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Testimony on the New York City Administration for Children's
Services Close to Home: Draft Plan for Non-Secure Placement

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Good morning. My name is Avery Irons and I am the Director of Youth Justice Programs at the Children's Defense Fund- New York (CDF-NY). The Children's Defense Fund Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. Thank you for this opportunity for further comment on New York City's implementation plan for the Close to Home Initiative (CTHI).

CDF-NY supports efforts to keep and serve New York City's court-involved youth in or near their home communities. We believe that youth are best served and helped to successfully transition to adulthood in communities with strong, well-funded and accountable service and programmatic infrastructures. The Close to Home Initiative, recently enacted in the state's 2012-13 budget, presents an awesome opportunity to both better serve young people, and build a strong community support system for youth and families.

Over the past year, we have been vocal in our efforts to maximize the benefits for and input of children and communities in CTHI. Recognizing that the accomplishment of such a seismic shift in state and city juvenile justice policy has surely been intense and exhausting, we commend the thought and diligence that has clearly gone into the development of the CTHI plan thus far. After a careful review of the plan, we offer the recommendations and concerns described below.

I. Restraints

Although the dangers posed by the use of physical restraints are clear and well-documented, national statistics are not necessary. Since 2006, three of New York's children – Darryl Thompson (2006), Alexis Cirino-Rodriguez (2010), and Corey Foster (2012) - have died after being restrained by staff at facilities operated by the New York State Office of Children and Family Services or contracted non-profit service providers (the latter two boys were not placed through the juvenile justice system). We wholly support ACS's directive that non-secure providers prioritize staff training that will equip staff with the

communication, crisis management, conflict resolution, and de-escalation techniques that will ensure that restraints are a last resort response. We also recommend the following:

- 1) ACS should immediately release clearer guidance on the use of restraints in non-secure placement (NSPs) facilities housing both child welfare and juvenile justice youth. The current language permits these agencies to temporarily use of other methods, but does not define “temporary” or describe a method for determining the appropriateness and safety of these “alternative” methods.
- 2) ACS case managers (ACM), or other ACS staff, should participate in all after action reviews. Participating in these meetings will allow the ACM to have a fuller understanding of what precipitated the restraint and of the decisions made during the restraint. ACS engagement in the after action reviews provides an additional opportunity to ensure proper restraint techniques, decisions and accountability.
- 3) ACS should immediately release for public review and comment guidance and standards on the use of “hardware” – including handcuffs, shackles, and any other type of mechanical restraints.

II. Staffing Minimums

The CTHI plan uses the staffing baselines set out in Title 18 of the New York Code, Rules, and Regulations for Agency Operated Boarding Homes, Group Homes, and Institutions. While these regulations specify the minimum number of child care workers who must be present depending upon the number of youth in the facility, these regulations allows for single staffing. Single staffing creates the potential hazardous situations for youth and staff. We recommend that the CTHI implementation plan requires that NSPs have, as a rule, a minimum of two awake adults in the facility at all times, with limited exceptions carved out (through conversations with provider agencies) for emergencies and other specified situations.

III. External Independent Oversight

Keeping youth in New York City will make it easier for families to regularly visit their child and ensure that they are safe and receiving proper care. This, however, does not take the place of an effective oversight body that has the permanent power to hold the system accountable and protect all young people. The OCFS provided oversight during the first year of CTHI should be used as a bridge to the development and implementation of truly external and independent oversight.

We urge ACS to examine the ABA best practices for juvenile justice oversight. For examples, these best practices describe an oversight body that:

- 1) Is fiscally and structurally separate and independent from the agency that it oversees;
- 2) Has funding and staff levels sufficient for effective operation; and
- 3) Has the “power and duty” to report its finding to elected officials, the judiciary and the public¹.

The City’s CTHI plan should describe how it will design, implement and integrate effective, independent and external oversight into New York’s detention and placement system.

IV. Data Transparency

The Close to Home Initiative’s enacting legislation requires that the New York City consistently send data and reports to the Office of Children and Family Services, the Temporary President of the Senate and the Speaker of the Assembly. However, there is no requirement that this information be released to the public. CDF-NY urges NYC to outline CTHI plans for the public release of data regarding the expanded juvenile justice system, specifically around, but not limited to information regarding conditions of confinement for youth in facilities, youth and staff injuries, restraints, use of

¹ The American Bar Association Criminal Justice Committee, Report to the House of Delegates (2008).

mechanical restraints, use of isolation, incidences of violence, demographics, program and services costs and outcomes.

V. Increasing Parent Engagement

Placing children in out-of-home care does not alleviate the family issues that often underlie a young person's court involvement. The original burdening issue(s) still weigh on the family and quickly resurface once a child returns home. To augment CTHI's family engagement language, we suggest the following:

- 1) Require NSPs to hold home assessments 60 days prior to a youth's release (instead of 30 days), and ensure ACM involvement in these visits. Moving up the home assessment will give additional time for any "last-minute" service referrals and ensure ample time for those services to begin prior to a youth's a return.
- 2) Require that NSPs have flexible visiting schedules and open door policies for families to the extent possible. Often service providing agencies set one-size fits visiting schedules that do not work with parents who may have evening or weekend job responsibilities. Agencies should also facilitate one-on-one interactions between youth and families by finding ways to support and assist parents with multiple children who would otherwise be unable to regularly visit their placed child.
- 3) ACS and the contracted service providing agencies should priorities peer advocacy and support for parents of court-involved youth. The emotional, social, and resource support of peer advocates who understand through first-hand experience can assist other parents with stress management, fears, and shared advice on successful transitions home for youth.
- 4) Some parents understandably want to limit their interactions and engagement with ACS. CTHI should carve out parent support roles for other community organizations. For

example, the relationships that NSPs build with the Community Partnership Programs could create new avenues for community-based resources and supports for parents and families.

- 5) The CTHI plan and RFPs should also require that service providing agencies structure messages to communities that recognize parents as integral components to a young person's successful return home and transition to adulthood.

VI. Support for Community – Based Programming

In many ways, the impact and success of the Close to Home initiative will be found in the strength of its community partnerships. As a proud Brooklyn resident, I attended the NYC-organized Close to Home forum in East New York. I was heartened to hear the passionate interest and commitment of many Brooklyn community-based organizations. As we have known for years, they are eager to support their youth and neighbors. However, we cannot expect them to do so for free. CDF-NY urges New York City to allocate funds specifically to build a robust spectrum of supports and services for youth and families throughout the five boroughs.

While it is critical that we do our best to help young people get back on the path to success, it is also paramount that programs and supports are available to put children and youth on a positive path from the beginning. Unfortunately, the Mayor's proposed budget and new program models for child care and after-school programming will lead to significant reductions in the number of children who are able to access high-quality child care and after-school programming. This directly undermines the state goals of CTHI- to better serve New York City's youth in their home communities. Early childhood education and after-school programs put all children on the path to success and prevent youth from engaging in risky behaviors, getting involved with the juvenile justice system and dropping out of school.

In conclusion, the opportunity before us is awesome and unprecedented. CDF-NY urges the Administration for Children's Services, Department of Probation, and Department of Education ensure quality programs for juvenile justice involved youth through true support and accountability for all stakeholders.

List of Recommendations

- 1) Release cleared guidance on the use of restraints by facilities with youth placed by multiple agencies.
- 2) Publicly release guidance and standards on the use of mechanical restraints.
- 3) Require that facilities have a minimum of two adults present in facilities at all times.
- 4) Outline plans for the development and implementation of independent and external oversight.
- 5) Outline mechanisms for the public release of data regarding conditions of confinement, youth and staff injuries, incidences of violence, demographics and the costs and effectiveness of programs and services.
- 6) Increase parent engagement and support by moving the final home assessment, increasing flexibility of visiting hours, integrating opportunities for peer advocacy, structure messages that communicate the importance of families in positive youth outcomes, and carve out community-based opportunities for parent support and engagement.
- 7) Wholly support youth in communities by funding community-based programs and services, including restoring funds for childcare and after-school programming in New York City's Fiscal Year 2012-13 budget.