

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON GENERAL WELFARE

COMMITTEE ON JUVENILE JUSTICE

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January 26, 2011

Start: 10:00 am

Recess: 2:06 pm

HELD AT: Committee Room
250 Broadway, 14th Floor

B E F O R E:

ANNABEL PALMA
SARA M. GONZALEZ
Chairpersons

COUNCIL MEMBERS:

Annabel Palma
Sara M. Gonzalez
Maria del Carmen Arroyo
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Fernando Cabrera
Daniel Dromm

A P P E A R A N C E S

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

Vincent Schiraldi
Commissioner
NYC Department of Probation

Hon. Michael A. Corriero
Founder/Director
The New York Center for Juvenile Justice

Tamara A. Steckler
Attorney in Charge
Juvenile Rights Practice
Legal Aid Society

Alfred Siegel
Deputy Director
Center for Court Innovation

Cynthia Armijo
Executive Director
Boys Town New York

Stephanie Gendell
Associate Executive Director
Citizens Committee for Children

Bill Baccaglioni
Executive Director
The New York Foundling

Marsha Weissman
Executive Director
Center for Community Alternatives

Avery Irons
Director of Youth Justice Programs
Children's Defense Fund

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

Prof. Gertrud Lenzer
Director
Children's Studies Program and
Center for Research Policy and Public Service

Charisa Smith
Staff Attorney
Advocates for Children

Loretta Chin
Research Coordinator
Brooklyn College
Children's Studies Center

Gabrielle Prisco
Director
Juvenile Justice Project
Correctional Association of New York

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2 CHAIRPERSON GONZALEZ: Good morning
3 ladies and gentlemen and welcome to the joint
4 Juvenile Justice and General Welfare Committee
5 hearing.

6 Today is January 26th, 2011. My
7 name is Sara M. Gonzalez and I'm the Chair of the
8 Juvenile Justice Committee. Beside me is Council
9 Member Annabel Palma, Chairwoman to the Committee
10 on General Welfare. I would like to thank her for
11 holding this joint hearing and thank all of you
12 for being here today, especially in light of the
13 weather.

14 The members of the Juvenile Justice
15 Committee are present and will be, hopefully,
16 present soon. So understanding the weather, we
17 know there's been a little bit of delay. We'll
18 welcome them as they come in.

19 The topic of today's hearing
20 focuses on the Mayor's proposal to overhaul the
21 New York State Juvenile Justice system. I am
22 aware of the Administration's intentions to keep
23 New York City's incarcerated youth closer to their
24 families and communities. While I agree that
25 sending children so far is harmful to them, I

1
2 await more information on how the city's plans
3 will be beneficial to our youth.

4 Today, I have many questions
5 regarding the Administration's proposed
6 realignment process. Specifically, how the
7 realignment intends to better serve our city's
8 youth and how the city plans to pay for this
9 process during these difficult economic times. I
10 am hopeful that representatives from New York
11 City's Administration for Children's Services will
12 be able to present to us a clearer picture and
13 answer the committee's questions on how they
14 intend to shift the responsibilities for providing
15 juvenile justice services from the state to the
16 city.

17 All of us in this room understand
18 that the decision to detain youth pending trial
19 opposed adjudication has serious negative
20 consequences as it can stigmatize youth and is a
21 major disruption in an individual's life. It is
22 my belief that we should find solutions to place
23 youth in alternative programs that provide them
24 with appropriate services.

25 In closing, I would like to thank

1
2 ACS Commissioner John Mattingly and Executive
3 Deputy Commissioner for the Division of Family and
4 Youth Justice, Larry Busching, for their
5 partnership in addressing the needs of our city's
6 incarcerated youth as well as their dedicated
7 service to our city. I would also like to welcome
8 the Commissioner of the Department of Probation
9 Vincent Schiraldi. I look forward to your
10 testimony.

11 With that being said, I would like
12 to turn the floor over to my colleague Annabel
13 Palma, Chairwoman to the General Welfare
14 Committee. Thank you.

15 CHAIRPERSON PALMA: Thank you,
16 Madame Chair. Good morning, I'm Council Member
17 Annabel Palma. I'm the Chair of the General
18 Welfare Committee. I would like to thank Sara
19 Gonzalez for allowing me to hold this joint
20 hearing with her committee. I would also like to
21 thank all the staff who worked to bring this
22 hearing together, including Lisette Camilo,
23 counsel to both committees and William Hongach
24 from the Juvenile Justice Committee. I would also
25 like to welcome two staff members to the General

1
2 Welfare Committee: Carmine Guiga and Elizabeth
3 Hoffman who have been with us just a few weeks and
4 have been doing a wonderful job thus far.

5 Last month, Mayor Bloomberg
6 announced his proposal to overhaul the New York
7 State Juvenile Justice system. We all know it's
8 no secret that the state's juvenile justice system
9 is in trouble. Our city's youth are not receiving
10 the necessary prevention methods and programs
11 needed to appropriately address the underlying
12 causes for the troubles that they face.

13 They are being kept away from their
14 families in the state residential facilities when
15 they're transferred upstate. Research shows that
16 programs that work directly with kids and their
17 families in their own communities are more
18 successful in reducing recidivism. Keeping our
19 troubled kids near their parents, their schools
20 and within their communities is a stabilizing
21 factor. We cannot afford to further alienate our
22 troubled youth from their support systems.

23 Furthermore, the increasing cost to
24 the city of the current juvenile justice system is
25 unsustainable. Despite sending fewer and fewer

1
2 New York City children to state juvenile
3 facilities, the city is being charged more and
4 more per child. This is forcing us to divert
5 funds away from alternative to detention and
6 placement programs and other social services
7 programs in the community.

8 I don't think that is a smart thing
9 to do given the economic times that we're going to
10 be facing this budget year and looking into next
11 year as well. All of which have proven, these
12 programs have clearly proven successful in making
13 a real difference in the lives of these troubled
14 kids.

15 Today, we will hear more details
16 about the Mayor's plan and how it will work, if
17 executed as proposed. As Chair of the General
18 Welfare Committee, I am especially interested in
19 what the Mayor's plan will mean for the
20 Administration for Children's Services. ACS
21 currently has a significant responsibility and
22 increasingly large mandate. The agency
23 investigates an average of 55,000 abuse and
24 neglect report cases each year. It also
25 administers the provision of foster care and

1
2 preventative services in the city and it provides
3 subsidized childcare for approximately 80,000
4 children throughout the city.

5 For years the committee has both
6 heard about and expressed its own concerns about
7 ACS struggling to adequately fill these
8 responsibilities. Particularly in recent years
9 when the agency has faced sizable budget cuts. I
10 therefore question how ACS can successfully take
11 an additional mandate concerning the state
12 juvenile justice system without compromising the
13 current provisions of services.

14 I want to thank ACS for their
15 participation. I want to thank Commissioner
16 Schiraldi for coming before this committee. As
17 always, I'm glad to see Commissioner Busching, and
18 I welcome your testimony and beginning of dialogue
19 to see how the Council can be more helpful in
20 making sure that this plan that is presented to us
21 today actually is a success here in the city and
22 continues to make sure that our youth are well
23 rounded and give the opportunities they deserve.
24 Thank you.

25 [Pause]

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2 CHAIRPERSON GONZALEZ: Yes, you may
3 begin. Welcome.

4 LAURENCE BUSCHING: Thank you.
5 Happy to be here.

6 [Pause]

7 CHAIRPERSON GONZALEZ: Please bear
8 with us. We just have a little technical
9 difficulty. Thank you.

10 [Pause]

11 CHAIRPERSON GONZALEZ: I just want
12 to say as we wait, I want to thank you. I know
13 Council Member Palma and myself and all the staff
14 here are really grateful that so many folks have
15 attended despite the weather. This is a very,
16 very important issue and I see that everyone has a
17 real concern and I want to thank you. You can't
18 give a mike to an elected official, you see.

19 [Pause]

20 CHAIRPERSON GONZALEZ: In the
21 interest of time, I think we're going to make an
22 executive decision. How's that? You guys could
23 sit up here and join us.

24 [Pause]

25 CHAIRPERSON GONZALEZ: Annabel

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Palma made that decision.

LAURENCE BUSCHING: How's this?

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

Thank you for giving me, and my colleague Commissioner Vincent Schiraldi of the New York City Department of Probation, the opportunity to talk today about the City's plan to realign juvenile justice services from the State to the City.

I will discuss the City's recent successes in juvenile justice reform, and Commissioner Schiraldi will speak about how realignment will allow us to go much further in realizing our vision of an integrated system of services and care for at-risk youth that protects communities, strengthens families and promotes rehabilitation.

We want to note at the outset that

1
2 the Council has been an invaluable partner in
3 reforming the city's services for at-risk youth.
4 We are fortunate to have such dedicated advocates
5 for young people as Chairs Gonzalez and Palma.
6 With the Council's support we have been able to
7 take critical steps forward in juvenile justice
8 reform, including most recently, the merger of ACS
9 and the Department of Juvenile Justice, which was
10 passed by Council in November 2010 and signed by
11 the Mayor last month.

12 We know that there are many
13 questions among Council and within the community
14 about what a locally operated Juvenile Justice
15 system would look like. We expect to work closely
16 with the Council as we further develop our plans
17 for this overhaul, which at this point is still in
18 its initial planning stages.

19 We believe that the Council will
20 enthusiastically support the development of a full
21 continuum of city-based interventions for at-risk
22 youth, ranging from effective diversion for low
23 level offenders to secure residential placements
24 for youth who present the highest risks. We hope
25 that the Council agrees with the city that the

1
2 City's at-risk youth should be served locally
3 where they can further their education and remain
4 connected to their families and communities.

5 Furthermore, we expect that Council
6 will agree that a city-run system will be more
7 accountable to our communities and the Council's
8 oversight will play an important role. We look
9 forward to working together with the Council,
10 community members, providers and advocates in
11 successfully implementing this new direction for
12 our youth and communities.

13 The city's vision for a realigned
14 system draws on lessons learned through our own
15 reforms in the detention and juvenile justice
16 systems over the past few years. We have had the
17 opportunity to speak to the Council at length
18 about each of these initiatives.

19 It bears repeating here that they
20 include: the creation of a risk assessment
21 instrument, which gives stakeholders
22 scientifically validated information about the
23 risk level of individual youth to inform detention
24 decisions; the launch of the Weekend/Holiday
25 arraignment Initiative, which grants juveniles the

1
2 opportunity to have their cases assessed for
3 release by the Department of Probation and the Law
4 Department or presented to a judge every day of
5 the year; and the implementation of several well-
6 regarded community-based alternatives to detention
7 and alternatives to placement for juveniles.

8 This work has paved the way for the
9 release of the city's detention reform plan in
10 June 2010, which focused on more targeted use of
11 detention and expansion of alternatives to
12 detention. This plan was developed in
13 collaboration with our partners at the Department
14 of Probation and the Criminal Justice
15 Coordinator's Office, and with assistance from the
16 Vera Institute of Justice.

17 The City has already benefited from
18 our efforts to assess risk and provide appropriate
19 interventions for court involved youth, to
20 maintain public safety while minimizing system
21 involvement, and to strengthen youth and families
22 through evidence-based, cost-effective
23 alternatives to detention or residential placement
24 where appropriate.

25 From 2006 to 2008, New York City

1
2 achieved a 22 percent reduction in detention at
3 arraignment as well as a 35 percent reduction in
4 recidivism while cases were pending. Since 2008,
5 we have continued to make further gains in
6 reducing our detention census. In Fiscal Year
7 2010, detention admissions were reduced by 8
8 percent and the average daily population in
9 detention was reduced by 10 percent.

10 We are optimistic that with the
11 additional programming currently being added to
12 the City's continuum of detention alternatives,
13 there will be even more options for youth who do
14 not pose a serious risk to public safety but need
15 services and intervention. I have spoken with the
16 Council about two such new programs: Way Home and
17 Ready Respite.

18 Way Home, run by New York
19 Foundling, serves families in the Bronx and
20 Manhattan and has the capacity to serve 12
21 families at any one time with intensive evidence
22 based services.

23 Ready Respite, a small program also
24 being implemented by the Foundling and the Center
25 for Court Innovation on Staten Island, allows

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2 youth to live with specially trained foster
3 families while their cases are pending. These
4 foster families supervise and support the youth
5 until their cases are resolved or the court
6 determines they are ready to go back home. This
7 option helps to keep the community safe while also
8 helping youth gain the skills and supports
9 necessary to lead law-abiding lives, all while
10 avoiding the negatives consequences that can be
11 associated with detention.

12 Further, after testifying here
13 today, I will be meeting with Brooklyn judges and
14 system stakeholders to introduce them to another
15 alternative we are about to launch. The Boys Town
16 stepdown program targets youth who judges have
17 previously released to the community on probation
18 or to an alternative to detention.

19 If youth violate the terms of their
20 release, judges will continue to be able to remand
21 them to detention, if appropriate, but will have
22 the option of ordering an assessment and
23 supervision plan to be prepared by Boys Town New
24 York. If, after an assessment using validated
25 assessment tools, youth are deemed eligible by

1
2 Boys Town, they will inform the court of how they
3 can support and supervise the youth in the
4 community, using their nationally recognized
5 programming. I'm happy to point out that we're
6 joined today by the Executive Director of Boys
7 Town New York, Cynthia Armijo.

8 On the preventive side, the City
9 has also launched an innovative new model for its
10 Family Assessment Program, which serves youth and
11 families for whom a PINS, or Persons in Need of
12 Supervision, petition may be filed. Every year,
13 over 6,000 families come to New York City Family
14 Court seeking the Court's intervention with youth
15 who are considered truant, runaway, incorrigible
16 or otherwise beyond the control of their parents
17 or guardians. Often these issues are precursors
18 to delinquency.

19 In 2009, we released a Request for
20 Proposals designed to enhance the continuum of
21 therapeutic interventions available to adolescents
22 and their families. We also developed an
23 assessment instrument that allows us to match
24 youth and family risk and needs with appropriate
25 evidence-based interventions and therapies. After

1
2 intense planning and work with the selected
3 providers, program services were rolled out in
4 November 2010 and referrals are being made to all
5 the different intervention levels.

6 FAP will continue to monitor the
7 progress of these new programs to ensure that we
8 are reducing PINS placements in foster care,
9 reducing contact with the juvenile and criminal
10 justice systems, improving school attendance and
11 performance and improving family functioning.

12 FAP is the only program in the
13 country that is using this array of evidence-based
14 programs for youth who are often referred to as
15 "status offenders" and using a tool to assist in
16 making referral determinations. In the coming
17 year, FAP will be evaluating the Screening and
18 Assessment Tool to ensure that referrals are being
19 made to appropriate service levels.

20 Now I want to turn my attention to
21 the issue of placement. This refers to youth at
22 the deepest end of the continuum. Placements are
23 facilities youth are ordered to live in for a
24 period of time as the resolution for their cases.
25 This gets to the heart of the rationale for

1
2 realignment. As most acknowledge, even with a
3 rich array of community-based services in place,
4 there remain some youth who present too great a
5 risk to public safety to permit them to be
6 immediately released to the community.

7 An important part of the City's
8 work these past several years has been developing
9 a continuum of alternatives to placement so that
10 whenever possible, youth who can be safely
11 maintained in the community are diverted from
12 costly, ineffective state placements. Through
13 much collaboration and innovation, the City has
14 been able to reduce state placements by 62 percent
15 during the past ten years, while public safety has
16 continued to improve.

17 As the Council knows, the City has
18 created therapeutic alternatives for placement
19 bound youth so that Family Court Judges have
20 viable options for these youth. We have had the
21 opportunity to speak before about the
22 Administration for Children's Services' Juvenile
23 Justice Initiative, or JJI, and the Department of
24 Probation's Esperanza Program. Both of these are
25 therapeutic alternatives for youth who would

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otherwise be sent to state facilities.

Together these programs have been providing about 1,000 youths with intensive in-home services or after-care programs. These programs also offer transitional and re-entry therapeutic services and are called evidence-based because the models upon which they are based have demonstrated decreases in developing youth competencies and reducing recidivism.

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

In 2007, ACS' launched its Juvenile Justice Initiative. As the City's largest alternative to placement program, JJI has played a

1
2 key role in reducing the city's use of residential
3 placements on juvenile delinquency cases. From
4 the program's inception in 2007 to 2009,
5 placements fell 12 percent and an even further
6 reduction of 25 percent was achieved in 2010.

7 Youth who participate in JJI's
8 alternative-to-placement program, and their
9 families, are provided with intensive counseling,
10 services and supervision in their homes and linked
11 to positive resources in their communities. These
12 youth are also able to continue their schooling in
13 City schools, rather than risk not receiving
14 credits for school work they did in out of
15 community placements, upon their return home.

16 The reductions in placements have
17 been closely linked to public safety. When
18 comparing placement rates with risk levels and
19 charge severity, we have seen the reductions in
20 placement have occurred across the board, with one
21 notable exception. For the small number of youth
22 who present with the highest risk and highest
23 charge severity, we have actually increased
24 placement rates, thus making sure the most
25 dangerous youth are removed from the community.

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

10 These programs were funded under
11 the rationale that by serving youth in the
12 community, rather than sending them to costly
13 placements, the City would not only reduce
14 recidivism, but would also save enough money to
15 pay for the programs. And we have reduced
16 placements-by 62 percent over the past ten years.

17 The City, through our agency, pays
18 half the cost of these extremely expensive OCFS
19 placements, at an average cost of more than
20 \$200,000. For the community-based service, which
21 prove to be effective, we pay only 38 percent of
22 the cost and those cost an average of \$18,000.

23 Yet, instead of paying less to the
24 state as a result of sending much fewer youth to
25 their facilities, we actually saw our costs

1
2 increase due to the state's inability to close
3 unused facilities and insistence on including the
4 costs of maintaining its vacant facilities in
5 setting the rates we pay. As unbelievable as it
6 sounds, we paid about \$17 million more last year
7 than in 2002 for our share of the costs of state
8 custody.

9 So, because we are billed for
10 keeping underused state facilities open, we are
11 limited in our ability to expand our alternatives
12 to serve more youth here. In 2010 alone, for
13 example, JJI was unable to assess more than 150
14 youth for our program since we lacked capacity to
15 accept them. This means we are turning away youth
16 who might be served in a more effective, community
17 based programs, one that costs an average of
18 \$18,000 per youth, because the vast majority of
19 our resources are being funneled into the state
20 system, where placements cost over \$200,000.

21 Because the state placement system
22 consumes so much of our resources, we are limited
23 in our ability to build on the success we have
24 achieved in the past several years.

25 We have learned a tremendous amount

1
2 about creating and managing effective alternatives
3 to detention and placement, and how to target
4 interventions to youth depending on their risk
5 profile. We have demonstrated our ability to
6 operate cost-effective and therapeutic
7 alternatives, but until we are able to realign the
8 system to rein in costs and operate locally, we
9 are constrained in how dramatic and effective
10 these reforms can be. Our youth, and our
11 communities, suffer as a result.

12 I will now turn this testimony over
13 to my colleague Commissioner Schiraldi, who will
14 speak about our vision and plans for realignment
15 and how a more rational system will be more
16 accountable for both public safety and youth
17 development.

18 I thank you for the opportunity to
19 speak today, and I want to reiterate our
20 appreciation for the Council's support and
21 advocacy in changing our juvenile justice system
22 for the better. I look forward to taking your
23 questions after Commissioner Schiraldi has
24 completed his testimony.

25 VINCENT SCHIRALDI: Good morning,

1
2 Chairpersons Gonzalez and Palma and members of the
3 committee. I'm Vincent Schiraldi, Commissioner of
4 the New York City Department of Probation I want
5 to thank you for the opportunity for Commissioner
6 Busching and I to testify on Mayor Bloomberg's
7 Proposal to Overhaul the New York State Juvenile
8 Justice System.

9 I would like to start out by
10 saying, right from the beginning, that we
11 anticipate three significant outcomes as a result
12 of the proposal we are discussing today: first,
13 improved public safety; second, increased positive
14 outcomes for young people; and third, significant
15 costs savings to the city and state

16 As the City Council is well aware,
17 the call for comprehensive juvenile justice reform
18 has gained momentum over the last several years.
19 Due to the efforts of the Council, advocates and
20 community organizations, many of whom are here
21 today, so many of whom are here today we don't
22 even have enough seats for them, right? They're
23 in those \$250 seats, you have to pay to stay
24 outside the Super Bowl, right? That's what
25 they've got over there. These are the \$1,000

1
2 seats right here. But because of this kind of
3 attention and this kind of activity, there is now
4 greater public attention to the need for New York
5 State to move away from a punitive, institution-
6 based system to a community-based system that
7 emphasizes alternatives to incarceration and
8 positive youth development.

9 This is the same approach that was
10 strongly endorsed by the Governor's Taskforce for
11 Transforming Juvenile Justice in December 2000.
12 And as Commissioner Busching has just testified,
13 the City of New York has played an important role
14 in these reform efforts by overhauling local
15 juvenile detention practices and partnering with
16 nonprofit organizations to create alternatives to
17 detention and placement for young people involved
18 in the delinquency system.

19 As a result of all of these forces
20 pushing for reform, including a Federal report
21 that found the state had violated the
22 constitutional rights of the young people in their
23 care, New York State's juvenile justice system has
24 reached a tipping point.

25 On December 21st of last year,

1
2 Mayor Bloomberg unveiled a proposal to create a
3 new, locally operated system that will allow New
4 York City to take full responsibility for our
5 young people involved in the juvenile justice
6 system. We believe that this "realignment," as
7 it's called, of juvenile justice services from the
8 state to the City will result in watershed reform
9 and reap enormous benefits for justice-involved
10 youth and their families, as well as for the City
11 and state as a whole.

12 Before I discuss the City's
13 juvenile justice realignment proposal in more
14 detail, I would like to outline the current
15 conditions of the state-run system and why we need
16 local control of juvenile justice to remedy the
17 endemic problems with the current system.

18 The New York State Office of
19 Children and Family Services, or OCFS, operates a
20 system of secure, limited-secure and non-secure
21 residential facilities for youth who are
22 adjudicated, or in other words, found guilty, in
23 Family Court as juvenile delinquents, JDs, or
24 convicted in adult court as juvenile offenders, or
25 JOs. The majority of JD youth who are sentenced

1
2 to state placement are confined in limited-secure
3 facilities, while JO youth are confined in secure
4 facilities.

5 As of January 24, 2011, there were
6 604 youth confined in OCFS facilities statewide.
7 OCFS reports that as of September 2010, their
8 facilities held 375 youth from New York City, over
9 half of all youth in OCFS residential facilities
10 statewide. As the chart below in my testimony
11 indicates, out of those 375 New York City youth,
12 20 percent were in non-secure facilities, or that
13 would be about 75 kids; 47 percent were in
14 limited-secure facilities, that's about 175 kids;
15 33 percent were in secure facilities, that's 125
16 kids.

17 Despite the fact that nearly 90
18 percent of young people confined in OCFS
19 facilities are from New York City, Long Island or
20 Rochester, the vast majority of OCFS facilities
21 are located in rural areas far from the
22 communities where the young people and their
23 families live. The locations of these facilities
24 pose a remarkable burden on families, and because
25 of this burden, some are never able to visit their

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children and family members in OCFS placement.

As you can see from the attached OCFS facility map, which is at the end of my testimony, of the 23 facilities statewide, there are only five of them located in New York City. That's Brooklyn Residential, Bronx Residential, Ella McQueen Reception Center which is in Brooklyn, Staten Island Residential Center, and the Staten Island Group Home. These five facilities have a combined capacity of 124 beds.

The most glaring evidence of failures within the state system is the recidivism data for young people released from OCFS custody. A recent study funded by the National Institute of Justice found that nearly 90 percent of the boys and over 80 percent of girls released from OCFS facilities were re-arrested by age 28.

The outcomes are not much better when we examine the re-arrest rates for young people two years after release from state custody, when 63 percent of them will have been arrested, 43 percent for felonies.

Now, I want to pause over these for just a moment on these recidivism numbers. They

1
2 are staggeringly high and a big reason why the
3 Mayor wants to overhaul the juvenile justice
4 system so that we stop sending our young people to
5 a system that is largely unable to help them turn
6 their lives around and avoid future re-arrest.

7 For decades, there was virtually no
8 public scrutiny of a juvenile placement system in
9 which young people are shipped hundreds of miles
10 away from their families and communities to remote
11 institutions that are now relics of a bygone era.

12 In November 2006, the death of 15-
13 year-old Darryl Thompson, after he was physically
14 restrained by two staff members at the Tryon boy's
15 facility, generated the first widespread coverage
16 of the conditions inside OCFS facilities. That
17 subsequently generated numerous follow-up studies
18 and reports.

19 In August 2009, the conditions
20 inside those facilities received further attention
21 when the U.S. Department of Justice released the
22 findings of a two-year investigation of four
23 facilities. The Justice Department found that New
24 York State had violated the constitutional rights
25 of young people in these four facilities, by

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2 routinely using excessive force, including
3 unnecessary use of full prone restraints with
4 handcuffs for infractions such as refusing to stop
5 laughing or trying to take an extra cookie during
6 snack time. The DOJ investigation also found that
7 OCFS had failed to provide adequate mental health
8 services to youth confined in the four facilities
9 it investigated.

10 The current system also presents
11 major educational roadblocks. Removing a young
12 person from their community school and sending
13 them to a state-run facility disrupts a child's
14 education. Because OCFS schools are not even
15 accredited, youth released from state-run
16 facilities often do not receive academic credit
17 for the school work they did while they were in
18 state custody.

19 Young people come back home only to
20 find out that their local school system can't
21 recognize the time they spent in the classroom,
22 which I have to tell you is extraordinarily
23 frustrating for them and anybody else who's trying
24 to work with them, which, of course, increases the
25 likelihood they're going to drop out. They didn't

1
2 have great experiences, a lot of them, before they
3 got locked up. Finally, they sat in the classroom
4 for nine months, picked up a bunch of credits.
5 Now they come back and they're told it doesn't
6 count? Forget it; they're gone.

7 Over the last several years, New
8 York City has created programs that provide Family
9 Court judges with a viable alternative to sending
10 young people to OCFS facilities. The ACS Juvenile
11 Justice Initiative and Probation's Esperanza
12 program, which both feature intensive, home-based
13 counseling services, have helped to significantly
14 reduce the number of young people sent to state
15 placement. In fact, the number of New York City
16 youth in OCFS has plummeted by 62 percent since
17 2002.

18 However, despite the City's
19 remarkable success in keeping youth out of state
20 facilities, we're actually paying more in overall
21 placement costs to the state as shown in the chart
22 below and as was mentioned by Commissioner
23 Busching. I'm not going to belabor this point but
24 I just have to reiterate that last year the city
25 paid the state over \$62 million for OCFS

1
2 placements and after-care services for
3 approximately 580 city youth. That's \$62 million
4 for a system that separates our kids from their
5 families and fails to help them avoid getting re-
6 arrested.

7 I want to depart the text just for
8 a half a moment on this. The way people like
9 Commissioner Busching and I get new programs
10 funded and the way JJI and Esperanza is funded is
11 we say we have a terrific idea. We think we can
12 keep these kids out of that system, do better by
13 public safety and by them and their families and
14 we can do it cheaper. We have a bunch of ideas
15 for that right now, sitting here right now. I bet
16 these people in the audience have even better
17 ideas. So we say to our budget people give us the
18 money because we're going to save the money. For
19 JJI and Esperanza they did, because it made total
20 sense.

21 But if you look at that chart, even
22 though we did what we said we would do, we said
23 we'll do this, we'll reduce the number of kids we
24 lock up and it'll be better for everybody, public
25 safety and the kids. We did all of that, but we

1
2 didn't reap any of the savings. So OMB is now
3 saying we can't anticipate savings on this anymore
4 because we never realized the savings because the
5 state doesn't give us the savings.

6 That's why we're doing realignment,
7 not just for the money. We're doing it because
8 the money translates into the kinds of programs
9 that we know are going to make us all safer and
10 the kids better. That's why we're doing it.

11 Sorry, back to the text.

12 Given the state of the juvenile
13 justice system, the Mayor recognizes that the City
14 cannot continue to send its young people to a
15 troubled and wasteful state system. As Mayor
16 Bloomberg stated in his State of the City address,
17 we will launch a comprehensive new effort to
18 prevent young people from getting off track and
19 keep them connected to family, school, and job
20 opportunities. We will work with Governor Cuomo
21 and our partners in Albany to overhaul the state's
22 juvenile detention system so we can keep more
23 young offenders in supervised, secure programs
24 close to their homes and families instead of
25 hundreds of miles away upstate. We know we can do

1
2 a better job of helping young offenders turn away
3 from a life of crime, and if Albany will allow us,
4 we will.

5 To that end, the Mayor has proposed
6 a comprehensive overhaul of the current juvenile
7 justice system that will address the shortcomings
8 in the state system. We anticipate that a major
9 transfer of juvenile justice services from the
10 state to the City will achieve the following three
11 outcomes.

12 Improved Public Safety: Youth will
13 be redirected from ineffective state placements
14 toward local placements or other interventions
15 proven to reduce crime and recidivism.

16 Two, positive outcomes for youth:
17 High-quality programming, delivered locally and
18 under the auspices of City agencies, will better
19 connect youth with their families, schools and
20 communities.

21 And three, significant costs
22 savings for city and state: Reducing overcapacity
23 at state facilities will provide savings to the
24 City and the state. Locally-operated programs
25 will be more cost-effective than state placements.

1
2 Our ability to achieve outcomes I
3 and 2 is reason enough to enact this proposal,
4 even if it was a wash financially. The fact that
5 the City and state will also realize considerable
6 cost savings is an obvious bonus.

7 This comprehensive proposal builds
8 on the City's success in reducing the use of pre-
9 trial juvenile detention and expanding the use of
10 effective community-based placements to both
11 detention and placement as Commissioner Busching
12 has just described. The plan also draws on the
13 success of realignment efforts in other
14 jurisdictions and states, including California and
15 Wayne County, which is Detroit, Michigan.

16 Under this new model for juvenile
17 justice, New York City will provide a continuum of
18 community-based services and residential
19 programming, including the operation of
20 residential placement facilities. The range of
21 locally-operated services will include rigorously
22 studied alternatives to placement that show better
23 outcomes than incarceration. Additionally, the
24 City will operate secure, by which I mean locked,
25 and limited-secure which is not locked but it's

1
2 rendered secure by sufficient staffing,
3 residential programs offering services and
4 supports to young people and their families.

5 The reform package contains the
6 following four elements. First: legislation
7 giving New York City the authority to operate
8 secure and limited-secure facilities. Second: an
9 end to the one-year notice requirement for the
10 closure of OCFS facilities. Third: A reform of
11 the OCFS rate structure in order to free up
12 resources for local placements and community-based
13 intervention programs like I mentioned earlier,
14 and end the City and county subsidies of OCFS' s
15 excessive vacancies. And five, an equal state
16 reimbursement system for both publicly and
17 privately operated local placement facilities.

18 Transferring the responsibility for
19 juvenile services will empower the City to provide
20 effective programming for adjudicated youth close
21 to home, helping the youth develop and maintain
22 positive ties with families, schools and
23 communities. It also helps reverse the skewed
24 incentive system whereby the state subsidizes and
25 requires New York City and counties to subsidize

1
2 deep-end, often counterproductive commitments to
3 OCFS while the cost of community-based, in-home
4 services, which are often more effective, fall
5 exclusively to the City.

6 Rather than wasting money on empty
7 beds in state facilities, localities will be able
8 to invest in youth development programming that
9 provides young people with the long-term supports
10 and opportunities they need to become successful
11 adults and agents for positive change within their
12 own communities. Local schools districts will be
13 able to provide continuous schooling in order to
14 minimize disruption in education and to ensure
15 that youth receive academic credit for their work
16 in custodial settings. Finally, realignment
17 promotes public safety by redirecting City and
18 state resources toward programs that have been
19 proven to reduce recidivism.

20 A number of states, including
21 California, Michigan, Ohio, Illinois, Wisconsin
22 and Pennsylvania and many others have reduced
23 their reliance on costly and ineffective placement
24 facilities by creating fiscal incentives for their
25 respective localities to invest in locally-

1
2 operated, community based programs. The shift
3 from centralized state-run facilities to local
4 continuums of care has yielded extremely positive
5 results, including reductions in crime and
6 recidivism, improved outcomes for justice-involved
7 youth and their families, and a net reduction in
8 expenditures for states and localities.

9 In fact, juvenile justice
10 realignment in California has been so successful
11 that Governor Jerry Brown has proposed a full
12 realignment of juvenile justice services to the
13 counties and the complete dismantling of the
14 California Department of Juvenile Justice which
15 was formerly known as the California Youth
16 Authority.

17 The governor's full realignment
18 proposal in California builds on past legislative
19 initiatives that were extraordinarily successful
20 in safely and effectively reducing the population
21 in the state's training schools. Thanks.

22 Since 1996, the average daily
23 population of young people in California's
24 Department of Juvenile Justice has dropped from
25 over 10,000 youth to about 1,300 youth, a

1 significant 87 percent reduction.

2
3 Notably, during this same period,
4 juvenile felony arrests in California declined by
5 44 percent. Now I'm not suggesting that the
6 realignment effort in California itself drove down
7 the crime rate, but is important to note that the
8 significant downsizing of their centralized state
9 juvenile justice bureaucracy in favor of local
10 control over juvenile justice did not contribute
11 to a rise in youth crime.

12 Juvenile justice in Wayne County,
13 Michigan, which as I said earlier is Detroit, also
14 dramatically cut the number of youth in state
15 placement facilities while improving public safety
16 and reducing incarceration costs. So back in
17 2000, Detroit officials negotiated with the State
18 of Michigan to obtain responsibility and funding
19 to provide locally operated services to
20 adjudicated youth.

21 After contracting with community-
22 based providers, Wayne County reduced the average
23 daily population of young people in state-run
24 juvenile facilities from 731, which it was in
25 1998, to only 2 youth by the year 2010. Likewise,

1
2 the county has gone from having 200 youth in out-
3 of-state placements to zero today. So basically
4 they took the whole thing back to the county.

5 During this period, the overall
6 crime rate fell in Detroit by 38 percent, which is
7 significantly better than the 28 percent decline
8 experienced nationally in crime, while the total
9 residential care costs dropped from \$113 million
10 to \$73 million per year.

11 New York City has organized several
12 site visits to learn more about Wayne County's
13 locally operated system. We'd be happy to
14 organize another one if any of you want to take a
15 trip to Detroit. I hear it's lovely in February,
16 and I went last February. But they involved
17 officials from the highest level of City and state
18 government including Deputy Mayor Linda Gibbs,
19 Elizabeth Glazer, who is the state's new deputy
20 secretary for criminal justice, so the new top
21 person for criminal justice in the state,
22 Commissioner Busching, myself, Chief New York City
23 Family Court Judge Edwina Richardson Mendelson,
24 Commissioner Carrion, as well as advocates,
25 prosecutors, community providers and academics.

1
2 So we're often asked how the city
3 will pay for a locally operated juvenile justice
4 system. As Commissioner Busching mentioned
5 earlier, New York City and State paid nearly \$125
6 million last year to provide juvenile services to
7 about 570 New York City youth. We believe that
8 these resources can be used much more efficiently
9 by enacting the following policy reforms.

10 Right-size the current placement
11 system and reform OCFS's rate structure so
12 localities don't pay for excess capacity. Of the
13 23 juvenile justice facilities operated by New
14 York State, 14, which is more than half, have
15 occupancy rates below 50 percent.

16 So if you look at the chart, the
17 map of the state, right after he was elected
18 governor, one of the first public appearances made
19 by Governor Cuomo was to the Tryon Boys Facility.
20 That's not on here anymore because it just closed
21 last week. But when he visited, it had no kids in
22 it and it had 30 staff doing perimeter checks,
23 buffing the floor, whatever they were doing. But
24 they were watching an empty facility.

25 The Mayor, then in December, went

1
2 and visited the Finger Lakes Facility which is
3 over in Tompkins County, a little to the left in
4 the map. And it is occupied at 35 percent of its
5 capacity. When I say 35 percent of capacity, I
6 don't mean that there are empty beds and that the
7 staff has been downsized. I mean it's 35 percent
8 of its funded capacity. It is funded at 100
9 percent and it's only 35 percent full.

10 So look at that chart. Forget
11 realignment for a second. Just imagine you were
12 running this department. You would move the 35
13 percent from there to the 47 percent from there to
14 the 8 percent from there so that you wouldn't have
15 all of these empty facilities sitting all around.
16 But it's pointless if Commissioner Carrion does
17 that because she can't close the facilities
18 without a year's notice anyway. So that's what
19 this gets at.

20 Then implement a continuum of
21 community-based interventions, services and
22 residential facilities. The annual cost of
23 community-based non-residential programs in New
24 York City ranges from \$5,000 to \$18,000, as
25 compared to the \$268,000 a year for OCFS limited

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2 secure facilities. That's where most of our kids
3 are; they're in these limited secure facilities.
4 The state would provide a 50 percent match to the
5 city for residential services.

6 So how are we going to create this
7 new system? Several months ago, we started the
8 New York City Dispositional Reform Committee,
9 which I am honored to chair, to develop a
10 comprehensive plan for a realigned juvenile
11 justice system which is really a dream come true
12 if you've been working in this field. You get to
13 create a brand new system and to dream finally.

14 This stakeholder group is comprised
15 of representatives from Family Court, Legal Aid
16 Society, the Mayor's Criminal Justice Coordinator,
17 NYPD, Law Department, the Department of Probation,
18 the Administration for Children's Services, and
19 the Department of Education. As you can see, we
20 have the attached list of the steering committee
21 and all the subcommittees. It's a group of high
22 level stakeholders. This group has formed three
23 subcommittees that include community providers,
24 advocates, funders and researchers. We're going
25 to form a fourth subcommittee this month. The

1 steering committee is staffed by the Department of
2 Probation, and the Annie E. Casey Foundation is
3 providing us with technical assistance and data
4 analysis.
5

6 The Deputy Criminal Justice
7 Coordinator Michele Sviridoff, did she just walk
8 in earlier? There she is. She's kind of short,
9 and sitting in the back, but she did get a seat at
10 least. She leads the Data Subcommittee that will
11 work with Professor Jeff Butts of John Jay College
12 and the larger Steering Committee to determine the
13 needed capacity for community-based and
14 residential programs to serve all adjudicated
15 youth.

16 Based on a rigorous analysis of the
17 data and case studies of youth in placement or
18 referred for placement, we will finalize an
19 estimate of the number of secure, limited-secure
20 and community-based slots we need to ensure public
21 safety and meet the rehabilitative needs of the
22 youth who would be realigned from OCFS care to New
23 York City care.

24 Now, a key component of the City's
25 plan will be to expand the range of community-

1
2 based interventions available to adjudicated
3 youth. The City will offer a range of services
4 from community-based supervision and advocacy to
5 supported foster homes. These services will be:
6 evidence-based or premised on sound research
7 perspectives; rooted in the premises of positive
8 youth justice and restorative justice; and family-
9 focused.

10 Now, I've been around the country
11 and seen a lot of service provider networks
12 nationally. I've got to say, there is no
13 collection of service providers, advocates and
14 researchers that compares to what New York City
15 has. We really have an enormous amount of
16 capacity. They'll have to increase in size, but
17 the basis of the capacity of what exists in New
18 York City is unrivaled anywhere in the country.

19 Ana Bermudez is the Deputy
20 Commissioner of Juvenile Operations at the
21 Department of Probation. She is chairing the
22 Community-Based Subcommittee. This group will
23 also recommend ways to enhance the assessment
24 process so it will have a better fix on the young
25 people and we can effectively match interventions

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2 to their strengths and needs and build on those
3 strengths.

4 The key principles of the framework
5 will include improving public safety by building
6 on the strengths and assets of young people, their
7 families and neighborhoods; helping youth develop
8 core competencies and skills, especially in the
9 areas of education, employment and conflict
10 management and resolution; promoting positive
11 social relationships between youth and their peers
12 and with caring adults; and engaging youth in
13 team-building civic activities that improve their
14 communities.

15 We have two other committees. One
16 is the Education Subcommittee which is co-chaired
17 by the judge and Tim Lisante who is here and the
18 residential committee will established within the
19 next month and that will be co-chaired by
20 Commissioner Busching and Dawn Saffayeh of ACS.
21 All the membership of all the subcommittees is
22 attached to my testimony.

23 Finally, it is important to note
24 that the City plans to phase in the implementation
25 of a locally operated system. Phase one will be

1
2 expanding community-based non-residential
3 programs. In essence, we started Phase One in '05
4 with the advent of Esperanza and then expanded it
5 tremendously in '07 with the creation of JJI.
6 Phase two will involve the City assuming
7 responsibility for placements: non-secure,
8 limited-secure and secure.

9 So I want to thank you for the
10 opportunity to testify before you on this
11 important and timely subject. In closing, I want
12 to reiterate the three significant outcomes we
13 anticipate through this major transfer of juvenile
14 justice services: improved public safety;
15 increased positive outcomes for youth; and
16 significant costs savings for city and state

17 This is a truly rare opportunity in
18 government; one where we can invest in our
19 children and their futures, and save money while
20 doing so. I look forward to working with the City
21 Council on this initiative to improve the lives of
22 our young people. And along with Commissioner
23 Busching, I am pleased to answer any questions
24 that you might have.

25 CHAIRPERSON PALMA: Thank you both

1
2 for your testimony. Before my co-chair begins her
3 line of questioning, I want to acknowledge that
4 we've been joined by Council Member Wills from
5 Queens, Council Member Helen Foster from the Bronx
6 and Council Member Letitia James from Brooklyn.

7 CHAIRPERSON GONZALEZ: Thank you.
8 First of all, I also want to thank you for this
9 incredible amount of planning and all of these
10 ideas. I just said to my colleague: wow, it's
11 incredible. Anyway, I would like to know, in the
12 midst of all of these changes, how many or how
13 many times or how many meetings or what exactly
14 took place in respect to consultations with
15 advocates in the formulation of this plan?

16 VINCENT SCHIRALDI: The advocates
17 and the service providers are divided into a whole
18 bunch of different groups. I think we met with
19 all of those groups. I think we met with them
20 several times. I met with the Correctional
21 Association, Children's Defense Fund, Community
22 Connections for Youth and Medgar Evers. We met
23 with the ATI providers both as a group and then
24 individually. We talked with the judges,
25 prosecutors, defense, you know all that kind of

1
2 stuff, but that's government folks. Met with COFA
3 which is the association of by and large
4 residential providers and I've met with several
5 residential providers individuals: Boys and Girls
6 Town, Children's Village.

7 So we've been out there meeting
8 with a lot of the groups. You can see the
9 committee membership includes, if you look at the
10 community-based subcommittee, there are more non-
11 governmental entities on that subcommittee than
12 there are governmental folks. So we've been
13 trying to scramble to do as much outreach as we
14 can while also doing this other work. Maybe we
15 don't touch every base every single time, but
16 we've been touching a lot of them.

17 CHAIRPERSON GONZALEZ: Thank you.
18 How was this plan developed without the findings
19 from the steering committee? When does the
20 steering committee expect to release the details
21 of this plan?

22 VINCENT SCHIRALDI: So the
23 legislation was developed. The steering committee
24 is the nuts and bolts committee of how we're going
25 to do it all if the legislation passed, but we

1
2 really didn't need the steering committee to
3 define the legislation because the legislation is
4 just the legal and financial vehicle to do good.
5 The steering committee helps us figure out what
6 good is. We anticipate that we'll be able to come
7 up with some good outcomes from the steering
8 committee before the legislation even passes or
9 before it goes into effect.

10 CHAIRPERSON GONZALEZ: How does
11 this plan affect ACS detention reduction plan?

12 LAURENCE BUSCHING: The ACS
13 detention reduction plan is still ongoing. I've
14 talked to you about some of the things that we're
15 implementing. In fact, the Boys Town model we're
16 implementing. Today we've implemented our new
17 screening instrument for deciding whether youth
18 should go to secure detention or non-secure
19 detention. We've seen sizable reductions in
20 detention that have occurred over the last several
21 years and have continued and in fact, in some
22 ways, accelerated over the last year. So what
23 this plan would give us, though, is the next step.
24 We are, in many ways, slowed down by the state
25 system.

1
2 Kids have to transition from the
3 city system to the state system. There is often a
4 reluctance to have a sentence or a disposition put
5 in place because judges and advocates are
6 concerned about if I send this young person from a
7 city facility where they can visit their family
8 and they have contact and they're in a city
9 school, up to the upstate facility, there is going
10 to be a cutting of all of those ties.

11 So this would actually, by having
12 city facilities available, this may very well
13 address some of those distortions that currently
14 lead to what I think are excessive lengths of stay
15 for some of the youth that are currently in New
16 York City facilities. So it would help accelerate
17 it to the next level I think.

18 VINCENT SCHIRALDI: Also, just sort
19 of the flip side of that is that lots of other
20 jurisdictions and New York City have shown that
21 when you right size detention, it also helps you
22 reduce commitments. Because if a judge sees a kid
23 succeed in the community, they're very unlikely to
24 commit them. So as they've reduced the detention
25 population, I suspect that that's one of the

1
2 contributors to the reduction in ultimate
3 commitments of kids.

4 CHAIRPERSON GONZALEZ: Thank you.
5 How much savings would the city realize if the
6 Mayor's plan were to be enacted? Was there a
7 fiscal analysis performed?

8 VINCENT SCHIRALDI: I want to just
9 sort of say again the way we're working this out.
10 So we've got 375 kids in OCFS facilities, about
11 the same number in these private facilities.
12 We've got about six data sets right now that the
13 Vera Institute of Justice is helping us massage
14 and then John Jay and Ms. Sviridoff's committee
15 will look at. From that we'll say: how many kids
16 do we think we need in residential? How many kids
17 do we think can be affected in wrap around
18 services in the community? The judges, the
19 prosecutors, defense, the cops, everybody will be
20 at that table.

21 Then we'll be able to estimate how
22 much it'll cost. We believe, however, that by
23 having a system that pays for half of any kind of
24 placement that we do, we're going to be fine in
25 terms of the money savings, but we can't give you

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an exact number until the committee does that work.

CHAIRPERSON GONZALEZ: I just want to say that Council Member Cabrera has joined us. Thank you.

Will we be able to get that fiscal analysis as soon as it's available?

VINCENT SCHIRALDI: Yeah, we're not going to hide it.

CHAIRPERSON GONZALEZ: During numerous hearings and even ACS Detention Reduction plan, we have agreed that Spofford must close. The Mayor's plan worries me in that were it be effectuated as presented for youth that a judge determines cannot be kept safely in his community and must spend time in a residential facility after adjudication, the city will need such facilities, as we will need more residential beds. Is not closing Spofford still an option?

LAURENCE BUSCHING: First of all, I suspected that the issue of closing Bridges would come up today.

CHAIRPERSON GONZALEZ: Did you?

LAURENCE BUSCHING: Yes. Let me

1
2 just say I think the closing of Bridges is one of
3 the tremendous outcomes that we're able to produce
4 from all the work that's gone on, on detention
5 reform over the last several years. Commissioner
6 Mattingly has made it clear that he would like he
7 would like it closed by April 1st. We are
8 planning on doing just that.

9 As I've told you, we were delayed
10 by some construction we needed to do on the other
11 facilities. That's drawing to a close. We have a
12 staffing analysis that will help inform the
13 redistribution of the remaining staff that we
14 anticipate will be coming to us very shortly and
15 then we can notify the unions. So that that April
16 1st date or sooner is looking good. We have a
17 dramatically reduced population in the building
18 right now.

19 As far as the future, the reasons
20 why we're closing Spofford or Bridges is because
21 it's not a very good facility. It's outmoded.
22 It's outdated. It needs a lot of work. It's just
23 not kind of worth putting that money into it right
24 now. We would not envision doing all this work
25 and then putting youth back into that same

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facility as a long-term facility.

We do have about 375 youth currently in state custody. So it's not a particularly large number when you look and it's a dramatic reduction from years past. Some of those youth we believe will be able to be served in community-based programming. We know there are youth that we turn aside because we don't have the capacity. We also know that there are 124 state beds in New York City which we would like to take over from the state. If the state system realigns, it would make sense to send the upstate kids to New York City. It would make sense for us to be able to use those beds to house kids here in New York City.

In our detention currently and I don't want to blur the line, but just to kind of use this as an example, we currently contract with private agencies to run high quality smaller settings for youth in what we refer to as non-secure homes. Many of you know the facilities and have seen the facilities. Many of you know the agencies and the quality of care that they provide. We think there's an opportunity there to

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2 work with other agencies to develop both non-
3 secure and potentially secure care as well for
4 those youth.

5 So those are some of the options
6 we're going to explore. I can't say we're
7 definitely taking any option off the table at this
8 point, but we do not envision having a facility
9 like Spofford at all. We envision things along
10 the lines of the Missouri model, which I'm sure
11 you're familiar with: small group, family-type
12 settings with people who, in a decent environment,
13 not a jail type environment, where youth feel
14 supported and nurtured.

15 CHAIRPERSON GONZALEZ: Thank you.
16 I would like to defer to my colleague Annabel
17 Palma.

18 CHAIRPERSON PALMA: Thank you. You
19 know, Deputy Commissioner Busching, my concern has
20 always been with the high mandate that ACS has
21 taken on another responsibility although I'm happy
22 to hear the plans that have been put in place and
23 the committees that have been working around
24 making sure that we are able to deliver effective
25 services to our youth.

1
2 It still concerns me on how these
3 changes, if effectuated, will affect ACS. Every
4 time the Administration puts out their preliminary
5 budget, ACS is affected hugely with being asked to
6 reduce services and staff. So now that ACS and
7 DJJ sort of have folded or fall under the same
8 budget, how is that going to affect services for
9 ACS in other areas, as well as for DJJ?

10 LAURENCE BUSCHING: I think the
11 best way for me to start would be to talk about my
12 side of the house, which is the juvenile justice
13 side.

14 CHAIRPERSON PALMA: Sure.

15 LAURENCE BUSCHING: My division is
16 the Division for Youth and Family Justice. It
17 consists of three elements. One is the Juvenile
18 Justice Initiative, which we've talked about,
19 which is both an alternative to placement and
20 after-care for youth coming out of private
21 facilities.

22 Another is the Family Assessment
23 Program, which I testified about which is
24 diversion from PINS and community-based services
25 on PINS cases, with part of the goal there being

1 residential placement reduction and savings
2 associated with that as well.

3
4 Then the third side of the house is
5 the residential side. The formerly Department of
6 Juvenile Justice, now the detention services
7 within our division which is secure detention and
8 non-secure detention.

9 In addition to working together,
10 among those three elements of our division, we
11 also are working closely to focus on crossover
12 youth. So the youth that are coming through the
13 juvenile justice system very often have come
14 through the child welfare system. We're talking
15 in many instances about the same youth. About 69
16 percent of the youth in detention have had contact
17 with the child welfare system.

18 CHAIRPERSON PALMA: Right.

19 LAURENCE BUSCHING: So one of the
20 things we've done is we put in place a permanency
21 planner within our division to help work on better
22 serving those youth that are coming through the
23 system. That benefits not only the child welfare
24 side, that benefits the juvenile justice side and
25 most importantly, it benefits that young person,

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their family and the community.

We also have incorporated Confirm which was a demonstration project originally by the Vera Institute. Now within ACS that when a young person who's in foster care is arrested, that young person, Confirm them verifies what agency that young person may be with and contacts that agency to make sure that they're on top of what's happening with that young person and assisting with that process.

So there are a lot of efficiencies that developed--

CHAIRPERSON PALMA: [interposing]
Has that process been able to divert youth from actually entering the detention centers?

LAURENCE BUSCHING: Sure. So one of the things Confirm does is they get a list every morning of who's in detention or who's out but coming through probations or at risk of detention. They look to see who is in foster care and they will contact that agency to have that agency assume responsibility, if they haven't already, for the young person.

So the idea is if a young person

1
2 has no one that shows up for them in court, judges
3 are much more likely to detain them. That having
4 been said, it's not working perfectly yet. One of
5 the reasons we brought it into our division is we
6 think we can beef that component up. Kids who
7 were in foster care when they enter the juvenile
8 justice system are more likely to go into
9 detention and more likely to stay longer, even
10 controlling for the same cases.

11 So that's just one of the
12 efficiencies that you develop by having everything
13 kind of under the same house. You can kind of
14 share information. You have more flexibility to
15 move them on different alternatives. We now have
16 judges asking us to consider child welfare
17 explorations of placement rather than juvenile
18 justice, state OCFS placements, for that reason.

19 We have the expertise that leads to
20 a more rational system and a more attuned system,
21 particularly under Commissioner Mattingly's
22 leadership, who knows both fields very well.

23 We have partnerships with
24 government agencies, private agencies, advocates,
25 philanthropies that help to inform our work and

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make it more efficient.

As a result of all of this, we've been able to reduce populations. We've shown that we can cut costs. The Juvenile Justice Initiative is a class example. By serving more kids in the community, we can reduce those placement costs. The thing that's holding us back in this area has been that the state has not closed the facilities and we keep paying more of that. So there are efficiencies to be gained and money to be saved. It's not being as well spent as we think it could be.

CHAIRPERSON PALMA: I would like to note that we've been joined by Council Member Van Bramer from Queens, Council Member Rodriguez from Manhattan and Council Member Lander from Brooklyn and Council Member Brewer from Manhattan.

Your last statement in terms of the state leads me to ask, we're going to need for the state to change their legislation being that Commissioner Carrion cannot close these facilities unless the law has changed. So where is the state in terms of supporting the Mayor's plan? This plan as it's been put forward to make sure that

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2 we're not left another year sending money upstate
3 and not seeing the cost savings from this plan.

4 VINCENT SCHIRALDI: We began
5 negotiations with the Paterson Administration in
6 the sort of waning months of that Administration.
7 But it was just hard to get anything going then.
8 They had the special session. It was sort of
9 exclusively a couple of issues. They weren't
10 going to add this in. So many of those people
11 still stuck around and we immediately began with
12 Governor Cuomo's staff, particular Ms. Glazier and
13 Commissioner Carrion who is still there, to see if
14 we could get anything done by the Governor's
15 budget.

16 We're still in those negotiations.
17 It's still possible that will happen. We believe
18 those negotiations are occurring in good faith.
19 But, you know, it's only a week away now. So our
20 hope is that something will happen by then.
21 That's not the only time we could get it done, of
22 course. We could have it be in legislation after
23 that but the best thing would be to be in the
24 governor's budget because there are so much other
25 stuff going on there. So that's where we are

1
2 right now. Those negotiations are very active and
3 we think the state is having this discussion in
4 good faith. You saw Governor Cuomo's State of the
5 State where he knocked it out of the park when he
6 talked about this issue in I think a very
7 authentic way.

8 CHAIRPERSON PALMA: It concerns me
9 that we don't have a concrete commitment to when
10 this can happen. I understand it can be
11 frustrating because negotiations are always
12 frustrating. My concern is we're going to get
13 ready to hear the Mayor's preliminary budget and
14 if OMB keeps coming at ACS and DJJ and saying this
15 is great, these plans are great but we're not
16 seeing the costs savings, it's red flags to what
17 then they're going to come and ask you to cut in
18 your budgets.

19 So if these programs are working
20 and they've been successful in the community, we
21 don't want OMB to come back and say they're
22 working but unfortunately we're not going to keep
23 spending money. There has to be a give and take.
24 So please let us know how we can be helpful to
25 make sure that these negotiations move forward as

1
2 quickly as possible so we're able to get that
3 done.

4 LAURENCE BUSCHING: I will say that
5 thus far we've been very fortunate being able to
6 keep JJI funded at the levels that it has been.
7 We've actually, through philanthropic support,
8 been able to add some service, particularly on the
9 mental health side, which I know Chair Gonzalez is
10 very interested in. But you're right; the model
11 of funding all these service alternatives,
12 reducing placements and then still having to pay
13 the same or more for empty beds is not
14 sustainable. So anything the Council can do under
15 your leadership and Chair Gonzalez's leadership to
16 advance the idea of having the city assume more
17 responsibility for the youth who come through our
18 juvenile justice system would be a great help.

19 CHAIRPERSON PALMA: I'm going to
20 ask one last question because I know my colleagues
21 have questions and I don't want to monopolize the
22 time. In your testimony, Schiralido, you spoke of
23 the five facilities within the city having 124
24 beds. Are those beds now at capacity?

25 VINCENT SCHIRALDI: No, no, they're

1
2 way empty. If you look at the chart, nothing's at
3 capacity.

4 CHAIRPERSON PALMA: I'm glad to
5 hear that they're empty.

6 VINCENT SCHIRALDI: If you look a
7 the map in the back, Staten Island is at 14
8 percent, the other Staten Island is at 48 percent,
9 Brooklyn is at zero percent, the Bronx is at 68
10 percent. So they're not full now. We could phase
11 the kids out or phase them into our programs and
12 we wouldn't have a problem there.

13 CHAIRPERSON PALMA: We're talking
14 about instead of putting troubled youth in these
15 detention facilities, whether these residential
16 facilities, moving them more towards like the
17 Missouri model, have we identified force the
18 families who are going to be trained specifically
19 to deal with the population that has more
20 underlying troubles than your normal youth.

21 LAURENCE BUSCHING: Sure. One of
22 the models that we currently use and it's not
23 exactly the Missouri model but it has some of the
24 same principals is multi dimensional treatment
25 foster care, which is a specially trained foster

1
2 care family that is actually in the terminology of
3 the developers of the program, they're basically
4 part of the treatment team.

5 They work with the young person and
6 their biological family to not only kind of
7 support the young person and get them in a better
8 place where they're able to thrive and to avoid
9 criminality but they also work with the family to
10 have that family better able to support and manage
11 that young person's behavior. It's one of the
12 models we currently use in one of the iterations
13 of JJI in Manhattan using New York Foundling.

14 There's another group called Cayuga
15 Homes that we're working with to have more of
16 those beds available. That is particularly
17 helpful when the family has an issue that won't
18 allow that youth to remain safely home. So that's
19 one of the things that we're considering.

20 Many of the NSD homes have things
21 that are similar to, or aspects that are similar
22 to the Missouri model as well. There may be some
23 opportunities there if we were to release request
24 for proposals once we assume this responsibility
25 to put those services in place and have those

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types of facilities serve youth as well.

VINCENT SCHIRALDI: Just to amplify on that, this multi dimensional treatment foster care is another good example of where funding would help, if we had to realign money. That's only in two boroughs, right?

LAURENCE BUSCHING: Yes.

VINCENT SCHIRALDI: Which ones?

LAURENCE BUSCHING: Manhattan and the Bronx.

VINCENT SCHIRALDI: Right. So obviously kinds in Brooklyn and Queens could use it to. They're going upstate too.

CHAIRPERSON PALMA: Right.

VINCENT SCHIRALDI: But we don't have the money to expand it. Just like JJI is not doing 150 youth assessments, some of whom clearly they're going upstate some of these kids. The same is true with multi dimensional treatment foster care.

So I'll tell you, when we went to Wayne County what was astonishing was the richness of the community-based services. We've got some good ones, but I mean the caseloads for their

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2 probation officers were 10 to 1. I'm about 60 to
3 1. That's my average. There are some smaller
4 ones that are 25 to 1. They routinely have 10 to
5 1 caseloads. The world changes when you're a P.O.
6 with 10 to 1. You can interrupt so much bad
7 behavior. You can get on it right away. You can
8 work closer with the community-based organization.

9 And then with the rest of the money
10 they fund this incredibly rich network of
11 community-based organizations. We've got some
12 good stuff that we've started, but we could do way
13 more than that, but the money is in Fulton County,
14 it's in the Adirondacks and the Finger Lakes.

15 CHAIRPERSON GONZALEZ: I'd just
16 like to welcome Council Member Dromm and Council
17 Member Arroyo, who will be in and out. There are
18 other meetings going on.

19 CHAIRPERSON PALMA: I'm going to
20 call Council Member Wills. He has a couple of
21 questions. Before he asks his questions, I'll be
22 remiss to lend my voice to making sure that
23 Bridges is closed and not used for any more
24 detention of our youth. You mentioned the new
25 goal day is April 1st. I would like to make a

1
2 suggestion that maybe we shoot for March 31st,
3 being that April 1st is April Fool's Day.

4 VINCENT SCHIRALDI: Point taken.

5 CHAIRPERSON PALMA: Council Member
6 Gonzalez has a question.

7 CHAIRPERSON GONZALEZ: One question
8 before I let you go. I just want to understand.
9 Do you know or do you have any information in
10 respect to the quality of the OCFS existing
11 facilities here?

12 LAURENCE BUSCHING: People on our
13 staff do. I've been to three of them, the two in
14 Staten Island and the one in Brooklyn. The one in
15 Brooklyn they're completely rehabbing, that's why
16 it's empty right now. One of the two in Staten
17 Island is really nice. The other one is kind of
18 small and nothing special.

19 CHAIRPERSON GONZALEZ: So that's
20 something that you would look at as well.

21 LAURENCE BUSCHING: Definitely.

22 CHAIRPERSON GONZALEZ: I will defer
23 to Wills.

24 COUNCIL MEMBER WILLS: Good
25 morning. I first want to thank you for the

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2 efforts that you've put in and given us the
3 research that you've given us.

4 With that being said, I'm looking
5 at the disposition of the committee and the
6 Education Subcommittee and the Community Based
7 Subcommittee and the Data Subcommittee. I don't
8 see anybody here that I would recognize as being
9 on the ground and really having input that would
10 translate from my community.

11 I mean we have experts here from my
12 community like Rodney Pride who will work you in
13 official capacities, but I don't see their names
14 on any of these committees. I don't see anybody
15 from the community boards or child guidance or the
16 borough president's rep, anybody that actually
17 services my district or Southeastern Queens. I'm
18 feeling a little funny about the real input, the
19 ground input that you have in these committees.

20 I understand that the funding you
21 said that it wasn't there, but what I wanted to
22 ask you was when these residential type programs
23 go into effect, what is your formula for placement
24 of these facilities? Southeast Queens gets an
25 unfair share of everything. So I want to make

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sure that that's not going to happen with this.

LAURENCE BUSCHING: I think basically we don't have a formula. I'd say what we're looking to do is kind of do what we've done, what I've talked about before. So look at first of all, more community-based options. We're talking about 375 kids. So what kid we can get into more community-based options.

The second piece would be these 124 slots that the state has. We'd like to use those slots. The third option would be to look at building on that NSD group home model. We have 14 of those homes located throughout the city. They have excellent relationships with their neighborhoods. They are generally seen as a positive influence in their neighborhoods. Many of them organize the kids to do volunteer work. They work with the communities. I'm sure some of the City Council members here have some of those homes in their district and I think would attest to that.

Beyond that, we'll have to see what the remained of that population is at that point. That's part of the population analysis. We think

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2 between those different slices of the pie, we
3 think we can whittle that number down pretty well.
4 I would also say that I currently have Crossroads
5 and Horizon facilities, one in Brooklyn and one in
6 the Bronx, which are secure detention facilities
7 which generally do not have any problems with
8 their neighbors as well. So we're very cognizant
9 of the need to be responsive to the community and
10 to make sure those communities are safe and not
11 feeling any detrimental effect from the facilities
12 being in their communities.

13 On the flip side, there's a benefit
14 to having them in the communities or close to the
15 communities because young people can maintain
16 connections with their families. They can visit
17 and they can stay in the schools. Communities can
18 be involved. We have a lot of great programming
19 in our facilities that comes from the communities.

20 I also want to make it clear that
21 there can be a lot of good opportunities that can
22 come from having facilities in the communities,
23 which is part of the reason why we want to
24 realign.

25 COUNCIL MEMBER WILLS: Secondly,

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2 and lastly, we understand that this is no
3 indication that these young people are no longer
4 committing crimes or being locked up. So the
5 significant savings that you have put into your
6 research from what we're paying now. Do we have a
7 direct or impact showing that that money would now
8 be translated into something else like prevention
9 services or things that traditionally help deter
10 young people from going down a criminal path?
11 Like fully funded after school programs? Was that
12 money going to be moved over, guaranteed moved
13 over to something else that's going to prevent
14 young people from going into crime or anything
15 like that?

16 LAURENCE BUSCHING: Commissioner
17 Schiraldi, you can chime in.

18 VINCENT SCHIRALDI: It's above our
19 pay grid I think. We're pretty much in charge of
20 the kids that get in trouble, not the kids that
21 don't get in trouble. We're going to try to set
22 up a really great continuum for court involved
23 youth. What happens to any savings, that's kind
24 of between you guys, right? I mean that's what
25 the Council and the Mayor do. We're now aware of

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any plans for whatever savings there are.

COUNCIL MEMBER WILLS: I just wondered if there were any proposals or anything like that?

VINCENT SCHIRALDI: Not yet.

LAURENCE BUSCHING: I mentioned our family assessment program specifically because it is a preventive program. Money that can be spent to prevent is obviously a lot better than money spent after the fact. So we're measuring the outcomes from those populations to see if we're preventing kids. It's always hard to measure prevention. You know, how do you prove that a certain crime wasn't committed? But if we can show that the kids who go through that program have less criminal and juvenile justice system involvement, I think we'll have a strong argument for enhancing that program where it's appropriate and doing the things that are working more.

VINCENT SCHIRALDI: One thing also, I guess I would add to that, is a lot of the in-home family services programs like Esperanza and JJI, they affect the whole family. In fact, they train their people that you don't just focus on

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2 the kid who committed the delinquent act as the
3 locus of the problem. You don't just blame this
4 one kid because there's usually a bunch of stuff
5 going on that contributes to it. So the workers
6 in those programs, their job is to affect all
7 those systems. That's why they have these
8 unfortunate things like multi-systemic therapy.

9 What that means is you're trying to
10 help intervene in the kid's family, their
11 neighborhoods, their school system, all the
12 systems the kids becomes involved with. Very
13 often that has attendant benefits on every kid in
14 that family. So in that sense, that is preventing
15 and helping get a family to sort of a place where
16 not only does it help the delinquent kid who is on
17 probation but it helps all the other little kids
18 that are coming up behind him.

19 COUNCIL MEMBER WILLIS: Thank you.

20 CHAIRPERSON GONZALEZ: Council
21 Member James?

22 COUNCIL MEMBER JAMES: Thank you.

23 So I have been highly critical of the Mayor on a
24 number of issues, but on this one we agree. So I
25 thank the Mayor for this initiative because I

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2 believe that the state placements have been
3 ineffective and I believe that at-risk youth could
4 be better served locally and it would go a long
5 way in reducing recidivism rates in the City of
6 New York. So I support you. I believe this is a
7 perverse economic development initiative for the
8 state of New York. This is highly political and
9 this serves districts upstate at the expense of
10 children for the most part who look like me. So I
11 salute the Mayor.

12 So my question to you is as we move
13 forward to expanding the local-based initiative,
14 these are austere times. So you are talking big
15 but I know that there's a significant amount of
16 savings. Is there any commitment to ensure that
17 the savings that you achieve will be directed
18 towards community-based organizations and not
19 directed towards other uses? There has to be some
20 sort of tie or commitment that the community-based
21 organizations and that the advocates that are here
22 today actually receive the savings so that these
23 children can get the proper services that they
24 need and deserve.

25 VINCENT SCHIRALDI: I will tell you

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2 that every conversation that we're having with the
3 Mayor, with Deputy Mayor Gibbs, with Criminal
4 Justice Coordinator Feinblatt, every internal
5 conversation the city is having, we are leading
6 with what's best for the young people and what's
7 best for safety. The savings compared to the
8 amount, you know the holes we're all looking at, a
9 million here, a million there, pretty soon you're
10 talking real money but it's not real money by
11 comparison to what we're looking at.

12 So savings are not leading this
13 conversation by any stretch of the imagination.
14 Outcomes for young people and public safety are
15 leading this conversation. The Mayor recognizes
16 we're developing this plan. He fully is aware of
17 that, as is Deputy Mayor Gibbs, who's on it, like
18 she's on it big time. So her people are on the
19 committee and everything.

20 So we are totally talking about
21 fueling a network of community-based programs for
22 these young people and the savings are not an
23 unimportant afterthought, but they're not leading
24 the charge.

25 COUNCIL MEMBER JAMES: So you're

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telling me and the audience that there are no budget wonks at that table?

VINCENT SCHIRALDI: No, this is it.

COUNCIL MEMBER JAMES: Deputy Mayor Goldsmith is not at that table?

VINCENT SCHIRALDI: He's not.

COUNCIL MEMBER JAMES: I love him; he's a good guy, but he's all about efficiencies.

VINCENT SCHIRALDI: My doubled sided testimony, I swear he is not at that table.

COUNCIL MEMBER JAMES: Now, first, I have to give a shout out to Boys Town which is in the audience, which is in my district, and obviously I support them and work closely with them. I have had lunch with the guys and dinners with the young men. They're absolutely wonderful and it's a great model. So I'm glad that they are here.

In your testimony, you said you're meeting with Brooklyn judges and system stakeholders to introduce them to another alternative we are about to launch. Is there anything that you could talk about today, or is it too early or premature?

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2 LAURENCE BUSCHING: I can tell you
3 basically what I'm going to tell them which is we
4 have youth who come into detention who judges have
5 seen fit to say this young person can be in the
6 community with supervision and they've violated
7 the terms of that supervision. It could be
8 probation. It could be an alternative or
9 detention. Or it could just be release to the
10 community.

11 They may not have committed another
12 crime or the crime they may have been arrested for
13 may not be that serious a crime. We think there's
14 a gap there that we could fill with more
15 programming.

16 When I was speaking with Cindy
17 Armijo, the Executive Director, about Boys Town
18 and about their services, they are moving towards,
19 the Boys Town model is moving towards much more
20 community-based supervision and work with families
21 and communities rather than residential. They
22 were very interested in expanding their work in
23 that area. They run non-secure on our side. They
24 do some work with the state for kids coming out of
25 state facilities.

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2 So we looked at building on the
3 model that they successfully use in places like
4 Miami, Washington DC, Nebraska, of course, to have
5 that young person in their facility briefly,
6 address what their issues are, find out what's
7 going on and what's driving the behavior. Is it a
8 family issue, is it a school issue? As we often
9 see, is it a negative peers issue?

10 COUNCIL MEMBER JAMES: Right.

11 LAURENCE BUSCHING: Working with
12 that young person and their family, using
13 validated assessment tools to make sure that what
14 their doing has a scientific basis, they can then
15 go back to the court, and I'm not saying 30 days,
16 60 days, we're saying a couple of days.

17 Go back to the court and say, you
18 know, you saw fit to have this person out in the
19 community before. They did something that made
20 you put them back in but we think we can manage
21 them in the community. If they do feel this way,
22 based on what they've assessed. We think we can
23 manage that young person in the community and
24 here's how we're going to do it. And go back to
25 the judge and make that case to the judge. Then,

1
2 of course, the judge would have to give her or his
3 approval. But then they would work with that
4 young person using their Boys Town model for
5 several months to try to get that young person
6 back on track.

7 COUNCIL MEMBER JAMES: It's a great
8 model. As I indicated before, Boys Town is in a
9 brownstone community. No one would ever know that
10 they're there. For a long time I had no idea,
11 until one day I walked by and saw the sign. It's
12 absolutely fabulous inside and out. I applaud
13 them.

14 I want to move to the stakeholder
15 group. In the stakeholder group, why are there
16 not any mental health advocates at the table, or
17 are they a part of it?

18 VINCENT SCHIRALDI: That's actually
19 a good point. There should be. By the way, we
20 haven't stopped adding people. Somebody got added
21 last week.

22 COUNCIL MEMBER JAMES: In regards
23 to advocates, do you have anyone from the Hispanic
24 Federation and/or from the Black Social Workers?

25 VINCENT SCHIRALDI: No. The group

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you have here is everybody we've got.

COUNCIL MEMBER JAMES: I would suggest, again, the Hispanic Federation and Black Social Workers. I'm glad that you have the Legal Aid Society. I'm a former Legal Aid attorney, always a Legal Aid attorney. I'll give a shout out to Legal Aid. So I thank you for that.

So I give kudos to Mayor Bloomberg on this one; and on the snow today, not bad. Thank you very much.

CHAIRPERSON PALMA: We've been joined by Council Member Levin from Brooklyn. Council Member Brewer, followed by Rodriguez.

COUNCIL MEMBER BREWER: Thank you very much. Thank you, both of you are fabulous and I'm glad to see that Judge Corriero is in the audience. We call him the "Rock Star Judge." I served the Glover Board for years and that's a community that definitely understands diversion.

My question is, we just came from a Mental Health hearing and we're off to other hearings. We have been working, Council Member Koppell, Council Member Dickens and myself, for like ten years trying to get quality mental health

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services into the high schools and down. We get nowhere.

So my question is, I know that you're focused on the outcome and you're stuck with the person who, unfortunately, has not had support in some cases. You're trying to think of diversion and prevention. But I'm almost begging you to try to work with the schools. Do you think if there were quality non-judgmental, culturally appropriate mental health services in more of the schools that you wouldn't have such a large population on your plate?

LAURENCE BUSCHING: I guess I should start with: we are more engaged with the Department of Education now than at any time in my experience we've been. Tim Lisante, who is here, is leading that effort. There are a lot of good positive things happening on our side of the system.

We know that kids who come through our system often have mental health needs and we've worked to put on--

COUNCIL MEMBER BREWER:
[interposing] What percentage do you think?

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2 LAURENCE BUSCHING: DJJ did an
3 analysis based on we do a screening when they
4 first come in. It was a significant percentage.
5 I don't remember off the top of my head. Do you
6 know the answer?

7 COUNCIL MEMBER BREWER: Yes.

8 LAURENCE BUSCHING: I didn't know
9 there would be a test.

10 COUNCIL MEMBER BREWER: I usually
11 know the answers to the questions before I ask
12 them.

13 LAURENCE BUSCHING: It was a very
14 significant percentage. We have a lot of youth
15 that see our mental health professionals in our
16 facilities.

17 COUNCIL MEMBER BREWER: It's very
18 high, over 50 percent.

19 LAURENCE BUSCHING: Yeah,
20 definitely over 50 percent. I think it was around
21 two-thirds, but I could be--

22 COUNCIL MEMBER BREWER:
23 [interposing] So that would trigger something?

24 LAURENCE BUSCHING: Yes. So the
25 idea that more mental health services are able to

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be accessed earlier could only help.

COUNCIL MEMBER BREWER: What I'm just saying is, just so you understand, the high schools do not have these services. It's patchwork. We're begging for funding to do it. It's \$3 million to half the school, \$6 million to do them all, in the ways that I've just described. I'm just wishing that between Linda Gibbs and everybody else, you've got to focus on that. I don't quite understand why the Department of Education doesn't understand. It helps the teachers. It keeps the school calm. Then people don't end up in your system.

Dr. Platt, who is at Health and also has an education ID, he's the only person to have two such IDs, he's pushing for it but hasn't been successful. So I'm almost begging. I'm trying to talk to everybody. Obviously Tucson is in the back of our head, you know. People need it. If you get it at the early stages then you guys won't have to deal with these young people. I had 35 foster kids. I know your systems. They go in and out. So: mental health. Thank you very much.

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LAURENCE BUSCHING: Thank you.

CHAIRPERSON PALMA: Council Member Rodriguez?

COUNCIL MEMBER RODRIGUEZ: Thank you, Chairman Palma. I think that I also agree with James that besides all those occasions where we disagree with the Mayor, including how we responded to the snowstorm, I think that we can agree on this one. This is something that we hope that all of us can be working together to be there for our young people.

The first question: what is the number of youth that we have at city and state correctional facilities right now?

VINCENT SCHIRALDI: It's 375 kids that are in OCFS state juvenile justice facilities. Then in DJJ?

LAURENCE BUSCHING: In DJJ we have 216 in secure facilities and 115 in non-secure.

VINCENT SCHIRALDI: Then there's also this other group of kids that get sentenced to placement that go to private facilities from New York City. Even though they're not in prison, they're still in private facilities away from

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their homes. That's another 350.

COUNCIL MEMBER RODRIGUEZ: When you say 216, is it 216,000 or 216 kids? What percent of those young people, youth from the city, what percentage do we represent at the state correctional facility?

VINCENT SCHIRALDI: The state has about 600 kids total in the state system and about 375 are ours. So it's almost two-thirds.

COUNCIL MEMBER RODRIGUEZ: Do you have the number of youth in facility by zip code?

VINCENT SCHIRALDI: By what?

COUNCIL MEMBER RODRIGUEZ: By zip code?

LAURENCE BUSCHING: I have the city facilities by community district.

VINCENT SCHIRALDI: We don't have it by the state facilities.

COUNCIL MEMBER RODRIGUEZ: Can we get that information?

LAURENCE BUSCHING: Sure, I'd be happy to share that.

COUNCIL MEMBER RODRIGUEZ: First of all, I came late, but the last thing I heard of

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2 you saying how working with the local community we
3 will be able to reduce the number of young people
4 at correctional facilities. Have you already
5 started working with local not-for-profit groups
6 in the different communities?

7 LAURENCE BUSCHING: We have been.
8 Just to give you one example, in our alternatives
9 to detention, when we designed after school
10 programming for youth who are released by a judge
11 but have to attend something after school so the
12 judge knows that they're in a safe place and
13 they're not doing anything they shouldn't be doing
14 and they're supported and given services, the city
15 put out an RFP to particularly get groups from the
16 communities to put in for that programming.

17 Now, we think there's a lot more
18 that can be done in that regard. So for example,
19 and it ties into your question earlier, which is
20 that many of the youth that are in our system come
21 from a relatively small number of communities.
22 So, a lot of work done in those communities could
23 have a significant impact.

24 One community where there is a lot
25 of focus right now is Brownsville in Brooklyn.

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2 The Center for Court Innovation is putting
3 interventions in there, ground work. There is the
4 juvenile robbery intervention program. There are
5 a lot of stakeholders that are working together.
6 Rather than focus things on the back end when the
7 crime has already occurred, there is a lot more of
8 a preventive focus.

9 There are efforts underway in Mott
10 Haven as well. I know the Manhattan DA is leading
11 efforts in East Harlem and around the PAL Armory
12 there. So I think you can get a lot done by
13 looking at the earlier part of the continuum and
14 looking at what can be done preventively in those
15 few communities that we have the majority of youth
16 in our facilities from.

17 COUNCIL MEMBER RODRIGUEZ: I just
18 hope that the Council Members should be included.
19 I was teaching like last year and nothing has been
20 going, as far as I know, and I work very closely
21 with the city. I can tell you that one of the
22 best experiences I had with a student was when
23 they allowed me to be in a gang meeting so that I
24 could also hear from them their own experience.
25 So that helped closer work with young people.

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2 Nothing has been going on at a high
3 school level when it comes to prevention. I can
4 share with you, the Children's Aid Society,
5 they're trying and they've been doing some work,
6 but when I look at high school, at least in my
7 district, where I know that we represent a
8 percentage of young people in correctional
9 facility where the first homicide that we had this
10 year was 16-years-old, it was the first one. So
11 there is big gang recruitment going on in my
12 community. That started inside the correctional
13 facility.

14 In the last hearing that we also
15 hold, I mean we agree that 70 percent of our young
16 people who go for the first time to a correctional
17 facility go back in the future. So I think that
18 this should be more. Definitely I think that we
19 should be working closely, especially with the
20 high school. And not only at high school, I say
21 elementary and junior high school. That's where
22 recruitment on getting young people involved in
23 criminal activity.

24 VINCENT SCHIRALDI: Yeah, a lot of
25 times, like you point out, kids will join gangs

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2 while they're in facilities. Some of them weren't
3 even in gangs when they were out. But they need
4 to join gangs just to protect themselves against
5 the other kids in gangs in the facilities. I
6 agree with what you're saying.

7 COUNCIL MEMBER RODRIGUEZ: Thank
8 you.

9 CHAIRPERSON PALMA: Thank you.
10 Before I turn it over to Council Member Lander,
11 Commissioner Schiraldi, can you just explain for
12 the purpose of clarity, the private facilities
13 that were mentioned and whether those are also
14 protected by the law in terms of our there union
15 workers there, can we close those first versus the
16 other ones that are protected by the law that
17 won't allow Commissioner Carrion to close until
18 one year?

19 VINCENT SCHIRALDI: Private
20 facilities, they run juvenile justice programs and
21 child welfare programs for kids from around the
22 whole state. So they are private entities. They
23 can close or stay open. But when they have empty
24 beds, we don't pay for that. The OCFS beds, we
25 pay for that. But when a kid gets into a private

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2 facility, we have a rate. They could shop around
3 and get a better rate, you know, that kind of
4 stuff. So if they get downsized, they can stay
5 open or choose to close as their business model
6 dictates. It's not really a state governed thing.

7 LAURENCE BUSCHING: I would just
8 add that there are primarily three private
9 agencies that serve New York City youth:
10 Children's Village, Lincoln Hall and Graham
11 Windham, all of which are located not in the city
12 but in the Westchester area, so also not as far
13 away.

14 We've been working closely with
15 them to kind of limit the number of kids that go
16 to the facilities but also when a young person
17 enters into one of those facilities, our JJI IPAS
18 staff, works with the young person and the
19 facility and the family to start planning right
20 away for that young person's return and how
21 they're going to succeed when they get out. Using
22 that model, we've been able to reduce lengths of
23 stay and also link them to appropriate after-care
24 using some of the same evidence-based modalities
25 that we use on the front end of JJI. So it's been

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2 quite successful and we've had a good relationship
3 with them in that regard.

4 CHAIRPERSON PALMA: So how is it
5 determined which youth get placed in those
6 facilities?

7 LAURENCE BUSCHING: Generally what
8 happens is when the case is in court, the
9 Department of Probation prepares a report and the
10 Mental Health Service does a report. If the court
11 is inclined after reading those reports to
12 consider placing that young person out of the
13 community, they'll order what's called an
14 exploration of placement.

15 JJI and Esperanza will both look at
16 that young person, communicate amongst themselves
17 and determine if that your person would be
18 acceptable to one of those programs. If so,
19 they'll notify the court of that. It will also be
20 sent out to those private agencies to determine if
21 they would like the opportunity to work with that
22 young person.

23 CHAIRPERSON PALMA: So they provide
24 the same type of services?

25 LAURENCE BUSCHING: They'll provide

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2 residential care in those facilities that I talked
3 about. Then kind of the last phase is for the
4 remaining youth for whom JJI, Esperanza is not an
5 option or the private placements are not an option
6 or the court determines that there is too great a
7 risk involved in any of those other alternatives,
8 then those young people will often go to the OCFS
9 facilities. So those are the young people who
10 tend to go to the OCFS facilities.

11 CHAIRPERSON PALMA: Thank you.

12 Council Member Lander?

13 COUNCIL MEMBER LANDER: Thanks very
14 much to both of the chairs and thanks to the two
15 of you. I'll join the chorus of people saying how
16 pleased I've been with the Administration's
17 approach to these efforts, both on your own system
18 since the merger and then trying to attend to the
19 state system. Thank you both for doing that and
20 to the criminal justice coordinator and to Mr.
21 Feinblatt.

22 My question, I guess is this, when
23 Commissioner Mattingly came to us at the beginning
24 of the merger, he had some questions I think about
25 the position of the limited-secure facilities and

1
2 sort of where they would fit into the city system
3 as you sort of evolved and took it over. I notice
4 in what you're giving today that a very high
5 percent of the OCFS facilities are limited-secure.

6 You may have already answered this
7 and I'm just not sure exactly which of the
8 initiatives kind of fall into the categories, but
9 can you just say a little bit about sort of where
10 the thinking has evolved on the role of those
11 facilities in the city system and how that relates
12 to the sort of breakdown of OCFS facilities and
13 what you would do if you were able to achieve this
14 moving forward?

15 LAURENCE BUSCHING: I think this is
16 where the terminology gets very confusing. At the
17 state system there is one set of terms that's
18 used. In the city system, there's another set of
19 terms that's used. We refer to the secure
20 detentions which are the locked facilities like
21 Crossroads, Bridges, Horizon.

22 Then we have what we call non-
23 secure, which is probably a misnomer in and of
24 itself; many other places call them staff-secure.
25 The basic idea being that there is not kind of

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2 bars and the same level of security as exists in a
3 locked facility. But there are staff there that
4 support and nurture the kid and watch and make
5 sure that supervision is in place.

6 We send young people to both of
7 those within the city. Generally speaking, we
8 have a very low rate of absconds, even though we
9 don't have the bars and everything else within
10 those non-secure facilities. It's a very low rate
11 of absconds. So we find that they both are--and I
12 will also add that we're selective in who we put
13 into those facilities. We're not putting young
14 people that represent severe threats into those
15 non-secure detention facilities.

16 But for young people who do not
17 represent that level of threat, but do need
18 residential care, we're finding low abscond rates
19 and we're finding good quality treatment and care.
20 Some of the providers have been mentioned already:
21 Boys Town, Good Shepherd. I'm going to leave
22 folks out and they're going to be annoyed with me.
23 Episcopal Social Services, Lutheran, Salvation
24 Army, among others. So that's the model that
25 we're talking about in the city.

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2 In the state they have secure,
3 which is really secure. They have limited-secure,
4 which is pretty close to being secure and then
5 non-secure which is kind of similar to the staff-
6 secure type facilities that we're talking about
7 here. Is that helpful? I'm not sure whether I
8 answered your question.

9 COUNCIL MEMBER LANDER: Yes. Maybe
10 I'm misremembering. But I just feel like in that
11 first hearing, and obviously the commissioner at
12 that point had just taken over the system and
13 trying to understand the different pieces of it.
14 I feel like there was a sort of middle sector in
15 the city program that he just hadn't yet really
16 seen firsthand and was learning more about and
17 sort of said we'll get back to you on how we're
18 thinking about where that fits in.

19 LAURENCE BUSCHING: I believe it
20 was the non-secure, which is a little bit unusual
21 model for many detention systems. Many detention
22 systems have locked secure facilities or community
23 release. This is a little bit of a hybrid and I
24 think he was trying to figure out how that would
25 fit in. We're still kind of looking at that to

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see how we can best make use of them.

One of the things we're doing is looking to see if there are more kids who are in the secure facilities who can safely be managed in those non-secure facilities. We're doing that and we've made some changes in that regard.

We're also trying some new models. The Boys Town step down model is a first. The providers are looking to do more community-based services and do more treatment and intervention. Generally speaking, as a detention model, they're not heavy because the cases are pre-adjudication; they're not particularly heavy on therapy and intervention. But because we do have lengths of stay that is on average about 20 to 30 days, we think there's an opportunity there. I think that's what he was referring to.

COUNCIL MEMBER LANDER: That's great. I think, like my colleagues, I'm a strong supporter of those programs. Obviously, just looking at the chart you've given us on OCFS, they lean much more to what we would call "secure detention," whether it's what they call secure or what they call limited-secure. It seems like one

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2 of the features of this transfer would also be
3 that we would be looking to put a higher percent
4 of kids in what we call the non-secure facilities
5 with the supports that are being discussed here.
6 That seems very good to me. I just want to make
7 sure I understand that.

8 VINCENT SCHIRALDI: Their limited-
9 secure facilities really changed dramatically
10 under the Pataki administration. They used to be
11 very open campus-like settings, no fences around
12 them or anything like that. Then they just put up
13 a bunch of razor wire and they became much more
14 prison-like and I think that was, in many
15 respects, it just changes the nature of what
16 everybody thinks is going on. Every staff member
17 becomes a guard instead of a counselor. You start
18 to rely on hardware rather than dealing with the
19 kids. Years and years later you come in and you
20 look at them and you can't recognize them anymore.

21 LAURENCE BUSCHING: Part of what
22 the planning involved here is making sure that
23 we're doing good assessments as to risk levels.
24 So we've done some of that on the front end with
25 regard to detention. Commissioner Schiraldi is

1 leading the effort to make sure and we've got a
2 great team of folks and I think we'll have some
3 more suggestions today of who else we might want
4 to add. But to really make sure that when we make
5 decisions about level of security that we have a
6 good basis for making sure the youth who are
7 dangerous are kept in settings where they cannot
8 hurt people and that youth who can safely be
9 managed and transitioned to less restrictive
10 settings that we're doing that as well.

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12 COUNCIL MEMBER LANDER: Thank you.

13 COUNCIL MEMBER: Thank you very
14 much, Madame Chairs. Thank you very much,
15 Commissioner Schiraldi and Mr. Busching. I just
16 want to ask two quick questions regarding the
17 accreditation for the city's Department of
18 Education with credits that have been earned in
19 OCFS facilities. Can you speak a little bit about
20 efforts to kind of coordinate that or bring that
21 into the Department of Education so that these
22 kids can get credits for what they were able to do
23 in those facilities?

24 VINCENT SCHIRALDI: Sure. The
25 schools at the facilities that OCFS runs are not

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2 accredited. So when they go back to whatever
3 their home communities are, not just New York but
4 Westchester or wherever they go, very often it's
5 difficult to get them credits for the time they
6 spent in those classrooms.

7 They city, it's the exact opposite.
8 In fact, if you go to one of the detention
9 facilities, the computer system, and I don't know
10 the name of it, but it's the same system. So the
11 kids are never un-enrolled in the New York City
12 public education system. They go from whatever
13 their school was when they got arrested to the
14 school at Horizons, back to whatever school they
15 go back to, and they don't really miss a beat.
16 They've got the same curriculum going on.

17 Not that I would want a kid to go
18 into detention, but if you've got to go into
19 detention, it's as good a handoff as I typically
20 ever get to see in juvenile correctional systems.
21 Because this is a problem all over the country,
22 what do you do for that week and a half, two weeks
23 when the kid, in between arrest and when the judge
24 decides he can go home or she can go home?

25 So we start I think with a pretty

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2 good opportunity to graft that process, that
3 already well-functioning process. If I got it
4 wrong, guys, just please correct me, but I think
5 that's the process, onto whatever new thing we
6 develop. Tim Lisanti, from the Department of
7 Education and Judge Drinane, who is extremely
8 concerned about educational issues for Family
9 Court youth, are chairing the committee to figure
10 out how that's going to work.

11 We don't know the answer to that
12 yet. Are we going to put the school in the
13 facilities, are we going to have one unified
14 school or several where we have the kids go to
15 like Boys Town does? We don't have all the
16 answers to that but we've got the right people in
17 the room figuring it out.

18 I actually think this might be, all
19 the publicity and the high profile case stuff
20 notwithstanding, this might be the best things
21 that comes from realignment is just the education
22 stuff because that's job one for these kids.
23 They're 15-years-old. They've got to go to
24 school. So everything we do that messes with that
25 is a bad thing and everything we do that

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2 facilities that is a good thing. I think we're
3 going to knock that one out of the park.

4 COUNCIL MEMBER: Why in the OCFS
5 facilities, what was going on there that these
6 credits were not transferred? I mean why would
7 the system be in place that would have that kind
8 of effect for that long?

9 VINCENT SCHIRALDI: Commissioner
10 Carrion inherited and awful, awful system. It had
11 a ton of work to be done and she's done about half
12 a ton of that work. I mean she's really done a
13 lot of good work. She's been trying to get their
14 schools accredited since she started. I mean she
15 got it. I don't know what it is that's preventing
16 that from happening. Albany is not sort of an
17 icon of good functioning government and I think
18 part of it is they can't get the damn school
19 accredited. I've asked about it a bunch of times.
20 She can't get it done.

21 COUNCIL MEMBER: Actually, that
22 leads me to my next question which is legislation
23 in Albany, how is that looking? Particularly with
24 the authorization for the city, is that going to
25 be a heavy lift? Is there opposition in Albany?

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2 What are you seeing? Is there opposition from
3 upstate senators or stuff like that?

4 VINCENT SCHIRALDI: The governor is
5 really committed to it. What I think is really
6 interesting is how the conversation has changed
7 since he sort of stepped into this in a big way.
8 He went to Tryon which was an empty facility with
9 a bunch of staff. A bunch of articles came out
10 about it. He spoke publicly about it. Then he
11 really, really sort of was energized about it at
12 the State of the State address.

13 Even now, you can hear a subtle
14 difference in the conversation. At first, it was
15 a lot of the upstate legislators that had these
16 facilities in their district, it was like: no way,
17 we're never going to close these facilities down.
18 They're providing jobs for our people. Now it's
19 subtly changed like: well, we need to see a plan
20 for economic development for upstate and then
21 we'll be willing to talk about closure.

22 So I'm just a poor little Probation
23 commissioner. You guys are the elected officials.
24 What that sounds like to me is that there's an
25 opening for a deal to be had. We, at our level,

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2 are negotiating very heavily with the governor's
3 policy and implementation people which is his
4 deputy secretary for public safety and Gladys
5 Carrion who is the commissioner. So we've got a
6 bunch a staff, we're answering each other
7 questions, we're trying to figure out all these
8 different numbers as to what it would really mean
9 for the city and state.

10 At some other level, there's this
11 political conversation going on and my observation
12 of it from everything I'm reading, and I'm reading
13 everything that comes out on it, is that that's
14 sort of nudging gently in the right direction. I
15 think the governor has made it pretty clear that
16 this map is unsustainable. All the other stuff
17 we've got to cut, we're going to cut all these
18 other places and leave Tayberg open at 8 percent
19 of capacity because the brewery industry in Oneida
20 County is not doing well? I mean that's sort of
21 what it comes down to. That's where all the beer
22 is being made, the Genny Cream Ale and whatnot.

23 So he's said pretty clearly that
24 you can't use these things as economic development
25 for upstate counties. That's not my part of it.

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2 That's not our part of it. But I think that that
3 negotiation is going on at the same time as we're
4 negotiating over the substance of realignment.

5 CHAIRPERSON PALMA: Council Member,
6 before you came in, we actually were engaged in
7 that discussion. I offered both Commissioner
8 Busching and Schiraldi to let us know how we in
9 the Council can be helpful in moving those
10 negotiations forward.

11 LAURENCE BUSCHING: I'll feel I'll
12 be remiss if I don't quote the governor. This is
13 a real moment here that we have before us. The
14 time to strike is now. So when you say what can
15 be done, I think if you can join with us in
16 advancing this, it'd be really crucial. If you
17 bear with me one moment, because I think this is
18 so momentous what he said in his State of the
19 City.

20 "The reason we continue to keep
21 these children in these programs that aren't
22 serving them but are bilking the taxpayers is that
23 we don't want to lose the state jobs that we would
24 lose if we closed facilities. It does not justify
25 the burden on the taxpayer and the violation of

1
2 civil rights of the young person who is in need of
3 a program that they don't need where they are
4 hundreds of miles from home to save jobs. An
5 incarceration program is not an employment
6 program. This has to end this session."

7 So that's why we are asking you now
8 to make those efforts on behalf of the youth in
9 the communities that you represent.

10 CHAIRPERSON GONZALEZ: I just want
11 to say, because I know that you guys will be
12 exiting, you have other meetings to go to, and
13 hopefully you'll leave someone here. Thank you so
14 much for your testimony and everything that you've
15 stated.

16 This realignment and I just want to
17 say briefly, and I'll speak really fast, I have
18 stood steady. I have been elected nine years and
19 I believe that probably the max of my time I have
20 spent with juvenile justice. I am so excited, so
21 excited and so thrilled that finally, and I want
22 to thank all the advocates, I just want to say,
23 because you stood steady. I'd like name all the
24 Legal Aid, Center for Court Innovation, Citizen's
25 Committee for Children, New York Foundling, Boys

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2 Town, all these folks that really--Children's
3 Defense Fund, New York Correctional Association
4 and of course the academics, which is Brooklyn
5 College Children's Study Center, Advocates for
6 Children--because all these years, all these years
7 that we spoke about alternatives, we kept
8 fighting, we kept doing it. I am so proud of our
9 committee. I'm so proud of the work that Juvenile
10 Justice did.

11 I just want to say, in case nobody
12 else says it, thank you Mayor Bloomberg, because
13 of his insight to coming to a realization that
14 these people and these young people are our future
15 and that we are finally doing something. I'm so
16 glad that I stuck to this.

17 I want to say to Speaker Quinn,
18 thank you so much for persevering, because she
19 knew that this was such an important issue and she
20 supported us incredibly. To the committee members
21 and now, of course, to our Governor Cuomo, and
22 everybody that believes in children, I want to
23 thank you. Because, look, with all this snow,
24 look at all the folks that are here. Thank you so
25 much from the bottom of my heart. We're making a

1
2 difference, and finally juvenile justice is on the
3 map.

4 CHAIRPERSON PALMA: Thank you. The
5 first person that I'm going to call up is going to
6 be our Rock Star Judge, Michael Corriero.

7 CHAIRPERSON GONZALEZ: Our rock
8 star, let's give him a hand.

9 CHAIRPERSON PALMA: Tamara Steckler
10 from Legal Aid and Alfred Siegel from the Center
11 for Court Innovation.

12 [Background noise]

13 CHAIRPERSON PALMA: I'm going to
14 add Cynthia Armijo from Boys Town to this panel as
15 well. You guys can choose to defer to the rock
16 star or ladies first.

17 [Crosstalk]

18 CHAIRPERSON PALMA: You may begin
19 your testimony when you're ready.

20 HON. MICHAEL A. CORRIERO: Thank
21 you for permitting me to speak at this hearing.
22 I'm liberated now that I have retired from the
23 bench. To me, this is the golden age of juvenile
24 justice when you look around this room and see the
25 quality of talent and the level of perseverance

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2 that has brought us to this point. Some have
3 called it a watershed, others a crisis. I look at
4 it as an incredible opportunity to improve the
5 lives of children in the city.

6 I have a text, but all those who
7 know me know that I often stray. So just give me
8 a few moments, I will be brief.

9 Last night, our President, Barack
10 Obama, talked about the continued viability of the
11 American dream. I'm here today to represent many
12 young people who are being denied the opportunity
13 to participate in the American dream because of
14 poor choices made at a young age.

15 I left the bench in February 2008
16 after serving 28 years as a judge in the adult
17 courts, Supreme Court. The last 16 years, I had
18 the responsibility of resolving the cases of all
19 the 13, 14, and 15-year-old children who were
20 being prosecuted as adults pursuant to New York's
21 Juvenile Offender law.

22 That's how I became inspired, if
23 you will, by the people, the advocates, the
24 lawyers, the social workers, all those who
25 recognize the true value of children and how

1
2 difficult it was to respond to that value, given
3 the very harsh and inflexible laws under which we
4 were operating.

5 So, I left the bench and I became
6 the Executive Director of Big Brothers Big
7 Sisters. I did that for two years during the
8 financial crisis and then I regretted the fact
9 that I ever walked off the bench. But it was an
10 incredible experience because the idea of
11 mentoring and taking responsibility for our
12 children was at the core of that mission and it
13 was so valuable for me to share in directing that
14 agency for two years.

15 I'm now the founder and director of
16 the New York Center for Juvenile Justice, where in
17 collaboration with families, communities and
18 diverse stakeholders in the juvenile justice
19 system, we are promoting a model of justice for
20 minors that treats children as children and
21 responds to their misconduct with strategies
22 designed to improve their chances of becoming
23 constructive members of society.

24 New York's juvenile justice system
25 is at a crossroads. Again, I'd prefer to view it

1
2 as an opportunity. Efforts have already begun to
3 improve the manner in which children are treated
4 in the juvenile family courts and when they are in
5 the custody of the New York State Office of
6 Children and Family Services.

7 In October, before his election as
8 the Governor of New York, Andrew Cuomo released an
9 urban agenda which contained a plan to, as he put
10 it, reform New York's broken juvenile justice
11 system. In this plan, the governor acknowledged
12 that our current juvenile justice system is
13 failing. The plan called for, among other
14 reforms, the imprisonment of only those juveniles
15 who are a risk to public safety, improvement of
16 the conditions of confinement and greater reliance
17 on community-based programming.

18 New York City's juvenile justice
19 plan includes proposals to give the City of New
20 York the authority to operate juvenile justice
21 facilities for placement of adjudicated juvenile
22 delinquents and juvenile offenders from New York
23 City and to free up resources to fund local
24 placement options, including these facilities as
25 well as community-based programs.

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2 The Governor's plan and the City's
3 plan are steps in the right direction. But they
4 should be viewed in the context of an overarching
5 strategy to reform juvenile justice in New York.
6 Both encompass the general principals affirmed by
7 Governor Paterson's task force on transforming
8 justice in New York.

9 Whatever differences exist between
10 the city and state's approach to juvenile justice
11 reform, they should be reconciled in a spirit of
12 collaboration and cooperation, which moves us
13 closer to attaining the systemic reform of our
14 system consistent with a model of juvenile justice
15 that recognizes the true value of children in a
16 democratic society.

17 In 2009, according to data provided
18 by the New York State Division of Criminal Justice
19 Services, over 46,000 children under 18 years of
20 age came into contact with New York State's adult
21 criminal justice system. Approximately 27,000 of
22 these children were prosecuted in New York's adult
23 criminal courts. New York is one of only two
24 states, and North Carolina is the other, that
25 draws the line for adulthood for criminal justice

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2 purposes at the low age of 16. Children as young
3 as 13 may also be prosecuted as adults if accused
4 of certain offenses defined by New York's Juvenile
5 Offender law.

6 As a result, these children are not
7 subject to the jurisdiction of the Family Court.
8 They are statutorily deemed criminally responsible
9 for their behavior as adults. Their cases are
10 adjudicated in adult criminal courts and they are
11 subject to the same procedures and potential
12 criminalization as adults. Moreover, they are
13 denied the opportunity to participate in the array
14 of social service programming available in the
15 Family Court.

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

21 The societal and economic
22 ramifications of prosecuting tens of thousands of
23 children as adults, and I'm not talking about
24 hundreds of children, I'm not talking about the
25 12,000 kids that were subject to the jurisdiction

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2 of the juvenile court or Family Court as juvenile
3 delinquents, I'm talking about the tens of
4 thousands of juvenile offenders and 16 and 17-year
5 olds that come into contact with New York's adult
6 system. And so the societal and economic
7 ramifications of prosecuting tens of thousands of
8 children as adults must be scrutinized as part of
9 any comprehensive Juvenile Justice Reform Agenda.

10 So we have to put this in
11 perspective. We hear terminology like the overall
12 of the juvenile justice system. Well, we have to
13 put that in context. When I talk about the
14 juvenile justice system, I don't exclude 16 and 17
15 year olds and I don't exclude 13, 14 and 15 year
16 olds who are prosecuted in the adult court. To
17 me, they are children and they should be viewed as
18 children rather than as adults. Matter of fact,
19 the presumption should be that they should viewed
20 as children. The exception should be that they
21 should be prosecuted in the adult courts.

22 So if we are to adeptly confront
23 juvenile crime in New York, we must productively
24 intervene at the earliest opportunity in the lives
25 of children who violate the law. This, in turn,

1
2 requires a statewide shift in policy and legal
3 practice from judging children as adults, to
4 judging children as children.

5 Altering the policy of prosecution
6 of minors is more than merely a matter of
7 principle; it's about refining perceptions. When
8 our president spoke of the American dream last
9 night, he in essence said that we should view the
10 American dream through the eyes of our children.
11 And in particular, he referred to a 9-year-old who
12 tragically lost her life in Tucson. That's the
13 way we should be viewing the overall comprehensive
14 strategy that the city's plan and the governor's
15 plan fall into. But we should not lose sight of
16 the overarching context and what we really need to
17 do in order to bring about true systemic reform in
18 New York.

19 Altering the policy of prosecution
20 of minors is more than merely a matter of
21 principle; it's about refining perceptions and,
22 ultimately, values regarding the lives of New
23 York's children. Increasing the age of criminal
24 responsibility and opening the Family Court
25 therapeutic services to all children under the age

1
2 of 18 will essentially transform the culture of
3 prosecution of minors from an intrinsically
4 punitive approach to a rehabilitative-based model.

5 Now, I'm not suggesting that
6 tomorrow the 46,000 16-year-olds and 17-year-olds
7 and the 977 juvenile offenders as young as 13 be
8 put into the Family Court. On the contrary, I
9 think what the city is doing is a wonderful first
10 step to reinvigorate, reinvest and reorganize the
11 Family Court's array of dispositional services. I
12 like to view that as simply the first step in a
13 continuum that will bring us closer to true
14 systemic reform.

15 I don't mean to get so excited. My
16 wife used to say: why do you sound so angry? I
17 said I'm not angry, I'm Italian. What's anger got
18 to do with anything?

19 I think that if we look at the
20 question of raising the age of the criminally
21 responsible and moving from a punitive approach to
22 a therapeutic approach, the significance of this
23 will be that this revision will have a
24 complementary impact on the collateral
25 consequences of juvenile misconduct by reducing

1 unnecessary criminalization of many youth
2 currently subject to adult court jurisdiction.

3 How many of you have ever been 14?
4 How would you like to be defined forever by what
5 you did at 14? And yet, New York does that. We
6 criminalize 14 and 15-year-olds and we don't have
7 a process of decriminalization in place for those
8 children who have learned to respond in a positive
9 way from their interaction with the courts.

10 So, in sum, there cannot be true
11 systemic reform of New York's Juvenile Justice
12 System unless New York sets a fair, rational, and
13 just age of criminal responsibility. This is a
14 fundamental issue impacting, last year alone, a
15 staggering 46,129 young New Yorkers, including 977
16 13, 14 and 15-year-olds. That's 46,000 missed
17 opportunities to intervene effectively, 46,000
18 youth who could have benefited from
19 developmentally sensitive alternative programs
20 solely available in the Family Court.

21 We now have the opportunity to take
22 an historic step to ensure that New York children
23 are finally judged as children. It won't be easy,
24 but if this is accomplished, I pledge to you that
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2 you will be supported by an insightful coalition
3 of parents, community leaders, mental health
4 specialists, students, and citizens who understand
5 that treating children as adults in the criminal
6 system is both profoundly wasteful, socially
7 destructive, and in contradiction to what the
8 American dream is all about. Thank you.

9 [Applause]

10 CYNTHIA ARMIJO: From one Italian
11 to the next. Chairperson Palma and Chairperson
12 Gonzalez and other Council Members, my name is
13 Cynthia Armijo. I am the Executive Director of
14 Boys Town New York. Our administrative offices
15 are located at 444 Park Avenue South in Manhattan.
16 We are an affiliate site and one of 13 sites
17 nationwide, part of Father Flanagan's Boys Home in
18 Omaha, Nebraska founded in 1917.

19 Through our work with New York
20 Administration for Children's Services, Boys Town
21 Intervention and Assessment provides care for
22 youth involved in the juvenile justice system by
23 placing them in a safe environment, assessing
24 their needs, creating a treatment plan, providing
25 supervision and support so they can learn

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necessary skills.

Our primary goal is the safety and well-being of these children. Nearly 500 youngsters, most ages 10 to 18, find help each year at our Dean Street and Bergen Street Intervention and Assessment Homes in Brooklyn, and our Richmond Hill facility in Queens. Youth are referred by the Family Courts from all five boroughs and stay for about 30 days, after which most are sent to placement or back to their families.

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

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

14 Side note: this week is Regents.
15 If you all remember back to those days of taking
16 Regents. We currently have seven kids taking
17 their Regents exams, so please send out your
18 positive thoughts to them this week. Last year,
19 we had nine youth during Regents week, who took
20 and passed 13 Regents exams while they were in our
21 care.

22 My message today is about New York
23 City kids and the future we provide for them. In
24 particular, I am speaking about the kids who are
25 in our courts and our juvenile justice system.

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2 Who are these kids? They sit next to you on the
3 subway, they bag your groceries at the store, they
4 go to school down the street from your house.

5 These are our future citizens who will contribute
6 in a meaningful way back to their communities when
7 they become adults.

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

19 The Integrated Continuum of Care
20 that we provide is a national model with evidence-
21 based results. Boys Town developed its Integrated
22 Continuum of Care as part of an ambitious, ongoing
23 effort to expand the life-changing care we provide
24 to children and families. The Continuum is unique
25 to Boys Town and enables us to deliver the right

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2 treatment at the right time--that's the definition
3 of a continuum--to troubled children and families
4 who are edging toward crisis.

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

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

18 TAMARA A. STECKLER: Committee
19 Chairs, Committee members, thank you so much for
20 holding this hearing. My name is Tammy Steckler
21 and I'm the Attorney in charge of the Juvenile
22 Rights practice of the Legal Aid Society.

23 We represent the children who come
24 through Family Court on delinquency petitions as
25 well as we represent the children who come through

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criminal court.

There is so much I've heard and so much I want to respond. I'm not reading from my testimony, so I'm going to try to stick to my notes.

I first want to just actually say what I'm not going to speak about. I know that's kind of an odd way to start, but these things are important but I feel they've been addressed or will be addressed by other people.

I'm not going to speak about the economics of it, the economy, why this makes fiscal sense. Clearly, the city has already done that. Quite frankly, I'm a lawyer and I know nothing about math. So I'm going to leave that to the people who do.

Second, I'm not going to talk about great the city plan is because that plan is still in progress. What I am going to say is that Legal Aid is part of the steering committee regarding this plan. We're an active member. We've been invited in by the city, which I think is a great accomplishment. We will be vigilantly monitoring what goes on in that committee on behalf of the

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children we serve.

I also want to say that I'm not going to say how tragic it is when we let political capital get in the way of doing what's right and the closure or non-closure of facilities is the most prominent example of that. As Letitia James said so eloquently, we should not be giving jobs to people upstate on the backs of brown and black children from New York City. That should have nothing to do with it. If they need to be closed, they should be closed. The one year rule has to go. We have to be vigilant about making sure that the kids who belong in the communities remain there. We're not responsible for the economic wellbeing of the entire upstate communities.

Fourth, I want to say it's really surreal to sit in a place where everybody is really talking about the things that advocates and lawyers from Legal Aid have been talking about for years. Really, I feel like if I wake up or pinch myself hard, it's all going to be gone. This is an incredible time. In the 25 years I've been in this work, I've never heard this kind of overall

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2 support for such a plan that would really take
3 into account the children and the way we serve
4 children. So really, honestly, I feel like I'm
5 going to wake up tomorrow and it's all going to be
6 gone.

7 I am going to say very, very
8 quickly, I strongly support the city's plan. I
9 want the kids back in the city. I'll explain
10 later why. I do want to say that the city does
11 not have a great history of working with
12 teenagers, both in our child welfare system or our
13 juvenile justice system. We all have to be really
14 vigilant in both systems to make sure that the
15 city is doing the right thing by kids. Every day
16 in court, this is a lot of what we do is we make
17 sure out teenage clients are getting the
18 appropriate services that they're entitled to.

19 I'm not going to talk about lack of
20 services. We know they exist and there has to be
21 more money dedicated to that. I'm not going to
22 talk about children suffer, are still suffering in
23 OCFS facilities. I don't like to call them
24 facilities, these are prisons. If you've ever
25 been up there, they wear uniforms, they've got

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2 barbed wire. You know, the kids walk in straight
3 lines. This is a prison like any other prison.
4 It's not a really nice facility. It's not a
5 campground.

6 I'm not going to talk about data
7 because I know a lot of people want to talk about
8 data. I know the data is out there, but I think
9 data sometimes, while really helpful especially
10 when it supports my position, also does a great
11 job at dehumanizing the children.

12 So here's what I'm going to talk
13 about, and the first thing I want to talk about is
14 the most important thing, I think, and that's
15 public safety. I know why politically we have to
16 use the term "public safety." I understand. But
17 I think it is so overstated when it comes to the
18 juvenile population we're talking about.

19 You heard earlier there are 375
20 kids up in OCFS facilities, which means those were
21 the kids that were deemed a risk to public safety
22 and who could not stay in community. That's 375
23 kids in all of New York City. I don't think
24 there's a great public safety risk because of the
25 juveniles that are being arrested. I don't think

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that great public safety risk exists.

What I really want to say about that public safety risk is it doesn't do us a favor to term it that way. When the Central Park rape happened, which of course had a very interesting ending, everybody talked about super predators and how the city was going to be under siege from these teenagers. You know that never came to fruition because it just wasn't true.

Every time we use the term public safety to describe these children, we are painting a picture that is not true and only serves to scare people who we want onboard with the plan. We want people onboard because we're saying these kids actually aren't a risk to public safety. These are kids who can be in their communities, should be in their communities and they're not a risk.

So that terminology is thrown around way too easily. We need to pull back and stop calling these kids a public safety risk. Most of them, I would suffice to say almost all of them are not a public safety risk. If they are a public safety risk, then we need to take

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2 responsibility for how they got there.

3 I do want to say also about this an
4 interesting story. When weekend arraignment first
5 came about, the criminal court personnel where the
6 weekend arraignment is held for children were
7 talking about these kids in such a negative way.
8 Why do we care, why do we have to work extra time,
9 these kids committed crimes, they're bad kids. It
10 was hard to sort of convince them of who these
11 kids were.

12 If you talk to that same personnel
13 now, what you're going to hear them saying is: are
14 you kidding me? This is who we're remanding?
15 This is who we're putting in jail? These are the
16 things these kids are doing? It is shocking. So
17 a trip to Family Court is an education. So you
18 can see for yourself what's coming in the door.

19 The second thing I want to talk
20 about is community program and I'll lump education
21 into it. The thing I want to say about education
22 is it fails everywhere for these kids. Most of
23 our clients coming in have educational issues that
24 have not been addressed for a very long time.
25 They're not addressed when they're in the juvenile

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2 justice system. We have failed these kids
3 educationally 100 percent and I'm hoping that the
4 overhaul actually addresses that issue large and
5 strong. Tim Lisanti being on the steering
6 committee I think really shows the DOE's
7 commitment to making education a reality for these
8 kids.

9 But I also want to say that one of
10 the problems with community programs is there's
11 not enough of it. Clearly, under the overhaul
12 we're going to try to increase that number. But
13 the other thing, community programming and the new
14 community program is looking this way, and we need
15 to continue having it looking this way. It takes
16 accountability for everybody. Kids do not get
17 raised in a vacuum. They don't choose their
18 environments. They don't choose their schools.
19 You know, everybody is accountable when a kid is
20 not doing what he's supposed to be doing.
21 Everybody is accountable.

22 Community programming has to
23 address all of the issues that are facing that
24 child. But all the issues that are facing that
25 family and attempt to try work within the

1
2 community to address those issues as well. This
3 is not a problem singular to the child. The child
4 is just the vehicle by which we're finding out
5 what all the problems are.

6 I just also want to point out
7 there's a model that is used in civil legal
8 services called single stop. It's to provide
9 civil legal services to poor families, low income
10 families. That model really is a one-stop shop
11 model. I think we need to really look at that
12 model because it works, and use that model in our
13 community programming as well. So families that
14 come in can get an array of necessary services,
15 not just services for their child.

16 I'm not going to talk about
17 adolescents because Judge Corriero did such a
18 great job in talking about children being treated
19 as children. The system needs to recognize
20 normative teen behavior.

21 But I am going to raise one issue
22 which is the issue that is talked about a lot and
23 I think addressed fairly poorly and that's
24 disproportionate minority contact. I want to
25 raise that because this is what happens when you

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2 take a subset of children, meaning low income
3 black and brown children from the poorest
4 communities in New York City, and you hold them to
5 a different standard than other children. I'm
6 talking about white children from more affluent
7 communities.

8 I am telling you as sure as I'm
9 sitting here, and partly because I know, that
10 white children, white teenagers are committing a
11 lot of the same crimes, a lot of the same crimes
12 that black and brown children commit.

13 We're allowing them to be normal
14 teenagers, to take risks, to fail, to work with
15 their families and communities and schools. We're
16 allowing all that to happen in the white
17 communities and for some reason we're not allowing
18 that to happen in these communities.

19 That's really the key because if
20 you really look at these communities and you look
21 at the kids, what you'll see is really a lot of
22 normative teen behavior, bad, bad choices, bad,
23 bad choices.

24 I do want to also mention that it
25 is not hard to be a black teenager and get

1
2 arrested or have police contact in Bedford
3 Stuyvesant. It's really easy to do. It's really
4 easy. So these kids don't have to work to get
5 arrested, it happens pretty easily for them.

6 I just want to say that we should
7 have a motto and it should go across the system
8 relating to children which is do no harm. We
9 should not do anything that harms children. Our
10 current systems harm children. I also just want
11 to say where are the grownups. Really, you know,
12 a kid does not get where he gets in a vacuum.

13 In terms of confinement, I think if
14 you don't know about the Missouri model, you
15 should know about it. The Missouri model, to me,
16 is probably as close to a good model of
17 confinement as you can get. I'm having trouble
18 saying that because I don't think there's any good
19 confinement. It's like choking me. Did you hear
20 me, I could barely get it out. But it certainly
21 includes no correctional hardware, specialized
22 staffing, cultural competence.

23 I want to talk about one thing
24 which is mindset. Because the one thing no one
25 has really talked--we talk about a lot of changes,

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2 but we have not talked about mindset changes,
3 right. The Missouri model, what it really
4 involves, is a huge shift in mindset, which is
5 from a punishment model to a rehabilitative model.

6 Our system is purely punishment
7 oriented. It's punitive. Kids get placed for not
8 going to school. It's punitive. We need to shift
9 the model. We need to say the placement is the
10 punishment. That's the punishment. Then when you
11 get there, our job is to rehabilitate you.

12 I want to say that if you want to
13 see a restraint, I would love to talk to you or
14 show you a restraint video, because you will be
15 appalled at what restraints look like when they're
16 done. So I want to say any system, you have to be
17 looking at are they using restraints, how are they
18 using restraints.

19 I want to say that prone restraints
20 kill. End of sentence. They kill people, they
21 kill children. Prone restraints, to me, should be
22 outlawed. Whenever you have a system where you
23 have big men on smaller children, especially girl
24 children, you have a big problem you need to
25 address. So we should be looking at the new plan

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and looking at restraints.

Two more. The last thing I want to talk about is engagement. I want to tell you a story about engagement because it goes to the same issue of everybody has got to be onboard. There has got to be a change in mindset.

I want to give you just the story of Marvin, who was an adolescent who was arrested. Marvin is working with JJI. I don't know if Leslie is still here, which is a great program. Marvin's on probation and probation is doing some great work with Marvin as well.

Marvin is having some difficulty. Marvin is not complying with all the rules, and let's guess why. Because Marvin is an adolescent and adolescents don't comply with all the rules, because if you did, you wouldn't be an adolescent. If my son was complying with all my rules, I'd take him to therapy to figure out what was wrong with him. This is just a natural thing.

So what happens is JJI does not want to violate Marvin. Probation does not want to violate Marvin. The judge, on her own, Sue Esponda [phonetic] filed a violation petition

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2 against Marvin. She really didn't file a petition
3 at all, which is illegal and we'll take that up
4 with the appellate division. But she filed on her
5 own. Nobody was asking for a violation. Everyone
6 was saying what we all know sitting in this room,
7 right, which is that he's a kid, he's making
8 progress. He's going to slip up. We're going to
9 work with him, we're going to figure out how to
10 help him out.

11 Again, he was violated by the judge
12 who clearly has not bought into this mindset. So
13 we really, really need to make sure everyone's on
14 the same page because if one person is on a
15 different page, if one person isn't buying in,
16 it's going to fail. Everybody has got to be
17 thinking and feeling and acting in a way that's
18 consistent with what we want to do here. Everyone
19 seems really onboard. We need everybody on board.

20 CHAIRPERSON PALMA: I know--

21 TAMARA A. STECKLER: [interposing]
22 One more and that's it.

23 CHAIRPERSON PALMA: Okay. Just
24 because we still have two more panels and I know
25 we're waiting to hear from Mr. Siegel.

1
2 TAMARA A. STECKLER: I understand.
3 The only other thing I'm going to talk about and
4 I'm hoping there are going to be other people
5 talking about is oversight.

6 Clearly, one of the best, best
7 reasons to bring kids back to New York City is
8 there will be more natural oversight. Families
9 will be in the facilities. Attorneys will be able
10 to see their children. There is going to be a
11 natural oversight.

12 But independent of that, there
13 needs to be oversight of any system that deals
14 with children, especially when adults are running
15 it. Maybe we should have children running the
16 systems, I don't know.

17 So that's basically what I have to
18 say. I wanted to respond to something that
19 Committee Member Palma said. You talked about the
20 big load for ACS. It's a lot of work, it's a lot
21 of extra work. I do have to say I'm a little
22 fearful of that. It is a lot of work. Teenage
23 clients are probably the most difficult clients to
24 deal with, even for us. They require the most
25 attention, the most understanding and you have to

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2 really, really, really like them to work with
3 them. So I just want to keep a good eye on what's
4 happening there and how ACS and this new system is
5 really treating teenagers. Thank you.

6 CHAIRPERSON PALMA: Thank you.

7 ALFRED SIEGEL: It's great to
8 follow Tammy. She tells you what she's not going
9 to tell you and then she tells you what she's
10 going to tell you.

11 TAMARA A. STECKLER: That's the way
12 to do it.

13 ALFRED SIEGEL: I'm not Italian,
14 but I am passionate about Italian food, so I hope
15 that counts for something here.

16 Good morning, Chairperson Gonzalez,
17 Chairperson Palma and members of the committees.
18 Thank you for giving me this opportunity to speak
19 with you today regarding the Mayor's plan. My
20 name is Alfred Siegel and I'm the Deputy Director
21 of the Center for Court Innovation. It's great to
22 see so many familiar faces. The Council has been
23 inordinately supportive of our work over the last
24 several years and we thank you for that.

25 As many of you know, the Center is

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2 a public/private partnership that is devoted to
3 improving public confidence in the justice system.
4 We do that through research, technical assistance,
5 and, of course, through our demonstration
6 projects, many of which focus on juvenile justice.
7 We operate juvenile justice projects in each of
8 the city's five boroughs.

9 Among the Center's youth programs
10 are alternatives to detention. We opened the
11 city's first new ATD in Queens in 2007.
12 Alternatives to placement; diversion programs for
13 young people cited and arrested by the police; a
14 unique mental health program in Queens, soon to be
15 replicated in the Bronx; an anti-gun violence
16 program in Crown Heights; a unique respite program
17 that Commissioner Busching spoke about in Staten
18 Island keeps young people in their schools and out
19 of detention while their cases proceed through
20 court; and community courts in Red Hook, Harlem,
21 and, in the not-too-distant future, in
22 Brownsville, Brooklyn.

23 Our work with young people has
24 given us a unique window into the workings of the
25 State and City juvenile justice systems, and the

1
2 need for long-overdue, comprehensive reforms.

3 I also asked to speak before you
4 today as I was privileged to be a member, with
5 both my colleagues here at the dais, a member of
6 Governor Paterson's Task Force on Transforming
7 Juvenile Justice, serving as the chair of the
8 subcommittee on reentry and alternatives to
9 confinement.

10 My work on the Task Force served to
11 reinforce my belief that the juvenile justice
12 system is broken and badly in need of a dramatic
13 makeover. The Task Force's report, "Charting a
14 New Course: A Blueprint for Transforming Juvenile
15 Justice in New York State", offers twenty
16 recommendations for vitally needed reforms,
17 including recommendations for restricting
18 placement to only those young people who genuinely
19 pose a threat to public safety; increasing the use
20 and range of reliable community-based
21 alternatives; dramatically improving conditions
22 for those in residential placement; effectively
23 preparing young people and their families for the
24 return home after placement; and insuring that
25 there are sufficient protocols in place to hold

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the system accountable.

The Task Force's year-long investigation confirmed what many of us who have worked in the system have long suspected, that the state's juvenile justice system was failing to provide for the public's safety, was failing the young people entrusted to its care, and was costing extraordinary amounts of public monies only to fail so miserably.

I come today not to simply echo calls for reform and system overhaul. I come because it is long past time for society to recognize that we have an obligation to do better for our young people. We must take advantage of the overwhelming data and research that confirm that there are better, far more effective strategies to address the challenges posed by young people enmeshed in the justice system.

There are demonstrated models operating both here in New York City and in other parts of the country that have been shown to be more effective, and far less costly, in working with young people charged with delinquency. And we do, in fact, know what works. We're doing it.

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2 Over the last several years, the
3 City has introduced both alternative to detention
4 and placement programs. The new ATD's have
5 enrolled nearly 2,000 young people. Fewer than 20
6 percent have been returned to court and remanded.
7 Through the efforts of the ATD's and the other
8 initiatives, the city's detention population has
9 decreased significantly. The average daily
10 detention population has declined 19 percent and
11 the percentage of juveniles detained at
12 arraignment has fallen by 28 percent.

13 These reductions have not
14 compromised the public. Re-arrest rates for young
15 people with pending cases have dropped from 26
16 percent to 17 percent. These programs are making
17 a difference in the lives of young people and
18 their families. Kids remain in their schools,
19 with their families, and have access to a range of
20 services that address factors that contribute to
21 delinquency and future criminality.

22 And the City's alternative to
23 placement programs have helped reduce reliance on
24 placement, as you have heard throughout the
25 morning. But we can't stop there.

1
2 In the summer of 2009 the
3 Department of Justice issued a scathing report
4 cataloguing abuses in four New York State-run
5 placement facilities, youth prisons. The report
6 detailed physical beatings, chronic service
7 deficiencies, and a woeful absence of preparation
8 for the young person's reentry to their
9 communities upon release.

10 Most depressing was the revelation
11 that so many of the young people in placement were
12 placed there not because they represented public
13 safety risks, but because they had mental health
14 needs which family court judges mistakenly
15 believed could only be addressed in confinement as
16 appropriate mental health services did not exist
17 in the community.

18 As the federal report documented,
19 the judges were operating under a massive
20 misconception. The reality was that there were
21 virtually no mental health services available in
22 placement. In the entire system, which at that
23 time consisted of more than 40 facilities and is
24 now at 23, there was only one psychiatrist. We
25 know that recidivism rates for young people coming

1
2 out of placement were well in excess of 80
3 percent.

4 So we had a situation where young
5 people were being removed from their homes, placed
6 in facilities hundreds of miles away, not
7 receiving the services they needed, and most
8 likely being released in far worse condition than
9 when they entered the facilities. This is the
10 most egregious example of a system in disrepair.

11 Fully 80 percent of youths in state
12 placement facilities have diagnosable substance
13 abuse disorders, 64 percent have mental health
14 disorders, and 65 percent have learning
15 disabilities. The young people in facilities are
16 not receiving the care and treatment they require.
17 We know that community-based programs have a
18 proven track record of responding to young
19 people's needs, are far less costly, and are
20 better public safety investments.

21 Much of what is embodied in the
22 Mayor's proposal reflects ideas and
23 recommendations from the task force report. The
24 plan is being introduced at a point where there is
25 genuine momentum for meaningful reform. The state

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2 has already closed several of its facilities. It
3 is embarking on a plan to pilot local residential
4 placement in Brooklyn. Governor Cuomo has
5 embraced juvenile justice reform, recognizing that
6 maintaining underutilized, decaying placement
7 facilities is both bad public safety policy and
8 bad business practice.

9 The City's merger of its Juvenile
10 Justice and Child Welfare Agencies reflects an
11 enlightened, comprehensive approach to managing
12 the juvenile justice population. Coupled with the
13 aforementioned ATD and alternative to placement
14 programs, and new initiatives being spearheaded by
15 the Department of Probation, the time is right for
16 a robust partnership between the City and the
17 State to help make New York a leader in juvenile
18 justice reform, as it already is in so many other
19 justice-related fields.

20 For that to happen, there must be a
21 commitment to redirect funding and other resources
22 to localities to establish additional, reliable
23 programs including community-based residential
24 facilities and day placement programming that will
25 provide more flexible options to the courts,

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2 services for young people and their families, and
3 most importantly, increase the likelihood that
4 these young children will receive the assistance
5 and guidance they need to become law-abiding,
6 contributing members of society.

7 Last paragraph. At the Center for
8 Court Innovation we have spent considerable time
9 the past several years studying failed criminal
10 and juvenile justice system initiatives. We
11 believe that there is much to learn from failure.

12 Certainly, much like success,
13 numerous factors contribute to an initiative's
14 demise. Often, when we find is that failed
15 projects do, in fact, originate with sound ideas
16 that they wither due to poor execution and
17 developments that are often beyond the control of
18 planners and practitioners.

19 New York's juvenile justice system,
20 on the other hand, requires little investigation
21 to determine the roots of its cataclysmic failure.
22 It is premised on a bad idea executed terribly.

23 A system that regularly takes young
24 people, so many of them charged with non-violent,
25 low level offenses, out of their homes, away from

1
2 their schools, communities and families, houses
3 them in prison-like facilities with more serious
4 offenders in remote, hard-to-reach locations,
5 provides them with minimal services and
6 educational support, neglects their families, and
7 leaves the young people wholly unprepared to
8 reenter society, is not a model that is designed
9 to succeed. There's no real mystery here. The
10 existing system is an abject failure. The time
11 for dynamic, transformational reform is right now.
12 It would be a tragedy to waste this opportunity.

13 Thank you for this opportunity to
14 speak.

15 CHAIRPERSON PALMA: Thank you.
16 Thank you, we don't have any questions. We all
17 seem to be on the same page here. I'm sorry,
18 Council Member Rodriguez does have a question.

19 COUNCIL MEMBER RODRIGUEZ: I think
20 that I would like to hear from like you said.
21 First of all, I agree with you. The solution is
22 not only to get the city to be responsible for the
23 correctional facility. Because when we look on
24 how the city has been doing, it's not that we can
25 say that we are so proud, that we've been able to

1
2 reduce the number of young people who have been in
3 corrections. The numbers say that, as I share
4 with everyone is that when young people go to a
5 correction facility, there is a 70 percent
6 probability that he will come back to a facility.
7 So in one area, we have failed.

8 Judge Michael, you say that what
9 we've got to address is the issue on how to do a
10 true systematic reform. So what should be
11 included in that reform that the city has not
12 shared with us yet?

13 HON. MICHAEL A. CORRIERO: Well, I
14 think the city is focusing on the juvenile
15 delinquents in the Family Court. They're focusing
16 on expanding the array of dispositions, the menu,
17 if you will, that judges would have. I think
18 that's good. I think that's important. The
19 Family Court is starving for resources and we
20 really need to invest in it.

21 But unless we amend the juvenile
22 offender law, which requires that children as
23 young as 14 who are accused of the crime of
24 robbery in the first are to be automatically
25 prosecuted in the adult court and upon conviction

1
2 incur a felony record, regardless of their
3 individuality, regardless of their potential and
4 regardless of the extent of their involvement it
5 the underlying crime, we're not going to be
6 addressing the fact that we're over criminalizing
7 so many young people.

8 So what I'm suggesting is that we
9 have what all of the states have, including Texas,
10 including some of the more harsher states in terms
11 of sentencing and looking at children. Texas, the
12 age of criminal responsibility is 18. In New
13 Jersey, across the river, the age of criminal
14 responsibility is 18. I mean, if a 14-year-old
15 boy takes the Hoboken ferry to New York, does he
16 somehow by that voyage acquire the wisdom of an
17 adult?

18 This is the irony. This is the
19 difficulty that we face. So what I am saying,
20 and I think what Vinny and the city wants to do is
21 say look, we want to lay the landscape. We want
22 to show that kids can respond to non-custodial,
23 non-criminalizing responses to their behavior.

24 If we can do that, if we can
25 demonstrate that to a larger number of kids, then

1
2 we can move and phase in the 16-year-olds who are
3 accused of misdemeanors. Then we can move in and
4 phase in the 17-year-olds who are accused of
5 misdemeanors. Then after that, when we see that
6 that's working, we can take the 16 and 17-year-
7 olds who are accused of felonies and phase them
8 in.

9 We can always exclude by a transfer
10 up system, the kids who murder, the kids who rape,
11 the kids who rob and cause violence. We can
12 always prosecute them in the adult court. I'm not
13 suggesting that these children shouldn't be dealt
14 with in a severe way if their crime calls for it.
15 But we don't have a safety valve written into our
16 current law. We sweep up into the adult court
17 many children.

18 I saw them. I had the
19 responsibility of sentencing them. I had the
20 responsibility of felonizing them. I had the
21 responsibility of putting them in jail. I saw
22 that in my experience, two-thirds of the kids that
23 I saw in the adult court could have been better
24 dealt with in a Family Court setting, an ideal
25 Family Court setting where the array of

1
2 dispositions were appropriate and where they would
3 be insulated from criminalization. Does that
4 answer your question?

5 CHAIRPERSON PALMA: And a very good
6 question that it was. Now, I can understand why
7 they call you a rock star. Thank you so much for
8 your testimony.

9 HON. MICHAEL A. CORRIERO: Gracias.

10 CHAIRPERSON PALMA: We really
11 appreciate your input and your collaboration.

12 HON. MICHAEL A. CORRIERO: Thank
13 you.

14 CHAIRPERSON PALMA: Our next panel
15 is Stephanie Gendell from Citizens Committee for
16 Children, Bill Baccaglioni, Marsha Weissman and
17 Avery Irons. Avery is representing the Children's
18 Defense Fund of New York.

19 [Pause]

20 STEPHANIE GENDELL: Good afternoon.
21 I'm Stephanie Gendell. I'm the Associate
22 Executive Director at Citizens Committee for
23 Children.

24 Thank you Chairwoman Palma and
25 Gonzalez for holding this hearing today and for

1
2 helping us all learn more about the city's
3 proposal.

4 As you've heard discussed already
5 today, so like Tammy I'll say I'm not going to
6 talk about it again, the current system we have is
7 a dismal failure. Even though many state and
8 local officials have tried for a very long time
9 through good faith efforts to improve it.

10 You've heard some of the very major
11 problems with it. Notably that children are
12 getting abused in the system, that their
13 recidivism rate is unacceptably high, that the
14 kids are being placed far from their families and
15 communities, that it's extremely expensive and
16 that it's inefficient.

17 Just to clear up one thing on the
18 cost, it was talked about a little bit earlier
19 today about the difference between the private
20 placements and the OCFS placements and how they're
21 paid for. The kids who are placed in the private
22 placements, meaning places like Graham Windham and
23 Children's Village, it's 50/50 and they don't pay
24 for the empty beds. But it's out of the foster
25 care block grant. So that's funding that really

1
2 should be used to serve foster children. So most
3 of that money is used up serving foster children
4 and so there's actually very little state support
5 for the kids in the private facilities.

6 We have had conversations with both
7 the state and the city about the city's proposal.
8 While we do have some questions and concerns that
9 I'll lay out, we believe the city's vision has the
10 potential to improve the outcomes for New York
11 City's youth.

12 Notably, the city's proposal seeks
13 to engage more youth in alternative to placement
14 in incarceration programs, enabling youth to stay
15 home with their families and in their communities
16 and receiving services.

17 In addition, their proposal ensures
18 that New York City youth in need of placement
19 would be placed in a facility in New York City,
20 enabling more frequent family visits and easing
21 the transition upon release.

22 As was discussed earlier, the
23 changes that could happen on the education front
24 are invaluable in and of themselves.

25 Conceptually, we don't have a

1
2 preference with regard to whether the juvenile
3 justice system is locally administered or
4 administered by the state. We believe
5 Commissioners Carrion, Mattingly and Schiraldi all
6 passionately care about the youth touched by the
7 juvenile justice system and want to shape policy,
8 budget and reform efforts so as to improve the
9 conditions of care and outcomes for youth.

10 But the children of New York and
11 for the purposes of this hearing, the children of
12 New York cannot wait for reform. As we sit in
13 this hearing today, children are being arrested,
14 brought to detention, referred to a limited number
15 evidence-based alternative programs, and sentenced
16 to private placement or OCFS care. These children
17 cannot wait any longer for politicians,
18 policymakers and advocates to develop more plans,
19 reports, budgets, or political deals, they need
20 reform now.

21 We have watched Commissioner
22 Carrion work tirelessly to reform the state's
23 system, and make great strides in spite of the
24 resistance she has received from the unions and
25 many elected officials, particularly those from

1
2 upstate counties wanting to maintain the jobs of
3 those working in the facilities.

4 Given these political realities,
5 CCC is open to learning about the City's proposal
6 and to supporting it when we feel comfortable. To
7 that end, there are pieces of the plan that we
8 feel very comfortable with which include the
9 children being placed close to their homes and
10 communities, being better able to enroll in
11 school, hopefully their Medicaid coverage could be
12 more seamless.

13 We believe in sharing the costs of
14 placement more equitably between the state and the
15 city, expanding alternatives, creating better
16 financial incentives and more importantly, making
17 a system where the vision is serving children.

18 We do have a couple of questions
19 and concerns, some of which have been answered
20 today and we look forward to working with the city
21 on, as well as the state.

22 One of our concerns is how this
23 would all be paid for, not only by the city but
24 the other counties. When New York City's children
25 are no longer part of the system, how will the

1
2 other counties and the state be able to afford it.
3 If it's determined they can't, then the
4 Legislature is not going to end up approving the
5 city's plan and so working with the state on that
6 issue.

7 The lack of clarity about where
8 some of the youth will be placed. By that, I just
9 want to make sure that Spofford is off the table.

10 We've talked a little bit about
11 ensuring that there's oversight and public
12 accountability. We don't have any prescriptive
13 way that we would necessarily want it but we want
14 to make sure that that's part of the system.

15 As Judge Corriero explained, we
16 want to make sure the 16 and 17-year-olds in the
17 juvenile offenders are addressed.

18 Lastly, we look forward to hearing
19 many more of the details in the coming months.

20 Thank you.

21 Good afternoon. Thank you, Chair
22 Palma, Chair Gonzalez and members of the General
23 Welfare and Juvenile Justice Committees for this
24 opportunity to testify in support of the Mayor's
25 juvenile justice reform proposal. My name is Bill

1
2 Baccaglini. I am the Executive Director of the
3 New York Foundling, one of the City's largest and
4 oldest child welfare agencies.

5 Prior to joining the Foundling in
6 2003, I had spent 21 years in various positions
7 with the New York State Division for Youth and its
8 successor, The New York State Office of Children
9 and Family Services. I was Deputy Director of
10 Program Development and Evaluation at DFY from
11 1993-1998, and from 1998-2003, I was Director of
12 Strategic Planning and Policy Development in the
13 newly formed OCFS.

14 While I have more than a passing
15 interest in the State and City resolving their
16 differences over a per-diem system that is limited
17 on a good day and actually quite bizarre in an
18 environment of under-utilization, my emphasis
19 today will be on the substantive merits of the
20 Mayor's reform proposal. However, it is critical
21 that the per-diem issues be resolved. We are now
22 at a point where approximately only 20 percent of
23 the money the City pays the State is related to
24 the provision of care while the remainder supports
25 administrative fixed costs.

1
2 Let me say this at the outset, the
3 people I worked with at DFY and OCFS were among
4 the smartest and most dedicated people you could
5 imagine. They all wanted what was best for the
6 youth remanded to their care. Yet, it was policy
7 makers like me who failed them. The model of care
8 we asked them to administer was, and always will
9 be, fundamentally flawed.

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

20 The most remarkable feature of
21 these studies is how consistent and stable the
22 recidivism rates have been over time; strongly
23 suggesting the problem is structural and is not
24 based on the changing level of support or
25 leadership that happens over an extended period of

1
2 time. Through good times and bad, the system
3 produced the same results. Think about it, it
4 costs upwards of \$200,000 per year per bed for a
5 system that has an 80 percent long-term failure
6 rate.

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

17 As odd as this sounds, I am
18 actually quite concerned about the discussion
19 about what services the current system does not
20 provide because too much discussion will delude us
21 into thinking that if we provided it, things would
22 greatly improve. They won't.

23 Improvements at the margins are the
24 best you can do because you can't involve a
25 youth's family directly in his rehabilitation when

1
2 youth and family are separated by 200 miles of
3 highway. With no practical way to engage the
4 caregivers in the rehabilitative process, what has
5 evolved over time is a juvenile system that, with
6 its almost exclusive focus on the offender, looks
7 more like adult corrections than one designed to
8 treat and habilitate adolescents.

9 The current structure simply does
10 not permit any practical way to formally connect
11 what happens in a facility to what should happen
12 upon release. For these reasons, facility care
13 and aftercare, the extent to which it exists, are
14 seen as two distinct episodes of care rather than
15 existing on a single continuum of care.

16 We must examine our goals regarding
17 the use of incarceration. If incarcerating kids
18 to provide public safety is the goal, the evidence
19 shows we have not succeeded. Kids are returning
20 and offending at a rate of 80 percent.

21 As Governor Cuomo said in his State
22 of the State address, the incarceration of young
23 people should not be justified simply to provide
24 jobs. We are better than that.

25 Well, ladies and gentlemen, the

1
2 first thing we could do to demonstrate that we are
3 better than that is to create a system of care
4 that views the youth in the context of the family
5 and the family in the context of the community.
6 Create one that engenders personal responsibility
7 and accountability while at the same time
8 recognizes that tomorrow can be brighter than
9 today for these kids and their families.

10 Commissioner Carrion deserves a
11 great deal of credit for her vision and for
12 recognizing the limitations of the state's system.
13 She has worked assiduously to refocus our
14 collective efforts on the community and reduce New
15 York State's historical over reliance on
16 residential care. She has implored our judiciary
17 to reserve residential placement for only the most
18 dangerous offenders and has encouraged the use of
19 evidence based practices. Unfortunately, because
20 she will be unable to alter the actual structure
21 of the State system, any real reform efforts must
22 be, I believe, locally organized and administered.

23 The plight of teens in the juvenile
24 justice system has been overlooked for too long.
25 You can't pick up newspapers without reading about

1
2 this issue. Just yesterday, "The New York Times"
3 about Michigan. Michigan, realizing that they can
4 do more in a community than they can actually do
5 in a prison. The judge referred to North
6 Carolina, and North Carolina is about to change
7 its law. We will stand as probably the only state
8 where age of criminal responsibility is 16. I
9 digress and I'm sorry.

10 The City's proposal addresses our
11 failings by keeping youth in or close to the
12 communities where they will successfully retain
13 their family bonds and reintegrate without repeat
14 offenses. The communities will be safer and kids
15 will have a better chance for a future.

16 For us in New York City the good
17 news has begun. The city is well versed in
18 testing alternative models. It has long embraced
19 new approaches such as CASES, Esperanza, and
20 Alternatives to Detention at organizations such as
21 Center for Court Innovation and Center for
22 Community Alternatives.

23 In 2007 ACS jumped fully into the
24 fray with the Juvenile Justice Initiative and the
25 launching of its evidence based programming. ACS

1
2 reached out to the developers of the models
3 identified in a 1996 study by the University of
4 Colorado at Boulder that identified specific
5 treatments that reduce recidivism by an astounding
6 70 percent.

7 In the last four years, The New
8 York Foundling successfully launched Blue Sky,
9 which is the first juvenile justice program of its
10 kind in the country and a part of ACS' Juvenile
11 Justice Initiative. The Blue Sky project aims to
12 improve clinical and cost-related outcomes for
13 youth with serious antisocial behavior by
14 developing a continuum of care that integrates
15 three evidence-based treatments.

16 Because the three treatments differ
17 in their levels of intensity, they can form an
18 efficient continuum where services are gauged to
19 the clinical need of the client. The focus isn't
20 on the individual adolescent but the individual
21 adolescent nested in the family and the community
22 context. Blue Sky models focus equally on the
23 youth and the caregiver, creating a functional
24 system without breaking either family or community
25 bonds.

1
2 Multidimensional Treatment Foster
3 Care, which Larry Busching referred to earlier,
4 the most invasive model in the continuum, provides
5 intensive and coordinated care while youths are in
6 individualized foster placement for approximately
7 4.5 months.

8 Multi-systemic Therapy, or MST, and
9 Functional Family Therapy, FFT, provide intensive
10 home-based services to youths who are at imminent
11 risk of placement, but who can still be safely
12 maintained in the home with program support.

13 Blue Sky therapists provide 1 to 4
14 hours of home based services per week to youths
15 and families. Our treatment procedures have
16 resulted in extraordinarily high rates of
17 participation and successful treatment completion
18 for adolescents and families who historically
19 don't benefit from traditional approaches.

20 Blue Sky serves a very high risk
21 population comprised of 62 percent violent
22 offenders. This is important because this will
23 tell you about our capacity, and I don't mean the
24 Foundling. There are all these folks who have
25 spoken to you about the capacity to keep these

1 kids home and keep most of them in the community.

2
3 Sixty-two percent violent
4 offenders who four years ago would have been
5 placed upstate for years, returned to their
6 community and re-offended at astounding rates.
7 About 80 percent of the Blue Sky families have
8 prior child welfare involvement.

9 While in Blue Sky these high risk
10 youth stay in their communities, and most stay in
11 their homes throughout their program involvement
12 with us and they do so safely. Recent data
13 collected by New York City would suggest that Blue
14 Sky can do this with remarkable results.

15 Blue Sky is maintaining a nearly 65
16 percent rate in preventing youth in the juvenile
17 justice system from being removed from their
18 homes. Remember folks, these are the kids who
19 four years ago would have spent their adolescence
20 in and out of upstate facilities. On average,
21 intervention with Blue Sky costs the City
22 approximately \$17,000, compared to the \$228,000
23 annually to send a youth upstate.

24 The Foundling is preparing to
25 launch a random assignment clinical trial to

1
2 establish Blue Sky as a successful model to be
3 replicated in other communities throughout the
4 United States and abroad. Our success and the
5 success of other providers in the New York City
6 area have laid the groundwork for our youth to be
7 served safely in New York City.

8 There will always be some youth who
9 are most appropriately detained for their own
10 safety and the safety of the community. We
11 already have strong residential providers such as
12 Graham Windham, Children's Village and Boys Town,
13 and others whose facilities are close to the city
14 and who actively engage families.

15 If we continue to build on our
16 success with evidence based programs we could
17 better utilize our local facilities and place
18 youth closer to home, where they could participate
19 in an effective continuum of services. The simple
20 and commonsense fact is that local programming
21 that actively engages families in the conduct of
22 the youth's behavior is better in every regard.

23 I urge the City Council to go on
24 record supporting the City's juvenile justice
25 reform efforts. You have a large pool of strong

1
2 executives, both public and private, with the
3 knowledge and experience to lead this reform
4 agenda. Give New York City the opportunity to
5 protect its children's futures. Thank you for
6 this opportunity.

7 MARSHA WEISSMAN: Good afternoon.
8 Thank you, members of the Council and Chair
9 Gonzalez and Chair Palma for holding these
10 hearings and allowing me to speak. I'm Marsha
11 Weissman. I'm the Executive Director of the
12 Center for Community Alternatives.

13 But today, I'm testifying not only
14 on behalf of CCA, but on behalf of the ATI Re-
15 entry Coalition whose members include CASES, WPA,
16 the Center for Employment Opportunities, the
17 Fortune Society, EAC/TASC, the Legal Action Center
18 and the Osborne Association. Before I get going,
19 I want to thank you as members of the Council for
20 your strong and long-standing support for ATI and
21 Re-entry programs in the City of New York.

22 You have my testimony and you will
23 read it. It says everything that everyone else
24 has said. I want to go on record as saying that
25 the ATI Re-entry Coalition supports the Mayor's

1
2 proposal for juvenile realignment. We support it
3 for all of the reasons that virtually everyone has
4 spoken to. The cost savings, the public safety
5 savings, the better treatment, better outcome for
6 youth.

7 I want to just spend an additional
8 moment on the question of local accountability,
9 because I think that perhaps hasn't been given
10 enough attention. These are our children. You
11 represent districts. These are the kids that live
12 really close to you. Their parents and their
13 advocates have much greater access to you than we
14 may to state representatives. Not necessarily
15 state representatives from our own neighborhoods,
16 but state representatives who then have to take
17 that message to a larger body, the State
18 Legislature, that has many competing interests
19 that don't have the same necessary concern for the
20 children who live down the block from you and from
21 me.

22 Local control really speaks to
23 that. Local control, I think that the city has
24 done incredible work over the past five, six,
25 seven years in really taking a look at the

1 juvenile justice system. CCA is a provider in the
2 Alternative to Detention initiative. Al Siegel
3 from CCI already gave you the stats on that. I
4 think that the ATD initiative has contributed to
5 the reduction of placement of kids in OCFS because
6 the kids have an opportunity to develop a positive
7 track record and stand before the judge with their
8 transformation already underway.

10 That said, and in addition to our
11 support for local control, we also want to say
12 that local control alone is not sufficient to
13 ensure that the system is doing right by kids. So
14 we support some measure, some system of
15 independent accountability so that there can be a
16 check and balance. Bureaucracies need check and
17 balances and it has to be independent, lest we
18 become defensive of what our own system is doing.

19 We also want to make clear that our
20 support of local control and New York City's
21 realignment plan is not in any way to question the
22 hard work done by the state, beginning under
23 Governor Paterson and continuing I think under
24 Governor Cuomo and particularly through
25 commissioner Carrion's leadership. It is looking

1
2 at a different set of issues, costs and ultimately
3 what's best for kids and local control, if you
4 will.

5 All of the details have been said
6 by everyone else. I just want to echo something
7 that Tamara said and reflect my own sort of
8 longevity in this struggle. Vinny Schiraldi
9 started out as a student intern for my
10 organization. All of his creativity and ingenuity
11 and good work habits, he learned at my knee.

12 That said, CCA has been doing this
13 work since the mid 1980s, with the support of
14 people who were pushing against the tide, then
15 Commissioner of DJJ Ellen Schall, Judge Corriero,
16 at a time in our first program, that continues to
17 this day, works with juvenile offenders. Kids
18 adjudicated, actually convicted as juvenile
19 offenders, who spend time, up to a year in our
20 program, not a residential program. Since 1987,
21 our re-arrest rate for kids who travel the streets
22 every day, these JOs, has been consistently
23 between 15 and 20 percent. A lot of those re-
24 arrests are for such things as turnstile jumping.

25 We know and we have known for

1
2 decades what is the right thing to do. The
3 opportune moment, it is here with the alignment in
4 principal and concept, which I think is more
5 important than sort of figuring out--we have to
6 figure out the reimbursement rates. But we can do
7 that if we're now finally on the same page that
8 these are children and that they are our children.

9 So I hope the Council will support
10 us and play a leadership role with the state and
11 say work with us and let us have our kids back.
12 Thank you very much.

13 AVERY IRONS: Good afternoon.
14 Thank you, Chairs Palma and Gonzalez. We really
15 appreciate the fact that you've called this
16 hearing in an incredibly timely manner. I think
17 this is a good time to be having this discussion.

18 I also want to thank Commissioner
19 Schiraldi for actually staying. I think this is
20 the first time I've ever seen an actual agency
21 commissioner stay for all the advocate's
22 testimony. So that means you have to stay for
23 everyone, even the last panel. I do appreciate
24 you staying to hear.

25 The data has been gone over, the

1
2 numbers have been gone over, so I won't repeat
3 what's been said. My fellow panelists have given
4 excellent testimony. I just want to hit the
5 highlights in my own testimony.

6 We're really glad that we're having
7 this conversation. At this point there are now
8 competing, I think it's actually a good place to
9 be in the fact that there are competing agencies,
10 the state and the city, wanting to bring young
11 people home. I don't know that we ever thought we
12 would be at this place just a couple of years ago.

13 But this also, even as it's such a
14 wonderful opportunity, it raises numerous
15 questions that any agency that's trying to run
16 juvenile justice, post-adjudication juvenile
17 justice in New York City, should answer and things
18 that should be taken into consideration.

19 So one of the things I just want to
20 talk about is consistently speaking on the fact
21 that we would encourage the city or OCFS, whoever
22 is doing the planning, to ensure that there are
23 advocates and community members involved in the
24 planning process.

25 We at Children's Defense Fund New

1
2 York have been in conversation with the Department
3 of Probation about the legislative process for
4 realignment or repeal the one-year notification
5 forward. However, we want to also make sure that
6 there are people at all tables in the
7 subcommittees which I know they've already added.
8 There are so many experts. Although I think
9 Commissioner Schiraldi as hired many of the
10 advocate experts, there are still some left in the
11 field that I think would be useful in this
12 process.

13 Also, I want to talk about the need
14 for independent external oversight that is well
15 funded and that is really, really meaningful, as
16 Marsha said and other people have mentioned.
17 Local control does not make a system immune. We
18 know for a fact that there are serious issues
19 going on in upstate facilities, but New York City
20 also has not been immune from its own issues in
21 its facilities over the past several years.
22 There's a documented history of this.

23 So I am at this point hesitant to
24 say what that local control mechanism should be.
25 I am eager to see the city's plan as it develops

1
2 so that we can begin to have discussions about
3 what the actual mechanisms should be. We just
4 want to reiterate that that is taken into
5 consideration.

6 Money, one of the key issues. If
7 this were to pass, the city stands to bring home
8 millions and millions of dollars which is
9 excellent for the city's budget, but we also want
10 to ensure that there is significant reinvestment
11 in two ways. First, investment in the system
12 itself, whatever the spectrum of services and
13 programs that the city is rolling out. At this
14 point, no program in the city has been spared
15 cuts. Everything from early childcare to
16 education, nothing is safe.

17 So we want to make sure that as the
18 city rolls out this plan and it's looking like
19 it's been impressive, it's been impressive over
20 the past several years and they're coming up with
21 new and innovative ways to do this, that there is
22 going to be the actual budget support that will
23 allow them to make this successful. Otherwise,
24 everything is undermined.

25 I also want to talk about there's

1
2 just been so much done in New York State in
3 general over the past few years to learn lessons
4 about juvenile justice and how to do it better.
5 From Governor Paterson's task force on
6 transforming juvenile justice to the unfortunate
7 lessons that we had to learn from the Department
8 of Justice investigation and the subsequent
9 settlement and the plan that OCFS is contributing.

10 Whoever is going to run the system
11 in New York City should be looking at these
12 lessons and looking at these documents and making
13 sure that they are being implemented as we
14 continue to move forward.

15 I skipped a part: community
16 reinvestment. I always talk about this. That's
17 fine. In addition to alternative programs, we
18 also want to see investment, from the savings that
19 the Mayor will receive, we want to see investment
20 in after school programs, childcare services. As
21 committed as the city is to perfecting a juvenile
22 justice system, well there's no such thing, but a
23 well run juvenile justice system is no place for
24 active prevention and really building community
25 infrastructures that will keep kids out of the

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system in the first place.

Then the last point I want to make, of course. One day I'm going to lead with Spofford just to throw everybody off. It's to close Spofford finally, once and for all. Deputy Commissioner Busching said that no option is off the table which means that Spofford is still on the table as an option.

I think the only way it's ever going to come off the table is if there is a concerted effort to put pressure on the Mayor's Office to repurpose the facility. It's one thing to let the city say that they're going to close it, it's another thing to make them say what they're going to do with it. That's the question that I would like answered out of all these hearings. Thank you.

CHAIRPERSON GONZALEZ: I would like to thank, on behalf of Council Member Annabel Palma, our committee, and myself, all of you for your commitment to children and your dedication, your professionalism. We will stay vigilant. I clearly understand, Avery, when you stated about Spofford. I have the same concern and we have the

1
2 same concern. So we look forward to sort of
3 staying vigilant and seeing which direction it
4 goes. I thank you. Thank you so much. The next
5 panel.

6 CHAIRPERSON PALMA: Professor
7 Gertrud Lenzer of Brooklyn College Children's
8 Study Center, Charisa Smith, Loretta Chin and
9 Gabrielle Prisco.

10 [Pause]

11 CHAIRPERSON PALMA: You may begin
12 whenever you're ready.

13 PROF. GERTRUD LENZER: I believe it
14 is good afternoon, Chairperson Palma, Chairperson
15 Gonzalez and members of the Committee on General
16 Welfare and Juvenile Justice. I'm Gertrud Lenzer,
17 Professor of Children's Studies and Sociology, and
18 Director of the interdisciplinary program in
19 Children's Studies and interdisciplinary Center
20 for Research in Children's Studies, Policy and
21 Public Service.

22 May I state, however, that I am
23 testifying here in my own capacity as a bipartisan
24 policy researcher and in no way intend to convey
25 to you that my testimony represents the official

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2 position of Brooklyn College and The City
3 University of New York. Thank you for giving me
4 the opportunity to speak about the need for
5 oversight in the New York State Juvenile Justice
6 System.

7 Before anything else, I would like
8 to refer back to Judge Corriero. We have worked
9 together. We started working together, I think it
10 was almost ten years ago. I fully, fully share
11 his concern about that these changes actually
12 provide major and systemic consequences.

13 But before anything else, may I
14 preface my remarks by welcoming and adding my
15 appreciation to all those who have been working so
16 steadfastly on bringing youth, detained far away
17 from New York City, back to their communities and
18 to make alternatives to detention and placement
19 programs available to them. Not only Mayor
20 Bloomberg, members of New York City Council
21 together with numerous colleagues in the New York
22 State Assembly and Senate as well as community
23 advocates have spearheaded this change.

24 There clearly are many unresolved
25 issues such as whether all detained youth should

1
2 be returned from state facilities to their own
3 localities. This would be a development I would
4 call a "devolution" actually of state authority to
5 the counties very similar it appears to what we
6 are seeing currently in California and Arizona.
7 So that the idea of devolution. I'm borrowing
8 this really from the political realm but I think
9 it is apt here. And in particular the roles
10 played in all of this by OCFS and ACS to name only
11 a few such central issues.

12 Since the overarching topic,
13 however, concerns oversight in the "overhaul of
14 the New York State Juvenile Justice system," I
15 would like to bring to your attention that the
16 circumstance that in the numerous documents,
17 hearings and discussions of the last two years
18 about the transformation of the New York juvenile
19 justice system, virtually no mention has been made
20 as to how to safeguard and promote the civil,
21 constitutional and human rights of these many
22 juveniles, either detained upstate or back at
23 home. There was two little references to
24 oversight of the system, but I have to say that
25 was unfortunately it even today. But I've really

1
2 studied many of your documents and of the
3 hearings.

4 My remarks and recommendations are
5 based on almost ten years of research and
6 bipartisan advocacy efforts by the Children's
7 Studies Center to establish independent oversight
8 over the child welfare and juvenile justice
9 systems by instituting in New York State an
10 independent Office of the Child Advocate, similar
11 to the Child Advocate Offices as they exist in
12 such states as Connecticut, Massachusetts and
13 Rhode Island, to cite only a few..

14 The main purpose of our efforts has
15 been to give children zero to 18, who are the
16 wards of the state in our child welfare and
17 juvenile justice systems, an independent voice in
18 order to guarantee their civil, constitutional and
19 human rights and to promote their general welfare.
20 So in other words, a discussion of this
21 independent oversight is really one which should
22 be crucial to any kind of discussion of oversight
23 of the juvenile justice system.

24 As you are considering today the
25 topic of oversight, I would like to draw special

1
2 attention to the need of our present or future
3 juveniles in the city's secure or non-secure
4 facilities for the establishment of a truly
5 independent agency. Now, I'm not talking about
6 the Office of the Child Advocate which would be
7 for New York State. I'm addressing, really the
8 question today has to do with how to bring
9 children and young people back to New York City.

10 A truly independent agency, such as
11 an Office of the New York City Child Advocate for
12 youth in our juvenile justice system. As an
13 example, such an office could be similar to the
14 publicly funded Independent Budget Office of the
15 City of New York. In short, I'm proposing an
16 Independent Office of the Child Advocate for New
17 York City, or OCA, that would provide independent
18 and external oversight and transparency to the
19 juvenile justice facilities and develop a system
20 of effective advocacy measures to ensure that
21 complaints by detained youth and their families
22 are in fact addressed.

23 In light of the recent merger of
24 the Department of Juvenile Justice and ACS with
25 its combined responsibilities now for children in

1
2 the New York child welfare and juvenile justice
3 systems, such a New York City Office of the Child
4 Advocate would be effectively and equally
5 beneficial and serve all the children in the ACS
6 foster care system and the agencies to which ACS
7 contracts out these children.

8 According to ACS Commissioner John
9 Mattingly, the goal of the merger "was to
10 gradually reduce the use of detention and upstate
11 placements and develop more family and community
12 based options aimed at better outcomes and
13 increased public safety." We have heard quite a
14 bit about it, and I will cut this short. But it
15 follows a New York State Office of the Child
16 Advocate would even be more essential as these
17 developments move forward. We have heard some
18 faint references to that.

19 According to the amended Chapter
20 24-B of the New York City Charter with its added
21 new sections 618 and 619, the role of the
22 Commissioner of ACS now includes comprehensive
23 powers. According to paragraph 618, and I will
24 not quote you, the powers of the commissioner now
25 of ACS and the commissioner also of Juvenile

1 Justice, are immense. So the powers also,
2 however, entail extraordinary responsibilities. I
3 will not go into further detail, but the only
4 other provision of interest here is paragraph 619,
5 for the establishment of an advisory board. There
6 shall be in the Department of Juvenile Justice an
7 advisory board consisting of eleven members. I
8 will not go into the history of advisory boards on
9 the New York State level. There are numerous
10 advisory boards and the question really is how do
11 you really get an effective advisory board that
12 can also produce oversight.
13

14 Nowhere in this City Council
15 document of November 12, 2010, nor for that matter
16 in any other related documents, has there been a
17 reference to or recommendation for the
18 establishment of an independent city agency, such
19 as the one I recommended just earlier, to
20 safeguard the civil, human and constitutional
21 rights and immunities of children and young people
22 in this complex and now unified system of child
23 welfare and juvenile justice.

24 Indeed the question again arises:
25 who will guard the guardians themselves? Or as

1
2 Juvenal's asked 2000 years ago Quis custodiet
3 ipsos custodes?

4 You are all familiar with the
5 decisions, Martarella versus Kelley, 1972 and you
6 have in the paper about the documents, which
7 resulted in the establishment--this was in 1972-
8 73--which resulted in the establishment of the
9 ombudsman program here in New York City, which was
10 initiated as a result of those decisions.

11 These decisions and the history of
12 this ombudsman program were addressed in the
13 reports of the City Council Committees of Juvenile
14 Justice and General Welfare of September 15 on the
15 topic of "Oversight: The DJJ/ACS Integration and
16 Its Effect On In-Detention Services." I am
17 referring to Section D: Ombudsman
18 Services/Residence Advocacy Program.

19 In this document we can read about
20 the "dismantling of the ombudsperson program" and
21 the "disbandment of the Ombudsperson Review Board"
22 by 2008 by Commissioner Neil Hernandez are they're
23 being discussed. The report goes on but there is
24 also specific reference to "the issues raised by
25 advocates concerning the dismantling of the

1
2 ombudsperson program" in New York City.

3 Such developments, I would say,
4 would further emphasize the need for the
5 establishment of an independent New York City
6 Office of the Child Advocate. I personally had
7 experience with the board and also personally knew
8 the ombudspeople in those facilities. These were
9 employed wonderful people, but they were employed
10 and their ability to have any power really, their
11 powers were very, very limited and also the powers
12 of their review board.

13 I'm coming to a conclusion in a
14 moment. In this connection, I would like to make
15 reference to the Report of Governor Paterson's
16 Task Force, you all know about this, on
17 Transforming Juvenile Justice, Charting a New
18 Course. A Blueprint for Transforming Juvenile
19 Justice in New York State, published in December
20 2009. I believe without this report we might not
21 be sitting here. It represents a major milestone
22 to be considered in the current discussions and
23 developments.

24 In particular, the Recommendation
25 19 in chapter 5, and this is very pertinent to

1
2 what I'm trying to suggest and bring to your
3 attention, "Creating A System of Accountability
4 and Transparency," this particular job is of
5 significant relevance to today's discussion of
6 oversight of the Juvenile Justice System, both in
7 New York and in the state.

8 Recommendation 19 states explicitly
9 to "establish and fund an independent, external
10 oversight body monitor and report on OCFS's
11 juvenile justices policies and practices," and it
12 lists in particular an ABA report of August 2008
13 the "Essential Elements for Effective Independent
14 Oversight Bodies." The very historical
15 circumstances of this Task Force are of signal
16 importance for today's discussion. Regardless
17 what the negotiations between the Mayor's Office,
18 New York City, the State are going to bring, but
19 nonetheless, I think these recommendations of the
20 task force are equally important for our
21 discussion here.

22 Last but not least, perhaps, I
23 would like to bring to your attention, it was
24 mentioned before, that the civil action that was
25 instituted by the U.S. Attorney General against

1
2 the State of New York, we have to realize that it
3 is in my reading and the way I see it, it was
4 already in 2007 that the Governor was informed
5 that an investigation would take place. I think
6 this is very, very important. It was pursuant to
7 the Civil Rights of Institutionalized Persons Act,
8 1997. This Act, when you read it carefully and
9 there's also a version for juvenile justice, it
10 really stresses precisely the civil and
11 constitution rights of adults but also of
12 juveniles.

13 By way of explanation, let me add
14 that the Ombudsperson Program in New York City
15 established as a result of the Martarella versus
16 Kelley decisions, did not enjoy an independent
17 status much like the current office of the
18 Ombudsman in OCFS. Regardless of the most
19 wonderful developments under Commissioner Carrion,
20 they are not independent and do not provide
21 independent oversight.

22 In the course of considering
23 perhaps the reinstatement of the ombudsman here in
24 New York City, I would like to point to the
25 relevant arguments in the Governor's Task Force

1
2 when it emphasizes that the New York State Office
3 of the Ombudsman is also not an independent body.
4 Moreover, the report continues, the Task Force
5 recommends that the State, and I would like by
6 extension say that the city establish and
7 adequately fund a separate entity that has
8 unrestricted access to oversee all juvenile
9 placement facilities, including both state and
10 private facilities.

11 The entity should provide regular
12 reports to the governor, the legislature, and the
13 general public on OCFS's juvenile justice
14 practices and policies to ensure that they comply
15 with the law and reflect best practices in the
16 field. This entity should also carefully review
17 the grievance process within facilities to ensure
18 that youth have meaningful opportunities to report
19 unsafe conditions.

20 By way of summary then, in light of
21 the foregoing discussions, we would like to
22 recommend to you for your consideration, for the
23 consideration of the committees, the establishment
24 of an independent agency, as for example the idea
25 I presented, a New York City Office of the Child

1 Advocate, as an entity of oversight for the
2 protection of the civil, constitutional and human
3 rights of all the children and youth in the
4 systems of dependency, child welfare, and juvenile
5 and criminal justice. We are recommending that
6 such efforts will be aligned, of course, with the
7 continuing efforts in Albany for the establishment
8 of an independent Office of the Child Advocate in
9 New York State.
10

11 As a last p.s. so to speak, I just
12 would like to bring to your attention it was in
13 2008 that City Council actually endorsed and voted
14 for the bill and supported the bill for an Office
15 of the Child Advocate in New York State. In 2006?
16 Sorry. I thank you very much.

17 CHAIRPERSON GONZALEZ: I thank you.
18 In the interest of time, though it doesn't seem
19 just that moving on we limit your time, but it's
20 been already four hours and they probably need the
21 space. We do have your statements. We will
22 continue to read them. We have our attorneys that
23 go through everything and they stay on record. So
24 please, thank you.

25 CHARISA SMITH: Good afternoon,

1
2 Chairpersons Gonzalez and Palma. I'm really glad
3 for the opportunity to speak before you today. My
4 name is Charisa Smith. I'm a staff attorney at
5 Advocates for Children.

6 We work to ensure quality education
7 for all students in New York's public schools,
8 especially young people who are most excluded by a
9 lack of political power, disability and
10 disadvantage. The Juvenile Justice Project works
11 to protect court involved youth.

12 My testimony today is just going to
13 have three main points and I'll be pretty brief.
14 I'm going to talk about the importance of
15 education. I really am glad that Commissioner
16 Schiraldi, Council Member Brewer and others have
17 talked about education. It's at the pinnacle of
18 all that we're doing right here.

19 Second, a little bit about re-entry
20 and third to talk about interagency collaboration
21 because without getting to the step of having law
22 enforcement and the education system get together
23 to talk about how to stop the feeder system of
24 young people, no matter how good the dispositions
25 look for court involved youth, the flow is just

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going to really continue.

I'll just say it quickly that I do support raising the age completely. I've been an advocate for ten years on that issue. Also, oversight is something I really strong believe in.

The city has taken positive steps by combining DJJ with ACS for the Division of Youth and Family Justice. Our Director, Chris Tan is on that advisory board.

But much work remains to be done. Detention and placement in New York City and New York State, they do a real disservice to young people educationally. Kids with special needs aren't given the opportunities they need to succeed. They're not given interventions to catch up. The teachers are not accredited. And even with records transfer, although District 29 with the Detention Schools is a New York City school district, I have plenty of clients who have special education documents that the public school never gets and people just don't talk to one another. So that's really important.

Also, realignment needs to focus on re-entry. Right now, youth returning home both

1
2 from OCFS and from the detention here in city
3 really, they need more coordination of services
4 and more attention. New York City has the
5 opportunity to create a real division of
6 transition where people who work on transition
7 issues can look at how to get young people back
8 into the community schools, their peers, their
9 families.

10 They should really start at the
11 inception of incarceration. That's when the
12 studies show is the best way to assure a good
13 transition. Also, they need to instill confidence
14 with young people, and they have to really talk to
15 one another about family issues too. It's all
16 part of the scope of what this involves.

17 Lastly, effective cross-system
18 collaboration is really necessary to stop the flow
19 of young people from the schools and the streets
20 into the juvenile justice system. The National
21 League of Cities, which is all the cities in the
22 U.S. coming together, they have an institute on
23 youth education and family.

24 They define cross-system
25 collaboration for disconnected youth as when two

1
2 or more public agencies commit and follow through
3 on exchanging information, altering activities,
4 sharing resources and enhancing each other's
5 capacity for common or overlapping groups of
6 youth.

7 Without all the systems talking to
8 one another, the flood of youth coming into courts
9 and jails is not going to diminish, despite any
10 kind of reform efforts. The pipeline starts with
11 law enforcement, over-policing of schools and
12 communities, kids with learning disabilities,
13 African American youth are three times more likely
14 to be suspended than white youth for the same
15 offenses.

16 Multiple factors contribute to the
17 pipeline. Every agency has its role to play and
18 they all need to look at what their responsibility
19 is and how they are affecting the flow of young
20 people.

21 So with realignment, there can be
22 collaboration between police and education
23 especially. A police in school protocol is
24 something that other jurisdictions have done,
25 where the schools and police make an agreement

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2 that only the most serious offenses that are
3 school-based are going to have to deal with
4 arrests or police involvement. Otherwise, they're
5 going to be reserved for other handling. There is
6 no need to get young people involved in the court
7 system for little things that happen at school.

8 I always like to say to people that
9 I train: when you were young in school and you did
10 something like didn't wear a hat or talked back to
11 somebody, did you really go to jail, did you
12 really get suspended, did somebody really put
13 their hands on you? Probably not likely.

14 Lastly, restorative justice with
15 repair of harm, non-adversarial processes and
16 really looking at the way that victims and
17 offenders can work together, that's something we
18 have to have in this system. Also, positive
19 behavior supports, which are ways to get young
20 people to change their behavior in schools through
21 academic and behavioral support and not through
22 disciplinarian practices that propel them towards
23 jail.

24 I'll just close by saying that we
25 really have an opportunity to protect our young

1
2 people with proper oversight, with a focus on
3 education. If we make education a priority of any
4 reform effort, I think we'll be on the right
5 track. Thank you.

6 GABRIELLE PRISCO: Hello, I'm
7 Gabrielle Prisco. I'm the director of the
8 Juvenile Justice Project at the Correctional
9 Association of New York. I'm also an attorney who
10 has practiced in New York City's Family Courts in
11 three boroughs. So thank you to Chairpersons
12 Palma and Gonzalez, to everyone's patience, to the
13 Council and the legislative council for being
14 here.

15 The fact that children currently in
16 the custody of New York State are often placed
17 very far from their families is a significant
18 problem and we should address it. The underlying
19 principle of ensuring that kids should be placed
20 in their home communities is an important one.

21 The Mayor's proposal, however, is
22 not clear enough about a number of key issues.
23 I'm going to outline ten issues and ten policy
24 recommendations that myself and other advocates
25 have identified as key towards more sustainable

1 reform, not short-term reform, not reform at the
2 expense of other children and not reform at the
3 expense of the state but sustainable meaningful
4 reform.
5

6 These ten policy recommendations
7 are outlined on pages one to two of my testimony.
8 Given the time considerations, I'm not going to go
9 into great detail but I am going to articulate
10 each policy recommendation and some of the
11 details.

12 The first is that the city should
13 engage in a deliberative and publicly transparent
14 planning process that should meaningfully engage
15 young people, their families, community members
16 and advocates. You heard testimony today that the
17 city has met with advocates. That's true, but
18 it's been in a consultant role. We've asked for a
19 seat at the dispositional steering committee.
20 We've been denied a seat at that table. Advocates
21 have not been allowed to participate in that
22 steering committee, nor as far as we understand
23 it, is there a member of the community, a young
24 person or any engagement of people who are
25 impacted by the city in the city-run dispositional

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steering committee.

The city has not articulated an actual plan for local control. They haven't discussed a number of key questions, such as which agency or agencies would operate the system, where those children in residential facilities would be housed, which agencies would operate alternative to incarceration programs, whether there would be a durable funding stream for reinvestment and a lot of other questions that you've heard other people speak about.

However, in addition to answering these questions, the process around answering them is critical. That process has not, as far as we knew to this point, included, again, members of the advocacy community, a lot of community members, it has not included youth, it has not included families. The importance of that is multiple.

First of all, there's a lot of needs that are just overlooked if you're not engaging the people most impacted by juvenile justice. It also diminishes the chances for sustainable, long-term reform when the communities

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2 where these children will be placed are not rooted
3 in and part of the actual reform efforts, when
4 they're not necessarily part of the process from
5 the get-go. And as the Mayoral Control of the
6 education system has shown us, when the Mayor and
7 the city is looking to take over a system, it is
8 incredibly important that the people impacted by
9 that system are part of the process at every step
10 of the way and that the city not alienate the
11 people most impacted from its planning process.

12 Second, the city should create a
13 legally enforceable and robust mechanism for
14 independent external oversight. You've already
15 heard testimony from Dr. Lenzer and others, Avery
16 Irons, on this point. So I am not going to go
17 through it in detail. I do want to, however, say
18 that studies have evaluated the effectiveness of
19 such oversight and identified key principles for
20 effectiveness.

21 According to these studies, the
22 overseeing entity must meet the following six
23 criteria. One: it must be independent. That
24 means it must not be located within the agency it
25 oversees. Two: there must be a statutorily

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2 guaranteed right to conduct unannounced and
3 unfettered visits. Three: it must be granted the
4 power to subpoena witnesses and documents and have
5 the power to file suit against the controlling
6 agency. Four: it must be assigned the power and
7 duty to report its findings to the executive,
8 legislative and judicial branches and to the
9 public. Five: it must be allocated adequate
10 funding and appropriate staffing levels necessary
11 for effectiveness. Six: it must be guided by a
12 strong rubric for what constitutes a healthy
13 institution, including the need to ensure the
14 safety of resident and staff, a recognition for
15 the dignity of residents and opportunities for
16 purposeful activity.

17 My testimony goes into these issues
18 and to these studies in more detail. So I'm going
19 to leave for now, other than to say were the city
20 to gain control of the juvenile justice system for
21 New York City's young people, it should devise a
22 scorecard system with clear and coherent standards
23 for the voluntary agencies that will ostensibly
24 manage the care of the young people. Such a
25 system is used by ACS. That scorecard system

1
2 should be available to judges, defense attorneys,
3 Corporation Counsel, children, families and again,
4 the public.

5 But in addition, the scorecard
6 system should be based on a clear rubric that
7 focuses on the safety, wellbeing and health of
8 children. It should be tied into standards
9 developed through the DOJ settlement. It should
10 include focus on use of physical restraints and
11 mental health care. Again, community members and
12 advocates and families and young people should be
13 part of the process of determining what standards
14 we are holding these agencies to.

15 Third, the city should develop and
16 publicly present a specific plan to address issues
17 of racial disparities throughout the juvenile
18 justice system including in those agencies already
19 under city control. Many of the agencies that
20 comprise the current juvenile justice system are
21 already city agencies. Yet the DMC statistics,
22 the disproportionate minority contact statistics,
23 are shocking. I am not going to go through them
24 in detail. They are articulated in my testimony
25 and the Council is well aware of them.

1
2 I do want to highlight just a
3 couple. According to the three-year comprehensive
4 plan issued by the New York State Juvenile Justice
5 Advisory Group and the DCJS, while African
6 American youth represented 18.5 percent of New
7 York State's juvenile population, they accounted
8 for 38.5 percent of juvenile arrests, 64 percent
9 of juvenile secure detentions and 55.6 percent of
10 secure juvenile corrections.

11 Racial disproportionality is
12 endemic to New York City's current police,
13 prosecutorial, detention and placement practices.
14 As this body knows, since 2001, the NYPD has been
15 required pursuant to Criminal Procedure Law 140.50
16 to disclose to the City Council, yourselves,
17 statistics on the number and race of individuals
18 stopped by the department.

19 In the period between 2005 and the
20 fall of 2010, the NYPD stopped approximately 2.5
21 million people. Of that group, 90 percent were
22 people of color. Ninety percent. Nine out of the
23 ten persons stopped were released without further
24 legal action taken by them.

25 Racial and ethnic disparities exist

1
2 in the type of stops used by NYPD and the level of
3 force used. African American and Latino youth
4 comprise 95 percent of the youth entering New York
5 City's operated detention facilities and white
6 youth comprise 4 percent of detainees, although
7 they comprise 26 percent of all children in New
8 York City. In addition, as the Council is well
9 aware, New York City has historically failed to
10 report additional police data that might shed
11 light on police patterns and practices.

12 To address these areas, I have
13 three specific policy proposals. As part of the
14 city's plan, it should publicly commit to these
15 three measures. One: the significant increase of
16 data sharing and increased public transparency of
17 NYPD data, including data related to the racial
18 and ethnic representation of individuals and young
19 people who come into contact with the department.

20 Two: specific mechanisms for
21 increased data sharing and for increased public
22 transparency of aggregated data related to racial
23 and ethnic representation in the juvenile justice
24 system. Just to say, you often hear the concern
25 raised, what about the privacy of youth. I'm

1
2 talking about aggregated data. Not youth data
3 where their names are part of it or their age.
4 Aggregated de-identified data.

5 This data should be compiled. See,
6 I'm trying to go fast and so now I'm stumbling a
7 little. So I'm going to breathe and slow down for
8 one second.

9 CHAIRPERSON PALMA: You don't have
10 to rush. If you could sum it up, because we do
11 have your packet. That way you don't stumble,
12 it's okay.

13 GABRIELLE PRISCO: Great. This
14 data should be compiled from across the system,
15 including from the offices of the Corporation
16 Counsel, the Department of Probation, DUIFJ, ACS,
17 the Office of Mental Health and other relevant
18 city agencies.

19 Three: the city should explicitly
20 address in its proposal the issues of policing,
21 prosecution and juvenile justice decision making
22 that underlie its own systems' impact on children
23 of color, its disproportionate impact. These
24 proposals should be legally enforceable and
25 clearly articulated.

1
2 Fourth: the city should release to
3 the public its projections regarding where any new
4 residential facilities will be built including
5 whether they plan to repurpose Spofford as a
6 placement facility. I did hear today that there
7 was testimony that Spofford is perhaps not off the
8 table but that there is not a plan to use it.
9 However, that should be, again, in writing. The
10 city has previously closed Spofford only to reopen
11 it six months later as the new Bridges.

12 So just because the facility is
13 going to be closed, there needs to be a written
14 promise that that site will not be used for the
15 purposes of a youth prison.

16 Five: the city should create
17 specific and legally enforceable mechanisms to
18 ensure that the controlling agencies cannot
19 operate the system unilaterally or behind closed
20 doors. There is a need for an ongoing and durable
21 provision to ensure that the agency or agencies
22 that would ultimately control the future of New
23 York City's youth cannot operate unilaterally or
24 behind closed doors.

25 As with the operation of any

1
2 government agency, there is a need for a
3 regulatory body or agency to have oversight and
4 for public transparency. The city has not
5 articulated what its relationship with New York
6 State would be were it to gain control of the
7 system.

8 For example, who would license the
9 residential programs, which is currently a state
10 function? What would the oversight mechanism be
11 for the licensing of the programs? These are just
12 a small number of unanswered questions. More are
13 in my testimony. But the city should develop and
14 make available to this body and to the public,
15 again to the public, a detailed proposal
16 addressing how it will ensure ongoing
17 transparency, how it will create and maintain
18 sufficient systemic checks and balances and what
19 its proposed relationship to New York State will
20 look like.

21 We really should learn from the
22 educational takeover by the Mayor of the system
23 that the public needs to be engaged and
24 participate in these discussions from the
25 beginning. It is not enough for the city to make

1
2 decisions and then let people comment later. We
3 must have a seat at the table, and a meaningful
4 seat. Not as a consultant, not as someone you
5 bring in and stick on a panel because you have a
6 youth who's been through the system and they're at
7 a press conference but as part of the decision
8 making and as part of durable transparency.

9 Six: the city should provide
10 additional details enumerating how, were local
11 control to be effectuated, they would divert less
12 people into residential facilities in a long-term
13 and sustainable way. The city does a great job
14 with some alternative to detention programs.
15 Their efforts in this area, JJI and Esperanza, are
16 noteworthy. They're laudable and they're good.
17 And has been articulated in the past, these are
18 the kinds of programs advocates like myself and
19 some of the other people we've heard from have
20 been here testifying to about for years.

21 However, their analysis doesn't
22 fully account for the fact that many of the
23 stakeholders in the status quo who send kids to
24 state placements are, again, city agencies. The
25 prosecution, the Corporation Counsel, the

1
2 Department of Probation makes a lot of the
3 decisions that ultimately lead to young people
4 being placed in state facilities.

5 I see I'm getting a little time, so
6 I'm going to just get--

7 CHAIRPERSON GONZALEZ:

8 [interposing] The interest of time, please wrap it
9 up. Thank you.

10 GABRIELLE PRISCO: Sure. So just
11 to go through the last few points, and I won't go
12 into detail, but just to name them and have them
13 on the record. The city and this body should
14 investigate the legal and our policy shifts that
15 would be required in order to include juvenile
16 offenders. Again, it's important that for
17 reduction of detention and incarceration rates
18 that we look at sustainable, durable possibilities
19 and also that the city articulates how it's going
20 to work with judges, the prosecution, and other
21 city agencies.

22 Seven: the city should develop
23 specific and legally enforceable plans for the
24 reinvestment of cost savings into delinquency
25 prevention, alternatives to detention and

1
2 incarceration and into those communities most
3 impacted by juvenile justice. You've heard
4 testimony about that.

5 Eight: the city should develop a
6 detailed plan analyzing and addressing the impact
7 of local control on a statewide level, looking at
8 the impact on all the other counties, not just New
9 York.

10 Nine: the city's proposal should
11 include specific and legally enforceable
12 provisions to ensure that juvenile justice
13 services and, in particular, placement facilities
14 are not run by for-profit entities. They have not
15 announced that they are planning to work with for-
16 profit entities. However, this is a movement that
17 has happened across the nation where agencies and
18 localities and cities have started contracting
19 with for-profit prison providers.

20 It is important in order to
21 transcend--this administration may be committed to
22 nonprofit providers. However, that doesn't mean
23 that were the city to gain control down the road
24 that a future administration wouldn't, for
25 example, contract with a group like Geo Group and

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2 I've articulated some of their abuses in my
3 testimony. So it needs to be written and legally
4 enforceable that these contracts would only be
5 with not-for-profit providers.

6 Finally, and it's my final point,
7 the city's plan should be fully transparent to
8 this Council, the State and the public including
9 about a-true system costs and b-the contracts the
10 controlling agency would enter into with private
11 agencies including the voluntary agencies.

12 The city has yet to publicly
13 disclose an accurate and detailed cost comparison
14 of its potential system and of New York State.
15 The comparison of \$17,000 for community-based
16 alternative programs and \$220,000 or more for an
17 OCFS placement is an inaccurate comparison. What
18 should actually be compared is the cost of
19 operating a secure facility at the city level
20 versus a secure facility at the state level.

21 Just as one comparison, in 2009, it
22 cost the city \$226,320 to run a detention
23 facility. So we need a far more thorough
24 articulation of the cost comparison. That is
25 articulated in great detail in my testimony.

1
2 I just want to say that it is
3 important that cost efficiency not be the engine
4 driving this train. The wellbeing of children
5 must come first. However, if the city is going to
6 make cost comparisons, they need to make accurate
7 ones that don't say the only comparison is a
8 \$17,000 for community-based program, \$250,000 for
9 OCFS without articulating the cost of running its
10 own secure facilities.

11 The reason why that's important is
12 because we hate to see this shift of local power
13 and then when it comes time to spend money, for
14 example, to build secure facilities in New York
15 City that are consistent with nationally
16 recognized best practice models such as the
17 Missouri model, there's not the political will to
18 actually build the kinds of facilities that are
19 necessary to help youth.

20 Finally, there must be
21 transparencies about the contracts that the city
22 would enter into with private agencies. The
23 provision of juvenile justice services is a
24 multimillion dollar and ultimately multibillion
25 dollar industry. The city's process, including

1
2 all of its contracts, should be publicly
3 transparent. There should be opportunities for
4 competitive bidding by smaller programs. It
5 should be based on clearly defined measures
6 collaboratively designed by a range of
7 stakeholders and it should include meaningful
8 opportunity for public and community input prior
9 to the award of contracts and a mechanism for the
10 regular and robust reporting of data related to
11 the contract awards.

12 So in summary, it's important that
13 true meaningful reform of the juvenile justice
14 system be carefully planned, that youth, families
15 and communities be engaged in the planning of this
16 system, that independent oversight and monitoring
17 are explicitly written into the city's proposal
18 and legally enforceable, that disproportionate
19 minority contact, including by city agencies and
20 the police is addressed and that plans to address
21 these issues are not only clearly articulated but
22 they are in writing and legally enforceable.

23 CHAIRPERSON GONZALEZ: Thank you so
24 much. We have to cut you off because we have one
25 more person.

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GABRIELLE PRISCO: All right.

CHAIRPERSON GONZALEZ: Loretta Chin? We definitely have your statement. I just want to say it was excellent. We listened. We will read it. I will read it, I promise you.

GABRIELLE PRISCO: Of course.

CHAIRPERSON GONZALEZ: We will continue to work with you. Thank you for your commitment.

GABRIELLE PRISCO: Yeah.

LORETTA CHIN: Good afternoon, Chair Gonzalez, Chair Palma and members of the Juvenile Justice and General Welfare Committee. I am Loretta Chin, Research Coordinator at the Brooklyn College Children Studies Center. I am here today with Professor Lenzer, director of our program and center.

I did want to mention that Professor Lenzer is the founder of the interdisciplinary field of children studies. We have a very successful academic program. It's the only one in New York. We have a holistic approach of looking at children and the situations that they are in the city.

1
2 Professor Lenzer has spearheaded
3 our research and policy work concerning the
4 subject of oversight and accountability of the
5 many fragmented systems of child supervision and
6 administration including the juvenile justice
7 system within New York City and State.

8 I've worked by her side for over
9 seven years, during which time she proposed and
10 received a grant for a 2003 Carnegie Corporation
11 policy symposium called Children and the Law in
12 New York. This policy symposium was to provide a
13 comprehensive view and assessment of the
14 fragmented systems of child supervision and
15 administration in New York and to explore
16 solutions to problems that they present for the
17 often invisible children who are predominantly of
18 poor and minority backgrounds and are transported
19 from one end of the system to the other, often
20 resulting in involvement with the systems of child
21 welfare, juvenile justice, and criminal justice.
22 We've been saying this for over ten years now, or
23 Professor Lenzer has at least.

24 The policy symposium, "Children and
25 the Law in New York," held on March 11, 2004

1
2 resulted in legislation for an introduction of the
3 independent Office of the Child Advocate. This
4 was three months after the policy symposium. It
5 has most recently been introduced by Assembly
6 Member Barbara Clark as bill A00644. So this bill
7 is very much alive and kicking.

8 Last month, I was ready to present
9 testimony here, but unfortunate I had two minutes
10 and was not able to finish it. So much of that
11 material fortunately is posted to the New York
12 City Council website, which I'm very grateful for.
13 I would like for everybody to take a look at the
14 statement we have made about the OCA legislation.

15 But as I said last month, we made a
16 clarion call to stakeholders and experts in the
17 fields of child welfare, health/mental health, and
18 education and reached out to city and state
19 legislative branches, major New York child
20 advocacy organizations, and child advocates from
21 Connecticut, New Jersey, and Rhode Island to join
22 us in providing a child-centered and human rights
23 perspective on the major issues.

24 It is here where we first began to
25 examine the dire need to promote the human, civil,

1
2 legal, and constitutional rights of these
3 children. We provide a public service through the
4 dissemination of our research and information on
5 our website and in our daily communications and
6 interactions with various and many involved
7 stakeholder groups and key individuals.

8 The website contains the complete
9 transcript of the proceedings which led to the
10 Independent Office of the Child Advocate
11 legislation and a complete history of the child
12 advocate legislation since 2003 right up to the
13 veto of the bill by Governor David Paterson in
14 2010. It also contains information about the
15 myriad aspects of our work. It's a very
16 interesting story if people will take a look at
17 it. We don't have time here today.

18 We have learned that the world of
19 child caring institutions is a multi-billion
20 dollar industry that is highly politicized and
21 includes many well intentioned and hard working
22 individuals who unfortunately must navigate a
23 complicated maze of privatized and not-for-profit
24 systems, institutional interests, special
25 interests, political agendas, and a dysfunctional

1 system that has changed very little for decades.

2 To address these problems, we
3 proposed a model that has worked in other states
4 to establish an independent model of
5 accountability and oversight in the form of an
6 independent Office of the Child Advocate for New
7 York. We talk about models but this is not a
8 model that too many people have heard about.

9 The legislation itself had many
10 ripple effects as others created or continued to
11 reinforce their own iterations of oversight and
12 accountability over themselves, while providing
13 fierce opposition to the OCA legislation. This
14 resistance to truly independent oversight and
15 accountability has been what I view to be at the
16 crux of what will continue to be serious
17 unresolved issues and problems that detrimentally
18 affect our children and youth. Did I mention,
19 these are my personal observations.

20 It is good that Mayor Bloomberg and
21 the New York City Council has taken a stand to not
22 continue business as usual and to make major
23 strides to reform our juvenile justice system, but
24 we would like to bring attention to the fact that
25

1
2 without truly independent oversight and
3 accountability, many of the same problems will be
4 with us for decades to come.

5 There have been innumerable plans,
6 testimonies, reports and changes made to address
7 these problems, yet we have seen our systems fail
8 our children over and over again. What has
9 happened is that budgets, programs, and staffs
10 have grown larger while services have diminished
11 and lawsuits have increased, resulting in
12 exasperating an already desperate budget crisis
13 that faces our city and state.

14 Any kind of reform and change must
15 be carefully researched and based upon reliable
16 data, independent reliable data and information,
17 especially as it pertains to systems and short-and
18 long-range cost analysis. Often, services are
19 directly affected by resources and funding, which
20 are vulnerable to fiscal exigencies, budget cuts,
21 or other unexpected societal changes.

22 We need to find proven and
23 sustainable solutions, as has been mentioned
24 before, by first establishing systemic changes, as
25 we have mentioned before, that will address these

1
2 issues and make our system accountable. Plans
3 come and go, but the problem is always the same.
4 How can we have a multi-billion dollar child
5 industry that monitors itself?

6 Who is looking out for the best
7 interests of the child? In a system as large and
8 complex as New York City and State, we need many
9 people who are doing that and are independent of
10 this entangled system of child administration and
11 supervision.

12 Since budget seems to be the
13 current driving force of the priorities of our
14 city and state, then perhaps we should consider
15 the question of how much it would cost to provide
16 services to a child once incarcerated, or put in
17 other forms of state care without independent
18 monitoring and oversight versus having an
19 independent Office of the Child Advocate, which
20 would make systemic changes that are cost-
21 effective, sustainable, and in view of the best
22 interests of the child. The cost to run an
23 effective independent Office of the Child Advocate
24 would be miniscule in comparison the costs
25 associated with an inefficient and costly juvenile

1 justice system.

2
3 The recent Department of Justice
4 settlement with the Office of Children and Family
5 Services as well as other lawsuits brought against
6 the state over juvenile justice issues are only
7 some examples of many other situations that may
8 exist, but have not yet erupted into scandal or
9 litigation.

10 To repeat what has been submitted
11 in the materials provided last month, we take the
12 position that children must come first, not
13 special interests, not political agendas, not
14 profit and not budget constraints. Precisely at
15 such times of fiscal crisis, systems of oversight,
16 accountability, and transparency are more needed
17 than ever and could save the state money.

18 An OCA office would indeed help
19 unify and streamline an overly large, unmanageable
20 and fragmented system, and in so doing it will
21 effectively serve children and youth in New York
22 to better protect their human, civil, legal, and
23 constitutional rights.

24 The Children's Studies Center
25 policy research has shown that an independent

1
2 Office of the Child Advocate has worked in many
3 states that have experienced very similar problems
4 to that of New York and it can also work here if
5 it is implemented in a responsible manner and with
6 adequate financial support.

7 Thank you for the opportunity to
8 testify here today on behalf of the best interests
9 of the children.

10 CHAIRPERSON GONZALEZ: Well, in
11 closing, I want to thank all of you. We are going
12 to continue to depend on you as we go along
13 because this is a process, a process that we need
14 a lot of folks involved in. Thank you for your
15 commitment, again, and your time. Those that
16 stayed here, thank you so much, despite the
17 weather. I thank you, Annabel thanks you.

18 I want to say thank you to the
19 sergeant-at-arms. They have been extremely
20 patient and wonderful with us, as well as our
21 lawyers, which Lisette Camilo and our policy
22 analyst William Hongach and Carmine Guiga and
23 Elizabeth Hoffman. Welcome and thank you so much
24 and also Andy Grossman who has so diligently
25 stayed here the whole time. Thank you so much.

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Thank you to all of you. Here we

3

close.

C E R T I F I C A T E

I, Donna Hintze 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 *Donna Hintze*

Date February 16, 2011