

Juvenile Justice Data Reporting

Testimony by Laurence Busching

New York City Administration for Children's Services

April 21, 2010

Good morning Chair Gonzalez and members of the Juvenile Justice Committee. I am Laurence Busching, Executive Deputy Commissioner of the Division of Youth and Family Justice at the Administration for Children's Services. Joining me is Christopher Fisher, Assistant Commissioner of Strategic Planning at the Department of Juvenile Justice. We thank you for this opportunity to speak about juvenile justice data reporting.

First, I would like to say thank you to the Committee for the warm welcome you have given me. I have been at Children's Services for six weeks now, and we have made a lot of progress. We continue to believe that the merger of DJJ and ACS presents a unique opportunity for the young people and families we serve, as well as our staff, stakeholders and communities. We will make every effort to keep the Committee informed of our plans, and will seek to partner with the Committee wherever possible to ensure that this transition proceeds as smoothly as possible.

Juvenile Detention Data

Currently, information about the care of juveniles is published annually in the Preliminary Mayor's Management Report and the Mayor's Management

Report (MMR). An extended set of indicators is published monthly and quarterly in the web-based Citywide Performance Reporting System. Each of these reports is available to the public.

Several significant indicators are outlined each year in the MMR, such as, total admissions to detention, average daily population in secure and non-secure detention, and average length of stay in detention. There is also important information about incidents in detention; for example, the MMR includes indicators on youth on youth assaults and altercations with injury in detention, youth on staff assaults and altercations with injury in detention, and child abuse and neglect rates.

Detention data is reviewed continuously and thoroughly at DJJ. At monthly GOALS meetings, DJJ senior staff from the secure detention facilities and non-secure detention facilities operated by DJJ review performance data and discuss emerging trends. Similarly, Children's Services reviews child welfare data and active cases at weekly ChildStat meetings. As we merge the juvenile justice and child welfare systems, these meetings will help us to closely monitor practice and discern where we can do better for the children and families we serve.

Review of DJJ Data Reporting Processes

Children's Services fully supports the public dissemination of information that will illustrate the quality of care that youth in the City's

juvenile detention centers receive. We are happy to provide juvenile detention performance data to the Committee, as DJJ has done in the past. We also support the intent of both pieces of legislation being discussed today, as we believe that it is important to make information available to the public on the youth who are in detention and the quality of care that they receive. It is important to note, however, that as we move forward with the integration of DJJ and ACS we will be revisiting all policies and procedures that govern DJJ performance data and will modify or enhance these policies as needed. As we do so, we hope to receive the input from the Committee and other stakeholders on what information is most critical to help us ensure that we meet our juvenile justice reform goals.

One of these review processes includes a look at the Department's protocols for reporting abuse and neglect allegations to the State Central Registry (SCR). As you may know, direct child care staff in the City's secure and non-secure juvenile detention facilities are mandated reporters, and they are required to report instances of abuse and neglect whenever they see it, whether it is a one-time occurrence or ongoing. As part of a preliminary review of this process, we have determined that a more thorough review has to be undertaken to create a process that ensures that instances of abuse and neglect are immediately reported to the SCR and that issues that require the attention of agency executives are highlighted and addressed. We also need to ensure

that the process is a fair one, in keeping with the terms and intent of the statute and the need to run orderly and stable operations.

Once we have reviewed the abuse and neglect reporting process, I believe we will be in a better position to provide more useful information about child abuse and neglect rates in the City's detention facilities. This does not mean that the rate of substantiated reports is particularly high— in fact, it currently stands at around eight percent. We simply believe that a second look at this process can highlight ways to improve the quality of care that youth receive and, at the same time, present a clearer picture of the presence of abuse and neglect in juvenile detention.

We are also working on developing a new data system that will centralize how juvenile justice data is recorded and produced. The implementation of this system will greatly affect our ability to provide detailed, validated information about the functioning of the City's juvenile detention system. Our goal, moving forward, is to make juvenile justice statistics available as part of ACS's publicly distributed performance data reports.

ACS/DJJ Integration Update

At the Department's Preliminary Budget Hearing on March 9, 2010, we told the committee that the functional review of DJJ divisions has been completed. We are now working to begin fully integrating the administrative functions of DJJ and will meet our June 30, 2010 deadline.

On April 16th, we held the first meeting of our Advisory Board. The Board is made up of almost 40 prominent representatives from leading national juvenile justice reform organizations, labor, advocates, government agencies, the City Council and the community. The Board heard presentations and reviewed statistics on the work of the Division and offered bold and constructive suggestions on how we can best advance our work. I would like to thank Chair Gonzalez for agreeing to participate on the Board as well.

In addition, we are developing a workgroup made up of staff throughout the Division of Youth and Family Justice to help us to formally shape and define our mission, vision and values. Input from the external advisory board and the internal workgroup will help us to develop our strategic plan and help us move forward in our efforts to integrate our City's juvenile justice and child welfare systems with the goal of strengthening outcomes for court-involved youth.

Conclusion

I would like to close by saying that it is through partnerships with all of our stakeholders that we will succeed in building upon our juvenile justice system and strengthening our work to decrease recidivism and provide the best care possible for court-involved youth. We have received a tremendous amount of support from our partners and this makes the challenges ahead

more manageable. The Council's Juvenile Justice Committee continues to be a critical partner, as well.

I would like to take this opportunity to thank Chair Gonzalez and the rest of the Committee for passing a resolution urging the state to create a more equitable funding structure for detention. By reducing the amount of money that New York City spends on underutilized juvenile placements, we will be able to invest more in community based alternatives here in New York City. I believe that with the continued support of the Committee and all of our stakeholders we will enhance the care and treatment that young people involved in the juvenile justice system receive. I am happy to take your questions at this time.



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TESTIMONY

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

Int. No. 153 - A Local Law to amend the administrative code of the city of New York, in relation to requiring the commissioner of the department of juvenile justice to regularly report data concerning the department's use of physical restraint, mechanical restraint, and room confinement, injuries to children and allegations of child abuse and neglect.

Int. No. 37 - A Local Law to amend the administrative code of the city of New York, in relation to requiring the commissioner of the department of juvenile justice to report on census data.

April 21, 2010
New York, New York

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This testimony is submitted by the Legal Aid Society. We thank the Committee on Juvenile Justice for holding this hearing concerning two Introductory Bills relating to reporting census data and reporting data about critical incidents involving youth in the custody of the New York City Department of Juvenile Justice (DJJ), which is now part of the New York City Administration for Children's Services. We applaud Committee Chair Gonzalez for sponsoring these very important measures.

The Legal Aid Society is the nation's largest and oldest provider of legal services to poor 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. Annually, our Juvenile Rights staff represents some 34,000 children, including approximately 4,000 who were charged in Family Court with juvenile delinquency, some of whom spent time in DJJ facilities. At the same time, the Society's Criminal Defense Practice is on a pace to represent clients in a projected 240,000 trial level cases this year. We have 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, whose clients are often held at one of DJJ's secure facilities. Our perspective comes from our daily contacts with children and their families, and also from our frequent interactions with the courts, social service providers, and State and City agencies, including DJJ. In addition to representing many thousands of children each year in trial and appellate courts, Legal Aid also pursues impact litigation and other law reform initiatives on behalf of our clients.

Background

Any discussion of the issues related to incarcerating children in New York City must consider the population involved. The vast majority of children and teenagers in DJJ's detention facilities are poor, African-American or Latino,¹ and live in under-resourced neighborhoods with low-performing schools and high rates of alleged child abuse and neglect, substance abuse and mental illness. Oftentimes, the primary reason for the incarceration of these children facing delinquency or criminal charges is not the severity of the crime, but rather the collateral social issues of truancy, school failure, mental illness, substance abuse and weak family structure. Too many children are placed in detention facilities by judges because the City lacks coordinated services designed to meet the needs of children in school and in the community both before and in the event of arrest. Children should not have to be incarcerated while awaiting placement in rehabilitative services and should not face long periods of incarceration because of a lack of community-based rehabilitative services.

We are all aware of the great human and financial costs of detention. We urge the Juvenile Justice Committee to continue to work jointly with other Council committees including the Education, Youth Services, and General Welfare Committees, to demand accountability from our schools, police, courts, and probation department, as well as DJJ, toward the goal of preventing the placement of children in detention whose behavior and family issues should properly be addressed outside the juvenile justice system.

¹ Although the New York City Department of Juvenile Justice no longer posts statistics related to race on its website, almost the entire detention population consistently has been composed of youth of color -- approximately 60% of those detained pre-trial are African-American and 37% are Latino. Most delinquency offenses prosecuted in New York City would be misdemeanors if committed by adults.

We submit this testimony today to support passage of these two Introductory Bills. Int. No. 153 requires DJJ, on a quarterly basis, to report data concerning the Department's use of physical restraint, mechanical restraint, and room confinement, injuries to children and allegations of child abuse and neglect. This bill will increase transparency and accountability, helping to ensure that young people who do end up in DJJ's custody are kept safe and free from harm. Int. No. 37, which requires collection and annual reporting of census data concerning children in DJJ custody, will provide information about the background and needs of the children DJJ serves, which will enhance DJJ's ability to provide appropriate services to this needy population. We support the passage of these bills and suggest some amendments to make them even more effective.

Introductory Bill Number 153

Introductory Bill Number 153 would require DJJ to report on its website, on a quarterly basis, the numbers of certain incidents that occur in its facilities, including the use of physical and mechanical restraints on and resulting injuries to children, numbers of children held in room confinement, reports of child abuse or neglect in DJJ facilities, and substantiated reports of abuse or neglect. The bill, as drafted, goes far in holding the Department accountable for the incidents that occur in its facilities. However, it could be strengthened but not rendered overly burdensome, by adding a few other categories for reporting and by clarifying certain other provisions.

Reporting on the use of physical and mechanical restraints is critical. Our clients who have been in DJJ custody report frequent use of restraints, and we are concerned that restraints are used as a method of behavior control, rather than as a measure of last resort,

when a child is a danger to him/herself or others.² In its testimony on Safety and Security Protocols presented to the Council on April 21, 2009, the Department emphasized how its implementation of various initiatives to release low- and moderate-risk youth to the community has led to a higher-risk population in detention.³ It is well-documented that children involved in the juvenile justice system have a high prevalence of exposure to trauma. Higher-risk youth would be more likely to have experienced physical, sexual or emotional abuse, and present serious mental health issues when they enter detention. As such, the risk of harm to those children posed by the use of restraints is even higher.

Similarly, the inclusion of reporting on the use of room confinement is commendable. State regulations governing detention already require monthly reporting to the NYS Office of Children and Family Services relating to the use of room confinement, which is permitted only in secure detention facilities.⁴ The burden of quarterly reporting called for in this bill should therefore be minimal. Beyond room confinement, however, the bill should require reporting of the use of enhanced supervision dorms. In its April 2009 testimony, the DJJ described the use of “enhanced supervision dorms” as “a measure to place youth involved in a high number of incidents into smaller, more supervised settings.”⁵ DJJ provided no information at the time about how many young people are held in enhanced supervision dorms, what staff makes the determination to place a youth in an

² “Behavior and Management: Coordinated Standards for Children’s Systems of Care,” Final Report to the Governor September 2007, developed by the Committee on Restraint and Crisis Intervention Techniques, p.19 (“The use of restraints is recognized as an intervention of last resort.”)

³ Testimony of Jerome Davis, Deputy Commissioner of Operations and Detention, NYC Department of Juvenile Justice, April 21, 2009, p.3.

⁴ 9 N.Y.C.R.R. § 180.9(c)(11).

⁵ Testimony of Jerome Davis, *supra*, at 9.

enhanced supervision dorm, or what the length of stay in an enhanced supervision dorm is. Because NYS regulations do not provide for enhanced supervision dorms, it is even more important that the bill be amended to include reporting on their usage.

The use of psychopharmacological or medical restraints is not specifically limited or restricted by the State regulations governing detention facilities.⁶ The regulations governing State schools and centers explicitly permit the use of medical restraints in extremely limited circumstances.⁷ This bill should be amended to require reporting on the use of medical restraints so that if they are being used, they can be monitored.

While it is important that the bill requires reporting of injuries to children resulting from restraints by staff, fights with other children, or “other means not mentioned,” the bill should specify that “other means” includes injuries resulting from contact with non-DJJ personnel who are in the facilities. Reporting is critical when, as recently happened to one of our clients, a youth is injured by the police inside a DJJ facility.

The bill appropriately requires reporting of child abuse and neglect allegations and the results of abuse and neglect investigations. Similarly, the bill should require reporting about the numbers of complaints made to the DJJ Resident Advocates or ombudspersons, and the results of and follow-up actions taken in response to those complaints.

The bill incorporates the definitions of “abused child” and “neglected child” found in NYS Social Services Law § 412-a. To ensure that the protections afforded by these bills apply to all young people who might enter DJJ custody, the definitions should be modified to include young people 18 years of age or older who are in DJJ custody. While youth in

⁶ 9 N.Y.C.R.R. Part 180.

⁷ 9 N.Y.C.R.R. § 168.3.

this age group are not typically held in DJJ facilities, those who are should be treated in the same manner as their younger counterparts.

Finally, we suggest that the bill language clarify that the reported data is to be disaggregated by detention facility, including both secure and non-secure facilities, for each and every category of information required.

Introductory Bill Number 37

Introductory Bill Number 37 requires DJJ to report on its website on an annual basis, for both secure detention admissions and non-secure detention admissions, numbers of children admitted, disaggregated by age, gender, race and ethnicity, zip code of residence, precinct of arrest; and charged offense. These data can be utilized to analyze how the juvenile justice system affects different socio-economic groups differently, and to evaluate the services provided by not only DJJ, but other NYC agencies.

In particular, disproportionate minority contact (DMC) has been recognized as a State-wide concern in the juvenile justice system. The NYS Division of Criminal Justice Services recently held a symposium to address the problem of DMC in New York's juvenile justice system.⁸ Yet, while in the past DJJ reported data related to race on its website, inexplicably, it stopped doing so several years ago. Data relating to race and ethnicity is critical to identifying the extent of disproportionality, identifying factors that

⁸ http://www.criminaljustice.state.ny.us/ofpa/jj/jjreform_forum.htm. "Issues of racial and ethnic equity are significant for children in New York's juvenile justice system. Minority youth are arrested over one and a half times more often than white youth, detained before trial over six times more often than white youth, and placed out of their home as a result of a finding of juvenile delinquency over five times more often than white youth. "

contribute to disproportionality, developing policies and practices that reduce disproportionality, and monitoring those policies and practices.⁹

We suggest adding to the categories in the Introductory Bill to add dimension to the value of data collected. DJJ should also report numbers of youth who enter DJJ facilities who: are runaways and/or homeless; need special education services; need mental health services; have a disability; and/or are pregnant and/or parenting. In our experience working with City agencies, the numbers of children who fall into these categories is often simply unknown to the agencies and vital information is then lost. Without taking into account such critical characteristics and needs, any attempts to provide appropriate services to children in DJJ custody will fall short.

Conclusion

The Introductory Bills proposed by the Juvenile Justice Committee are critical measures to promote accountability and transparency in the NYC juvenile justice system. They will not only contribute to ensuring the safety of children in the custody of DJJ, but also enable the City to use accurate information to ensure that the services it provides will best meet the needs of some of its neediest citizens.

In addition to the Introductory Bills, we understand that the Committee is considering a Resolution calling upon the NYS Legislature and Governor Paterson to develop a more equitable method of billing New York City for the placement of its youth in State-run facilities in order to allow the city to maximize funding for community-based, alternative-to-placement programs.

⁹ Burns Institute Strategies for Reducing Racial and Ethnic Disparities, New York State Division of Criminal Justice Services Symposium Series, March 19, 2009, <http://www.criminaljustice.state.ny.us/ofpa/jj/docs/ridolfimay21.pdf>

We urge the Council to pass the Introductory Bills with our suggested changes, and we support the goal of the Resolution aimed at directing funding to effective, community-based programs rather than detention and incarceration. Thank you for the opportunity to present testimony about these very important measures.

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Testimony of the Children's Defense Fund – New York
Jennifer Marino Rojas
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Statement on Intro 37 and Intro 150
Before the Committee on Juvenile Justice

New York City Council
April 21, 2010



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Good morning. My name is Jennifer Marino Rojas and I am the Deputy Director at the Children's Defense Fund – New York. Thank you for giving me the opportunity to comment on the proposed juvenile justice bills.

The Children's Defense Fund (CDF) 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. CDF provides a strong, effective voice for all the children of America who cannot vote, lobby or speak for themselves. CDF educates the nation about the needs of children and encourages preventive investments before they get sick, into trouble, drop out of school or suffer family breakdown.

As part of our advocacy efforts, we launched the CDF Cradle to Prison Pipeline® Campaign, a national call to action to stop the funneling of thousands of children, especially poor children and children of color, down life paths that often lead to arrest, conviction, incarceration and even death. In New York, we are working to transform the state's and city's juvenile justice systems and advocate for up-front investments in early intervention, community-based prevention and family support programs that keep children out of the pipeline. We are at an urgent moment of need and opportunity in New York, and right now our leaders have the ability to change the outcomes for thousands of New York's youth.

CDF-NY Statement on Proposed Bills

CDF-NY supports the bills proposed by the City Council to improve public accountability and transparency of the Department of Juvenile Justice (DJJ). We hope that these bills are a first step in creating more transparency for the entire city juvenile justice system, including all city agencies that play a role in young people's involvement with the juvenile justice system.

Intro No. 37 requires DJJ to publicly report on its website admission data for secure and non-secure detention facilities aggregated by gender, age, race, zip code of residence, precinct and offense. Given the clear disparities in the youth who are detained in the DJJ system, CDF-NY strongly supports this proposed legislation. By requiring DJJ to publicly report on this data, including zip code of residence and the police precincts responsible for the arrest of the young people admitted to DJJ, there will be more transparency in what is happening to youth of color in New York City.

This data can also be used to more effectively hold the broader system accountable, including the NYPD. The data can help pinpoint precincts that may be leading to higher rates of detention and help focus resources and efforts to developing better relationships between the precincts and the communities in which they are located. In addition, by clearly showing the zip codes that the youth are coming from, communities can become more active and work to address the underlying issues that are leading to the detention placements.

One change that we would propose to this legislation is to require this data to be updated on a quarterly basis. While annual data can still provide a picture of what is happening in the system, more frequent updates can highlight any changes or new challenges in a more timely manner.

CDF-NY also supports *Intro 153*, which will require DJJ to post quarterly incident reports on the department's website. While we continue to advocate for a reduction in the number of youth detained with DJJ, we also strongly believe that the conditions must be improved for those youth who are detained and that all children must be treated humanely and have the right to a safe environment.

To make this reporting more effective and provide additional context for each incident, CDF-NY proposes the following additions to the legislation:

- Where the bill requires reporting of the use of physical or mechanical restraints, we would suggest that DJJ also report on the reason such restraint was used. This will help determine if staff are using restraints in situations that should be resolved without any physical intervention or if they are using restraints in more serious situations. This information can also help determine what type of training and intervention is needed to improve the interaction of the staff with the youth.
- Where the bill requires reporting incidents of child abuse or neglect, DJJ should be required to also report what action, if any, was taken in response to the substantiated reports.

Overall, CDF-NY supports measures that will increase transparency and improve accountability of all stakeholders in the juvenile justice system. We urge the Council to also apply similar public accountability measures to the other entities that play a role in the juvenile justice system, including the NYPD and Department of Education.

If we are to truly address the challenges facing the juvenile justice system and end the funneling of young people of color into detention and state placement, it is critical to hold all entities accountable. The NYPD is the first contact a young person has with the juvenile justice system and is responsible for more than half of the admissions into the New York City detention system. In addition, the Department of Education's response to disciplinary issues leads many young people into the juvenile justice system unnecessarily. However, these agencies are not required to, nor do they voluntarily provide any data about their contact with young people in a way that shows a clear picture of how their policies and practices are affecting youth. Without clear and concise data that is made available on a timely basis, it is almost impossible to hold these agencies accountable or to work towards policy and practice changes that will improve the overall system and the lives of young people.

CDF-NY Statement on Preconsidered Resolution

CDF-NY supports the Preconsidered Resolution calling on the state to create a more equitable method of billing New York City for youth incarcerated in the state juvenile justice system. However, the issue is much larger than just the billing formula. As a result of efforts of the city and state, the overall population of youth incarcerated in the state facilities has decreased significantly and the state has closed and downsized facilities, reducing the overall number of beds in the system. Despite those actions, the cost per youth has continued to increase to more than \$210,000 a year, mainly because of the high overhead associated with the number of vacancies. In addition to the high financial cost, the outcomes for youth in this expensive system are unacceptable. With youth experiencing abusive conditions and unable to receive appropriate treatment it is not surprising that there is a 75 percent recidivism rate after just three years.

To truly bring down the cost per child and improve outcomes for youth, the state must close more facilities, invest in community-based alternatives and after-care programs, and move more youth back to their communities and into safe settings. These actions, in addition to a more fair and equitable funding formula for both incarcerated youth and for alternative-to-placement and alternative-to-detention programs, will save both the state and city money. They will also improve the lives of young people and improve public safety by reducing recidivism.

We are pleased that the Council has proposed these bills which will take a step forward in making DJJ a more open system and we look forward to continuing to work with you to improve the city's overall juvenile justice system.

Testimony of

DeAvery Irons
Acting Director
Juvenile Justice Project
The Correctional Association of New York

Before the Juvenile Justice Committee
of the City Council of New York

April 21, 2010

250 Broadway, 14th Hearing Room

Good morning. I am DeAvery Irons, the Acting Director of the Juvenile Justice Project at the Correctional Association of New York. The Juvenile Justice Project coordinates the New York Juvenile Justice Coalition an alliance of over 35 organizations working to create a more, fair and humane juvenile justice system. Before I begin my remarks, I would like to thank Chairperson Gonzalez and the Juvenile Justice committee for the opportunity to present this testimony.

The Correctional Association supports the two City Council bills and the resolution at issue in today's hearing. We applaud the City Council's efforts to protect New York City's youth by increasing the transparency of the City's juvenile justice system. I offer the following few suggestions to strengthen the effectiveness of the legislation.

Int. No. 37: Census Data

This legislation will provide community members and system stakeholders a much clearer understanding of who is in New York City's juvenile detention centers and why. The Correctional Association recommends that the legislation be changed to require the Department of Juvenile Justice to post the required information on its website on a monthly basis. Only the frequent and consistent posting of this information will afford communities, advocates, lawmakers and system staff the opportunity to proactively address inappropriate trends as they develop.

The Correctional Association also recommends that the City Council require reporting and web posting for other agencies that also have key juvenile justice data. This would include the New York Police Department, the Department of Probation, and the Department of Education. Transparency among all of New York City's relevant agencies will enable community members, advocates, and City agencies to identify earlier points of intervention and diversion that could decrease the numbers of youth entering DJJ custody.

Incident Reports

The Correctional Association recommends that the Department of Juvenile Justice also be required to post the agency's response to substantiated allegations of abuse. This should include, but not be limited to, disciplinary actions taken against staff. On the state level, in 2009 we learned through the Department of Justice report that OCFS staff members acted with near impunity because sanctions against staff were ineffective at best and often meaningless in practice. The regular reporting of remedial and disciplinary actions taken will help ensure the accountability of the City's detention staff.

OCFS Billing Resolution

The Correctional Association supports the City Council's resolution regarding the billing for youth placed in OCFS facilities, and the requested that the system be improved to allow the City to increase its investments in alternative programs. While the billing issue is important and New York City should reap the financial benefits of decreasing the number of youth it sends to OCFS facilities, we encourage the City Council to expand the language of the resolution. New York City should not be the backbone of the state system either by the money it is charged or the number of City youth that populate OCFS facilities. This year Governor Paterson's proposed budget cuts \$16 million to alternative programs around the state. We request that the City Council resolution urge the state to continue its commitment to decreasing the size of its juvenile prison system, keep youth closer to home, and funding alternative programs and services that will enable communities to address the needs of their children locally.

Thank you again for this opportunity to testify. I am happy to answer any questions that you may have.



Testimony of

Stephanie Gendell
Associate Executive Director
Citizens' Committee for Children

Juvenile Justice Bills

Before the
New York City Council
Juvenile Justice Committee

April 21, 2010

Good morning. 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 66-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 Chair Gonzalez and Members of the Juvenile Justice Committees for holding this hearing today regarding pending City Council bills related to the city's juvenile justice system. Like the City Council, CCC believes that transparency and accountability are critical for ensuring the safety and well-being of the city's children in this system.

Today's hearing is specifically about two bills and a pre-considered resolution. First, Int. 37 amends the administrative code to require the Department of Juvenile Justice (which is now part of the Administration for Children's Services) to report certain census on their web site regarding the populations in secure and non-secure detention (specifically age, gender, race and ethnicity, zip code of residence, precinct of arrest and charged offense.) The second, Int. 153, would require the Department of Juvenile Justice (i.e. ACS) to issue quarterly incident reports on their web site regarding the total number of incidents in the prior quarter involving physical restraints; injuries as a result of physical restraints; use of mechanical restraints; injuries as a result of mechanical restraints; fights and altercations between children; physical injuries to children as a result of fights with other children; additional physical injuries to children; children ordered into room confinement (and for those children the number of times ordered into room confinement and for how long); and allegations of abuse or neglect in a detention facility (unsubstantiated and substantiated and by facility for the ones that are substantiated). Lastly, the pre-considered resolution calls on the state to develop a more equitable method of billing New York City for placement of its youth in state run facilities in order to allow the city to reinvest monies into alternative-to-placement programs.

Int. 37 and Int. 153:

CCC greatly appreciates the recognition these proposed bills give to the importance of ensuring that elected officials, advocates and the public have access to critical information regarding how youth are treated in the city's detention facilities. Ensuring safe and quality care for these young people is a critical priority for CCC.

Notably, for many years DJJ benefited from an independent Ombudsman Review Board (ORB) as a means to monitor the welfare of children in DJJ's secure facilities. When the ORB was in existence, there was a staff ombudsperson in each of the city's three secure facilities who served as an advocate for the residents, responded to individual youth complaints, and helped mediate conflicts between staff and youth. The ombudspeople reported directly to the Ombudsman Review Board (ORB). The ORB consisted of independently appointed community members and experts in the field, who would review data on population trends, complaints and incident reports, and would meet with DJJ agency representatives on a regular basis. The ORB members also had the authority to visit the facilities and speak to residents and staff.

When DJJ overhauled the ORB and replaced it with the Resident Grievance Program (RAP), CCC urged DJJ to ensure that the new oversight body would maintain its independence from the agency. Specifically, we expressed our concern that the ombudspeople in DJJ secure facilities would report directly to the Commissioner and to members of the RAP Committee who were also appointed by the Commissioner. We were concerned, in the absence of a truly independent board, that there might be a chilling effect on reporting, discussions, and recommendations, with regard to individual complaints or systemic issues raised by the ombuds staff. At that time, we also urged DJJ to track various data elements so that they could ensure that the systemic issues

raised through the RAP process were captured and could be adequately addressed. And finally, we asked that data and findings be made publicly available. To date, since the establishment of the RAP little to no data on the conditions of care of youth in DJJ facilities has been released publicly.

Thus, CCC supports the Council's efforts to ensure that DJJ, now ACS, track critical information on the conditions of care in secure detention facilities and make that information publicly available. CCC looks forward to beginning to work with ACS on these issues now that DJJ is part of this larger child-serving agency.

As ACS has historically been very open with regard to child welfare and child care/Head Start data, and provides a great deal of critical information on its website, it is possible that legislation might not be necessary to ensure that ACS track and public report information about the secure detention facility census and critical incidents. We encourage the Council to work with ACS to determine whether the agency has access to all of the data and information requested in these bills before they are enacted. For example, Int. 153 requires DJJ to report the number of "fights" between children per quarter. Yet, the term "fight" is very broad and seems to include verbal arguments. Unless an incident is reported, it is very possible that DJJ/ACS facility staff may not know about all "fights". Similarly, Int. 37 would require DJJ to report the precinct of arrest and the charged offense and it is uncertain that DJJ/ACS has this information for all of the young people in their facilities.

CCC asks that the City Council, ACS and other advocates work together on a plan to ensure that ACS is tracking and reporting publicly the critical data about young people in detention—including census data and critical incidents.

The Pre-Considered Resolution:

CCC is especially grateful to Council Members Gonzalez and Council Member Lander for sponsoring the pre-considered resolution calling on the New York State Legislature and Governor Paterson to develop a more equitable method of billing New York City for placement of its youth in state run facilities in order to allow the city to reinvest funds into alternative-to-placement programs.

The State has consistently failed to make a significant investment into alternative to detention, incarceration and placement programs even though all partners agree that these services produce better outcomes for youth and communities. On the other hand, New York City has been investing in developing and supporting community based alternatives as well as a risk assessment instrument to better identify the youth who should remain in their communities. With these efforts and investments, New York City was able to reduce the number of City youth sent to OCFS operated facilities from 1,100 in 2005 to approximately 650 youth in 2009. Meanwhile, however, the City's bill for OCFS placements has increased from \$47 million in 2005 to \$59 million. Thus, while the City is investing in programs that should be cost-effective, the City is not saving any funds, and in fact expends more money by creating what should be cost-effective alternatives.

CCC stands by the Council Resolution that calls on the State to more justly bill the City so that in this time of budget shortfalls the City can invest its limited funds into the programs that have more success at lowering recidivism and treating youth's underlying needs—community based alternatives.

**TESTIMONY OF CHARISA SMITH,
Coordinator of the NYC Task Force on Racial Disparity
In the Juvenile Justice System,
A Consultant for the Community Justice Network for Youth
At the W. Haywood Burns Institute for Juvenile Justice Fairness and Equity**

Bill on Incident Reporting

General recommendation: Replace “Department of Juvenile Justice” with “ACS Division of Youth and Family Justice.”

**Charisa Smith’s suggested language is in italics.*

Recommendation to add to 7(b)(9):

9. for each child ordered into room confinement, the reason for placement in room confinement—including the relevant rule or violation number and the particular code of conduct being followed, the number of times ordered into room confinement and the length of stay for each instance;

Comments: As 2/3 of youth in NYC detention have scored low or medium risk on the city’s Risk Assessment Instrument (RAI)¹ and pose little risk of reoffending or fleeing before court,² many youth are unnecessarily detained. Detention exposes youth to gang culture, often forcing them to choose a gang affiliation.³ A U.S. Bureau of Justice Statistics (BJS) survey found that 12.1% of detained youth who were questioned said that they had been sexually abused at their current facility during the preceding year.⁴ Detention increases the likelihood that a child will be pushed deeper into the juvenile justice system.⁵ Further, the city reports that in FY2007, detention cost an exorbitant

¹ A **Risk Assessment Instrument (RAI)** is a test to evaluate if a young person “should be detained” because s/he is a threat to public safety, or because s/he is a “flight risk” and might run away before their next court appearance. NYC’s RAI was scientifically validated by the Vera Institute of Justice. Youth are scored Low, Moderate, or High Risk. The RAI was shown to accurately predict youth behavior. Yet, judges have the option of not using the RAI, it is only a “tool” for them, and 2/3 of youth in detention are either Low or Moderate Risk. Thus, many children in NYC are unnecessarily detained.

²Numbers to reach this figure were obtained from *Testimony of John Feinblatt, New York City Criminal Justice Coordinator*, to the New York City Council Committee on Juvenile Justice. September 25, 2009.

³ *Old Problem, New Eyes: Youth Insights on Gangs in New York City*. A REPORT BY PUBLIC ADVOCATE BETSY GOTBAUM, UPDATED DECEMBER 2008, available at http://publicadvocategotbaum.com/new_news/12_08_08RELGangs.htm.

⁴ See “Sexual Violence Reported by Juvenile Correctional Authorities, 2005–06,” Bureau of Justice Statistics, available at www.bjs.ojp.usdoj.gov/content/pub/pdf/svrjca0506.pdf.
<http://www.nybooks.com/articles/23690-fnr22>

⁵See generally *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*. Holman, Barry; Ziedenberg, Jason. Justice Policy Institute; Annie E. Casey Foundation, 2007.

\$214,620 per year, per youth;⁶ and in FY2008, 47.5% of the youth released from DJJ facilities were readmitted to detention in the same year, a 1.5% increase from the previous year.⁷ In a fiscal crisis when NYC has stated a goal of incarcerating fewer youth, our city cannot afford to shell out such mammoth funding to expose youth to danger and a high risk of recidivism.

Room confinement is a microcosm of the various ills in the detention system. It narrowly restricts children's movements, educational opportunities, and personal development, even more than life in the general population. All city officials are required to put youth in the "least restrictive environment" possible. For that reason, getting to the heart of the reasons why youth are placed in room confinement is essential to shining sunlight on our troubled detention system.

Int. No. 37

General recommendation: Replace "Department of Juvenile Justice" with "ACS Division of Youth and Family Justice."

**Charisa Smith's suggested language is in red.*

Recommended addition:

§9-201 Census Data.

9-201 Census Data. a. Beginning no later than September 30th of the year of enactment of the local law that added this section and on or before September 30th of each year thereafter, the Department of Juvenile Justice shall post a report on the department website regarding the total number of admissions to secure detention facilities in the previous fiscal year disaggregated by the following: (i) age; (ii) gender; (iii) race and ethnicity; (iv) zip code of residence; (v) precinct of arrest; and (vi) charged offense; and (vii) score on the NYC Risk Assessment Instrument (RAI).

b. Beginning no later than September 30th of the year of enactment of the local law that added this section and on or before September 30th of each year thereafter, the Department of Juvenile Justice shall post a report on the department website regarding the total number of admissions to non-secure detention facilities in the previous fiscal year disaggregated by the following: (i) age; (ii) gender; (iii) race and ethnicity; (iv) zip code of residence; (v) precinct of arrest; and (vi) charged offense; and (vii) score on the NYC Risk Assessment Instrument (RAI).

c. Beginning no later than September 30th of the year of enactment of the local law that added this section and on or before September 30th of each year thereafter, the

⁶Mayor's Management Report, Fiscal Year 2008, p. 152. The annual cost of secure detention is based on a per diem cost of \$588.

⁷Mayor's Management Report, Fiscal Year 2008, p.153.

Department of Juvenile Justice shall post a report on the department website regarding the total number of youth in contact with the Department of Juvenile Justice who were released due to eligibility for the Release to Parent Initiative disaggregated by the following: (i) age; (ii) gender; (iii) race and ethnicity; (iv) zip code of residence; (v) precinct of arrest; (vi) charged offense; and (vii) score on the NYC Risk Assessment Instrument (RAI).

§2. This local law shall take effect sixty days after enactment.

Comments: As 2/3 of youth in NYC detention have scored low or medium risk on the city's Risk Assessment Instrument (RAI) and pose little risk of reoffending or fleeing before court,⁸ many youth are unnecessarily detained. Detention exposes youth to gang culture, often forcing them to choose a gang affiliation.⁹ A U.S. Bureau of Justice Statistics (BJS) survey found that 12.1% of detained youth who were questioned said that they'd been sexually abused at their current facility during the preceding year.¹⁰ Detention increases the likelihood that a child will be pushed deeper into the juvenile justice system.¹¹ Further, the city reports that that in FY2007, detention cost an exorbitant \$214,620 per year, per youth;¹² and in FY2008, 47.5% of the youth released from DJJ facilities were readmitted to detention in the same year, a 1.5% increase from the previous year.¹³ In a fiscal crisis when NYC has stated a goal of incarcerating fewer youth, our city cannot afford to shell out such mammoth funding to expose youth to danger and a high risk of recidivism.

For that reason, it is imperative that the city continue to take a hard look at the results of the implementation of its Risk Assessment Instrument (RAI). The RAI is a test to evaluate if a young person "should be detained" because s/he is a threat to public safety, or because s/he is a "flight risk" and might run away before their next court appearance. NYC's RAI was scientifically validated by the Vera Institute of Justice. Youth are scored Low, Moderate, or High Risk. The RAI was shown to accurately predict youth behavior. Yet, judges have the option of not using the RAI, it is only a "tool" for them, and 2/3 of youth in detention wind up being either Low or Moderate Risk. While there was a City Council hearing on the RAI in September 2009, the city has not done a comprehensive study of the effects of the RAI, nor has it convened judges to educate them further on the RAI or to begin dialogue about best utilizing the tool.

⁸Numbers to reach this figure were obtained from *Testimony of John Feinblatt, New York City Criminal Justice Coordinator*, to the New York City Council Committee on Juvenile Justice. September 25, 2009.

⁹ *Old Problem, New Eyes: Youth Insights on Gangs in New York City*.

A REPORT BY PUBLIC ADVOCATE BETSY GOTBAUM, UPDATED DECEMBER 2008, available at http://publicadvocategotbaum.com/new_news/12_08_08RELGangs.htm.

¹⁰ See "Sexual Violence Reported by Juvenile Correctional Authorities, 2005-06," Bureau of Justice Statistics, available at www.bjs.ojp.usdoj.gov/content/pub/pdf/svrjca0506.pdf.

<http://www.nybooks.com/articles/23690-fnr22>

¹¹See generally *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*. Holman, Barry; Ziedenberg, Jason. Justice Policy Institute; Annie E. Casey Foundation, 2007.

¹²Mayor's Management Report, Fiscal Year 2008, p. 152. The annual cost of secure detention is based on a per diem cost of \$588.

¹³Mayor's Management Report, Fiscal Year 2008, p.153.

Having access to data on youth RAI scores is a crucial step in reducing detention population and transforming the city's juvenile justice system. These scores should be a part of the census of youth in the system.

Additionally, DJJ has revealed data showing that only a small percentage of youth in contact with the justice system have been released due to the Release to Parent Initiative (RPI). Yet, detention is the most restrictive option on the "least restrictive environment" spectrum. Seeing a thorough set of data about the demographics of youth released through RPI can help the city to find lessons learned and to figure out ways that fewer youth can be detained.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

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(PLEASE PRINT)
Name: Jennifer Marino Rojas

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I represent: Children's Defense Fund - NY

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

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(PLEASE PRINT)
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Address: _____

I represent: Citizens' Committee for Children

Address: 105 E 22nd St

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Name: De Aveya Irons

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I represent: Correctional Association of NY

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Name: LAURENCE BUSCHING

Address: _____

I represent: ACS

Address: _____

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in favor in opposition

Date: 4/21/10

(PLEASE PRINT)

Name: CHARISA SMITH

Address: 10 W. 135TH ST NY, NY

I represent: NYC TASK FORCE ON RACIAL DISPARITY

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: 4/21/10

(PLEASE PRINT)

Name: Chris Fisher

Address: 110 William Street, NYC 10038

I represent: Department of Juvenile Justice

Address: _____

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