2010

<sup>6</sup> U.S. Federal Bureau of Investigations Unified Crime Report data for Wayne County from 1998 to 2008.

<sup>7</sup> *Comprehensive Fiscal Report Through Fiscal Year 2009: Juvenile Justice Services Wayne County Care Management System*, Wayne County Office of Children and Family Services, 2010

state's new Deputy Secretary for Criminal Justice, Commissioner Busching, Chief NYC Family Court Judge Edwina Richardson Mendelson, Commissioner Carrion -- as well as advocates, prosecutors, community providers and academics.

#### Funding a Locally Operated Juvenile Justice System

We are often asked how New York City will pay for a locally operated juvenile justice system. As Commissioner Busching mentioned earlier, New York City and New York State paid nearly \$125 million last year to provide juvenile justice services to New York City youth. We believe that these resources can be used much more efficiently by enacting the following policy reforms.

- 1) Right-size the current state placement system and reform OCFS's rate structure so that localities don't pay for excess capacity. Of the 23 juvenile justice facilities operated by New York State, 14 – *more than half* – have occupancy rates below 50%. As of January 24, there were 373 empty beds in the OCFS system. OCFS currently folds the costs of this excess capacity into rapidly-increasing rates it charges the City.
- 2) Implement a continuum of community-based interventions, services and residential facilities. The annual cost of community-based non-residential programs in New York City ranges from \$5,000 to \$18,000, as compared to an average of \$268,000 a year for OCFS facilities. The state would provide a 50% match to the city for residential services.

#### Planning a Locally Operated Juvenile Justice System

So how will New York City create this new system? Several months ago, we created the NYC Dispositional Reform Committee, which I am honored to chair, to develop a comprehensive plan for a realigned juvenile justice system. This stakeholder group is comprised of representatives from Family Court, Legal Aid Society, the Mayor's Criminal Justice Coordinator, NYPD, Law Department, the Department of Probation, the Administration for Children's Services, and the Department of Education. As you can see from the attached list, the steering committee is a high-level group of stakeholders. This group has formed three subcommittees that include community providers, advocates, funders and researchers. The steering committee is staffed by the Department of Probation, and the Annie E. Casey Foundation is providing the Committee with technical assistance and data analysis.

Deputy Criminal Justice Coordinator Michele Sviridoff leads the Data Subcommittee that will work with Professor Jeff Butts of John Jay College and the larger Steering Committee to determine the needed capacity for community-based and residential programs to serve all adjudicated youth. Based on a rigorous analysis of the data and case studies of youth in placement or referred for placement, we will finalize an estimate of the number of secure, limited-secure and community-based slots needed to ensure public safety and meet the rehabilitative needs of the youth who would be realigned from OCFS care to New York City care.

### Expanding a Local, Community-based Continuum of Care

A key component of the City's plan will be to expand the range of community-based interventions available to adjudicated youth. The City will offer a range of services from community-based supervision and advocacy to supported foster homes. These services will be:

- 1) Evidence-based or premised on sound research perspectives;
- 2) Rooted in the premises of positive youth justice<sup>8</sup> and restorative justice; and
- 3) Family-focused.

Ana Bermudez, Deputy Commissioner of Juvenile Operations at the Department of Probation, is chairing the Community-Based Subcommittee. The group will also recommend ways to enhance the assessment process so that young people are most effectively matched to interventions and programming that addresses their needs and builds on their strengths and interests. The key principles of this framework include improving public safety by:

- 1) Building on the strengths and assets of young people, their families and neighborhoods;
- 2) Helping youth develop core competencies and skills, especially in the areas of education, employment and conflict management and resolution;
- 3) Promoting positive social relationships between youth and their peers and with caring adults; and
- 4) Engaging youth in team-building civic activities that improve their communities.

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<sup>8</sup> Positive Youth Justice applies youth development principles to a juvenile justice context. Butts, Jeffrey, Gordon Bazemore, & Aundra Saa Meroe (2010). Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development. Washington, DC: Coalition for Juvenile Justice.

Finally, it is important to note that the City plans to phase in the implementation of a locally operated system. Phase one will be expanding community-based non-residential programs. Phase two will involve the City assuming responsibility for all limited-secure and secure placements.

### Conclusion

Thank you for the opportunity to testify before you on this important and timely subject. In closing, I would like to reiterate the three significant outcomes we anticipate through this major transfer of juvenile justice services from the state to the City:

- 1) *Improved Public Safety;*
- 2) *Increased Positive Outcomes for Youth;* and
- 3) *Significant Costs Savings for City and State*

This is truly a rare opportunity in government; one where we can invest in our children and their futures, *and* save money while doing so. I look forward to working with the City Council on this initiative to improve the lives of our City's children. Along with Commissioner Busching, I am pleased to answer any questions that you might have.





Department of  
Probation

**Members of NYC Dispositional Reform  
Steering Committee**

Vincent N. Schiraldi, Chair  
Commissioner  
NYC Department of Probation

Leslie Abbey  
Executive Director of Juvenile Justice  
Initiative  
NYC Administration of Children's Services

Angela Albertus  
Chief, Family Court Division  
NYC Law Department

Ana Bermudez  
Deputy Commissioner, Juvenile Operation  
NYC Department of Probation

Laurence Busching  
Executive Deputy Commissioner  
Division of Youth and Family Justice  
NYC Administration of Children's Services

Deputy Chief John K Donohue  
Commanding Officer  
Office of Management Analysis and Planning  
New York City Police Department

Hon. Monica Drinane  
Supervising Judge of Bronx Family Court  
NYC Family Court

Tim Lisante  
Superintendent of Alternative High Schools  
and Programs  
NYC Department of Education

Hon. Edwina Richardson-Mendelson  
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NYC Family Court

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Family Services Coordinator  
Office of the Mayor

Tamara Steckler  
Attorney-in-Charge  
Juvenile Rights Practice  
Legal Aid Society

Michele Sviridoff  
Deputy Criminal Justice Coordinator  
Office of the Mayor

## **Members of the Education Subcommittee**

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NYC Family Court

Tim Lisante, Chair  
NYC Department of Education

Cara Chambers  
The Legal Aid Society

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NYC Department of Probation

Jill Roche  
Hunts Point Alliance for Children

Jeff Paladino  
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Advocates for Children

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Amanda Smith  
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The Legal Aid Society

Tionnei Clarke  
NYC Family Court

Barbara DeMayo  
NYC Family Court

Kelley Dunn  
NYC Law Department

Jeremy Kohomban  
Children's Village

Joe McLaughlin  
CASES

Dick Sammonds  
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Meryl Schwartz  
Blue Ridge Foundation

Craig Swalbe  
Columbia University

Conrad Williams  
Center for Community Alternatives



**Members of the Data Subcommittee**

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Mayor's Office of the Criminal Justice  
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Annie E. Casey Foundation

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Virginia Gippetti  
NYC Family Court

Lisa Grumet  
NYC Law Department

Dawn Saffeyeh  
NYC Administration for Children's  
Services

John Corrigan  
NYC Department of Probation

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Gabrielle Risso (PLEASE PRINT)

Address: Correctional Association of NY

I represent: Juvenile Justice Project

Address: 2090 Adam E. Powell Jr. Blvd - Suite 200

NY, NY 10027

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Melisha Wassmer (PLEASE PRINT)

Address: 39 W. 19th St. NYC

I represent: Center for Community Aesthetics

Address: ATI/Reentry Coalition above

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Prof. Conrad Lenzel (PLEASE PRINT)

Address: Brooklyn College / Children's Studies Center

I represent: 2900 Bedford Ave

Address: Brooklyn, NY 11210

with Loretta Chin, Research Coord.  
Please complete this card and return to the Sergeant-at-Arms

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THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Cynthia Arrijo

Address: 444 Park Ave S.

I represent: Boys Town NY

Address: 1

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THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Avery Irons

Address: \_\_\_\_\_

I represent: Children's Defense Fund NY

Address: 15 Maiden Lane NY NY 10038

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/26/11

(PLEASE PRINT)

Name: Bill Badagliari

Address: 590 Avenue of the Americas

I represent: The New York Foundling

Address: same as above

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/26/11

Name: CHARISA SMITH (PLEASE PRINT)

Address: 7151 W. 30TH ST. 5TH FL

I represent: ADVOCATES FOR CHILDREN

Address: 395 S. END AV. #19P

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: \_\_\_\_\_

Name: Teemara Steekler (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: The Legal Aid Society

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/26/11

Name: Loretta Chin (PLEASE PRINT)

Address: Brooklyn College

I represent: Children's Studies Center

Address: 2900 Bedford Ave Bklyn, NY

Co-Testify with Prof. Bethua Kenzer

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Stephanne Gendell

Address: \_\_\_\_\_

I represent: Citizens' Committee For Children

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 7/26/11

(PLEASE PRINT)

Name: Harold Siegel

Address: 520 Eighth Ave

I represent: Center for Court Innovation

Address: 720 Eighth Ave

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Michael A. Corriero

Address: \_\_\_\_\_

I represent: The New York Center for Juvenile Justice

Address: 27 Christopher Street, Room 307  
New York, NY 10014

Please complete this card and return to the Sergeant-at-Arms