

NYCTM
**Administration for
Children's Services**



**The New York City Council,
Committee on Juvenile Justice
June 27, 2016**

"Examining the Department of Investigation's report on ACS' Close to Home Initiative".

**Testimony by
New York City Administration for Children's Services
Felipe Franco, Deputy Commissioner
Division of Youth and Family Justice**

Good afternoon, Chair Cabrera and members of the Committee on Juvenile Justice. I am Felipe Franco, Deputy Commissioner for the Division of Youth and Family Justice at the New York City Administration for Children's Services. With me today is John Dixon, Associate Commissioner for Close to Home and Yumari Martinez, Associate Commissioner for the Office of Planning, Policy and Performance. On behalf of Commissioner Carrión, thank you for the opportunity to testify about Close to Home and the important work ACS and our providers are doing to promote public safety as well as better outcomes for the youth we serve.

As you know, approximately four years ago, New York City launched Close to Home, a juvenile justice reform initiative that allows New York City youth who have committed a delinquent act to receive services in or close to their home communities. Instead of warehousing children in institutions hundreds of miles from their families, without access to community based services or regular visiting by their families and community supports, Close to Home keeps youth in or near their home communities, so that families and communities can meaningfully support a new trajectory away from crime into adult success. ACS collaborates with eight local non-profit agencies to implement Non-Secure Placement (NSP) and provide services to young people at one of approximately 25 small, resource-rich residential programs in or near the five boroughs. In December 2015, ACS launched the second and final phase of Close to Home- Limited Secure Placement.

Close to Home is a radical transformation to the juvenile justice system. New York City is currently leading a national trend to move youth from large institutional facilities to smaller community based settings where youth receive residential treatment and support to address the underlying factors that brought them into the juvenile justice system. With Close to Home, New York City now has a comprehensive juvenile justice system to provide a continuum of care for youth and produce better outcomes for youth and families. Close to Home is a step in the right

direction to successfully engage families and stop the revolving juvenile justice door that often kept youth coming back into the system.

The Council invited ACS here today to share our efforts in response to the Department of Investigation's report that stemmed from the horrifying incident involving Boys Town, a former NSP Close to Home Provider in June 2015. I am sure the foremost question on everyone's mind is how to make sure a terrible incident like this does not occur again, and that is a priority for ACS and our Close to Home Providers. We are committed to providing robust oversight of our providers. We have taken major steps – before this incident occurred, immediately after, and in the months that followed – to transform and strengthen our juvenile placement system to better serve youth and maintain public safety.

De Blasio Administration Improvements to Close to Home

In July 2014, Commissioner Carrión established the Office of Planning, Policy, and Performance (OPPP) to bring a juvenile justice-focused perspective to the exiting oversight, monitoring and quality assurance for Close to Home. OPPP monitors oversee of each program daily by monitoring incidents and operations. Monitors can be deployed immediately to inspect a provider site if there is any concern related to safety or security. Additionally, monitors conduct monthly calls with each agency provider to review key safety, security, and programmatic items. OPPP Staff use standardized tools to conduct a thorough assessment of each site and document each visit. On a quarterly basis, monitors make two visits to each site, with at least one visit being overnight and unannounced. The assessments include safety and security checks, review of logbook entries, facility cleanliness, programming, and staffing. Findings are discussed with the provider in the monthly calls, or earlier if required, and will form the basis of corrective action plans when needed.

ACS' Response to the BoysTown Incident

When we learned of the a terrible incident that involved Boys Town, a former Close to Home non-secure placement provider in June 2015, ACS took immediate action: that day, we closed the site where the incident occurred. After assessing the safety and security of their other facilities, ACS and Boys Town agreed that Boys Town would cease all Non Secure placement operations in July 2015. Between June and August 2015, ACS conducted site visits to all 27 nonsecure placement sites to ensure that each was in compliance with ACS' security and safety regulations. As a result of these visits, no programs were found to have safety and security concerns necessitating elevation to formal monitoring status (Heightened Monitoring Status or Corrective Action Status). In addition, we also made overnight visits to all NSP sites to ensure compliance with ACS directives.

Even prior to the incident, ACS policy required providers to submit real-time notification of any incidents that occur at a residential site. However, in December 2015, ACS added a new position, the Director of Incident Review. The Director, who conducts a daily incident review meeting, coordinates a team consisting of senior staff members to address any issues related to youth care and safety, determines what elements require follow-up, and then assigns and tracks each item, receiving updates and maintaining all unresolved issues on the daily agenda until there is an appropriate resolution. In the wake of the incident, ACS identified a need for additional staff to support the work of overseeing Close to Home Providers.

In January 2016, ACS received \$4 million additional dollars to allow us to hire 35 new positions at ACS to oversee our providers and conduct robust quality assurance. Eight of our new positions are within the Office of Planning, Policy, and Performance, which is critical to monitor the safety of youth in our care. Within OPPP, ACS hired an Assistant Commissioner of Quality

Assurance who will enhance and oversee structured monitoring for all juvenile justice programs. The Assistant Commissioner, Jocelyn Groden, leads the team that is working to strengthen our existing Quality Assurance standards and practices that will to guide the work of our Close to Home residential providers. She brings her knowledge from more than 15 years of experience in New York City government, working on quality assurance across a range of programs, systems, and social issues including homelessness, crime victim programs, and children's mental health services. ACS has also added an Executive Director who focuses on contract management to ensure providers are in compliance with all required standards. Three new OPPP monitors have also joined the team this spring.

After the incident, ACS also identified a need for stronger quality assurance key performance indicators. ACS retained a nationally recognized expert in quality assurance for juvenile justice programs, Dr. Kelly Dedel, who is working with us to implement a comprehensive quality assurance system for Close to Home called Performance Based Standards (PbS). PbS is an evidence based formalized evaluation process for all residential providers. PbS is already implemented in nearly 200 programs across 30 states to ensure strong practice in juvenile justice settings. We are also strengthening the Quality Assurance Standards for our provider agencies.

In the spring of 2016, ACS coordinated with the NYPD crime prevention officers unit to inspect all NSP sites in order to assess safety and security, as well as provide enhancement recommendations. Now that the NYPD assessments are complete, we will implement the recommendations, which include adjustments to camera placements, enhancements to alarms and lighting systems where needed, and theft-prevention measures.

DOI Investigation and Report

In April 2016, the Department of Investigation issued a report on the June 2015 incident. As part of its investigation, DOI looked into specific concerns with supervision of the youth who had been placed at the Boys Town 6th Avenue site, which, again, had been immediately closed by ACS in June 2015 as soon as the safety and security lapses came to light. DOI also reviewed the security and ACS oversight of all NSP locations, and made several systemic recommendations to improve security, management, and accountability, many of which were already underway and all of which ACS has accepted and implemented.

At the 6th Avenue site, as well as other Boys Town NSP sites, DOI noted concerns that overnight staff made false log book entries and failed to conduct a significant portion of the bed checks required by policy. The report also noted the 6th Avenue site was vulnerable due to a malfunctioning alarm system and lack of staff knowledge regarding how to use the alarm system and the requirement to report malfunctions to the ACS Movement Control and Communications Unit (MCCU), which receives notification of all juvenile justice related incidents. Managers of the Boys Town sites also underutilized review of video footage as a management tool and measure to enhance security. Finally, DOI documented that ACS lacked oversight of the provider agencies, and a clear organizational structure and comprehensive policies.

We thank the Department of Investigation for their analysis and feedback. This collaboration, along with the lessons learned from internal review, served to strengthen and support the Close to Home system. At present, ACS has addressed and continues to monitor all of the recommendations that impact on the safety of the youth in care and the public.

DOI Recommendations

Effective May 2016, ACS significantly increased the requirements for provider agencies to report their census count from once per day to six times per day, with two of the counts occurring in

the overnight shifts. Every census is submitted to the ACS Movement Control and Communications Unit, and if the submission is not received, MCCU contacts the site director and elevates to the provider's executive-level leadership as needed. These additional checks and reporting to ACS ensure that the Provider staff on site are conducting the required checks of youths in the residence during their shifts.

Also in direct response to the DOI recommendation, ACS now requires agency providers to conduct a weekly review of facility video footage, pulled from both day and overnight shifts, and submit a written report of findings to ACS. Provider supervisory staff must also conduct monthly unannounced site visits and record any findings. The Director of Incident Review and OPPP monitors will independently review video footage, as well as facility logbooks to ensure proper incident documentation and to verify the unannounced visits take place as reported by the providers.

All Close to Home facilities are equipped with twenty-four hour video surveillance. At the DOI's recommendation, ACS is ensuring that agencies provide comprehensive training on equipment and best practices related to video surveillance. ACS policy requires the provider agencies to capture and document all activities in each facility—from shift changes, to youth movements, to incidents—and record this information in the facility logbook. Providers are also required to immediately report any incidents to the centralized ACS MCCU. We also have updated policies for our providers to clarify and enhance requirements around safety and security protocols within Close to Home residences. For example, providers are required to conduct weekly video reviews and cross-check logbook entries for proper incident documentation. OPPP monitors randomly audit provider logbooks and compare them with video footage and MCCU incident reports, and will address any discrepancies with providers accordingly.

I want to emphasize that the various points of oversight I have just described are the minimum expectations, and that all levels of programmatic oversight and supervision are increased if a provider is placed on heightened monitoring or corrective action status. Corrective action plans include specific timelines for providers to show improvement and meet expectations. In addition, if there are individual staff issues, we continue to expect our Providers to pursue disciplinary action, including termination, where needed.

While strengthening our programmatic oversight, Close to Home remains focused on safe and secure custodial care that includes therapeutic services for youth that are family-focused. Each youth who is placed with Close to Home is assigned a dedicated staff person called a Placement and Permanency Specialist (PPS), who guides all aspects of treatment, risk assessment, release planning, aftercare programming, and safe re-integration into community. PPS meet face-to-face with youth on a monthly basis by visiting the youth at the Close to Home site or in school, and will check in with the youth by phone or face-to-face if any incident involving the youth is reported.

Data Trends

ACS is proud of the hard work we have done over the past several years in collaboration with many city agencies and provider partners to improve the juvenile justice system. Although there is more to be done, our data tells us that we are moving in the right direction to benefit youth and communities. In 2013, ACS implemented system-wide changes to decrease AWOL incidents (in which young people leave or fail to return to their Close to Home program without permission). We also issued new requirements to our providers around reporting AWOLs, monitoring youth, and enhancing security measures. Significantly, we have seen a 69% decrease in the number of AWOLs. This success is due in large part to ACS dedicating additional training and additional staff

to address the issue. The population of youth involved in juvenile justice has declined. Nearly 10,000 youth were arrested in 2012, which is the same year Close to Home launched. By contrast, in calendar year 2015 the number of arrests has decreased by 41%, as diversion programs to service youth otherwise have taken hold. In that same time period from 2012 to 2015, we have seen a 46 % reduction in intake into Close to Home. We assigned six Investigative Consultants—former NYPD detectives who now are employed by ACS to work with providers and the NYPD to locate AWOL youth.

New Initiatives and Collaborations

The safety and security of the community and of our young people is of paramount importance to ACS. The Boys Town incident highlighted the need for upgrading our monitoring of our provider agencies, but we also cannot forget the importance of targeted programming for our young people in care to keep them engaged and developing new pro-social skills and connecting them to positive adults and peers to prevent risky behaviors. This is why the work we do with young people in our residential facilities is ever so important.

Young people in Close to Home receive individualized services that are shaped by evidence-based models, which integrate psycho-education, cognitive-behavioral curricula, peer mentoring, interpersonal processing, and life skills development.

Research clearly shows that school engagement and education improvements have the most impact in helping a youth succeed and reducing juvenile recidivism. Close to Home focuses on education by collaborating with the New York City Department of Education to provide educational continuity through Detention, Close to Home placement, and upon return to the community with targeted aftercare services. Young people in NSP and LSP receive individualized educational services that are accredited by the NYC DOE. This allows academic credits earned in placement to

count towards a high school diploma. After school tutoring is also available to young people in NSP through the DOE, and they participate in a wide range of after school recreational activities through the School's Out in New York City (SONYC) program and the Summer Youth Employment Program (SYEP), both offered through partnership with the NYC Department of Youth & Community Development. In Summer 2016, more Close to Home youth than ever before will participate in SYEP—with 119 already accepted—and we thank the Council for its continued and expanded support of this opportunity for our youth.

As a way to help engage the community and foster meaningful relationships with the surrounding neighborhood, our partner agencies also work with outside service providers and community partners to provide recreational services to young people in our placement residences. Some of the most effective programs include art and music therapy, as we are seeing a real clinical impact from this programming. Individual sites have also engaged charitable foundations, professional sports teams, service learning opportunities, and mentoring organizations to supplement the recreational programs offered to young people in placement. NSP providers have partnered with organizations such as Sadie Nash Leadership Project, the New York Red Bulls soccer team, and Warriors Mentoring Program to provide services, and also utilize local parks for recreational activities.

Youth in Close to Home are not just serving their placement in the community - they are also neighbors in the community. Youth have had positive interactions with community residents near their sites through numerous service activities. To name just a few examples, youth have been involved with snow removal; bringing holiday gifts to hospitals and senior facilities; constructing and delivering flower pots for residents at senior facilities; assembling and delivering hygiene products, shoes, and socks to local shelters; collaborating with the 47th precinct on a Thanksgiving turkey drive that brought over 1,000 turkeys to community members; and hosting a community

breakfast for seniors. Youth have participated in Breast Cancer Awareness month by wearing pink school uniform shirts, the Martin Luther King, Jr. Day of Service by painting a local recreation center, and as meal packers and food distributors to terminally ill, homebound residents in Manhattan and Brooklyn. The young men and women in our programs are not just Close to Home, but they are a vital part of their home communities.

Partnerships with the Council like the Cure Violence Initiative will support youth in Close to Home as they reintegrate back into the community. We appreciate the Council's support for our youth through this initiative. ACS strives to provide robust services for youth in Close to Home but it's equally important that our young people return home connected to services and support to minimize the possibility of their returning to our care. We look forward to our continued partnership with the Council to discuss ways to expand the Cure Violence Initiative.

We also applaud the Council's Young Women's Initiative, as it is targeting a vulnerable segment of our population who have histories of trauma and victimization where new and innovative intervention is needed to prevent further abuse and entry into the criminal justice system.

Closing

Thank you for the opportunity to discuss Close to Home. We also thank you for the opportunity to share with you our ongoing efforts ACS has taken to fortify safety and security in Close to Home so that we can prevent tragedies like the Boys Town incident from happening again. We have to get security right so we can continue to challenge our youth to do better. As always, we are happy to work with the Committee in our continuing efforts to improve the system and to provide services for the City's justice-involved youth. We are happy to take your questions.

TESTIMONY

The Council of the City of New York
Committee on Juvenile Justice

Oversight: Examining the Department of Investigation's Report on ACS' Close to
Home Initiative

June 27, 2016

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The Legal Aid Society Juvenile Rights Practice thanks the Committee on Juvenile Justice and Chairperson Cabrera for allowing us the opportunity to submit our testimony on the important topic of oversight.

The Legal Aid Society's Experience and Perspective

The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform. Through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of the City. With its annual caseload of more than 300,000 legal matters, The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States.

The Legal Aid Society's Juvenile Rights Practice (JRP) provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented some 34,000 children, including approximately 3,500 who were charged in Family Court with juvenile delinquency, some of whom spent time in facilities run by or under the aegis of the New York City Administration for Children's Services' (ACS) Division for Youth and Family Justice (DYFJ) as well as the New York State Office of Children and Family Services (OCFS). The Criminal Defense Practice has a dedicated team of lawyers, social workers and investigators devoted to the unique needs of adolescents charged in adult court--the Adolescent Intervention and Diversion Project. In addition to representing many

thousands of children, youth, and adults each year in trial and appellate courts, The Legal Aid Society also pursues impact litigation and other law reform initiatives on behalf of our clients.

Our perspective comes from our contacts with thousands of individuals many of whom have been confined in facilities, and also from our frequent interactions with the courts, schools, community-based programs, New York City detention and placement facilities, OCFS facilities, as well as jails and prisons throughout the City and State.

Close to Home (CTH)

“Close to Home” constitutes a major and much needed transformation in juvenile justice policy in New York State. The Close to Home Initiative brought about a sea change in how and where New York City youth are placed by the Family Courts. Simply put, rather than being sent to larger facilities in upstate New York, New York City youth adjudicated delinquent and deemed in need of placement by Family Court judges are now sent to small facilities located in (and near) New York City, closer to their families, communities, and other supports, and where they can receive educational credits.

The City’s Close to Home Initiative supplanted a severely dysfunctional state system that sent New York City youth to remote, oversized upstate facilities at great financial and human cost. At the time Close to Home was conceived, youth were placed in state operated facilities far from their homes. Youth were deprived of essential contact with families, denied educational credit for work completed, and subjected to horrible abuse and dangerous restraint practices and received inadequate or no mental health treatment. Youth leaving the state facilities also faced harsh realities upon returning home to their families and community, with no chance to successfully re-enter due to the distance from their families and communities as well as the dearth of programming. The state’s own recidivism study revealed that 89% of youth returning

from state facilities were subsequently re-arrested within three years. The City and State both realized that the situation was untenable and began the detailed work of bringing New York City's youth back into the City. The fact is Close to Home successfully enrolls these teens in appropriate programming, houses them in facilities that model the current trend in juvenile justice, allows for school credit that is transferable to their home schools, and successfully re-integrates them back into their families and communities after their period of incarceration.

Prior to the inception of Close to Home, The Legal Aid Society and the United States Department of Justice each sued OCFS separately claiming unconstitutional conditions of confinement, including abusive restraints and deficient mental health services, at several OCFS operated juvenile facilities. The DOJ settled its lawsuit in 2010 and The Legal Aid Society, along with the law firm of Orrick, Herrington and Sutcliff LLP., settled its lawsuit in 2013. Many of the facilities at issue have either been closed or remain under federal monitoring to date.

In stark contrast to the state system, Close to Home provides supervision and services to youth in smaller group home-like settings, including evidence-based treatment, access to educational credits and family engagement. The settings are not only more humane, but also closer to the communities where the youth will return, allowing for integration of services in the community. While the findings of the Department of Investigation (DOI) are deeply concerning, the importance of the Close to Home initiative to New York City youth requiring placement outside of their homes must not be obscured by the DOI's recent report. There is no question, that while undergoing the pains that any such huge transformation would experience, Close to Home is better for the children and families of New York City, and truly works towards the rehabilitation of youth which is the sole goal of the juvenile justice system.

Oversight of CTH Facilities

We agree that ACS, as any system involving children, must continue to strengthen its oversight of the Close to Home placement facilities. Systems for both external and internal oversight are necessary to ensure the safety and security of youth.¹ Independent, external oversight is critical for ensuring a credible assessment of what is happening inside facilities. However, today we are here to discuss ACS' internal oversight of the DYFJ placement facilities, facilities that are sited in more than two dozen locations. The need for oversight to ensure the safety of children in ACS DYFJ custody is particularly acute given that youth in placement have complex needs and vulnerabilities. Incarcerated youth are in need of strong familial support. Oftentimes, they suffer from a multitude of disabilities, including mental illness,² cognitive and educational delays,³ and trauma histories.⁴ The extent of mental health problems among youth in the juvenile systems is staggering. Indeed in New York City, "approximately 85 percent of young people assessed in secure detention intake reported at least one traumatic event, including sexual and physical abuse, and domestic or intimate partner violence."⁵ In Fiscal Year 2013, ACS reported that 58 percent of youth in detention and placement were referred for and received mental health services.⁶ ACS must have strong, sound policies to guide, support and oversee the work of its contract providers in the delivery of services to youth in placement. ACS should continue to work with JRP to ensure our clients receive the necessary services and treatment

¹ See, e.g., Monitoring Conditions from the Inside and Out: Developing Comprehensive Quality Assurance and External Oversight Systems, May 22, 2013, p.10. www.nc4yc.org (citing ABA Resolution 104b (2008)).

² Thomas Grisso, speaking at the "Intersection of Mental Health and Juvenile Justice for New York City Youth" Where We Are and Where We're Going in Policy and Practice, October 19, 2012.

³ Mary M. Quinn, *Youth with Disabilities in Juvenile Corrections: A National Survey*, 71EXCEPTIONAL CHILDREN 339, 340 (2005), available at http://www.helpinggangyouth.com/disability-best_corrections_survey.pdf.

⁴ "Studies from a number of psychological journals report that between 75-93 percent of youth entering the juvenile justice system annually are estimated to have experienced some degree of traumatic victimization." JUSTICE POLICY INSTITUTE, HEALING INVISIBLE WOUNDS: WHY INVESTING IN TRAUMA-INFORMED CARE FOR CHILDREN MAKES SENSE 5 (2010).

⁵ Innovations in NYC Health and Human Services Policy, Jennifer Fratello, et al. Vera Institute of Justice (2014) <http://www.vera.org/sites/default/files/transition-brief-juvenile-detention-reform.pdf> at 12.

⁶ <http://www.nyc.gov/html/ops/downloads/pdf/pmmr2014/acs.pdf>.

while in care as well as appropriate aftercare services. As the attorneys for the large majority of children placed in Close to Home facilities and programming, JRP has a unique perspective, and should be consulted regularly as the system continues to provide these services for children. Oversight, including monitoring, is critical to enabling ACS to properly evaluate facility programs, safety and security and the needs of both staff and incarcerated youth.

ACS Implementation of DOI Recommendations

We are pleased to see that ACS has begun to implement the DOI's recommendations, as laid out more fully on pages 21- 23 of the DOI Report at issue here today. Specifically, ACS immediately closed the Boys Town placement facility at issue. ACS visited all of its other non-secure placement facilities to assess security and safety. Soon thereafter ACS ended the placement contracts with Boys Town, and strengthened oversight of all of its contract providers.

In addition, we understand that ACS has begun to strengthen its oversight more broadly among all Close to Home contract providers, in keeping with the DOI recommendations. In particular, ACS released its draft Log Books for Juvenile Justice Placements policy and has invited public comments. We are in the process of reviewing the policy and will share any concerns we may have. Additionally, we have been assured by ACS that while the report mentions that ACS will conduct eight site visits per year (including four at night) at each placement, this number is the minimum number of site visits and the agencies should expect many more than 8 site visits annually. Furthermore, we are pleased to learn that ACS is working with Kelly Dedel, PhD, a nationally recognized expert in quality assurance and review processes in juvenile facilities, to increase oversight and enhance performance among the contract providers. ACS has also contracted with Performance-based Standards (PbS) to enhance its ability to assess the services and security measures provided by its Close to Home contract

providers. PbS provides outcome measures that will enable ACS to assess facility performance in a number of key areas including safety and security, thus strengthening its oversight. This work must continue. Most importantly, the staff and managers of JRP are constantly in contact with our clients, and continually consult with ACS as to our clients' experiences and where improvements need to be initiated. ACS is very receptive to JRP's input and suggestions, and we are active members of the City's Juvenile Justice Advisory Group. We fight every day on behalf of our clients placed with ACS both in juvenile justice and foster care settings, and will continue to do so.

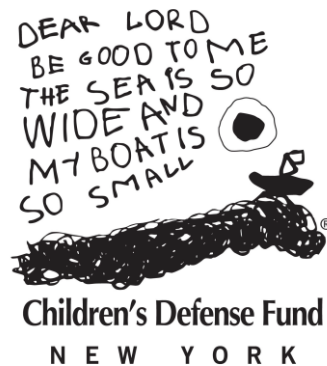
ACS must establish and require that all youth facilities have uniform policies and procedures governing oversight, including routine and regular facility inspections, video recording and review and record review. We welcome the opportunity to provide comments and feedback on related ACS policies. Oversight must be pursued universally, not just for those facilities with publicized problems. Regular on-site monitoring and thorough record and video reviews help to keep the quality of services and supervision high. The goal is not simply to keep staff on their toes, but also to identify training, resource, and supervisory needs. Lastly, placing children close to their homes allows for meaningful external oversight by families, community members and attorneys for the youth, and is a welcome step in the right direction.

We thank Chair Cabrera for exercising the City Council's oversight with respect to an issue essential to the well-being of NYC's youth involved in the juvenile justice system.

Testimony of the Children's Defense Fund – New York
Before the Committee on Juvenile Justice
Oversight - Examining the Department of Investigation's
Report on ACS' Close to Home Initiative

New York City Council
June 27, 2016

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The Children's Defense Fund's (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 and independent voice for all the children of America who cannot vote, lobby or speak for themselves. We pay particular attention to the needs of poor children, children of color and those with disabilities. CDF-New York's unique approach to improving conditions for children combines research, public education, policy development, community organizing and statewide advocacy activities, making us an innovating leader for New York's children, particularly in the areas of health, education, early childhood and juvenile justice.

We would like to thank the Committee on Juvenile Justice for the opportunity to present testimony on the Department of Investigation's (DOI) report on the Administration of Children's Service (ACS) Close to Home Initiative. The Department of Investigation report examined the circumstances that allowed for the tragic events of June 1, 2015 to occur. We applaud the Council in conducting an oversight hearing to ensure the issues surfaced are fully addressed. The success of Close to Home is critical for the youth and families impacted by juvenile justice placement in New York City and we greatly appreciate your attention to ensuring any areas of concern are paid appropriate attention.

The Close to Home Initiative ushered in a new era for juvenile justice in New York City. Prior to the Close to Home Initiative, youth placed out of home as the result of a juvenile delinquency case were held in facilities outside of New York City. The geographic distance presented significant barriers to successful placement and re-entry for youth. Youth were disconnected from family and their communities and often earned educational credits that did not transfer completely upon return to New York City. Close to Home remedied these fundamental barriers to success by allowing youth to be served within their communities in more homelike environments while attending Department of Education schools. The first phase of Close to Home Initiative – non-secure placement (NSP) - rolled out in fall 2012 and the second phase – limited secure placement (LSP) – recently opened in early 2016.

The DOI investigation identified critical breakdowns in oversight at a Boys Town placement facility, culminating in a tragic event on June 1, 2015. Youth deemed in need of supervision by the court were left in a room that was known to be unsecured and were not monitored by staff tasked with regularly reporting on the whereabouts of the youth. The incident that ensued was tragic and avoidable. We offer our deepest sympathies to the victim.

We are greatly encouraged that ACS accepted the DOI's recommendations and had already begun implementing them at the time the report was released. Specifically the DOI reports that ACS has engaged a quality assurance expert, will update the log book policy, engaged the NYPD to assess safety and security of sites, increased site visits (announced and unannounced), increased video footage review requirements, and hired a new Director of Incident Review. CDF-NY is additionally encouraged by funding included in the FY 2017 Budget to strengthen internal oversight mechanisms for Close to Home, namely through an increase in the frequency of site visits and program supports. We urge ACS to ensure all areas of concern brought to light by the DOI investigation or by any internal reviews are fully and immediately remedied to ensure future avoidable incidents are prevented.

The success of Close to Home is vital to the youth of New York. Prior to Close to Home youth were placed far from their families in environments that did not meet their educational needs and failed to foster the family and community connections necessary to increase positive future outcomes. Now

youth are placed in small homelike environments that are geographically close enough to facilitate family participation in service plans and which allow youth to attend Department of Education schools. Youth are able to earn DOE credits and take Regents exams – critically important factors to aid youth in returning to the community better positioned for academic and life success. Just as we cannot tolerate the circumstances that resulted in serious harm to an innocent victim, we cannot lose sight of the opportunity that Close to Home presents to rehabilitate our youth and place them on a pathway to constructive citizenship. ACS should leverage the report's findings and recommendations to preserve the safety of the community, the integrity of the program and the success of the youth it serves.

Thank you for the opportunity to testify. Please feel free to contact me at epowers@childrensdefense.org.



Testimony Re: Examining the Department of Investigation's Report on ACS' Close to Home Initiative

6/27/2016 New York City Council Juvenile Justice Committee Hearing

Judy Yu, MPH, Director, Juvenile Justice Project, Correctional Association of New York

7/1/2016

I am the Director of the Juvenile Justice Project of the Correctional Association of New York. The Correctional Association of New York is an independent, non-profit organization founded by concerned citizens in 1844 and granted unique authority by the New York State Legislature to inspect prisons and report its findings and recommendations to the legislature, the public and the press. The Juvenile Justice Project works to reduce incarceration of children and youth, and create a safe, publicly transparent and accountable youth justice system. Through advocacy, coalition building, youth leadership development, and public education, we promote child centered policies and practices that protect the dignity, safety and human rights of youth who come into contact with the law.

Thank you to the Juvenile Justice Committee Chair Fernando Cabrera and members of the committee for the opportunity to submit this written testimony.

Background

On April 13, 2016 the New York City Department of Investigation (“DOP”) released a report of their investigation into ACS’s management of Close to Home non secure placement facilities for youth adjudicated as delinquent. Close to Home is New York City’s groundbreaking initiative designed to keep adjudicated youth close to their families and communities. In June 2015 DOI launched an investigation due to three young people who left their Close to Home facility, Boystown, without permission and were found guilty of raping and robbing a woman in Manhattan during their escape. At the time the report was released, three overnight staff members at Boystown were arrested on charges of falsifying logbook entries. The DOI investigation also found numerous deficiencies in oversight and supervision and recommended reforms.

The Benefits, Challenges, and Promise of Close to Home

The Correctional Association recognizes the benefits of keeping youth close to their families and communities. We further recognize the hard work ACS has done and continues to do in designing a new youth justice system for New York City’s youth, and the necessity and importance of this work. Previously youth in New York City were placed in facilities operated and overseen by New York State, and encountered dangerous conditions, as detailed in a report by the federal Department of Justice in 2009. The DOJ’s two-year investigation of four New York State-operated juvenile prisons, found routine incidents of physical abuse and excessive use of force, a complete lack of staff accountability, and woefully inadequate mental health services. Close to Home first launched in 2012. It is a unique opportunity for New York City to design a system that is grounded in positive youth development principles, provides rehabilitative and trauma informed care, and helps youth repair or continue their relationships with their family and communities. This is an enormously challenging and critical undertaking, with the well-being of our children and safety of our communities at stake.

It is worth noting that placement facilities are one (albeit a prominent) aspect of the Close to Home Initiative. The initiative also includes the building of a continuum of evidence-based interventions, including alternatives to detention and placement where children can remain in their communities and receive the help necessary to thrive. Decades of research have shown that incarcerating youth is ineffective, wasteful, and harmful to children, families, and communities.¹ We

¹ Richard A. Mendel, “No Place for Kids: The Case for Reducing Juvenile Incarceration”; Barry Holman and Jason Zeidenberg, “The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities” (Justice Policy Institute, 2006), http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf; Amanda Petteruti, “The Costs of Confinement: Why Good Juvenile Justice

are heartened that the numbers of youth entering the New York City youth justice system have declined substantially in recent years thanks to multiple youth justice reform efforts, including a 75% decline of the number of youth in placement, as noted by ACS in their letter responding to the DOI investigation findings. The Correctional Association will continue to work with other advocates to support and advocate for City and State efforts to reduce the detention and incarceration of youth.

We continue to support the need for Close to Home and urge that the City Council provide the proper oversight and support for ACS to address and remedy the failures in oversight, evaluation, and security outlined in the DOI report. We also support the recommendations made by DOI to ensure that youth are receiving the services, programs, and support required to maintain their safety as well as the safety of the public.

Recommendations:

The Correctional Association is in agreement with the DOI recommendations outlined in their report. We further recognize that ACS has begun implementing these recommendations. These recommendations cover the following four major areas:

- ACS developing and implementing policies and procedures for all contracted providers to improve the safety and security of sites, including required unannounced quarterly visits, random video review, improved incident tracking, and technical assistance that is responsive to any monitoring status changes of NSP sites
- ACS should enhance its contracts with NSPs to address and require safety and security protocols and enforcement mechanisms
- The creation of a proper evaluation tool and publically available results of bi-annual evaluations
- ACS should examine whether similar guidelines need to be implemented with the recently launched LSP contracts and their policies and procedures

In particular, we focus on and highlight the recommendations regarding:

1. **City Council support and resources to ensure best practices in hiring, training, and professional development for staff working with youth at the facilities**
2. **The implementation of an evaluation tool that includes community input and with publically available results**
3. **The need for independent and external oversight**

1. Best Practices in Hiring, Training, and Professional Development for Close to Home staff

The City Council should provide support and resources to ensure ACS can provide rigorous training and ongoing professional development for staff at Close to Home facilities.

The DOI report found distressing and deeply troubling neglect of basic duties by staff and as noted earlier, four staff members were ultimately arrested for their attempts to cover up their negligence. While the DOI recommendations address these failures to some extent, we urge further rigor in the hiring process and that staff receive ongoing support. An evaluation by John Jay College of the Close to Home initiative highlighted the need for agencies to “recruit staff carefully and provide

employees with ongoing training and professional development to ensure quality of care and to minimize turnover.”² Youth in the system have histories of abandonment, rejection, and inconsistent care. Ensuring all staff in facilities who have contact with youth, from leadership to the staff in the kitchen who interact consistently with youth in care, are trained not just in security protocols but in positive youth development and trauma will increase the overall effectiveness of the program and bolster security.

The City should provide ACS with the support and resources the agency needs to clarify and enhance the requirements in their contracts for new hires at Close to Home facilities, and assist in providing robust pre-service and ongoing training and professional development to staff at the facilities. Residential staff are expected and required to do extremely difficult work. While ACS is contracting with experienced agencies with a history of working with children and youth, doing such work in the context of a locked justice system facility and with youth with mental health issues and histories of trauma presents unique challenges. Appropriate and rigorous screening of potential employees and targeted recruitment efforts to attract individuals open to or with some experience in a positive youth development framework could help ensure appropriate staffing. Furthermore, one study on staff at New York State youth justice facilities reported that staff had to play a variety of roles and worked long hours, yet are often “least recognized for their work.”³ The City Council should provide resources for ACS to develop a mechanism to solicit feedback from all levels of staff at agencies with CTH contracts and help provide ongoing support and coaching to staff. These measures can help ensure that staff members perform all their responsibilities, including security checks, with appropriate care and attention.

2. The implementation of an evaluation tool that includes community input and with publically available results

a. Evaluation helps foster safe and effective residential programs and communities

The investigation’s report that ACS did not have an evaluation process in place further raises questions about the overall treatment of youth in care. The City of New York also requires such evaluation to ensure that its funds are being effectively and appropriately spent. However, as noted in the DOI report, no such evaluation mechanism exists despite these requirements and best practice protocols in the field. Without such a mechanism, multiple levels of accountability are missing: the accountability of the provider to ACS to fulfill its contract, the accountability of ACS to New York City and State about the effectiveness of its contracted Close to Home programs, and the accountability owed to communities and families with youth in the system.

Research shows that evaluation that includes surveying youth about their perceptions and experiences while in custody helps reduce recidivism.⁴ In addition, it is a tool to ensure that residential programs are setting goals and outcomes and have a means of measuring progress toward meeting such goals and outcomes. The New York State Juvenile Justice Advisory Group’s 2011 report detailing a strategy plan and vision for New York’s juvenile justice system emphasized the need for jurisdictions to ensure that the system and its component agencies, courts, and other organizations set and achieve ambitious, performance-based goals and that their work is grounded in

² Butts, Jeffrey. New York’s “Close to Home” Initiative – Lessons Learned, John Jay College of Criminal Justice Research and Evaluation Center, March 2016

³ Alexandra Cox, Juvenile Facility Staff Responses to Organizational Change, SUNY: New Paltz, October 2013

⁴ Performance-based Standards, What Youths Say Matters, October 2013

best practices. We fully support and highlight the DOI report's recommendation regarding the need for ACS to implement a meaningful evaluation process for all agencies with Close to Home. In addition, this must include the newly opened Limited-Secure Placement facilities. We note that ACS has already made significant strides toward executing this recommendation, including partner with Performance-based Standards.

b. The evaluation tool must be informed by community input and the City Council should require that results are released to the public.

We further underscore that the City Council must ensure the ongoing public release of the evaluation results. Community members, including system-involved children and families, have a right to know what programs and facilities they are publicly financing and how programs and facilities are performing. Government contracts with service providers and the ways in which those contracts are initially evaluated and subsequently monitored must be transparent. An informed and knowledgeable public can help ensure that youth justice funding follows positive outcomes, including the safety of youth in the system and the safety of the public.

3. The need for robust independent and external system oversight and public transparency

The City Council should fund, develop, and implement an independent external oversight body.

The Correctional Association has served as an independent outside monitor of New York's adult prison system for over 170 years. Our work in this capacity has demonstrated that individuals in custody face multiple and serious risks. Children in youth correctional facilities face unique vulnerabilities to abuse and mistreatment due to their age, their isolation from the public, and the generally closed nature of such facilities.

As the City Council is well aware, and as mentioned earlier, New York's children have not been immune to abuse. In addition to the disturbing findings by the DOJ regarding conditions in OCFS facilities, the DOJ most recently found that youth in Rikers Island were subjected to serious and ongoing brutality and mistreatment (findings released on August 4, 2014). These risks are endemic to our current justice system of locked residential facilities with little public transparency. For example, the Department of Justice has documented constitutional violations including the excessive use of force in residential youth placements across the nation, including in both state and locally operated facilities.⁵

⁵ In August 2009, the federal Department of Justice concluded a two-year investigation of four New York State-operated juvenile prisons, finding routine incidents of physical abuse and excessive use of force, a complete lack of staff accountability, and woefully inadequate mental health services. *Investigation of the Lansing Residential Center, Louis Gossett, Jr. Residential Center, Tryon Residential Center, and Tryon Girls Center*, U.S. Dept. of Justice, August 2009. The DOJ has similarly investigated and made findings against a host of jurisdictions. See Mendel, Richard A., *No Place For Kids*, p.5; U.S. Dept. of Justice Investigation on the Walnut Grove Youth Correctional Facility in Mississippi, March 2012: <http://www.justice.gov/opa/pr/2012/March/12-crt-352.html>; U.S. Dept. of Justice Investigation Report of Arthur G. Dozier School for Boys and the Jackson Juvenile Offender Center, Marianna, Florida, December 2011: http://www.justice.gov/crt/about/spl/documents/dozier_findltr_12-1-11.pdf; U.S. Dept. of Justice Investigation of Terrebonne Parish Juvenile Detention Center, Houma, Louisiana, January 2011: http://www.justice.gov/crt/about/spl/documents/TerrebonneJDC_findlet_01-18-11.pdf; U.S. Dept. of Justice Investigation of the Los Angeles County Probation Camps, October 2008: http://www.justice.gov/crt/about/spl/documents/lacamps_findings_10-31-08.pdf; U.S. Dept. of Justice

While we support the need for ACS to strengthen their oversight mechanisms, and recognize that there are other agencies serving in an oversight role over ACS (including, the New York State Office of Children and Family Services, the Comptroller's office, the Inspector General, the Public Advocate, and the City's District Attorneys) none of these bodies are truly independent and external.

The Correctional Association recommends that the City Council develop and implement an independent oversight body. Such a body should meet the standards set out by the American Bar Association and other experts on facility oversight. According to the American Bar Association and national experts on oversight, residential facilities for children are in need of *independent* oversight.⁶

The American Bar Association (ABA) outlined twenty standards for effective youth and adult prison oversight including the following essential points. These points include that the overseeing entity must be:

- 1) Independent, specifically meaning that it must not be located within the agency it oversees and it must operate from a separate budget;
- 2) Statutorily guaranteed the right to conduct unannounced and unfettered visits including the ability to have confidential conversations with youth in the facilities and programs;
- 3) Granted the power to subpoena witnesses and documents and have the power to file suit against the agency operating a facility(ies);
- 4) Assigned the power and duty to report its findings to the executive, legislative, and judicial branches, and also to the public;
- 5) Allocated adequate funding and appropriate staffing levels necessary for effectiveness; *and*
- 6) Facility administrators must be required to respond publicly to monitoring reports.⁷

New York City must take seriously the need to have independent and external eyes on children who are placed in a locked facility and isolated from the general public. Robust external oversight can help improve conditions of confinement and identify warning signs and issues with staff performance and breaches in or inadequacies of security protocols. Effective and consistent monitoring and inspection empowers an agency to immediately address problems as they arise. Ongoing monitoring can also help to highlight the good work that is being done in institutions and ensure its sustainability. Independent oversight can also play a strong role in securing public accountability for systems of confinement.

Investigation of Marion County Juvenile Detention Center, Indianapolis, Indiana, August 2007: http://www.justice.gov/crt/about/spl/documents/marion_juve_ind_findlet_8-6-07.pdf; For more examples please see: <http://www.justice.gov/crt/about/spl/findsettle.php#Juveniles%20Findings%20Letters>.

⁶ Deitch, Michele, *Opening Up a Closed World: What Constitutes Effective Prison Oversight?* Pace Law Review, Volume 30, Number 5, p. 1397-1410, Fall 2010 and Michele Deitch, *Distinguishing the Various Functions of Effective Prison Oversight*, Pace Law Review, Volume 30, Number 5, Fall 2010. Additionally, Governor Paterson's Task Force on Transforming Juvenile Justice made a number of key recommendations for youth justice reform in New York State including the need to "(e)stablish and fund an independent, external oversight body to monitor and report on OCFS' juvenile justice policies and practices." The Task Force was charged with looking at the OCFS state-system although their analysis and conclusions regarding the need for an independent, oversight body are applicable to a city-run system and to private agencies. The Task Force report is available at: <http://www.vera.org/download?file=2944/Charting-a-new-course-A-blueprint-for-transforming-juvenile-justice-in-New-York-State.pdf>.

⁷ The American Bar Association Criminal Justice Committee, Report to the House of Delegates (2008).

Conclusion

The Close to Home Initiative presents the City Council and other system stakeholders with a unique and important opportunity to create and refine a new youth justice system from the ground up. The results of the DOI investigation into Close to Home indicate serious flaws in management resulting in disturbing gaps in security of this relatively new and ambitious initiative. These numerous deficiencies in oversight and supervision ultimately led to three youth committing a serious act of violence. We are pleased that ACS is already working to implement the recommendations set forth by the DOI. We urge that the City Council provide ACS with the resources required for ACS to adequately address these issues, and further strengthen and improve the operations of both non-secure and limited-secure Close to Home facilities. In addition, we recognize, and hope the City Council also recognizes, that Close to Home represents a landmark youth justice reform initiative with great potential to serve as a national model. The successful implementation of this initiative has the power to improve the lives of New York's youth and increase public safety. The Correctional Association welcomes the opportunity to work together with Children's Services, the City Council, impacted youth, family, and community members and other stakeholders to build a sustainable, accountable, and transparent justice system that helps our children, communities, and the city thrive.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Martin Feinman

Address: 195 Water St NY NY

I represent: Legal Aid Society, Juv. Rights Protector

Address: _____

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(PLEASE PRINT)

Name: Yumari Martinez

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I represent: NYC ACS

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