

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON FINANCE AND JUVENILE JUSTICE

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May 18, 2009
Start: 10:27am
Recess: 3:21pm

HELD AT: Council Chambers
City Hall

B E F O R E:

DAVID I. WEPRIN
Chairperson

SARA GONZALEZ
Co-Chairperson

COUNCIL MEMBERS:

Diana Reyna
Kenneth Mitchell
Maria del Carmen Arroyo
Lewis A. Fidler
Gale A. Brewer

A P P E A R A N C E S

COUNCIL MEMBERS:

Kendall Stewart

Melissa Mark-Viverito

Julissa Ferreras

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

Neil Hernandez

Commissioner

New York City Department of Juvenile Justice

Judith Pincus

First Deputy Commissioner

New York City Department of Juvenile Justice

Jacqueline James

Deputy Commissioner for Administration and Policy

New York City Department of Juvenile Justice

CHAIRPERSON WEPRIN: Good

afternoon. The Finance Committee is back in session. And, we are now joined with the Committee on Juvenile Justice, Chaired by Sara Gonzalez. We have Council Member Diana Reyna, Council Member Ken Mitchell. And, I'm sure others will be joining us shortly. I believe Chair Gonzalez has a statement.

CO-CHAIRPERSON GONZALEZ: Thank

you, Chair. Good morning. I'm Council Member Sara Gonzalez, Chair of the Juvenile Justice Committee. Today is-- well, of course, you know it's May 18, 2009. And, this is fiscal 2010 Executive Budget hearing for the Department of Juvenile Justice.

Today, we will be reviewing the projected budget for the Department of Juvenile Justice for the upcoming fiscal year. Given the reality that the City is in a fiscal crises, we hope to hear about how the Department is managing its programs and budget priorities to ensure that they are serving our youth in a fiscally responsible way. The Department has the important complex responsibility of providing the detention,

1
2 aftercare and preventive services to the
3 juveniles, ages 7 through 15 in New York City.
4 Youth detained in the Department's facilities
5 included alleged juvenile delinquents, juvenile
6 offenders, whose cases are pending post-
7 adjudication and juveniles awaiting transfer to
8 State Office of Children and Family Service
9 facilities.

10 The Department operates three
11 secure detention and 16 non-secure detention
12 facilities located throughout the City that admit
13 over 5,000 youth each year. Together, the Council
14 and the Department must work to make sure that the
15 federal and state governments continue to provide
16 the City with enough money to support the
17 Department's most vital programs, including
18 discharge planning, aftercare programs,
19 alternatives to detention and life skills
20 training.

21 By offering these young people care
22 and resources, the Department of Juvenile Justice
23 provides a vital service that will continue to
24 influence our communities for years to come. We
25 hope to improve the services and programs already

in place and remain open to novel ideas.

The Department of Juvenile Justice fiscal 2010 Executive Expense Budget is 130.9 million. Of that amount, 42.8 million supports personnel services and 88.1 million supports other than personnel services. Today, we will review the Executive Expense Budget and Capital Budget in more detail. And, we will hear from the Commissioner about the Department's plans for these allocated monies.

We will look forward to hearing testimony from Department advocates and other interested parties regarding funding priorities and initiatives. Before we continue, I would like to thank our Financial Analysts, Eisha Williams and Andy Grossman. Thank you. I would also like to thank Lisette Camilo, our Legislative Attorney and William Hongach, our Policy Analyst for all the work that they do every day, actually, and today putting this hearing together. I would also like to acknowledge my colleagues for joining us. And, with this brief overview, I will turn the floor over to Commissioner Hernandez, who has prepared remarks. Thank you.

NEIL HERNANDEZ: Good afternoon, Chairs Gonzalez and Weprin and members of the Juvenile Justice and Finance Committees. Thank you for the opportunity to be heard on the Executive fiscal year 2010 Budget for the Department of Juvenile Justice. I am Neil Hernandez, Commissioner of the agency. Joining me is Judith Pincus to my left, First Deputy Commissioner, and Jacqueline James to my right, Deputy Commissioner for Administration and Policy.

DJJ is working diligently to support the City's reform of the Juvenile Justice system, which includes helping to ensure that low and moderate-risk youth, which comprise a large number of admissions to juvenile detention each year, are spared unnecessary or long stays in detention. By collaborating in partnership with the Mayor's Office, the Family Courts, and our sister agencies on initiatives, such as the use of the Risk Assessment Instrument, the Weekend Arraignment Initiative and the Release to Parent Policy Initiative, DJJ will continue efforts to help move the City closer to this goal. Taken together, these initiatives, and others have

1
2 helped to reduce the number of youth placed in
3 State facilities. The historical rate of
4 recidivism at the State level has been so high
5 that these initiatives can have long-term positive
6 implications on public safety and better outcomes
7 for children enmeshed in the juvenile justice
8 system. State placements were down by 3% during
9 Fiscal 2009, July through February, compared to
10 the same period last year.

11 The Governor's preliminary budget
12 announced the Youth Services Block Grant, which
13 would have combined the several streams that fund
14 juvenile detention and youth services. This
15 proposal has been defeated, after successful
16 lobbying by the Mayor's Office of State
17 Legislative Affairs, DJJ, the Department of Youth
18 and Community Development, and various juvenile
19 detention associations in New York State. The
20 block grant's defeat eliminated a potentially
21 significant risk to DJJ's budget and core mission,
22 however the Department continues to face some
23 challenges. The State reimbursement for juvenile
24 detention will remain at the 49/51 split
25 implemented by the State Office of Children and

Family Services in fiscal year 2009.

Through the current Citywide Performance Reporting period, July 2008 through February 2009, the average daily population increased by less than 1%. During the same period, total admissions to detention increased by 4.6%, but average length of stay decreased one day. In essence, population levels have remained the same as compared to last year. And, as discussed during our preliminary budget testimony on March 25th, the concentration of youth with more complex cases in secure detention has increased because of the judiciary's usage of the Risk Assessment Instrument.

In fiscal year 2010, the Department's total budget is approximately \$131 million, a reduction from fiscal year 2009, reflecting utilization of funding from the City Council, funding for the Collaborative Family Initiative and the last two PEG reductions. Approximately \$60 million of the Department's budget supports payments the City makes to the State for placements of City youth into State-run facilities.

The City's current fiscal reality has forced many agencies to make difficult, but critical decisions. In fiscal year 2009, Mayor Bloomberg announced two PEGs; a 7% PEG on all Mayoral agencies in January, followed by a 4% PEG in April.

The 4% PEG represents approximately \$1.4 million reduction in City funds to the Department's budget. The Executive Budget identifies the elimination of 49 vacant, 25 City-funded and 24 State-funded, positions in various titles, including direct juvenile care positions. The elimination of these vacancies represents a 5% reduction in DJJ's headcount, as identified in the January Financial Plan, from 961 to 912. However, the Department will actually need to eliminate approximately 54 vacancies to achieve the savings. This is because the average salary used to determine the 1.4 million reduction is higher than the Department's average salary for its vacancies.

As of the January Financial Plan, the Department will have approximately 158 vacancies. The Department counts vacancies as unfilled posts. The Department has not finalized

the vacancies to be eliminated, but anticipates that some of these positions will include security positions, which could impede the enhancement of security to prevent contraband and the timing of back-up responses when direct childcare staff need assistance. In addition, some of these positions will be administrative, inhibiting the Department's business processes.

As discussed during the Department's Preliminary Budget hearing on March 25th, the Department eliminated 11 staff positions as part of its integration of Discharge Planning Services into Case Management Services. These 11 positions are separate from the 49 positions identified for reduction in this Executive Plan.

The Department had hoped to work with these staff to find new positions within the agency from among the vacancies available. There is a chance that some positions available, or suitable, I should say, for these staff may be eliminated as part of this PEG reduction. The Department will need to work within its remaining vacancies to assist these staff with finding new

placements within DJJ, but the Department does not plan to lay anyone off.

The support the Department receives from the Juvenile Justice Committee has been instrumental in helping to strengthen in-detention programming. To date, the Department has earmarked the fiscal year 2009 allocation of \$640,000 to fund 13 programs. Of these programs, nine contracts have been registered through the Comptroller's Office and the organization heading these programs have begun providing their unique services to youth. The Department expects for the remaining contracts to be registered shortly and thanks the Juvenile Justice Committee and Chair Gonzalez for her continued support of in-detention programming.

While the additional PEG reduction is a challenge, the Department will continue to do its part to help the City continue its reform of the Juvenile Justice System. Early signs show that the City is moving in a positive direction; fewer youth are spending extended periods in detention thanks to the Weekend Arraignment Initiative. At the same time, the judiciary is

1 making more informative decisions about detention
2 settings for youth who need to be in detention
3 through its usage of the Risk Assessment
4 Instrument. Moving forward along this trajectory
5 will surely increase positive outcomes for youth,
6 as reliance on detention will be further minimized
7 while programs that help to meet the many needs of
8 Court-involved youth and their families are
9 strengthened.
10

11 The Department looks forward to
12 continuing our partnership with the Juvenile
13 Justice Committee to bring much needed programs
14 and services to youth in detention and appreciate
15 the Mayor and Deputy Mayor for Health and Human
16 Service's support of DJJ's strategic initiatives.
17 Thank you.

18 CHAIRPERSON WEPRIN: Thank you,
19 Commissioner. We've been joined by Council Member
20 Maria del Carmen Arroyo and Council Member-- well,
21 I think I introduced Ken Mitchell and Council
22 Member Lew Fidler from Brooklyn and Council
23 Member-- oh.

24 Commissioner, is the Department
25 still confident that it will be able to reduce the

capacity at the Bridges Juvenile Center from 95 to 71 and remove 15 positions annually beginning in fiscal 2010?

NEIL HERNANDEZ: Yes, Chairman. In fact, in March, I communicated with the State Office of Children and Family Services to ensure that the OCFS reduces its reliance on the City's detention system, specifically, to not have the DJJ receive children that they have the capacity to receive in their system.

CHAIRPERSON WEPRIN: And, as DJJ plans to reduce capacity at Bridges, has the Department considered permanently reducing capacity at other facilities that consistently remained unfilled?

NEIL HERNANDEZ: If I could just go back for one second, Chairman, the date that I communicated with the State OCFS Commissioner is April 17th, 2009. And now, to answer your question, the proposed reduction of capacity in Bridges Juvenile Center is available to us by some policy decisions that we've made and the implementation of the Weekend Arraignment Initiative. When we look at other capacity in

secure detention, specifically, our long term facilities, we also need that capacity to be able to meet demand for the current demand and for detention. We did, however, in this fiscal year, reduce two group homes, capacity in NSD by two group homes in order to make prior PEGs for this current fiscal year.

CHAIRPERSON WEPRIN: Okay. 'Cause I know a number of advocates have been calling for the closing of Bridges. So, would you say, at this point, that that would be unwarranted?

NEIL HERNANDEZ: Yes, it's not supported by current demand. We need continued support on our strategic initiatives, including reducing the State's reliance on the City's detention system. I just want to, also, note for you that eliminating Bridges at this point, besides not having, or ensuring, available capacity which would jeopardize Court orders for us and result in potential contempt. I do want to add that Bridges' current use involves accepting children who are new admits and children who are currently sentenced to the State. One of the benefits of having the facility, at this point in

time, is that it allows us not to mix populations. So, we're in a position not to mix children who currently are not adjudicated, have currently pending cases versus children who are sentenced. And, that helps in providing care for children that are currently in the Department's care.

CHAIRPERSON WEPRIN: Okay. I'm going to turn it over to Chair Gonzalez.

CO-CHAIRPERSON GONZALEZ: Thank you, Chair. Commissioner, please explain what the HHS Connect program is including the role that your agency has, its implementation. And, how will it be beneficial to youth admitted to the Department's custody?

JUDITH PINCUS: Regarding HHS Connect, our role is multiple-fold. We're both a partner agency amongst many of the Health and Human Service agencies, as well as within the HHS Connect is going to be the upgrading of our case management computer applications, which is currently called CJUS [phonetic], but will be called JAZZ [phonetic], as part of HHS Connect. And so, we envision, in the long term, that it will actually help facilitate our case management

1 with families because it will provide a
2 streamlined way of collecting information about
3 them and so that families won't have to provide
4 information multiple times to different DJJ staff.
5 But, when staff engage with them, they'll have,
6 then, a better platform to engage on a quality
7 level as opposed to collecting information about
8 the family for different kinds of compliance
9 issues.
10

11 CO-CHAIRPERSON GONZALEZ: Would you
12 say that the outcome, at the end, when this person
13 moves on, would be stronger in respect to this
14 particular program? Is it going to--

15 JUDITH PINCUS: I think that
16 what'll allow us to do is further evolve our case
17 management to be more of a qualitative function,
18 as opposed to just-- sometimes, I think you have
19 to do a lot of work in terms of your engagement
20 with youth when they first come into detention.
21 There's a lot of intake information that has to be
22 collected and multiple staff are engaging with
23 parents. And, I think that can sometimes be
24 frustrating for parents when different people ask
25 them similar questions.

And, this'll create I think a better platform for staff to interact with families. And so, that the interaction can be really more about the substance of the issue the family is interacting with rather than just collecting information. And, I think that that will really help improve the way we communicate with families as a customer and improve that kind of relationship.

CO-CHAIRPERSON GONZALEZ: Thank you. Also, Commissioner, for the benefit of the Committees, can you provide the annual number of youth placed in OCFS facilities in fiscal 206, fiscal 207 and fiscal 208? How many do you estimate will be placed in 209 and fiscal 2010?

NEIL HERNANDEZ: If you just give me a moment. So, I mentioned previously in my testimony that the number of children placed with the State from July to February of this fiscal year compared to the last was reduced by 3%. The actual number of children that were released to the State during that period was 1,192. In the same period in fiscal year 2008, the number is 1,197. If we continue this trend, and we need to

continue this trend with our juvenile justice reform, we anticipate that this number will continue to go down.

As you know from our budget discussions in March, there's an assumption in part of our PEG for the next fiscal year that this number will continue to go down. And, in the long run, if we continue to keep these numbers going down, given that historically the State recidivism rate has been approximately 80%, we're really heading in the right direction. And, as you know from our budget of a total of 131 million, quite a sizable portion or about 60 million, as I testified in my prepared remarks, supports the payments to the State for these children that are going to State facilities. So, I think we're heading in the right direction there.

CO-CHAIRPERSON GONZALEZ: I know that Chairman Weprin, I believe he asked in reference to Discharge Planning. I'm not so sure. But, anyway, I would like to know vital are these services for Discharge Planning in detention workshops? And, how important is it that the City Council restore the funding in fiscal 2010?

NEIL HERNANDEZ: Chairwoman, I'll start backwards, on the second part of your question. If the Council allocates money to the Department, we will make use of it. We wouldn't turn down any resource, of course. Now, I think for next fiscal year, one of the priorities should be trying to fund and maintain the Collaborative Family Initiative. That would be one of the higher priorities.

Now, as far as the current allocation of 640,000, all 640,000 have been earmarked. About nine, I believe I testified to in my prepared remarks, have been registered with the Comptroller's office. And, as Council has previously voted by Resolution, they run a gamut from focusing on reducing violence with children in detention by specifically targeting community-based groups to provide violence prevention and conflict resolution workshops to providing workshops for another priority of the Chair and the Committee and, that is for children who identify as LGBTQ and all children in detention. So, this money runs the gamut through 13 programs.

CO-CHAIRPERSON GONZALEZ: Council

Member Fidler.

COUNCIL MEMBER FIDLER: Thank you, Chairwoman Gonzalez. Out of turn? Someone ahead of me? Go ahead.

CO-CHAIRPERSON GONZALEZ: Out of turn.

COUNCIL MEMBER FIDLER: Never mind.

CO-CHAIRPERSON GONZALEZ: I'm sorry. I was out of turn.

COUNCIL MEMBER ARROYO: We get confused sometimes. That's okay. Commissioner, hi. We look alike, too. In your testimony, you indicate that the Department has not finalized the vacancies to be eliminated and that some of those positions will include security positions, which would impede the enhancement of security to prevent contraband and timing of backup responses when childcare staff need assistance. When will you know which positions you will eliminate? And, what I'm hearing is that staff in need of help will probably not get it in time. Am I misunderstanding your testimony?

NEIL HERNANDEZ: So, on the first part, we will certainly make decisions by the time

1
2 of adoption. I will commit to the Chair of the
3 Juvenile Justice Committee and the members or any
4 other members that would like, or I'll copy the
5 Finance Chair, I will present to the Committee, in
6 writing, the actual positions. I will itemize
7 them so that we can start the fiscal year with a
8 full disclosure on what those positions will be.

9 The security positions, to your
10 other question about security, there's been some
11 historical vacancies in our security positions.
12 Briefly, the security position when you've come
13 and visited our sites, whether it be at Bridges
14 Juvenile Center or at Horizon Juvenile Center,
15 when you visit it, they're the staff at the front
16 door. They're the staff who provide-- the only
17 uniform staff in the Department. They're the
18 staff that control security. And, amongst their
19 duties is also to provide searches within secure
20 detention, not only of our juvenile residents, but
21 also of visitors and guests coming into our
22 facilities to prevent contraband from entering our
23 sites.

24 Because these vacancies are
25 historical, eliminating them would prevent an

enhancement. So, if we had all the vacancies and filled all the positions, they would really provide an enhancement. Giving up some of the vacancies, and this is not a final position of course, but giving some of the vacancies would probably prevent that enhancement. I don't think it's our estimation that it wouldn't prevent us from weeding out contraband given all the work that's been done. Some of the work was outlined to you and the Committee by Deputy Commissioner Davis at a recent hearing. But, also, we would be able to provide backup to the staff in the living areas that are requesting assistance in the event that there's an incident or a fight that they need to get involved in. So--

COUNCIL MEMBER ARROYO: So, staff safety is not something that we need to be concerned about?

NEIL HERNANDEZ: No. First, our first priority has to be childcare. And, clearly, protecting staff and protecting children and safety, in general, is a high priority. Faced with the various difficult decisions that have to be made to make up the 54 positions, I just wanted

1
2 to flag, for the Committee, that the security
3 positions are something that I have to consider.
4 And then, in an ideal world, clearly this was not
5 part of the PEG that we discussed previously of
6 7%. But now, we have to consider this cut.

7 COUNCIL MEMBER ARROYO: On the
8 initiative for the Weekend Arraignment, you're
9 crediting that initiative as one of the things
10 that are contributing to lower census. What are
11 the numbers? How have the numbers changed--

12 NEIL HERNANDEZ: Sure.

13 COUNCIL MEMBER ARROYO: -- since
14 the implementation?

15 NEIL HERNANDEZ: So, in the period
16 of July of the fiscal year 2009 to April of 2009
17 fiscal year, secure detentions average daily
18 population has decreased 3.8%. Let me just pause
19 for a moment. Now, what's happened with Weekend
20 Arraignment is the majority of the children are
21 being released by the Weekend Arraignment
22 Initiative. The children that are-- approximately
23 60% of those children. The children that are
24 getting detained, ordered by the Courts, the
25 majority of those children are going to non-secure

1 detention. They go into our group home system.
2 And so, that number, for the same period,
3 increased by 12.5%. So, overall, the average
4 daily population for the period in question, as I
5 testified, increased a little over 1%,
6 specifically 1.2%. While the population hasn't
7 decreased as much as we would like, the shift of
8 children not being detained in secure detention
9 and going to the group home settings is a far
10 positive shift. The likelihood with those
11 children in our group home setting is that Judges
12 will be more inclined to keep them within the
13 community and try the City's robust continuum of
14 alternatives to detention and some alternatives to
15 placement.
16

17 So, in the long run, by continuing
18 that shift, those children will be less likely to
19 be sent to State placement, which should continue
20 reducing the number of children we're sending to
21 State placement because we know that State
22 placement is just going to result in a high rate
23 of recidivism.

24 COUNCIL MEMBER ARROYO: Now, I want
25 to make sure that the dates are clear. You said

July 2009. Did you mean 2008?

NEIL HERNANDEZ: We're talking about fiscal year. So--

COUNCIL MEMBER ARROYO: Okay.

NEIL HERNANDEZ: -- July 2008 from July--

COUNCIL MEMBER ARROYO:
[Interposing] To present.

NEIL HERNANDEZ: --2009 fiscal year--

COUNCIL MEMBER ARROYO: Okay.
Okay.

NEIL HERNANDEZ: -- to April 2009, in the July fiscal--

COUNCIL MEMBER ARROYO: In the--
okay.

NEIL HERNANDEZ: -- in the fiscal year--

COUNCIL MEMBER ARROYO: Okay.

NEIL HERNANDEZ: -- 2009.

COUNCIL MEMBER ARROYO: So, one last thing. If you can please clarify for me, 'cause I'm rather confused about, you have reduced capacity at Bridges and you have reduced capacity

at New Horizons, right? But, you will not give up that capacity because? I'm not clear why.

NEIL HERNANDEZ: The January Plan proposed reducing secure detention capacity by 21 beds, specifically, at our intake facility, the Bridges Juvenile Center. That's for fiscal 2010. In fiscal 2009, we reduced NSD capacity by two group homes and that reduced our--

COUNCIL MEMBER ARROYO:
[Interposing] NST being?

NEIL HERNANDEZ: Our group home settings.

COUNCIL MEMBER ARROYO: Okay.

NEIL HERNANDEZ: The next fiscal year, in 2010, we're reducing our intake facility by 21 beds. Part of that is, as I mentioned before when we were talking with Chairman Weprin, the children that we have there are half are basically new admits. Those children, the Weekend Arraignment Initiative has helped, as I outlined--

COUNCIL MEMBER ARROYO: Okay.

NEIL HERNANDEZ: -- keep those kids out of detention. The other children, we've taken some good steps and some good policy positions.

We need the State to step up and stop relying on our detention system to care for children that they're responsible for. If they step up, as I outlined, I communicated with them in April as a follow up to our hearing, if they step up, we should be able to see less rely on-- that there should be less children to justify or support the reduction of 21 secure detention beds at Bridges Juvenile Center. I'm optimistic. And, I'm confident about it. I think we're heading in the right direction.

COUNCIL MEMBER ARROYO: So, can it be more than 21 beds?

NEIL HERNANDEZ: No. Not at this time.

COUNCIL MEMBER ARROYO: No. Okay.

NEIL HERNANDEZ: We will clearly monitor this and keep moving forward on it. We don't want to have more than we need. But, we should have a sufficient amount. And, the other thing that it does is the current levels provide us some flexibility and that's important, as well.

COUNCIL MEMBER ARROYO: Okay. So, is it 21 or 24 beds?

NEIL HERNANDEZ: It will be going-- the certified capacity from Bridges Juvenile Center will be going from 95 to 71, 24 beds.

COUNCIL MEMBER ARROYO: That's 24. Okay. Thank you.

NEIL HERNANDEZ: Thank you.

COUNCIL MEMBER ARROYO: Thank you, Madam Chair.

CHAIRPERSON WEPRIN: Council Member Reyna.

COUNCIL MEMBER REYNA: Thank you, Mr. Chair. I just wanted to ask, Commissioner, within your agency, as far as juveniles being tracked with any participation, membership in gangs, is that something that you would be able to give us information on, as far as how many juveniles that go through your agency have been identified as a gang member or suspicious of a gang initiation process, but no longer a gang member?

NEIL HERNANDEZ: Sure. Let me start micro and go a little macro. Micro; when we see any initiation type behavior, the carving of a child's arm or hand, or we see institutional

1
2 clothing being marked in a way that reflects some
3 gang activity, our staff report it. We are aware
4 of it. We use the intelligence. We focus
5 primarily on reducing violence, conflict
6 resolution as we've used some of the funding from
7 the Committee. I'm reluctant to categorize or
8 identify children as gang members because it
9 stigmatizes them. And, I'm reluctant to have that
10 stigmatization also create a hype with the
11 children. And, I say that because, and this is
12 now my--

13 COUNCIL MEMBER REYNA: Um, hm.

14 NEIL HERNANDEZ: -- for probably a
15 decade now at Juvenile Justice for me--

16 COUNCIL MEMBER REYNA: Um, hm.

17 NEIL HERNANDEZ: -- children also
18 identify as being in a gang sometimes to create
19 status with other children. And so, relying on
20 that representation would be a little too much.
21 In addition to that, children identify as a gang
22 member sometimes to feel safer. So, I think, on a
23 macro level, as a matter of policy to not
24 stigmatize children, it's far better to try to
25 work on conflict resolution and violence

1
2 prevention programs and meet their needs and keep
3 contraband down, focus on safety to get at the
4 same issue, which is making sure that we have safe
5 and secure facilities.

6 COUNCIL MEMBER REYNA: Um, hm.

7 NEIL HERNANDEZ: And, in addition
8 to that, on a macro level, when kids are not
9 engaged in negative behavior in detention, their
10 Judges take that into consideration. Judges ask
11 for reports when children are in our settings.
12 And, sometimes Judges test, you know what, I can
13 move this child now to our group home settings.
14 Or, if they misbehave, sometimes they move the
15 child to secure detention. But, when we make sure
16 that our settings are as safe as possible, I think
17 the likelihood is that the Judge, particularly if
18 he's Judge in Family Court, will be more likely to
19 keep that child in the community than to sending
20 them to State placement.

21 We've also seen a nice trend of
22 children being released from detention. So, I
23 want to make sure I give you the full picture.
24 It's not just kids getting sent into going
25 upstate, but it's also children being released to

the community. And, that's good, too.

COUNCIL MEMBER REYNA: So, you know, in your fairness, you know, your approach is valued. And, we wouldn't want to stigmatize. But, what I have noticed is, particularly, you know, in our precincts, a level that has gone from your gang participation increasing, not just at the ages that were perhaps more common, you know, over the age of 16, but now, as young as 9, 10 years old, targeting, you know, middle school children. And so, I'd like to understand whether or not your agency is tracking any type of trends where families are dealing with these issues where we're losing our children because gang is the alternative to hanging out in the street or getting into trouble, you know, so that there is an escalating effect here where then they end up within your system. And, what type of coordination level is being implemented to deal with that escalating trend?

NEIL HERNANDEZ: So, we do track children from the various Council districts. For example, in fiscal year 2008, you had, Council Member Reyna, on your district, there were 112

1
2 children from your district admitted to detention.
3 We ranked you out of the 51 Council districts, at
4 17. We welcome the opportunity to discuss more in
5 detail with you what specific trends you're seeing
6 at the local precinct level. Our work is not
7 done.

8 COUNCIL MEMBER REYNA: Um, hm.

9 NEIL HERNANDEZ: We'll certainly
10 listen to it and see how it incorporates into our
11 practice. There is a program call the Life
12 Transitions Program that's funded for next fiscal
13 year. I testified to it at the March hearing.

14 COUNCIL MEMBER REYNA: Um, hm.

15 NEIL HERNANDEZ: That invests
16 \$613,000 in the Department's budget. That program
17 is targeted for children in detention, in secure
18 detention, specifically because they're the ones
19 that are most likely going to be going to State
20 placement. We hope that it doesn't. We work
21 diligently to try to not let that happen. But,
22 the likelihood is that it will happen.

23 So, in that program, we've been
24 working with community-based organizations. In
25 one of our secure facilities, the program works

1 within detention, out of it in Brooklyn. It's in
2 Council Member Mealy's district. But, the Center
3 for Community Alternatives is helping children
4 with reentry. And so, part of our focus is
5 reentry and, children leaving detention and I
6 think it's another point that probably hits at
7 what you're concerned about that we do welcome
8 talking to you about more fully.

10 COUNCIL MEMBER REYNA: And, is
11 there any prevention measures that DJJ is working
12 on under your leadership to deal with obviously
13 the gang participation increase?

14 NEIL HERNANDEZ: Through our safety
15 and security efforts to reduce violence within
16 detention, we do have an indicator on our Citywide
17 performance reporting system that includes
18 readmission; that looks at children returning to
19 detention. We report that on an annual basis,
20 but, not specifically on gangs. And, again, I'll
21 welcome hearing more about specifics--

22 COUNCIL MEMBER REYNA: Um, hm.

23 NEIL HERNANDEZ: -- from your
24 district and even engaging in a policy discussion
25 on a macro. My biggest reluctance have been

1
2 stigmatizing children and also, because the
3 majority of the children are in the Family Court
4 and they're entitled to high levels of privacy and
5 confidentiality. And, I'm simply concerned about
6 how that possible stigmatization could affect them
7 later on.

8 COUNCIL MEMBER REYNA: No,
9 absolutely. I can value the concern. I just, you
10 know, at a macro level in my district, we're
11 seeing a loss of our youth due to gang
12 participation. And, parents don't know what other
13 alternatives then to turn to DJJ to turn their
14 child over to the system because they fear that
15 child will lose their life. And so, I'm trying to
16 understand, you know, with all the budget
17 crunching of what you need to do at your agency,
18 how this is going to affect to even create a worse
19 impact on what is already currently a problem.
20 So, I wanted to just perhaps we can chat offline
21 and figure out ways we can partner with you.

22 As far as your budget is concerned,
23 I understand you have contracts with social
24 service agencies to provide reentry into the City
25 of New York, where their prospective homes were.

Is it your intention to expand that type of service?

NEIL HERNANDEZ: The example would be the Life Transitions Program. If we can, we will. Currently, based on where we are, the fiscal realities don't allow us to do that. But, we're certainly cognizant that by continuing to focus on reentry, we could prevent some children from returning back. And, there is some readmission that we need--

COUNCIL MEMBER REYNA: Right.

NEIL HERNANDEZ: -- to continue to work on.

COUNCIL MEMBER REYNA: And, as far as the \$613,000, it's going to be an RFP to contracts that already exist with the agency to continue the growth of that particular program?

NEIL HERNANDEZ: That's correct. It's continuing to--

COUNCIL MEMBER REYNA:
[Interposing] But, there's no RFP.

NEIL HERNANDEZ: Not at this point. This is also a collaboration with the Mayor's Center for Economic Opportunity, as well.

COUNCIL MEMBER REYNA: And, this particular additional allocation will begin July 1st? Or, this is current?

NEIL HERNANDEZ: It's current and continuing.

COUNCIL MEMBER REYNA: And, is this a two-year contract or, an annual contract?

NEIL HERNANDEZ: Just wanted to consult. It's three years funded annually.

COUNCIL MEMBER REYNA: Oh, it's three years, funded annually. And, it began in?

NEIL HERNANDEZ: Last year. This is year two.

COUNCIL MEMBER REYNA: Um, hm. Fantastic. Thank you very much.

NEIL HERNANDEZ: Thank you.

CHAIRPERSON WEPRIN: Thank you. We've been joined by Council Member Gale Brewer from Manhattan and, Council Member Kendall Stewart from Brooklyn. The next questioner is Council Member Lew Fidler.

COUNCIL MEMBER FIDLER: Thank you, Mr. Chairman. Good afternoon, Commissioner. I have to tell you that the conversation you just

1
2 had with Council Member Reyna regarding gang
3 activity is really kind of sad. I'm not saying
4 that DJJ handles gang involvement incorrectly, as
5 I'm certainly not a child psychologist or an
6 expert in the sociology of juvenile detention.
7 But, it is kind of sad that, I mean, if I'm
8 understanding what you're saying correctly, that
9 you kind of turn a blind eye to gang membership in
10 your facilities because young people may have a
11 need to feel safer. That's a very sad commentary
12 on where we're at in the world. And, it may be
13 the appropriate thing for you to do.

14 But, you know, I really hope that
15 we can get to a point where, you know, we can be
16 more proactive about preventing, you know, young
17 people from feeling a need to identify with a gang
18 even while they're in a DJJ facility. That's
19 something that, with that stigma aside, it follows
20 them out onto the street after they're released
21 because, you know, once in a gang, you know,
22 you're in the gang. It's not something that you
23 quit all that readily. And, I would hope we could
24 get to that point.

25 Following up on the conclusion of

1
2 your dialogue with Council Member Arroyo. As you
3 know, I am one that would love to see facilities
4 like Bridges dismantled to the extent humanly
5 possible. So, I want to understand your last
6 answer, when you said at this time, reducing
7 capacity past the 24 beds is not called for. Did
8 you mean-- or justified-- did you mean that if the
9 State should step up, as you've described, as
10 you've requested, that we will be able to reduce
11 capacity beyond 24?

12 NEIL HERNANDEZ: No. The State
13 Office of Children and Family Services stepping up
14 helps with our current PEG of reducing Bridges'
15 capacity by 24 beds.

16 COUNCIL MEMBER FIDLER: So, your
17 reduction by 24 beds is contingent upon the
18 cooperation that you have not yet received?

19 NEIL HERNANDEZ: That's correct.

20 COUNCIL MEMBER FIDLER: What do you
21 do if you don't get it?

22 NEIL HERNANDEZ: I looked at the
23 population levels. We're in the ballpark. In
24 other words, even without them stepping up yet,
25 we're in the ballpark. And, what I mean by that

1 is the total ADP at Bridges Juvenile Center for
2 the period we've been discussing, July to April of
3 fiscal year '09, was 74.5. So, the goal would be
4 to have capacity of 71, sorry, capacity of 71 with
5 demand at 71. But, if we can persuade them and
6 they are cooperative, I think that we-- I'm
7 confident that we can meet, have that 71 in terms
8 of demand be at it or under it.

10 If, however, we're not at 71 and
11 there's obviously fluctuations in our population
12 levels, there is a mechanism with the State to use
13 beds that are offline on a contingency level to
14 make sure that we meet our mandates to house
15 children appropriately should the need arise.

16 COUNCIL MEMBER FIDLER: So then, if
17 I'm understanding what you're saying, the State
18 stepping up, as you've asked, is a matter of about
19 3%.

20 NEIL HERNANDEZ: I don't understand
21 your question.

22 COUNCIL MEMBER FIDLER: Well, you
23 said you're at 74. You're looking to get to 71.
24 You're confident you can get to 71, even if the
25 State doesn't step up. So, you know, what's the

percentage utilization figure that you would anticipate if the State does step up?

NEIL HERNANDEZ: Well, we think it will be lower than-- we estimate it would be lower than 71. Now, I appreciate your question. You're looking at the difference between the 71 and the current 74.5. We're in the ballpark.

COUNCIL MEMBER FIDLER: Well, if the State does step up, where would you anticipate your utilization rate would be?

NEIL HERNANDEZ: Let me have one moment. [Pause] One more minute, please.

COUNCIL MEMBER FIDLER: Sure.
[Pause] It doesn't make for good TV, but it is an important answer.

NEIL HERNANDEZ: We want to be thorough. So--

COUNCIL MEMBER FIDLER: I understand.

NEIL HERNANDEZ: -- let's take a minute or two.

COUNCIL MEMBER FIDLER: I was just trying to fill some time here. [Pause]

NEIL HERNANDEZ: Okay. Thank you.

1 So, if the current total number of children from
2 fiscal year, this fiscal year, the period that
3 we're talking about, July through April, the
4 current number of children total that are children
5 who are absent without leave, these are children
6 who are in private or residential settings that
7 generally have run away from their settings, these
8 are settings that are overseen by the State Office
9 of Children and Family Services, would be 122 so
10 far. Children out of state, these are children
11 who are runaways from other states that the State
12 Office of Children and Family Services relies on
13 us to care for them while they coordinate their
14 return back to their home state, during this
15 period is 44. So, that's 166 lower than current
16 demand. That's something that we would
17 anticipate. [Pause] that would help.

18 COUNCIL MEMBER FIDLER: Well, what
19 would that change your utilization rate to because
20 I'm not that quick? So, I need to understand,
21 'cause I understand that, you know, they're not
22 all there at the same time, you know. Your
23 capacity at Bridges is what, 95? Is that what you
24 told me?

NEIL HERNANDEZ: - -

COUNCIL MEMBER FIDLER: Right.

NEIL HERNANDEZ: Roughly, roughly, about two beds. So, we're, as I mentioned, we're in that ballpark between a 74.5 and a 71.

COUNCIL MEMBER FIDLER: So then, my original comment that it would be about 3% from the State, I guess is pretty close to accurate.

NEIL HERNANDEZ: I think that was good.

COUNCIL MEMBER FIDLER: The two beds out of 95 is--

NEIL HERNANDEZ: That's fair.

COUNCIL MEMBER FIDLER: Okay. Okay. All right. 'Cause, you know, it just struck me that if the State stepping up was going to give you a bigger cushion than that, then you might be able to reduce the capacity and maybe save some of those security jobs that seem kind of important.

NEIL HERNANDEZ: Yeah, certainly would be considered. I do want to add, and we've discussed this before, but I think it's important for purposes of the Committee members that are

1 here, we have taken significant proactive steps to
2 reduce the State's reliance on detention, as well.
3 So, for example, the number of children who were
4 released by OCFS, who they subsequently violated
5 on their release and who were returned to the
6 City's detention system, that number's down during
7 the period 31%. So, that number went from 237 to
8 184. And so, that's a significant reduction of us
9 accepting children into detention. And, these are
10 children who need to-- the OCFS needs to do a
11 better job about supervising and taking care of
12 them. And, that's also contributed to where we
13 currently are at 74.5 during this period. So, I
14 think there's been some proactive work, as well,
15 other than what we're-- the assumptions we're
16 relying upon and the actions we've taken to try to
17 reduce this population level.

19 COUNCIL MEMBER FIDLER: Well, there
20 has, Commissioner. And, we've had this, you know,
21 similar dialogue before. And, I appreciate that
22 you agree with the idea that if a child doesn't
23 belong in secure detention, that's the last place
24 they should be. And, whatever steps you've taken
25 to remedy that, I appreciate. I just want to make

sure that every step is being taken to remedy that.

Now, I just want to go to one other topic. That would be Discharge Planning. And, as you know, I have a particular sensitivity towards the issue of discharging young people into virtual homelessness. Now, first, if I recall from your testimony, I think you said that nine of the 14 Council-funded Discharge Planning programs, their contracts have been approved and funded. Did I hear that correctly?

NEIL HERNANDEZ: Nine of 13.

COUNCIL MEMBER FIDLER: Nine of 13. What's the status of the other four and why aren't they being funded? And, is it just a procedural matter at this point? [Pause]

JUDITH PINCUS: At this point, I believe that three, I believe are at the Comptroller's office pending registration and one is pending execution of the remaining four.

COUNCIL MEMBER FIDLER: So, it is procedural. There was no--

JUDITH PINCUS: It is procedural.

COUNCIL MEMBER FIDLER: -- problem

with any one of those programs.

JUDITH PINCUS: No, no.

COUNCIL MEMBER FIDLER: Okay. The other half of this question regards the merger of 11 staff positions, the integration of the Discharge Planning services into Case Management services. And, we discussed this in the March hearing. Has that been implemented?

JUDITH PINCUS: The conceptual framework for that is in place. It will be implemented before we go into the new fiscal year, as the Commissioner mentioned in his testimony. We're right now ensuring that those staff have positions after we taken the reductions that are contemplated in the most recent PEG.

COUNCIL MEMBER FIDLER: So, you have not yet merged Discharge Planning and Case Management services.

JUDITH PINCUS: We will by the beginning of the fiscal year. We are in the deliberatory process to do that to ensure that services-- that there's not a disruption in services for families and that there's the continuity that needs to happen during that

process, both for the children in care and for the staff.

COUNCIL MEMBER FIDLER: Well, then, you want to add something, Commissioner?

NEIL HERNANDEZ: No, I just wanted to add to complement to what Judy said. Because of the 4% PEG, we also had to identify additional vacancies to meet that PEG. So, some of what we have to work through is some of the vacancies that now we're giving up, as I testified, that would have helped to fill some of the positions with the Discharge Planners. So, we're being, as Judy mentioned, deliberative. But, we have to work through some processes to make sure that we meet our commitment for these 11 staff, that they have a place-- that they have a new position starting July 1, as well.

COUNCIL MEMBER FIDLER: I know I expressed this opinion in March and I tend to be obsessive/compulsive. So, I apologize for reiterating it now. But, I will be watching this particular PEG very, very carefully. I want to be absolutely certain that we are not doing something that is grossly penny wise and pound foolish. I

1 think the Discharge Planning initiatives that, you
2 know, certainly should, if done properly, will
3 result in a lower recidivism rate, a lower number
4 of young people being discharged from DJJ
5 facilities and winding up homeless a short period
6 of time thereafter, as I know you know, because
7 you're collaborating with DYCD now.

8
9 You know, you know, it costs a lot
10 more to house, to re-incarcerate, to put them
11 through the process again than these Discharge
12 Planners are costing. And, I have a great deal of
13 concern. And, I want to make sure that when these
14 services are integrated, that they are not
15 denigrated. So, I think that is extraordinarily
16 important. And, you can be sure that each time
17 you come back here, I'm going to be asking you
18 about that and your progress on that,
19 Commissioner.

20 NEIL HERNANDEZ: We welcome it.
21 And, it is a pleasure always to hear from you, as
22 well. I think the one thing I would add--

23 COUNCIL MEMBER FIDLER:
24 [Interposing] How polite.

25 NEIL HERNANDEZ: Just one thing I

do want to add about that cut, with that, while we have to implement that cut as part of the 7%, there's one thing that we do get as a benefit.

It's going to widen the scope of the children receiving the Discharge Planning services. As we currently have our Discharge Planning services now, we're focused those services on children with medical and mental health needs because those are so much desperately needed services and needs for our kids.

When we integrate this into our Case Management services, we'll be able to open the pool. And, part of the judgment or the factor that went into judgment in doing this is also we've enhanced our medical, mental health and psychiatry services. And so, once they've been made more robust, I think that we can open the scope a little broader without sacrificing that focus. And, we welcome continued conversation with you, if you will.

COUNCIL MEMBER FIDLER: And, I appreciate the goal. I hope that you can meet it, because it is certainly absolutely essential and necessary. And, I hope that, as well, you

1
2 continue to work with DYCD in terms of analyzing
3 the data and seeing whether or not we can figure
4 out and learn anything from the data when you
5 match who's been in your facility and who winds up
6 as homeless and if there are any factors that we
7 can pick up, because, you know, while this Council
8 has made a commitment to try and find shelter for
9 every young person that winds up sleeping on the
10 streets, it also behooves us all to try and
11 prevent them from sleeping on the streets. And,
12 since this is a significant factor in that
13 problem, or a correlative factor in that problem,
14 whatever we can learn, you know, so that we can,
15 you know, close that faucet a little bit I think
16 is essential. And, I appreciate your
17 cooperativeness with that.

18 NEIL HERNANDEZ: And, I appreciate
19 you mentioning that because, as you know, we
20 already looked at fiscal year 2008 data with DYCD;
21 shared it with you; shared it with the Juvenile
22 Justice Chair. And, we'll do the same now that
23 2009 concludes because I think that's important to
24 see what our data tells us. Thank you.

25 CO-CHAIRPERSON GONZALEZ: Okay.

I'd like to acknowledge Council Member Viverito and Council Member Ferreras that are here with us today, joining us. And, Kendall Stewart, in the interest of time, because this room is utilized by many folks, we need to sort of wrap it up as soon as possible. Thank you.

COUNCIL MEMBER STEWART: Thank you.

I just have one question. I believe in prevention. And, there seem to be no focus on children who might be now breaking out to be bad kids, that living in single parent home. Every time we call for help, they have to have committed a crime or did something grievous before they will even entertain the notion of doing something for these kids.

What can a single parent do if they see that their children are really getting out of hand and they say, well, listen, I would like my child to be in a program for the next six months or a year, at least, so that they can not be ended up in the prison system or be dead or they lose their child somehow? What can they do? Tell me what do we have in our plans to help these parents.

NEIL HERNANDEZ: The short answer is for the parent to call 311 to speak to the Department of Youth and Community Development to find out what specific services, and they have a pretty robust services Citywide, and connect that child based on the child's needs to a program currently within the community.

What we've done, DJJ, over the last-- this fiscal year, the last fiscal year, is really focus on trying to get the children who are currently in detention from being in detention and not being placed with the State system. So, in the long run, I think what we've done is try to keep the City safe by keeping kids from going to State placement because they would otherwise be the beneficiary of a high recidivist rate and at the same time, trying to get better outcomes for children that are in detention by keeping them closer to home.

So, I think it's one part for them to be engaged, the children that you're identifying, in the community. And then, there's what we do with children who are actually are Court-involved and come to the City's detention

1
2 system.

3 COUNCIL MEMBER STEWART: I
4 understand what you're saying. But, it doesn't
5 pan out because the child, for that child, for we
6 to get help with that child, the child must be in
7 the prison system. They specifically say
8 basically that if the child hasn't committed a
9 crime, we can't do anything.

10 So, you telling us to call 311,
11 we've been doing things like that already. And,
12 there's nothing being done unless that child
13 commits a crime. What I'm saying, what do we have
14 in place? Is there boys' school? If you have a
15 program and you tell a child to go to that program
16 as a voluntary thing, they will not attend. I'm
17 saying what do we have that is mandatory that we
18 can keep our children in so they can learn; they
19 can be what we call grow up; or they can be moving
20 from boys to men in the sense that they get that
21 type of training? Do we have any such program
22 before they commit a crime?

23 NEIL HERNANDEZ: We have other
24 program. The City has other programs through the
25 Administration for Children's Services, as well,

that are preventative in nature. And, I think that's another route to take as well.

COUNCIL MEMBER STEWART: Thank you.

CO-CHAIRPERSON GONZALEZ: Thank you. Commissioner, one more question. Have you lobbied the Administration to restore the 1.4 million for CFI in 2010? And then, I guess to make it short and sweet, if not, what would be the impact if that doesn't happen?

NEIL HERNANDEZ: Sure.

Regrettably, the Office of Management and Budget was not entertaining new needs requests for fiscal year 2010. We did, however, try to work with the - we did, however, work with the Mayor's office and try to leverage some federal dollars to support the Collaborative Family Initiative. That was unsuccessful, at least at this point.

So, what we're looking at is, as I shared with the Committee back in March, if the program doesn't exist in the next fiscal year, we will not have the ability to get children released from the City's detention system that suffer from psychiatric and mental health needs. In short, that program has allowed children to have their

time in detention cut in half as part of reforming the juvenile justice system.

And so, that's going to create, at a minimum, a situation where children will stay in detention longer. We'll obviously work as diligently as we can with the judiciary to not let that happen and offset it. But, that's a potential impact.

CO-CHAIRPERSON GONZALEZ: I guess the answer is we should continue to lobby.

NEIL HERNANDEZ: Until the budget's adopted, we won't stop working hard.

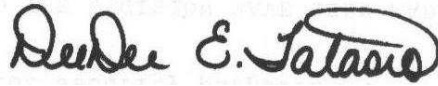
CO-CHAIRPERSON GONZALEZ:
Absolutely. Thank you. And, thank you all my colleagues. Meeting adjourned.

NEIL HERNANDEZ: Thank you.

C E R T I F I C A T E

I, DeeDee E. Tataseo certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

A handwritten signature in cursive script that reads "DeeDee E. Tataseo". The signature is written in dark ink and is positioned above a horizontal line.

Date

June 11, 2009