

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON JUVENILE JUSTICE

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December 2, 2014
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HELD AT: 250 Broadway - Committee Rm,
14th Fl.

B E F O R E:
FERNANDO CABRERA
Chairperson

COUNCIL MEMBERS:
Maria Del Carmen Arroyo
James Vacca
Inez D. Barron
Rory I. Lancman

A P P E A R A N C E S (CONTINUED)

Gladys Carrion

Commissioner

Administration for Children's Services

Felipe Franco

Deputy Commissioner

Administration for Children's Services

Gabrielle Horowitz-Prisco

Director

Juvenile Justice Project

Correctional Association of New York

CHAIRPERSON CABRERA: Alright, we're gonna get started. [gavel] Good afternoon everyone; I am Council Member Fernando Cabrera, Chair of the Juvenile Justice Committee and I'm joined so far with Council Member Vacca and Council Member Lancman and today is December the 2nd, 2014. I wanna thank you all for being here today and I also would like to thank and acknowledge the other committee members that will be coming here soon.

We are here today to examine the New York City's Division of Youth and Family Juvenile Justice Oversight Board. The Committee has held several hearings in the past which focused on the City's various methods of overseeing the well-being of our court-involved youth, as well as responding and resolving DYFJ's facilities residents' grievances.

The Committee has always recognized the need for adequate care and comprehensive services for youth involving the juvenile justice system; to accomplish that goal the Administration for Children Services must provide all youth residing in detention and placement facilities an outlet to affectively bring forth their complaints and concerns. We

believe that they should be able to do so within a confidential forum and without prejudice.

We are looking forward to examining this proposed program in more detail during today's hearing and how its implementation intends to better serve New York City court-involved youth. I am optimistic that ACS new Juvenile Justice Oversight Board will help enhance the safeguard for detained and placed youth. It is critical that the Council and the administration continue our close partnership, especially during this time when a number of juvenile justice reforms are being implemented. As such, DYFJ should afford the Council the highest level of transparency and communication during the implementation of this new oversight mechanism as well as solicit our input moving forward with any significant policy changes. By doing so, this will help ensure that we as a collective do not jeopardize the safety and the well-being of our court-involved youth. I am looking forward to the administration's testimony and learning about the new developments regarding the administration's proposed Juvenile Justice Oversight Board and how this program

will assist youth residing in DYFJ's detention and placement facility.

With that being said, I would like to have the representative and the Commissioner, of course, to begin testimony, but first I'm required to swear you in, I'm sorry Commissioner, but it's policy of the Council. Do you swear and also to, Deputy Commissioner; I'm sorry, as well, do you swear or affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this committee and to respond honestly to council members' questions? [background comments] Okay. Well Commissioner, it's all yours; welcome. Thank you.

[background comments]

COMMISSIONER CARRION: Is it on? Yeah.

CHAIRPERSON CABRERA: Yes.

COMMISSIONER CARRION: Okay. I would like to thank the Council for this opportunity to update you on the Juvenile Justice Oversight Board, but before I do that I'd like to provide you with an overview of our system and bring you up-to-date on the work that we have been doing.

The Administration for Children's Services Office is a continuum of services and

1 programs for justice-involved youth. Our Division of
2 Youth and Family Justice works to promote public
3 safety and improve the lives of youth, families and
4 communities by providing services that are child-
5 centered and family-focused. Services include
6 therapeutic treatment, safe and secure custodial
7 care, responsive health care, re-entry services and
8 promotion of educational achievement. Together with
9 our contracted partners, ACS provides these services
10 to youth and community-based programs, as well as in
11 security and non-secure placement facilities. Over
12 and over we see that when young people who have
13 gotten into trouble are allowed to remain in the
14 community and receive intensive services they achieve
15 better outcomes than those sent to out-of-home
16 placement. And so wherever possible, ACS advocates
17 for young people to remain at home in their
18 communities while addressing the concerns that
19 brought them to the attention of the juvenile justice
20 system.

22 We oversee two community-based programs
23 with this goal in mind. The Juvenile Justice
24 Initiative works to reduce recidivism, improve youth
25 and family functioning and reduce the number of youth

1 in residential facilities. These young people must
2 comply with the program, it's a condition of
3 probation, and treatment is provided to help them
4 stay out of the justice system. JJI currently serves
5 approximately 180 youth.
6

7 The second program, called the Family
8 Assessment Program (FAP), serves families seeking to
9 file Persons in Need of Supervision, commonly known
10 as PINS, petitions in New York City Family Court.
11 PINS are young people under the age of 18 who are
12 charged with offenses unique to their status as
13 juveniles, such as not going to school or running
14 away from home or talking back to your parents. In
15 2013, FAP served more than 6,700 youth and the
16 program is on track to serve the same number of
17 families in 2014.

18 Where treatment and services in the
19 community is not an option, young people may be
20 served in our Secure and Non-Secure Detention
21 Facility Services while their cases are pending
22 adjudication. While in detention, residents receive
23 a number of services -- education, health services,
24 including mental health, recreation and case
25 management. In 2013, DYFJ served approximately 3,300

youth in our 13 non-secured and 2 secure facilities. As of October 2014, approximately 99 youth were in secured detention and 73 youth were in the 13 non-secured detention facilities.

On September 1, 2012, New York City launched Close to Home, a juvenile justice reform initiative that allows New York City youth who need residential rehabilitation to receive services in or close to the communities where they're from rather than hundreds of miles upstate. Under Close to Home young people are placed in the custody of ACS and receive rehabilitative and therapeutic services at one of the 30 small resource-rich residential programs in or near the five boroughs.

In partnership with New York State Office of Children and Family Services, ACS has collaborated with nine local nonprofit agencies to implement non-secure placement Phase I of Close to Home.

Approximately 180 young people are currently receiving residential services and another 100 have transitioned back to their families and are receiving after-care services.

In March of 2015, ACS will launch Limited Secure Placement; three providers will operate

facilities in six sites in or near New York City, serving approximately 120 young people in need of a higher level of care and structure. [cough][pause]

Multiple layers of oversight and quality-assuring mechanisms promote public safety and high-quality services for young people in our juvenile justice programs. The New York State Office of Children and Family Services sets and enforces regulations for all detention and placement-related services for youth in New York State and New York City. OCFS has a total of 13... I'm sorry, has 13 State employees responsible for the oversight of New York City detention facilities. At least five of those employees are stationed in New York City and they have an office within each of our secure facilities. In addition to oversight of the New York City's detention program by OCFS, they also have created an Office of Close to Home Oversight and System Improvement, an entire unit of 21 State employees dedicated to limited and non-secure placement planning, implementation and operations in New York City. Oversight activities include a minimum of quarterly official inspections of all 30 placement residents to review safety security

1 procedures and programs; this office works in
2 partnership with the OCFS Regional Child Welfare
3 office that oversees the child welfare agencies that
4 are operating non-secure Close to Home facilities.
5 There is a constant exchange between OCFS and ACS,
6 including frequent meetings and the sharing of
7 information to address any concerns or issues that
8 arise.
9

10 In addition to programmatic oversight
11 from the State, OCFS also has an Office of the
12 Ombudsman that advocates on behalf of youth in
13 residential care. That office, which reports
14 directly to the OCFS commissioner ensures that the
15 rights of residents of juvenile justice residents are
16 protected and the concerns of young people are
17 addressed. OCFS has designated three staff members
18 to conduct visits to Close to Home residents during
19 the late afternoon, evening; weekend hours, when
20 youth are most available and are not typically
21 participating in school and other programs. Since
22 2013, the New York City OCFS ombudsman persons have
23 conducted 499 visits to the 30 residential settings
24 operated by the nine non-secure placement providers.
25 OCFS ombudsman persons also monitor a 24-hour hotline

seven days a week. Every visit generates a report that is part of the OCFS oversight review. Their regular visits and engagement with youth and provider agencies allow the OCFS ombudsperson's unfettered insight into the areas of concern which they share with OCFS Close to Home Oversight and System Improvement Office; ultimately with ACS. Once a week ACS and the State Office of Children and Family Services discuss the OCFS ombudsman findings for the previous week to determine the needs of youth in ACS care and any issues that they may have encountered with the provider agency's delivery of services.

Monitoring the juvenile justice system is both a local and state responsibility. As the licensing agency for the provider agencies, OCFS retains oversight responsibility over the Close to Home provider agencies. ACS oversees the individual programs and agencies that make up the Close to Home system of care. The shared oversight responsibility ensures a robust system of accountability. ACS also maintains an ombudsman program, the Resident Advocacy Program, to advocate for the rights of detained youth, enhance accountability and strengthen services while monitoring the living conditions within the

city's juvenile justice detention facilities. The Resident Advocacy Program achieves its mission through ombudspersons operating in our secure and non-secure detention facilities. The ACS ombudsman person ensures that all youth understand their right to report and pursue a grievance and the process for doing so. The ACS ombudsman persons preserve the confidentiality of all young people's identities while investigating and working to resolve and address areas of concern. The ombudspersons respond promptly to the youth, acknowledging receipt of their complaint and initiate an investigation within 24 hours of speaking with the youth. As per the Resident Advocacy Program directive, residents' parents, legal guardians and other relevant parties may contact the facility ombudsperson to request services.

Over the years, ACS has broadened the role of the ombudspersons, encouraging them not only to address the concerns raised by others, but also to take a proactive approach to youth advocacy. In addition to fielding concerns, ombudspersons themselves also investigate and assess the quality of services and living conditions. Ombudspersons attend

the Group-Oriented Analysis of Leadership Strategy Goals, which is a division of Youth and Family Justice's monthly performance management meetings, to better understand issues that may impact our ability to serve youth. Attending GOALS provides yet another route to advocate for youth and offers an opportunity to meet with the senior leadership, enabling ombudspersons to provide input on broader ACS policies.

To enhance the independence of the Resident Advocacy Program, I recently changed the reporting structure and transferred the reporting supervision support of the ombudspersons to my first executive deputy commissioner. Formerly they reported to the executive directors of the Secure Detention Facilities.

In addition, we hired two residential care advocates who have prior justice system involvement to work both in our detention and Close to Home sites and liaison with the New York City OCFS ombudspersons. The residential care advocates also report to the first deputy commissioner and are responsible for ensuring that ACS is being responsive to the concerns expressed by youth in care. They are

1 out visiting programs, conducting workshops; engaging
2 with the youth. They recently organized a Youth
3 Speak Out and some members of my senior staff, KOCK
4 [sic] and other partners, to hear directly from youth
5 about experiences in both the foster care and
6 juvenile justice systems.
7

8 There are other external New York City
9 oversight entities, such as the New York City
10 Comptroller's Office, who is currently conducting an
11 audit of the Close to Home Initiative and the New
12 York City Office of the Inspector General, who has
13 oversight responsibility of all City agencies,
14 including ACS and has staff dedicated to ACS
15 oversight. The Public Advocate has an ombudsman
16 function that provides oversight over City Agencies,
17 the five New York City District Attorneys have the
18 authority to investigate City agencies when they
19 suspect wrongdoing and impanel grand juries to
20 investigate and issue their findings. And most
21 importantly, the City Council has oversight
22 responsibilities over the work of City agencies and
23 regularly conducts oversight hearings, such as this
24 one.
25

As many of you are aware, the New York State Justice System has investigatory oversight over both detention and Close to Home facilities. They investigate all allegations of abuse, monitor outcomes of significant incident reviews and corrective action plans undertaken by providers and perform post-audit activities regarding the implementation of corrective action plans by facilities and providers. In addition, the New York State Comptroller's Office also has authority to investigate and audit City programs funded with state dollars. As you can see, there are many layers of oversight.

The Juvenile Justice Oversight Board was established in the Close to Home Non-Secure Plan approved by OCFS. In the plan, ACS indicated it would develop an independent oversight board comprised of individuals from a range of backgrounds who are knowledgeable in the issues facing young people in residential care in connection with juvenile delinquent proceedings and committed to improved outcomes for youth, families and communities. The independent Oversight Board will be responsible for viewing and reporting on conditions

throughout the residential placement system. There is no other reference to the Juvenile Justice Oversight Board in the plan. The prior administration appointed most of the members and had convened one meeting in September 2013. I first met with the Board on March 31st, 2014, within my first 90 days of my tenure as commissioner. At that time I shared my vision for our juvenile justice system and discussed the role that would be most helpful to me in advancing our work. Additionally, I informed them that I would be reviewing the Board composition and the role of the Board to better serve the priorities of this administration. Given the robust oversight from the State and the structure for advocacy on behalf of youth at both the state and city levels, I began to examine the function and objectives of the Board to better define the scope of responsibilities of the Board comprised of individuals independent of ACS but who function in an advisory role to the commissioner.

The welfare of justice-involved young people will be better served by a juvenile justice independent oversight that will review and advise on the entire spectrum of the juvenile justice system in

New York City, including alternatives to placement, respite care, secure and non-secure detention and non-secure and limited secure placement. This expands the Board's ability to look at the functioning of the entire system. Specifically, the Board will undertake the following roles: review operations and services offered at ACS run and ACS contracted facilities; review and analyze data and provide feedback and recommendations; assist with non-secure program advisory boards, community outreach and stakeholder messaging; advise the commissioner around policy and program challenges and changes, new projects and future goals; provide juvenile-justice-specific content expertise and assist in the identification and brokering of resources. The Board will meet quarterly at juvenile justice detention and placement residences throughout the city and in collaboration with ACS will issue an annual report that summarizes its work, the system challenges and accomplishments to serve our justice-involved youth and their families. Also the membership requirements will change slightly to ensure citywide representation in the composition and experiences of board members. Juvenile-justice-

involved youth are best served by engaged members who are active in the juvenile justice field and vested in our communities. Therefore, community connection is a central attribute of Board membership. As such, I have modified the Board's membership criteria to solely allow residents of New York City to participate and feel strongly that all five boroughs must be represented. Unfortunately, this new residency requirement will preclude three current members from serving on the Board; we sincerely thank them for their commitment to youth and hope to engage them in other aspects of our work.

In addition to requiring New York City residency for board members going forward, the Board will include at least one parent of a justice-involved youth, an adult who was justice-involved as a young person, as well as representatives from the fields of education, mental health, judiciary and a member of philanthropic community, and we will also have youth representation.

The vision is that the stakeholder interests are adequately represented, particularly with respect to community connections and investment. Members are expected to attend all board meetings as

1 well as engage with and advise our other juvenile
2 justice groups, specifically the community advisory
3 boards that each of our non-secure placement
4 providers are required to convene. Ultimately the
5 full board will have between 9 and 15 members,
6 including a chair that I will appoint. I invite the
7 Council to recommend qualified candidates for
8 consideration.
9

10 I shared this new expanded vision for the
11 Board during the second meeting on October 28th. The
12 Board will hold its next meeting on January 28th at a
13 juvenile justice residence.

14 In closing I wanna thank you for this
15 opportunity to share with you the important work
16 we're doing to address the needs of youth in our
17 juvenile justice programs. We're grateful for all
18 the support of the Council as we continue to strive
19 to improve services for the city's most vulnerable
20 young people. I'm happy to take any questions you
21 may have. Thank you.

22 CHAIRPERSON CABRERA: Commissioner, thank
23 you so much; that was very extensive and informative;
24 sometimes I hear extensive testimony but is just a
25 lot of the same; yours was very detailed; it actually

1 answered many of the questions that I did have, so I
2 really, really appreciate the level of detail that
3 you have provided here today. I have a few
4 questions, then I'm gonna turn it over to my
5 colleagues and then I'll come back with some
6 questions.
7

8 The Board -- let's talk about the Board
9 first; how often do you expect them to meet?

10 COMMISSIONER CARRION: Quarterly.

11 CHAIRPERSON CABRERA: Quarterly. And at
12 the end of the day, how does their work compare with
13 the ombudsperson?

14 COMMISSIONER CARRION: So I really
15 struggled with that because we have the State's
16 ombuds and we have our ombuds and we can't be
17 stepping over each other, quite frankly... [crosstalk]

18 CHAIRPERSON CABRERA: Right.

19 COMMISSIONER CARRION: so I really would
20 like the Board to be able to provide input into
21 policy and into programming and to where the gaps of
22 services are; also to be able to go visit facilities,
23 observe the physical plan; be able to engage with
24 young people and hear young people. I'd also like
25 them to be able to represent what the interests are

1 in the community, what they're hearing as they
2 participate in their work, and also to be able to be
3 a resource to the community boards, the advisory
4 boards of each of the Close to Home programs, to be
5 able to be a liaison so that we can hear from those
6 community boards what's happening at that level in
7 the community... [interpose]

9 CHAIRPERSON CABRERA: And just for the
10 sake of clarity in my own mind; in the past, did they
11 handle cases; were cases brought to them; do you
12 know?

13 COMMISSIONER CARRION: I don't know.

14 CHAIRPERSON CABRERA: I'm asking, 'cause
15 I don't know.

16 COMMISSIONER CARRION: I don't know.

17 CHAIRPERSON CABRERA: Maybe one of those...
18 so okay... [crosstalk]

19 COMMISSIONER CARRION: I don't know if
20 individual cases were brought to them.

21 CHAIRPERSON CABRERA: So basically... and
22 I'm happy to hear you're expanding the role and
23 scope; my question is; what do you see, in terms of
24 what you're implementing now, how would the outcome
25 of what they do be different?

COMMISSIONER CARRION: Well what I'm hoping as we look... as I expanded the spectrum to include the entire spectrum, including alternatives, to detention alternatives, the placement, the respite program that we're launching in January and as well as non-secure detention and then limited non-secure and limited secure Close to Home is really for us to have the entire picture in the continuum and to be able to assess what the needs are of young people as they go through the system and we can identify where the gaps are, we can see what our challenges are, how we're doing and get their input, from their perspective, as they see how we're doing, how they review the data, how they can help us understand that data from their perspective.

CHAIRPERSON CABRERA: And how has the data been collected, let's say this year; what mechanisms were in place to collect the data?

COMMISSIONER CARRION: So as you know, the City Council, as a requirement, that we publish the data, so we have extensive data collection and we have information in each of the points for us in the continuum and we continue to improve our data collection. I think one of the challenges that I

1 discovered at ACS is really the lack of use of
2 technology and systems that helps us be able to
3 capture more information and also to be able to get
4 reports; there is a lack of that infrastructure that
5 makes it more difficult, so we're actually working
6 very intensively to create and enhance our capacity
7 through better use of IT.

9 CHAIRPERSON CABRERA: I'm really happy to
10 hear that. And then, when you get the data, what's
11 the process of analyzing the data that comes in; is
12 there like a process that you set or...? [crosstalk]

13 COMMISSIONER CARRION: Well... Yes. Well
14 you know we have an entire unit, a policy unit that
15 reviews the reports, you know that reviews the data,
16 issues reports -- we get flash reports -- the staff
17 works very closely with the data to be able to
18 analyze it and the whole spectrum of data, you know
19 the demographics of the young people in care to the
20 services and service utilization, educational
21 information, information on restraints, information
22 on injuries, information on every aspect of how a
23 young person experiences our system. That
24 information will be shared with our Juvenile Justice
25 Board.

CHAIRPERSON CABRERA: Have there been policy changes or a strategic approach that has changed as a result of the data that you've seen this year so far...? [crosstalk]

COMMISSIONER CARRION: Oh yes. Yes.

CHAIRPERSON CABRERA: Can you give us up here example... [crosstalk]

COMMISSIONER CARRION: Yeah. Well Felipe; do you wanna share some of the examples?

DEPUTY COMMISSIONER FRANCO: Yeah, I think one... Hello.

COMMISSIONER CARRION: Yeah.

DEPUTY COMMISSIONER FRANCO: So one thing that is important is that historically the Board, as used to be convened at ACS, actually had a very limited picture of the reality of kids while they are in institutions, particularly in detention and then later on in Close to Home and that gives you a picture of what happened to them and it is really important that we take care of them while they're under our custody. By expanding the scope of the Board, actually the Commissioner expanded the scope of the data that we look at. So the meeting that she recently had... [interpose]

COMMISSIONER CARRION: And has the data changed in terms of policy...? [crosstalk]

DEPUTY COMMISSIONER FRANCO: So for example, now we look at data not just in terms of what happens in institutions, but we look at data where the kids are coming from. So actually, the meeting that you had most recently we could look at neighborhood-specific data. So again, that hasn't led to a particular change, but it's actually beginning to make us think about how we think about the continuum on those neighborhoods where the kids come from. We also, I think in the meeting that you had most recently, had the data available actually for the board members to really look at it and actually they had comments about, for example, programming during the holiday; I mean maybe we should do more of it; I mean that was five, two [sic] years ago. I mean so, I don't think we're gonna be prescriptive about what you get out of the data; we want the Board to actually come with ideas that we don't have. But I think the scope of data, being able to look at the continuum on how a kid ends up in detention or in Close to Home is something that is really new for ACS and the Board to look at.

CHAIRPERSON CABRERA: And is this data shared with other agencies, for example, Department of Youth, to be able... for example, if we're starting to see a shift [background comment] where the kids are coming from, to be able to put more resources on those particular areas?

DEPUTY COMMISSIONER FRANCO: We're beginning -- I mean the Commissioner recently has been digging into data, looking at schools with DOE [background], so that's one of the projects that we really wanna know where all the kids come from, where all the kids go back to; I think this is kind of a new way of understanding the continuum. I mean I think historically we only looked at kids when they came to us, how they did while with us; the Commissioner is really making sure that we figure out why they came to us. One area where particularly we have emphasized is actually the child welfare juvenile justice continuum, so across [sic] our youth work; we have really strong policies and practices and that's a system that we really can carefully look at that pathway that sometimes happens between kids who have been in child welfare than a child abused

and neglected that finish up in the juvenile justice system.

CHAIRPERSON CABRERA: You've got me curious; can you share with us what regions or areas or council district you're starting to see a shift? I don't know if you have the data with you; where has the shift taken place or hot spots?

DEPUTY COMMISSIONER FRANCO: Yeah, I mean New York City in the Close to Home side is actually really focused on seven neighborhoods and we could share that specific data with you later on.

CHAIRPERSON CABRERA: Okay. Good, good, yeah. I'm gonna turn it over to Council Member Lancman and I have a few more questions. Thank you.

COUNCIL MEMBER LANCMAN: Good afternoon, Commissioner.

COMMISSIONER CARRION: Good afternoon.

COUNCIL MEMBER LANCMAN: So I just wanna understand this program a little bit, because it's gone through such an evolution and so many different permutations. There was a court case in the early 70s; the court ordered ACS to create an ombudsman program and then at some point that program included the Ombudsperson Review Board; what was the function

1 of that board; do you remember? And I'm not just
2 interested because I have a historical curiosity, but
3 the court required the creation of this entity; it's
4 the closest entity in time to when the court ordered
5 it and I really wanna make sure that what you're
6 creating today and how it's evolved is satisfying
7 whatever the court back in the early 70s determined
8 ACS was lacking.

10 COMMISSIONER CARRION: So I actually am
11 not familiar with that at all, except to say that
12 that board or the ombudsman program was restricted to
13 detention facilities, 'cause that's all ACS ran at
14 that time was detention, but I quite frankly would
15 have to go back and talk to our lawyers, but it's not
16 been an issue that's been raised and all of this work
17 has been vetted both by our attorneys, by City Hall
18 and by the State, who ultimately is the oversight
19 board that has to approve and authorize all of this.

20 CHAIRPERSON CABRERA: So let me ask you
21 about the nature of the board as it's evolved. So
22 after the Ombudsperson Review Board, then in 2008 ACS
23 disbanded the ORB and created the Resident Advocacy
24 Program with an advisory committee, the RAPC; then
25 in... So I wanna understand the RAPC's functions,

1 because it also seems as if what started as this very
2 specific and discreet program aimed at giving
3 children an opportunity to voice grievances and an
4 advocate to ensure that those grievances are heard
5 seems to have morphed into something much broader,
6 sort of like an inspector general is the only analogy
7 that I can make, what the Council did last year with
8 the Police Department with the authority to look at a
9 broad range of policies and that's all well and good,
10 as long as the core function, the original function
11 of the ombudsperson to be an advocate for children is
12 not getting lost. So... [interpose]

14 COMMISSIONER CARRION: Actually, the core
15 function I would submit is still very much the
16 priority for the ombudsmen within the facilities. I
17 think that what we've learned is, and I think, and
18 you know I have spoken personally to the
19 ombudspersons at ACS, is that there are some systemic
20 issues that interfere with their ability to serve the
21 young people and they didn't really have an avenue to
22 be able to advocate so that they were responding to
23 many of the same problems over and over and over
24 again because there was not a systems response to the
25 problems they were seeing.

1
2 COUNCIL MEMBER LANCMAN: And I think it's
3 great... [sneeze, cough] excuse me... that ACS has this
4 kind of policy review board to look at the bigger
5 picture of the systemic problems, as long as this
6 board doesn't lose sight of... or has not lost that
7 other original function, which is, a child's
8 particular individualized complaint or grievance will
9 make its way to the Board and then the Board will...
10 and then what; I have that question; does the Board
11 adjudicate it; does the board... [interpose]

12 COMMISSIONER CARRION: No, the Board
13 never did.

14 COUNCIL MEMBER LANCMAN: what... what...

15 COMMISSIONER CARRION: The Board never
16 had that function. I mean I think that what you have
17 at the Board is a reporting out, always,
18 historically, a reporting out of the types of
19 complaints and that continues in terms of the data
20 presentation -- what are the issues that are
21 presenting; what are the complaints that the young
22 people are identifying that the ombuds are
23 addressing. At our very first meeting that we had,
24 the ombudsmen were there and actually made a
25 presentation, so the Board got a sense of the types

1 of complaints. But the Board really doesn't have any
2 power to adjudicate or even address those; that's
3 really never been a function of any of the boards and
4 that's really a function of the agency to be
5 responsive and address that and those are the
6 mechanisms that are in place to do that, which not
7 only are the complaints that our own ombudsmen in our
8 detention facility our youth advocates identify, but
9 also importantly, the three State ombudspersons that
10 are in the city that have made close to 500 visits,
11 every week there is a meeting where they articulate
12 what are the complaints the young people have
13 expressed, have they been resolved and if they have
14 not been resolved, why not; what are you gonna do;
15 what's the timeline, and that's the type of
16 discussion... [crosstalk]

17
18 COUNCIL MEMBER LANCMAN: Who... who are the
19 ombudspersons having that conversation with? Can you
20 just walk me up the chain?

21 COMMISSIONER CARRION: Sure.

22 COUNCIL MEMBER LANCMAN: Kid has a
23 grievance, gets in touch with an ombudsperson
24 somehow, maybe during a visit... [crosstalk]

COMMISSIONER CARRION: Well they're in detention, they're... [interpose]

DEPUTY COMMISSIONER FRANCO: There's an ombudsperson in detention; there's three [sic] of them... [crosstalk]

COMMISSIONER CARRION: in detention, physically housed in detention.

COUNCIL MEMBER LANCMAN: Okay. So kid has a grievance, goes to the ombudsperson; work me up the food chain... [crosstalk]

DEPUTY COMMISSIONER FRANCO: Historically... I mean and actually still as a practice, that will go up to the director of the facility; I mean, we look at the data, most of the complaints have to do with quality of life, issue of the quality of the soap; I mean... [crosstalk]

COMMISSIONER CARRION: Food.

DEPUTY COMMISSIONER FRANCO: of, you know the food or actually I need a certain something, like a call to be made now to my family. So those things could be addressed mainly immediately. Having said that, those things are actually captured as data elements and historically they used to come up to me; I mean my predecessor in DJJ [sic], now they go to

1 someone who reports directly to the Commissioner to
2 kind of, I believe, to address the systemic issues
3 that if there is a significant pattern of complaints
4 about the quality of the soap, I mean as you can see
5 from making [sic] excuses, you need to figure out a
6 better soap. I mean we haven't taken away the
7 individual person that is actually available for
8 those 50 kids in that secure facility to talk to.
9 The Board, this board that we're talking about, is an
10 entity that give those kinds of reports and actually
11 now more reports about Close to Home and the
12 continuum in the juvenile justice system.

14 COUNCIL MEMBER LANCMAN: Give the
15 important role that the Board plays, potentially, if
16 it's doing its job in shaping ACS policy and
17 informing the commissioner or informing the decisions
18 that the commissioner makes on some very big
19 systematic issues, do you think it's something that
20 the Council should put into legislation, the
21 composition of the Board, the appointment authority,
22 terms of office, basis for removal? I mean the Board
23 here is potentially playing a very meaningful role in
24 shaping ACS policy and I would like to get your view
25 on whether or not it should continue as a creature

that... whose composition, powers, tenure is completely at the commissioner's whim.

COMMISSIONER CARRION: Well I wouldn't say the commissioner's whim; this is a body that assists me in doing my work; I would welcome the opportunity to have the discretion to be able to shape it, to make sure that I identify people that have the expertise and knowledge and people that share the vision of this administration and I think that's really important to be able... and programs change and needs change. I will tell you that at the State, when I was state commissioner, we had an independent IRB, Independent Review Board that was in statute, but within that statute I had, as commissioner, much discretion, I appointed everyone; we had categories, very much like the categories that are on this board, and they served in an advisory capacity to me and that legislation actually codified the work I was doing. So it didn't interfere with the work that I was doing; it mandated a certain number of quarterly meetings and the confidentiality of the process, which is very important because it's very child-specific information at times and confidential information that's relied. But even

1 within that framework I had the discretion of being
2 able to identify who was on that board, add to that
3 board and identify who the leadership of that board
4 would be.

6 COUNCIL MEMBER LANCMAN: So I infer from
7 that that you wouldn't be adverse to legislation
8 which codified the Board, it's composition, tenure of
9 its members, etc. as long as, similar to the State
10 legislation that you referred to, it still gave the
11 right amount of discretion to the commissioner so
12 that she or he could really utilize the Board as a
13 way to enhance the vision that the commissioner is
14 bringing to the agency. It seems like that's
15 something that the Council should look at and it
16 doesn't seem like it's something that ACS would, on
17 its face, object to as long as it was done in the
18 right way.

19 COMMISSIONER CARRION: Absolutely, as
20 long as we can work out those details, Council
21 Member. I certainly don't have a problem with that,
22 having worked within a statutory framework in the
23 state as commissioner; once again, this Close to Home
24 is a creature of the state, it is subject to the
25 approval of a state plan and how the program is

operated is within the confines of that state plan,
so as long as whatever action the Council wants to
take is within that authority and legislative
framework that was set for Close to Home, it wouldn't
be a problem.

COUNCIL MEMBER LANCMAN: Alright, well we
might be working together on that. Thank you very
much.

CHAIRPERSON CABRERA: I feel a LS [sic]
request coming down the turnpike. [laughter]
Commissioner, as a matter of fact I had a similar
question regarding how are complaints handled. So
basically a complaint comes from...

COMMISSIONER CARRION: It can come from
the young person, [background comment] it can come
from a parent... [crosstalk]

CHAIRPERSON CABRERA: Okay.

COMMISSIONER CARRION: it can come from
the staff; it can come from any family member.

CHAIRPERSON CABRERA: And then it goes
to...

COMMISSIONER CARRION: And it goes to the
ombudsperson and either goes... [crosstalk]

CHAIRPERSON CABRERA: Who's there 20...
there's always one 24 hours a day... [crosstalk]

DEPUTY COMMISSIONER FRANCO: Not 24
hours.

COMMISSIONER CARRION: Well no, not 24...

CHAIRPERSON CABRERA: Okay.

COMMISSIONER CARRION: during working
hours...

CHAIRPERSON CABRERA: Working hours.
Okay.

COMMISSIONER CARRION: so it can come
directly in detention, right...

CHAIRPERSON CABRERA: Okay.

COMMISSIONER CARRION: through that
process, and usually most of those kinds of
complaints or issues are resolved right there; if
they can't be resolved right away they go to the
director and there's a conversation with the
director; if those issues can't be resolved, then the
ombudsman would go up to their supervisor, their
oversight, which is my first deputy... [crosstalk]

CHAIRPERSON CABRERA: Gotcha.

COMMISSIONER CARRION: so that's the
chain of command. And if there's certain an issue

1 that couldn't be resolved -- and I can't envision an
2 issue that can't be resolved at that level -- then I
3 would certainly get involved. For Close to Home, the
4 ombudsman, the state ombudsmen, the three that are
5 assigned, go out and visit all of the providers; they
6 meet with young people, they review records; they
7 talk, when they identify these issues that the young
8 people identify, they speak to the director of the
9 facility there, the non-secure provider, and attempt
10 to resolve that, they issue a report; we meet, the
11 staff meets on a weekly basis with the OCFS
12 ombudsperson, our ombuds, our youth advocates, our
13 ombuds are on the telephone call, so is Felipe's
14 staff is on that call and those issues are resolved.
15 Anything that has not been resolved at that very
16 first level, they get resolved in that telephone call
17 or that meeting. If there are any higher level
18 issues that have to be dealt with, they're dealt with
19 the first deputy or myself directly. I am very
20 committed and I established the ombudsman office at
21 the state when I was state commissioner; I am very
22 committed to ensuring that young people have a voice
23 and that that voice is heard and that we address
24 their concerns, and usually the concerns are a wide
25

range, but we shouldn't dismiss, for a young person, the issue of having appropriate soap or having sufficient food or knowing when their date of release is are very important things and so I wanna make sure that they're not minimized and that they're addressed.

CHAIRPERSON CABRERA: What's the biggest top three complaints that you get, other than food... [crosstalk]

DEPUTY COMMISSIONER FRANCO: In Close to... In Close to Home... [crosstalk]

CHAIRPERSON CABRERA: 'cause there's never enough food for young people, but... [crosstalk]

COMMISSIONER CARRION: Food. Food. Food.

DEPUTY COMMISSIONER FRANCO: Yeah in detention has been food, historically that's always been a challenge, New York City has really some regulations around food that I never had in the state. [interpose]

CHAIRPERSON CABRERA: Is that related to like salt content, sugar... [interpose]

DEPUTY COMMISSIONER FRANCO: Quantity, yeah...

COMMISSIONER CARRION: Quantity, yes;
nutritional value.

CHAIRPERSON CABRERA: We need to change
those... [interpose]

COMMISSIONER CARRION: And you know the
challenges that they're adolescents and they're
growing... [crosstalk]

CHAIRPERSON CABRERA: They're only there
29 days, right?

COMMISSIONER CARRION: and they're always
eating and so we have... [interpose]

CHAIRPERSON CABRERA: Right.

COMMISSIONER CARRION: a set number of
calories...

CHAIRPERSON CABRERA: Wow.

COMMISSIONER CARRION: and you know that
becomes challenging at times and I think that one of
the things that we don't understand is that you can
set these... you know in schools you can set these
restrictions around calories, but kids get to go home
and eat whatever they want... [interpose]

CHAIRPERSON CABRERA: That's true.

COMMISSIONER CARRION: but children that are in my care are in a facility; they don't get to go home and have... [interpose]

CHAIRPERSON CABRERA: Right.

COMMISSIONER CARRION: additional food that no one measures, you know, so that's a challenge that we struggle with and we're working with... [crosstalk]

CHAIRPERSON CABRERA: Is that a state mandate?

COMMISSIONER CARRION: It's a city mandate; it's a city... [crosstalk]

CHAIRPERSON CABRERA: It's a city... oh so, we could change that; let's... [laughter] let's work on that. I mean...

COMMISSIONER CARRION: Yeah.

CHAIRPERSON CABRERA: Look, when a teenager is hungry, they get cranky... [crosstalk]

COMMISSIONER CARRION: Yeah.

CHAIRPERSON CABRERA: when they get cranky there are issues and so you know, when it comes to food... and I was looking at the data, the average young person stays there 29 days; is that what it is...? [crosstalk]

DEPUTY COMMISSIONER FRANCO: Yeah. But we... [crosstalk]

CHAIRPERSON CABRERA: So I mean it's time to change...

DEPUTY COMMISSIONER FRANCO: But we still do have some kids who are with us for a significant amount of time and I mean sadly they are developing into adulthood under our care; you know, we should give them a little bit more than those small juice boxes.

COMMISSIONER CARRION: Yeah.

CHAIRPERSON CABRERA: Yeah, definitely. So we've got food; what's the other issues?

DEPUTY COMMISSIONER FRANCO: Yeah, on the Close to Home the... I think the largest challenge that we have is property; I mean... and I think it's something that we're getting finally better at, but people forget that for many of these young people there's very few things that they have and again, we're talking about the tee shirt or clothing item and they move, I mean they move from detention to placement; from home to another home; from one site to another. We're getting better, but we need to do really well and it's one of the commissioner's

1 priorities that anything that these folks have; I
2 mean a picture; a letter, is really meaningful to
3 them and we need to make sure that we safeguard and
4 keep it for them no mater where they go.

5
6 CHAIRPERSON CABRERA: Do they have
7 lockers?

8 DEPUTY COMMISSIONER FRANCO: I mean they
9 have lockers, but it's within the movement within
10 program, so... [crosstalk]

11 CHAIRPERSON CABRERA: Oh I see.

12 DEPUTY COMMISSIONER FRANCO: So I mean a
13 young person come out from detention to placement;
14 from a placement facility to another placement
15 facility; we need to do a better job of inventory
16 and... [crosstalk]

17 COMMISSIONER CARRION: So in the
18 transportation many of their things get lost...
19 [interpose]

20 CHAIRPERSON CABRERA: Okay.

21 COMMISSIONER CARRION: and so we are
22 revamping that to make sure that we can be
23 accountable for whatever property they had.

24 CHAIRPERSON CABRERA: I'm happy to hear
25 that... [crosstalk]

DEPUTY COMMISSIONER FRANCO: Yeah, I mean I think; I mean being of the city, it's about those small things that really make a difference in the life of a young person... [interpose]

CHAIRPERSON CABRERA: Sure.

DEPUTY COMMISSIONER FRANCO: and you know we take care of that for our kids; sometimes we don't take care of that for other kids that we care for. Some of it; I mean, sometimes it doesn't even come from the kids; I mean my biggest issue recently has been mattresses, because the commissioner recently went to a facility and laid down in one of the beds, so I'm actually just changing all the mattresses to be more appropriate, so... [interpose]

COMMISSIONER CARRION: I will share with you that I went to visit Horizons and went to visit... and looked in the rooms and saw one of the mattress in the room folded over and I said how could a mattress so easily be folded over and why would it be folded over...

CHAIRPERSON CABRERA: Huh.

COMMISSIONER CARRION: and I was told that it was to facilitate searches. Once again, to facilitate the life of adults. So you know, my role

1 is to ensure the well-being of the young people in
2 the facility and you know to the extent that we can
3 make jobs easier, that's great, but not at the
4 expense of young people. And so when I then unfolded
5 the mattress and very thin foam-like mattress, hard
6 plastic covering, I lie down on that mattress and it
7 was very uncomfortable...

9 CHAIRPERSON CABRERA: Uhm.

10 COMMISSIONER CARRION: and so if my child
11 and my children can't sleep on that mattress, no one
12 else's child should sleep on that type of mattress,
13 so we are getting new mattresses for every child...

14 [crosstalk]

15 CHAIRPERSON CABRERA: I applaud you,
16 Commissioner, I applaud you really because we need...
17 it goes without saying; we need to be humane, to say
18 the least... [crosstalk]

19 COMMISSIONER CARRION: Exactly.

20 CHAIRPERSON CABRERA: I mean, do unto
21 others what you would like them to do unto you should
22 be really the policy. So what I've seen so far is,
23 based on really the data you're getting already,
24 bringing transformation and changes, such as the one
25 you just mentioned [background comments], such as the

1 food, which I would like to work with you on that,
2 and we had that discussion before when we went to
3 Horizons and so we'll definitely work on that --
4 we've been joined by Council Member Barron.

5 I have one last question and that is in
6 regards -- if somebody were to ask you how
7 independent is this board; how much independent power
8 does this board have when it comes to the authority
9 that they have? How would you respond to that?

10 COMMISSIONER CARRION: They're not
11 independent.

12 CHAIRPERSON CABRERA: Okay. [laugh]
13 That's an honest answer... [crosstalk]

14 COMMISSIONER CARRION: They're an
15 advisory board and they're not independent, they're
16 an advisory board. [crosstalk]

17 CHAIRPERSON CABRERA: I think that some
18 people... and Council Member Lancman, I'm glad you
19 brought... I think there's this idea in our minds that
20 the Board is there at the end to be able to resolve
21 the complaints and it's not, so... [crosstalk]

22 COMMISSIONER CARRION: That's not, and
23 that really is not an appropriate role for
24 [background comment] a board to do to adjudicate or
25

1 resolve individual grievances; that really is a staff
2 function; I would say that the Board's function is to
3 make sure that that is happening as we report out and
4 that we have policies and procedures in place to
5 respond to that and ensure that that goes accordingly
6 to the way it's supposed to go and to be able to give
7 us some insights on how we can do things differently.
8 But it's an advisory board, certainly a board that
9 doesn't have its own staff, that it doesn't have its
10 own funding; is not independent. So let's just be
11 honest about it; it's independent in a sense that
12 these individuals don't work for the City; they don't
13 work for the State, so that they don't have a vested
14 interest in the work of ACS, but they serve as an
15 advisory capacity to me.

17 CHAIRPERSON CABRERA: And just like, you
18 know in my other life I'm a pastor and when you say
19 this is the last point of a message and you keep on
20 going, I have to follow the flow here. I'm just
21 curious, Commissioner; you mentioned in your
22 testimony in March of 2015 ACS will launch limited
23 secure placement; three providers will operate
24 facilities at six sites; those have been identified
25 already?

COMMISSIONER CARRION: They have been.
The City and the prior administration had a
procurement process...

CHAIRPERSON CABRERA: Okay.

COMMISSIONER CARRION: and so it's
Children's Village, Episcopal and Lincoln West;
right?

DEPUTY COMMISSIONER FRANCO: Uhm-hm.

CHAIRPERSON CABRERA: Okay. Beautiful.
Thank you; if there's no other questions --
Commissioner, I wanna thank you and your staff for
the fabulous and amazing work that you're doing; in
less than a year you already are bringing systemic
change and people got so excited here they even shut
the lights... [crosstalk]

COMMISSIONER CARRION: That's right.

[laugh]

CHAIRPERSON CABRERA: they're getting
ready to put 'em up and down for the work that you're
doing. Thank you from the bottom of my heart.

COMMISSIONER CARRION: Thank you; thank
you for your support.

CHAIRPERSON CABRERA: Have a wonderful
day.

COMMISSIONER CARRION: Thank you; you too.

CHAIRPERSON CABRERA: At this moment... and by the way, for those who would like to testify, make sure you see the sergeant of arms so you can fill out a form. I'm gonna call up Gabrielle Horowitz-Prisco, Director of Juvenile Justice Project, Correctional Association of New York. If anybody else would like to testify, feel free to see the sergeant of arms.

[background comments]

GABRIELLE HOROWITZ-PRISCO: Hello, my name is Gabrielle Horowitz-Prisco; I direct the Juvenile Justice Project at the Correctional Association of New York, a nonprofit founded 170 years ago by concerned citizens.

In the words of Patricia Wald, who later became a Federal Circuit Judge, "juvenile detention is the hidden closet for the skeletons of the rest of the system." As an organization that has monitored conditions inside prisons for over 170 years, the Correctional Association is well aware of the risks faced by individuals in custody.

I wanna begin by saying that Commissioner Carrion is, as has been noted, a tremendous visionary

1
2 and an advocate for youth justice reform; she has
3 done amazing stuff for the State of New York and we,
4 like so many people, are so excited she's here in New
5 York.

6 At the same time, risks remain for
7 children in custody, particularly around the issues
8 of physical restraints, which is an issue we haven't
9 talked about yet today, but which the City Council
10 has mandated ACS to release data on and I'm not sure
11 if you all keep up-to-date with the statistics that
12 are released by ACS under City Council law, but they
13 remain highly problematic and ACS is actually under a
14 Corrective Action Plan by the State with regard to
15 this data and despite being under a Corrective Action
16 Plan, problems remain. And I really wanna talk about
17 how oversight, what is in place and Commissioner
18 Carrion spoke about how there are many oversight
19 agencies currently in place; however, they're clearly
20 not fully working and they're also not publicly
21 transparent; a lot of what's happening inside the
22 facilities is still not being released to the public
23 or to policymakers such as yourself.

24 I think it's really important to say that
25 the commissioner inherited the system; she's not

1 responsible for it; she again is an incredible
2 visionary and inspiring leader, however, these
3 problems transcend any one administration. As the
4 Council Member spoke about before, I've been in my
5 job for five years, I have testified before you all
6 multiple times on this board that keeps going through
7 different iterations, different names, different
8 functions, but throughout it all some of the same
9 underlying issues, and I'm actually not talking about
10 soap, although I really respect and admire what the
11 commissioner talked about how quality of life issues
12 for children are so central and we do need to look at
13 them, but we also need to look at issues that
14 challenge kids' lives, such as the use of restraints
15 within City detention facilities and the lack of
16 independent and external oversight. This city
17 doesn't allow restaurants to inspect themselves. You
18 know when you go to a restaurant and there's a grade
19 on the wall of the restaurant, that's not put out by
20 the restaurant, the chef doesn't get to look at their
21 own kitchen and say I'm doing a great job and I'll
22 call some people in who I really trust and they'll
23 grade my restaurant and if there are problems I'll
24 fix them myself and I'll figure out how to fix them
25

and I'll re-grade myself. We require independent external monitoring of restaurants; we need to require that of the agencies that house our children. Commissioner Carrion spoke about the multiple agencies that serve an oversight role and she's correct, there's OCFS that has oversight staff and ombuds people, the New York City Comptroller can audit and review the City system, there's also the New York City Inspector General, the New York State Justice Center, the Public Advocate and the City's district attorneys; each of those have some oversight ability, and there's also you all, the City Council. However, these powers are diffuse; they are not fully independent from the City and they're not totally working. None of these agencies satisfies the standards set out by the American Bar Association and other experts on what it means to actually have true independent oversight and none of them are publicly transparent. The failure of any of these agencies, all of them, to fully meet their oversight responsibilities is evidenced by the following: 1. ACS is currently under a Corrective Action Plan from the State regarding the excessive use of restraints and room confinement in detention; 2. Publicly

1 available data revealed an alarming use of restraints
2 and room confinement for a full two years before OCFS
3 issued its investigative findings; 3. No other
4 oversight agency, not the Inspector General, not the
5 district attorneys, not the Justice Center, not the
6 Public Advocate, although the Justice Center, I
7 should say, was not created during all of that time,
8 not the New York City Comptroller, not yourself as
9 the City Council; no one took any action on this
10 issue in those two years in which no one was doing
11 anything; 4. Another two years passed since the
12 investigation began, since OCFS issued its findings
13 and since ACS entered Corrective Action Plan and the
14 rate of restraints, as available today, if you go on
15 ACS' website, data that you all required ACS to
16 publish, the number of restraints remain alarmingly
17 high and dangerous, although there have been
18 significant improvements around room confinement,
19 which we think is fantastic and we laud ACS for those
20 changes, and finally, no documents related to the
21 OCFS investigation, including ACS' Corrective Action
22 Plan; any updates ACS has taken are public available;
23 during this whole hearing no one has spoken about
24 this; this agency is under corrective action
25

1 regarding conditions inside detention and it wasn't
2 discussed. It's not publicly available, you can
3 Google detention-focused review, secure detention
4 focused review; that's the name of OCFS' review; it's
5 not available. You can Google ACS Corrective Action
6 Plan, you can look on the ACS and OCFS website and
7 unless it's been put very recently, the last I
8 looked, none of these documents are publicly
9 available; there's been no public transparency
10 whatsoever, with the exception of Commissioner
11 Carrion speaking publicly recently about there being
12 a Corrective Action, but the actual documents
13 themselves -- the investigation, the findings, what's
14 been done since -- none of that is publicly
15 available. And Just to give you a sense of what's
16 happening, in the most recent reported data, which
17 was the fourth quarter of 2014, among an average
18 daily population of only 234 youth there were 630
19 physical or mechanical restraints of children; I'm
20 gonna break that down a little bit -- that was 481
21 physical restraints, 160 restraints per month, 37 per
22 week, more than 5 per day and 1 physical restraint
23 approximately every 4.4 hours. There were also 22
24 reported injuries to children as the result of a
25

physical restraint. This data is not an anomaly; it's part of a pattern. If you look at the fourth quarter of 2011, fourth quarter of 2011, there were 944 total restraints, 721 of them were physical; that equals 8 a day, 1 every 3 hours and there were 168 injuries during that three-month period; 4 of those injuries required clinical treatment, more than over-the-counter treatment. Again, these problems are not the fault of Commissioner Carrion and her leadership, they were inherited problems and many -- when Commissioner Carrion spoke laying on the mattress, I actually wanted to clap out loud and I almost... I stopped myself and I had to say you can't do that, and you know, you can't clap in the middle of testimony -- I mean you can if you guys wanna clap for me now, I'd totally be into it -- but the point being, it is not about the commissioner and it is not about her staff, they are doing a wonderful job, but there must be independent external oversight any time children are locked away from public view. The public deserves to know what is happening to children and what is happening to children remains frightening, even right now, those restraint numbers are frightening; children have died as a result of

1 restraints, not in ACS custody, but in state custody
2 on Rikers Island and other places -- I detail some of
3 that in my testimony -- I am not sure actually of all
4 of the exact facilities where it happened, but it's
5 detailed in my testimony; it can happen anywhere and
6 these numbers are truly horrifying. The Juvenile
7 Justice Advisory Board, as Commissioner Carrion said,
8 is not independent and that's okay, she has the right
9 and the ability to make an advisory board, but there
10 needs to be some independent external oversight body
11 and none of the other bodies are fulfilling that
12 function, none of them are publicly transparent, none
13 of this is being released publicly, no one's doing
14 unannounced visits to facilities to talk to kids
15 separate from all staff, unannounced in ways that are
16 confidential and protected and there's actual
17 requirements that have been put out by the American
18 Bar Association, by the experts who look at this
19 issue, saying what does it mean to have effective
20 oversight; those are detailed in my testimony, and
21 New York City needs a body that can embody those kind
22 of characteristics.

24 So I just wanna conclude by talking about
25 a few policy recommendations. The first is that the

members of the Council and ACS should measure the oversight agencies, all of them, against the ABA standards and other best practice standards; we urge the City to develop and implement an independent oversight body consistent with these standards. There should be oversight over both detention and Close to Home facilities. One possibility is that New York City undergo Juvenile Detention Alternatives Initiative, JDI training, on facility inspections and begins conducting such inspections in a timely manner; unannounced visits should be included and are a crucial part of oversight. Children's Services should develop an independent ombudsperson mechanism; we talked about the ombuds people, but they are government employees, there should be independent ombuds people who are not working for the City or State who children have the opportunity to confidentially speak to. Also, it's really important that both the Council and ACS figure out a way to bifurcate complaints about quality of life issues which are crucially important; those mattress issues are really important, but we also need to really look at our kids sharing what's happening to them with regard to the use of force, with regard to

1 restraints, with regard to violence. ACS should
2 develop a basic standard report card for conditions
3 inside facilities; facilities should be scored and
4 the results should be made public. ACS should
5 develop clear protocols and guidelines aimed at
6 shielding youth and families from retaliation and
7 monitoring to make sure retaliation doesn't happen.
8 And ACS and its oversight agents should be required
9 to routinely and regularly report to the public; to
10 you all, on a rich set of performance measures and
11 data points beyond what is currently required by law.

12 In conclusion, you all as a body have a
13 fantastic history of requiring ACS to release data on
14 restraints and room confinement; however, more is
15 needed, as we see this issue, particularly issue of
16 restraints, as one that has been going on now for
17 many, many years at alarmingly high rates, kids'
18 lives are at risk; there is an oversight body acting
19 and it's not enough. We need to do something else
20 and I urge you to consider how you can use your power
21 to do that. Thank you.

22 CHAIRPERSON CABRERA: Well thank you so
23 much for your testimony; it's very helpful. This is
24 exactly why we have hearings, so we could hear what's
25

happening on the ground, we could hear the advocates address the issues that sometimes are not addressed as quickly or as finely as we need to have them.

Before I ask you a question... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Sure.

CHAIRPERSON CABRERA: a couple of questions, I wanna recognize Council Member, who has joined us. Would you say that -- if I understood your numbers right -- the number of restraints per day actually has been reduced from 2011 to now from 8 to 5; is that what I heard?

GABRIELLE HOROWITZ-PRISCO: Yeah... well let me just... So I'll tell you, and if you look on my testimony, I believe it's on Page 8, I have a blown up version so I could see better from up here... [crosstalk]

CHAIRPERSON CABRERA: That's fine.

GABRIELLE HOROWITZ-PRISCO: so on mine it's on Page 8...

CHAIRPERSON CABRERA: Okay.

GABRIELLE HOROWITZ-PRISCO: but I'll show you how I do the math and the calculation. So one thing to know is that the population has also gone down, so I do do... if you do a percentage calculation,

1 which got a little bit tricky; I'm not a
2 mathematician, I believe that the percentages have
3 remained relatively the same. When you account -- as
4 you know, New York City has done tremendous work to
5 reduce the number of kids in detention. So for
6 example, currently in 2014, I believe that the
7 average daily population was 234, whereas in 2011 it
8 was 337... [interpose]

10 CHAIRPERSON CABRERA: How does the ratio
11 compare to other states; have you looked at that?

12 GABRIELLE HOROWITZ-PRISCO: I haven't,
13 but I will say there are differences in what is
14 allowed in different states and even within different
15 agencies, like what kind of restraints are allowed,
16 so we allow full prone restraints in the juvenile
17 justice facilities where kids can be facedown on the
18 ground with multiple staff members even on top of
19 them and those prone restraints have been known to
20 cause death; there are -- you know, this is a complex
21 issue and there's a lot of people who are experts on
22 this; I will say other agencies, including other New
23 York State agencies, don't allow full prone
24 restraints; there is some debate about what is the
25 safest way to restrain kids, but there are

1 differences both within even New York City and New
2 York State, as well as within other jurisdictions
3 about what kind of restraints are used, and I don't
4 know the frequencies with other states.
5

6 CHAIRPERSON CABRERA: You know, it's a
7 tricky thing; [background comment] I have spoken to
8 staff, staff that have been injured or staff that --
9 you know some of these kids, they really can knock me
10 out with one punch and I talked to staff that have
11 been in situations that have caused injury to
12 [background comment] themselves or to others and at
13 the same time, we have a situation with dealing with
14 youth, we're dealing with young people and the
15 question as to what is excessive -- look, I would
16 love to be able to sit down with you and to explore
17 some of these potential policy implementations that
18 we could take... [crosstalk]

19 GABRIELLE HOROWITZ-PRISCO: That'd be
20 great.

21 CHAIRPERSON CABRERA: could take place;
22 I'm very eager to see change; I'm glad that we have a
23 commissioner that listens; she [background comment]
24 doesn't just look at the logic of it, but we all know
25 her heart is into it and that means... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Absolutely.

CHAIRPERSON CABRERA: a breath of fresh air. The last question I have for you -- and I don't know if my colleagues have questions -- okay, great. One last question. The ombudsmen, the State ones, do they only show up when they're called upon or they could come whenever they want to?

GABRIELLE HOROWITZ-PRISCO: You know I'm sorry; you'd have to ask the agency that, I don't know.

CHAIRPERSON CABRERA: Okay. Because you...
[crosstalk]

GABRIELLE HOROWITZ-PRISCO: But...

CHAIRPERSON CABRERA: you mentioned that nobody comes unannounced and so I was wondering if they come unannounced.

GABRIELLE HOROWITZ-PRISCO: Yeah, it's a good question. What I meant -- and I should have been clear there -- is that in terms of the oversight agencies as well, and I know some of the ombudsmen are stationed inside the facilities; I believe the Commissioner and Deputy Commissioner Franco talked about how in some of the detention sites I believe, the ombuds are stationed there, but in terms of like

1 the Inspector General, you know these bodies, what
2 the literature really shows, like organizations that
3 have studied this, is that true oversight means like
4 regular, unannounced visits; it means the power of
5 regularly talking to kids or people who are locked
6 up, outside of earshot and independent with -- it's
7 like -- I mean the restaurant analogy really is a
8 great one, you know restaurant inspections are not
9 like you know we know when they're coming and we're
10 gonna have the chef clean the kitchen and I'm not
11 saying -- again, it's not about any one
12 administration and I really wanna -- Commissioner
13 Carrion, as incredible as she is and she is actually
14 my personal hero; she is also not always going to be
15 the commissioner... [interpose]

17 CHAIRPERSON CABRERA: You're right.

18 GABRIELLE HOROWITZ-PRISCO: right? And
19 so it's really important that we keep our eye on the
20 prize and we realize that the infrastructure of
21 independent oversight needs to transcend any
22 particular administrator, no matter how much we like
23 them, because kids are locked up behind closed doors
24 and they are at risk and the restraint data shows
25 that they're being hurt right now.

CHAIRPERSON CABRERA: The analogy with the restaurants, which by the way, not everything, like the carts outside, they allow trucks... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Right.

CHAIRPERSON CABRERA: and all the trucks out there -- I love all that food -- but you know, they don't have the letter grading and so forth like the other one, but... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Well when we fix the youth justice system I'll maybe take on that issue, but... [laughter]

CHAIRPERSON CABRERA: But the point I was gonna make -- the difference I think in comparing oranges with oranges and apples with apples is that those are businesses and then you have government; here we're talking about government and government... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Yeah.

CHAIRPERSON CABRERA: and so this is leading to a question, which is; I'm trying to figure out what you're asking, because it sounds to me that the person who is supposed to play that role is the ombudsmen; they're supposed to come unannounced,

they're supposed to be like the patient representative, so to speak like we have in the hospitals, even with more power, and who will hire them; I mean it's still be... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Right.

CHAIRPERSON CABRERA: the government, the government's... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Right.

CHAIRPERSON CABRERA: gonna end up paying for them, unless it was something federal... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Right. So that's a great question and a very smart dicing of my analogy; I'm gonna have to set it up a little clearer next time. But the American Bar Association outlines 20 standards for effective youth and adult prison oversight and they're summarized in my testimony. But the first is that the agency should be independent, meaning it should not be located within the agency it oversees and it operates from a separate budget. The second is that it's statutorily guaranteed the right to conduct unannounced and unfettered visits, including the ability to have conversations that are confidential with youth. The

1
2 third is that it has the power to subpoena witnesses
3 and documents and have the power to file suit against
4 the agency operating the facility. The fourth is
5 that it's assigned the power and duty to report its
6 findings to the executive, legislative and judicial
7 branches and also the public. The fifth is that it's
8 allocated adequate funding and appropriate staffing
9 levels necessary for effectiveness and the sixth is
10 that facility administrators have to respond publicly
11 to monitoring reports. I think if you look at the
12 ombuds people and you measure them against the
13 summary of those functions, and you can certainly
14 look at them in more detail, the ombuds people --
15 important role; again, not diminishing the importance
16 of the ombuds people, but they don't have that kind
17 of true robust power, they're not reporting to the
18 public, they can sue the agency, ACS is not required
19 to respond publicly to what the ombuds people find
20 and they're also do not have the ability to subpoena
21 witnesses and documents or... [interpose]

22 CHAIRPERSON CABRERA: So it's like a
23 pseudo inspector general?

24

25

GABRIELLE HOROWITZ-PRISCO: You know I'm not sure all of the nuances of what an inspector... [crosstalk]

CHAIRPERSON CABRERA: Right.

GABRIELLE HOROWITZ-PRISCO: general would do, but I think that is kind of a... [crosstalk]

CHAIRPERSON CABRERA: So that is...

GABRIELLE HOROWITZ-PRISCO: similar model. And I would say that, you know with all due respect to the Councilman who stepped out, I don't think the Juvenile Justice Advisory Board is like an inspector general; he had made that comparison and I think... [crosstalk]

CHAIRPERSON CABRERA: Right.

GABRIELLE HOROWITZ-PRISCO: you know, Commissioner Carrion was very direct in saying no, it's not an independent body, like, call it what it is, it's an advisory and again that's great, it's awesome that she wants to do that, but none of the other bodies that are doing oversight have true independent oversight and none of them are releasing data publicly. I mean have you all seen the Corrective Action Plan?

CHAIRPERSON CABRERA: I'm gonna turn it...
and I'll come back to that... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Okay.

CHAIRPERSON CABRERA: I just... I've been
holding Council Member Barron and I wanna give her an
opportunity. I'll answer that question.

GABRIELLE HOROWITZ-PRISCO: Okay. Great.

COUNCIL MEMBER BARRON: Thank you, Mr.
Chair. Thank you for coming and giving your
testimony... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Thank you.

COUNCIL MEMBER BARRON: On Page 5 of your
testimony you talk about the data regarding secure
and non-secure detention... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Uhm-hm.

COUNCIL MEMBER BARRON: operations that
are required to post data on reported child abuse...
[crosstalk]

GABRIELLE HOROWITZ-PRISCO: Yeah.

COUNCIL MEMBER BARRON: and you say 630
physical or mechanical restraints of children
reported and 481 of the restraints were physical; do
you have a breakdown as to which were in secure and

1
2 which were in non-secure; do you differentiate that
3 data... [crosstalk]

4 GABRIELLE HOROWITZ-PRISCO: Yeah, I
5 believe... so I put the site, and you can look it up,
6 it's on the ACS website and I believe that on the...
7 yes, on the website itself -- I don't have it in
8 front of me; this just relates to detention and they
9 do do a breakdown; they actually look at non-secure
10 detention, which are more like group homes, they look
11 at the two secure facilities, Crossroads and
12 Horizons, but they're I believe lumped together and
13 they also look at transportation and what they call
14 court services, 'cause kids are also restrained and
15 injured in transportation and they do have that sub
16 breakdown. There is also a separate PDF, for lack of
17 a better word, a separate document that has the Close
18 to Home restraint data also that you all required as
19 a body, which was fantastic, in recent legislation;
20 that's not included in my testimony. So there is
21 that sub breakdown; it is available on ACS'...
22 [crosstalk]

23 COUNCIL MEMBER BARRON: Uhm-hm.

24 GABRIELLE HOROWITZ-PRISCO: website; I
25 don't have it in front of me.

COUNCIL MEMBER BARRON: Okay, good. And the last question is; when they record a restraint, if a child is restrained and then subsequently restrained an hour or two later, is there a way to record how many students or how many children these are that may be different from the number of restraints themselves... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Yeah.

COUNCIL MEMBER BARRON: so we can know if they're repeat?

GABRIELLE HOROWITZ-PRISCO: That's an excellent question and I've wondered the same thing myself; it's not publicly available. I think that would be a really interesting, perhaps legislative amendment for the Council to consider, because what is currently released meets the statutory requirements... [crosstalk]

COUNCIL MEMBER BARRON: Uhm-hm.

GABRIELLE HOROWITZ-PRISCO: as laid forth by the City Council reporting law; it is not publicly released; whether ACS has the power and is actually doing that kind of unique breakdown in order to say how many instances of, you know, children uniquely are restrained versus kids who are restrained

multiple times, and I think it would be important to do that kind of dig-down 'cause it actually tells you sort of... [crosstalk]

COUNCIL MEMBER BARRON: Yes.

GABRIELLE HOROWITZ-PRISCO: more about the problem and at the end of my testimony I make suggestions about how the City Council could improve the current data reporting legislation and I believe that's one of the ones I make.

COUNCIL MEMBER BARRON: Great. Thank you.

GABRIELLE HOROWITZ-PRISCO: Thank you.

CHAIRPERSON CABRERA: Thank you so much, Council Member Barron. Look, in short, I would love to sit down with you... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Great.

CHAIRPERSON CABRERA: we could go over the corrective action, we could go over your suggestions that you have... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Great. Thank you.

CHAIRPERSON CABRERA: I'm always looking for new ideas, how to make it better... [crosstalk]

GABRIELLE HOROWITZ-PRISCO: Great.

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CHAIRPERSON CABRERA: especially when
we're talking about our youth. Thank you...

[crosstalk]

GABRIELLE HOROWITZ-PRISCO: Awesome.
Thank you so much.

CHAIRPERSON CABRERA: Thank you so much
and I don't see anybody else who are gonna be
testifying today and with that we close today and
thank you so much to my colleagues.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date December 5, 2014