



Testimony of

Stephanie Gendell  
Associate Executive Director  
Citizens' Committee for Children

*Oversight: The Mayor's Proposal to Overhaul the  
New York State Juvenile Justice System*

Before the  
New York City Council  
Juvenile Justice Committee and General Welfare Committee

January 26, 2011

Good afternoon. I am Stephanie Gendell, the Associate Executive Director for Policy and Public Affairs at Citizens' Committee for Children of New York, Inc. (CCC). CCC is a 67-year old independent child advocacy organization dedicated to ensuring that every New York City child is healthy, housed, educated and safe.

I would like to thank Chairwoman Gonzalez and Chairwoman Palma and the members of the Juvenile Justice and General Welfare Committees for holding this hearing today regarding the Mayor's proposal to overhaul the State's Juvenile Justice System. The health, care, and well-being of the City's youth who come into contact with the juvenile justice system are of the utmost importance to CCC and we appreciate the City Council's continued interest in these young people.

CCC is also grateful to the current and former elected and appointed officials and policymakers who have openly recognized and acknowledged that the system we now have is a dismal failure and needs to be reformed as soon as possible. Specifically, CCC would like to thank Governor Cuomo, State Office of Children and Family Services Commissioner Gladys Carrion, Council Woman and Juvenile Justice Committee Chair Sara Gonzalez, Former Governor Paterson, Senator Montgomery, Assemblymember Scarborough, Mayor Bloomberg, NYC Criminal Justice Coordinator John Feinblatt, Administration for Children's Services Commissioner John Mattingly, ACS Executive Deputy Commissioner Laurence Busching, former NYC Probation Commissioner Horn and Probation Commissioner Schiraldi for both their recognition that New York deserves a better juvenile justice system and their efforts (past and present) to advance needed policy, programmatic and budgetary changes.

CCC would also like to recognize that there has been some progress over the past several years. Today, there are far fewer children incarcerated in the State's facilities than there were a decade ago. For instance, the number of youth admissions to OCFS placements decreased from 2,518 in 2000 to 1,680 in 2008.<sup>1</sup> Similarly, the number of NYC youth admitted to OCFS placements during that time period also decreased, from 1,575 in 2000 to 1,009 in 2008.<sup>2</sup> According to OCFS's Weekly Population Summary for January 18, 2011, there are currently 665 children in OCFS out-of-home residential placement facilities and 396 empty beds. This large number of empty beds exists despite the fact that OCFS has closed, consolidated or downsized 18 juvenile placement facilities since Commissioner Carrion was appointed. New York State has also made some efforts to better address the needs of children in their care including beginning to implement a therapeutic model in targeted placement facilities (i.e. the Sanctuary Model), hiring a psychiatrist and developing the Brooklyn for Brooklyn Initiative.

Similarly, New York City has made a significant multi-pronged effort to reduce the number of children entering detention and OCFS care through the development and strengthening of numerous alternative to detention and incarceration programs (such as Esperanza, the Juvenile Justice Initiative, the use of Blue Sky, MST and FFT), the creation and implementation of the Risk Assessment Instrument (RAI), the merger of DJJ and ACS, developing a detention reform plan, that includes closing the Spofford/Bridges Detention Center in April of this year.

---

<sup>1</sup> *Charting a New Course: A Blue Print for Transforming Juvenile Justice in New York*, Governor David Paterson's Task Force on Reforming Juvenile Justice. December 2009.

<sup>2</sup> *Keeping Track of New York City's Children 2010*, Citizens' Committee for Children.

Despite the attention paid and efforts made by the State and the City, New York's Juvenile Justice System remains broken. The systems' failings were documented in CCC's 2009 report *Inside Out: The Experiences of Youth in State Juvenile Placement Facilities*. Furthermore, the 2009 Report by the Governor's Task Force on Reforming Juvenile Justice stated, "At the most basic level, New York is investing enormous sums in a system that does not deliver what it promises."<sup>3</sup> Finally, the United States Department of Justice found that the conditions of care in state facilities violated the constitutional rights of the children and Governor Cuomo passionately explained in his State of the State Address that it is a violation of children's civil rights to incarcerate them so that adults can have jobs upstate.

Specifically, the most major problems with the State's Juvenile Justice System are the following:

- **NY's Juvenile Justice System Does Not Protect Public Safety:** OCFS has found that the re-arrest rate for boys is over 80% after they leave their care.
- **NY's Juvenile Justice System Does Not Produce Good Outcomes for Youth:** In addition to the unacceptable recidivism rate, the health and mental health care needs of youth in placement facilities are often not met and their education credits do not always transfer, leaving them further behind in school. In addition, due to the abuse of the children in placement (documented by the US Department of Justice) and the criminogenic environment, youth outcomes post-release are actually worse, rather than better. Approximately 53% of the children incarcerated were convicted of misdemeanors, yet placed in an environment that not only fails to be rehabilitative, but too often puts them on a worse path.
- **NY's Juvenile System Typically Places New York City Youth Far From Their Families and Communities:** While the majority of youth in the system are from NYC, most youth are placed in facilities far from home in upstate New York, which makes it difficult for youth to maintain family ties, have regular visits with family members, engage in programming that strengthens families, and successfully transition back home to their communities.
- **NY's Juvenile Justice System Is Extremely Expensive:** While the State Juvenile Justice System is not meeting either of its goals (to protect the community and to rehabilitate youth) it is also extremely expensive. It costs approximately \$220,000-\$350,000 per year to incarcerate a child in a New York State facility. This system is extremely costly to the counties, as they have to pay 50% of the placement costs in these state facilities where the per diem rate per child continues to increase due to the decreased number of children placed. Counties also have to pay almost 100% of the cost of juvenile justice private placements since the state's 50% share for these placements actually comes out of the capped foster care block grant, most of which is used for its intended purpose, foster children. In addition, New York City is investing in various effective alternative programs, but not achieving any cost-savings given the state's funding formulas for placement.
- **NY's Juvenile Justice System is Inefficient:** Every night, there are over 350 beds in the State's Juvenile Justice system that are empty, but being paid for. Currently, when the State determines a facility is to be closed, State Law requires that it remain open for 12 months—even if there are no children there. In addition, significant state resources (\$169 million) are spent on this placement system, yet the state spends only \$6 million for the cost-effective alternatives that produce better outcomes for youth and communities (alternatives that cost between \$6,000 to \$17,000 per child annually.)

---

<sup>3</sup> *Charting a New Course: A Blue Print for Transforming Juvenile Justice in New York*, Governor David Paterson's Task Force on Reforming Juvenile Justice. December 2009.

CCC agrees with many state and local officials that New York City's youth deserve a more humane system that not only is not abusive, but also meets their health, mental health and education needs and enables them to receive services at home when possible or in their communities when they need to be in placement. In addition, New York City's communities deserve a system that does a better job protecting their safety and New York City's taxpayers deserve a system that uses their money wisely, both by investing in programs and services that work and by not wasting their money on institutions that are failures and/or empty. To help achieve these ends, CCC has urged Governor Cuomo to produce an Executive Budget that includes facility closures, the elimination of the 12-month rule, and that reinvests savings into alternatives to detention and incarcerations programs. We have also emphasized to the state that we believe all youth should be able to be served their homes or communities.

As was clear in Mayor Bloomberg's recent State of the City address and in his announcement regarding his proposed realignment legislation, the City feels that it can do a better job of meeting the needs of its young people. "We will also work with Governor Cuomo and our partners in Albany to overhaul the State's juvenile detention system so we can keep more young offenders in supervised, secure programs close to their homes and families instead of hundreds of miles away upstate. We know we can do a better job of helping young offenders turn away from a life of crime, and if Albany will allow us, we will," said the Mayor in his State of the City Address.

According to the City proposal, the City is seeking Albany's approval for the juvenile justice system to be locally operated so that New York City youth can "stay close to home and receive the individualized services, supports and opportunities they need in the communities where they live."<sup>4</sup> The City's proposal also includes provisions to realign the financial aspects of the system so that a) counties would pay 50% of the cost per child, but this would not include the cost of the unused capacity and b) all juvenile justice placements costs would be shared 50/50 and there would no longer be a different funding mechanism for private placements and thus the foster care block grant would be used for foster children.

CCC has had conversations with both State and City officials about the City's proposal, and while CCC has some questions and concerns about the City's proposal, CCC believes that the City's vision has the potential to improve the outcomes for New York City's youth. Notably, the City's proposal seeks to engage more youth in alternative to placement and incarceration programs, which enables these youth to remain at home with their families or in their communities while they and their families receive needed services. In addition, the City's proposal would ensure that New York City youth in need of placement would be placed in a facility in New York City, which would enable more frequent family visits and ease the young person's transition home upon release. In addition, this locally operated system would prevent education disruptions that occur in the current system and ensure that credits earned in facility care would be retained by the youth. We believe that serving greater numbers of youth in alternative to detention and incarceration programs, ensuring that youth in placement are served close to their home and communities and are able to retain their education credits are all steps in the right direction towards reforming the system.

---

<sup>4</sup> New York City. *Juvenile Justice Realignment Fact Sheet*.

Conceptually, CCC does not have a preference with regard to whether juvenile justice systems are administered locally or by the state and we believe that Commissioners Carrion, Mattingly and Schiraldi all passionately care about the youth touched by the juvenile justice system and want to shape policy, budget and reform efforts so as to improve the conditions of care and the outcomes for the youth. But the children of New York, and for the purposes of this hearing, the children of New York City in particular, cannot wait for reform. As we sit in this hearing today, children are being arrested, brought to detention, referred to a limited number evidence-based alternative programs, and sentenced to private placement or OCFS care. These children cannot wait any longer for politicians, policymakers and advocates to develop more plans, reports, budgets, or political deals—they need reform now. We have watched Commissioner Carrion work tirelessly to reform the state’s system, and make great strides in spite of the resistance she has received from the unions and many elected officials, particularly those from upstate counties wanting to maintain the jobs of those working in the facilities. Given these political realities, CCC is open to learning more about the City’s proposal and to supporting the components of the plan with which we feel comfortable. To that end, CCC greatly appreciates the City Council holding this hearing today so that we can learn more about the City’s plans.

To date, CCC supports the following elements of the City’s proposal for a locally administered juvenile justice system in New York City:

- Ensuring New York City youth who need to be placed in facility care are placed **close to their families and communities.**
- Better ensuring education outcomes for youth placed in facility care by more seamlessly enabling youth to re-enroll in **school** when discharged and to maintain their credits earned while in care.
- Better ensuring continuity of **Medicaid coverage** when youth leave facility care, which is currently an issue for youth returning from OCFS care.
- More rationally and reasonably **sharing the costs of placement** between the state and the city by no longer charging the city for the empty beds (currently causing the city to spend more money on state placements than it did when many more children were placed) and by no longer limiting state reimbursement for private placements (currently the state’s share of reimbursement for private placements relies on the capped foster care block grant for the state share, leaving the City paying for almost the full cost of these placements.) ).
- **Expanding the alternative to detention and alternative to incarceration programs** that have demonstrated success at reducing recidivism and improving youth outcomes such as school and employment (such as Way Home, JJI, Esperanza, etc.).
- Creating **better financial incentives**, through more rational state reimbursement, for downsizing the system and incarcerating fewer children.
- And importantly, **the vision for a more effective system** that a) does a much better job of keeping children safe while they are in facility care, b) provides youth with health, mental health, education and other needed supports while they are in care; c) uses a trauma-based therapeutic model rather than a corrections-based approach; d) makes use of smaller facilities (no more than 15 youth); and e) keeps the public safer by reducing crime and recidivism.

To date, CCC's largest concerns with the City's proposal are:

- **The impact this proposal would have on the youth in the other counties.** Notably, without the ability to close a significant number of state-operated juvenile placement facilities, the removal of New York City's youth from the state system would make the costs unaffordable for other counties, including Nassau, Suffolk and Monroe Counties who place the most youth aside from NYC. Ensuring that juvenile justice is improved for all New York youth will require the state to: regionalize placements so that all youth can be placed close to their homes; reinvest savings from facility closures into community based programs that prevent youth from needing to be incarcerated; assist the other counties in developing alternative to detention and incarceration programs; and ensure the fiscals work for all counties and the state (which in part will require closing facilities and eliminating the 12 month rule.)
- **The lack of clarity about where youth would be placed, particularly those who will be placed in secure facilities.** New York City's proposal does not yet offer specifics about where, in their locally administered system, youth would be placed—particularly youth who need to be placed in a secure facility. It seems likely to CCC that if realignment were to take place that the City could take over operation of many of OCFS's facilities located in the City, none of which are secure facilities. CCC feels very strongly that Spofford/Bridges must be off the table as a potential placement facility for New York City's incarcerated youth. These youth need small (no more than 10-20 youth) placement facilities modeled after Missouri's system, which will provide them with the rehabilitative services they need.
- **Oversight and Public Accountability:** Every Corrections system requires an independent oversight body. The City's statutory proposal includes no statutory language with regard to oversight. CCC is also unclear about what OCFS's role would be with regard to overseeing the City's system. While CCC is not prescriptive about what this oversight structure must look like, and does not want duplicative oversight systems that obscure who is ultimately accountable, we strongly believe that there must be a strong oversight system in place that enables the juvenile justice system to be publicly accountable.
- **Juvenile Offenders and 16-17 year olds:** Much of the discussions of juvenile justice reform, at both the state and city level, focus on Juvenile Delinquents. While meeting the needs of these youth, particularly those who have been incarcerated for low level crimes, is critical to reforming the system, full systemic reform will also require addressing the needs of juvenile offenders (13-15 year olds charged and tried as adults due to the severity of their crime) and 16-17 year olds charged in adult court due to New York's age of criminal responsibility laws.
- **The Details:** New York City's publicly available realignment proposal does not include many details of exactly how realignment would be implemented. While CCC is conceptually supportive of the City's plan, greater details are needed such as where youth will be placed, what services will be available, how large placement facilities will be, what types of staff will be in the facilities and what trainings will they receive, etc., before we can offer our full support.

CCC looks forward to working with the State and the City to bring true juvenile justice reform to New York. Thank you for this opportunity to testify.