

Testimony of the Children's Defense Fund – New York

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Good morning. My name is Beth Powers and I am the Senior Juvenile Justice Policy Associate at the Children's Defense Fund- New York (CDF-NY). Thank you Chairwoman Gonzalez and Juvenile Justice Committee members for the opportunity to testify today regarding the proposed legislation - Introduction No. 981, that will require the NYC Administration for Children's Services (ACS) to publish demographic data and incident reports on youth detained and placed in its juvenile facilities.

The Children's Defense Fund (CDF) Leave No Child Behind® mission is to ensure every child a Healthy Start, a Head Start, a Fair Start, a Safe Start and a Moral Start in life and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective voice for all the children of America who cannot vote, lobby or speak for themselves. CDF educates the nation about the needs of children and encourages preventive investments before they get sick, into trouble, drop out of school or suffer family breakdown. As part of our advocacy efforts, we launched the CDF Cradle to Prison Pipeline® Campaign, a national call to action to stop the funneling of thousands of children, especially poor children and children of color, down life paths that often lead to arrest, conviction, incarceration and even death.

As a national organization, The Children's Defense Fund is currently examining the culture of mass incarceration that has sentenced one in three Black males born in 2001 and one in six Hispanic males born that same year to a likely prison experience at some point in their lives. Here in New York, we are a steering committee member of the New York City Juvenile Justice Coalition. We are also a founding member of the newly formed Take Back Our Children Alliance (TBOCA) – committed to raising the ages (both minimum and maximum) of juvenile jurisdiction so that New York's children will no longer suffer from our state's infamous position of being only one of two states that consider children to be adults as of their sixteenth birthday. We work closely with a number of community-based organizations as well as with faith leaders, youth groups and parent groups to ensure that our advocacy is shaped by the everyday realities of our most vulnerable New Yorkers – children and their families.

This testimony will address the changes proposed to the NYC Administration for Children's Services (ACS) data reporting requirements related to secure detention, non-secure detention (NSD), non-secure placement (NSP), and limited secure placement (LSP).

We are very impressed by and hopeful about how relatively comprehensive this proposed legislation already is. There is no doubt that the reporting requirements already required of ACS in regard to detention should be expanded to NSPs and LSPs to coincide with ACS's expansion of jurisdiction. The data that are currently collected have clearly demonstrated that children are regularly restrained, injured, and confined to their rooms in secure facilities. If we are to have any hope of reducing these harms, we must not allow such harmful practices to proliferate in the dark, hidden from the public.

In addition to our strong support for the expansion of data collection to include all juvenile facilities under ACS jurisdiction, we do have a number of recommendations related to deepening and expanding the proposed reporting requirements, as well as ensuring that all parties – including the voluntary agencies that, in some instances have experience serving youth in residential settings - are well equipped and supported in accurately reporting upon the experiences of the youth in their care. Data will provide evidence of how even more experienced agencies make the transition to serving the often more profound needs of this new population of justice-involved youth.

The proposed reporting requirements should be expanded and deepened.

We applaud the language requiring quarterly data reporting about incidents. Having regularly reported information about incidents within facilities will not only help the City Council, advocates and community members ensure that our children are being served appropriately and without harm, but will also support ACS's own efforts to call for community engagement when a need is identified through these data; something that will be very valuable in the immediate term as ACS prepares to roll out the next phase of Close to Home, and equally important over the long term as the agency seeks to guarantee that our young people are being well served and protected.

While data on number and type of incident are useful, even more illuminating are data regarding outcomes associated with incidents. For example, this proposed legislation requires ACS to provide data on both the total number of allegations of child abuse and neglect in a year as well as the number of allegations that were or were not substantiated. Along these lines, we recommend that ACS be required to share the following data:

1. *Number of modifications to a different level of care and the justification:* In their Close to Home Plan for Non-Secure Detention, ACS delineates that the ACS Permanency and Planning Unit is responsible for approving or denying requests for modifications to a higher or lower level of care and is required to document these decisions in their internal system, Connections¹. The unit is also required to hold a case conference with the NSP, child, parent or other discharge resource, and other relevant parties. Publicly available information regarding modifications is important to advocates and to community as it is an important indicator of how well the placement process is working and how well these children are being served by specific providers. A pattern or trend of modifications down, in many instances, suggests that progress is being made, while a pattern or trend of modification up provides reason to examine in what ways specific programs or facilities may need to modify their approach in order to better serve the youth in their care.
2. *Lateral movements between facilities and the justification:* Just as the need to monitor movement to higher or lower levels of care is necessary, lateral movements are often an indication that a program is not sufficiently well-structured to serve the youth in their care. The public needs to know that youth are being served properly in placements and not bounced from facility to facility, decreasing their chance at succeeding. It is important that advocates and the community have access to these nuanced data to ensure that youth are being served in a comprehensive manner and not simply moved to another placement when challenging behaviors emerge. Since a fundamental component of the Close to Home Initiative is community engagement, publicly sharing information about lateral movement provides an opportunity for dialogue with community about how they can better and/or differently support agencies struggling with this issue.
3. *Arrests at facilities including the charge and outcome of arrest:* ACS's Close to Home Plan for Non-Secure Placement states that providers are not to call 911 except in response to "acute, dangerous behavior that does not abate using de-escalation techniques or room isolation."²

¹ New York City Administration for Children's Services Close to Home: Plan for Non-Secure Placement For Submission to New York State Office of Children and Family Services, June 26, 2012

² Id

Anecdotally, advocates and communities are aware that youth in upstate facilities have historically faced instances of being arrested and transferred to county jails. Youth in NSPs and LSPs are similarly at risk of being arrested and sent back to detention or to Rikers Island. Transparency around the frequency of such events is vital to analysis of the efforts being made within the therapeutic environment of each NSP and LSP to work with youth in these settings and not simply pass them on to other systems.

4. *Data regarding LGBTQ Youth:* We applaud the recognition of the need to collect demographic data. The reality of disproportionate minority contact is a crisis in our juvenile facilities as is the disproportionate representation of youth from a number of our most underserved communities. In addition to requiring ACS to collect demographic information regarding age, race, gender, zip code, and offense data, we encourage the inclusion of demographic data regarding the sexual orientation and gender identity/expression of youth. As a member organization of the Juvenile Justice Coalition LGBTQ Workgroup, we understand that ACS is considering integrating questions surrounding sexual orientation and gender identity to their intake forms. At such time as this is put in place, we recommend requiring that sexual orientation and gender identity numbers be reported publicly as well. The evidence is clear. LGBTQ youth are at elevated risk of entering the juvenile justice system as a result of discrimination and failed systems of support. They are also at an elevated risk of maltreatment within the juvenile justice system³. Sharing these data is one more step in the right direction of aiming to better serve this incredibly at-risk population.
5. *Data Disaggregated to the Provider Level:* Just as the proposed legislation requires incident data for each of the two existing secure detention sites, we recommend that data reporting for NSDs, NSPs, and LSPs be disaggregated by provider in order to better understand the discrete experiences of young people served by different organizations. Ideally, these data would actually be provided at the facility level, but we understand that each non-secure and limited-secure facility serves a relatively small number of young people. Therefore, data at the facility level might be hard to provide publicly due to the small population sizes and restrictions on data sharing related to families' rights to privacy. However, in most instances, this reality should not prevent the sharing of disaggregated data by organization.

In addition to the above mentioned recommendations to the collection of incident data, we suggest expanding the existing data requirements to include indicators related to 1) how providers engage with local community, and 2) how youth fare in schools.

This legislation represents an important opportunity to publicly understand how the approaches of various providers and facilities impact a youth's rehabilitation and education experiences while detained or placed:

1. *Engaging Local Community:* In keeping with the philosophy behind the Close to Home Initiative, we suggest that ACS be required to collect and publicly share information related to how providers serving youth through the Close to Home Initiative are fulfilling their obligation to engage with local communities in serving youth's needs. In their Close to Home Plan for Non-secure placement, ACS requires providers to establish Community Advisory Boards to "help

³ Center for American Progress; The Unfair Criminalization of Gay and Transgender Youth: An Overview of the Experiences of LGBT Youth in the Juvenile Justice System, June, 2012.

maximize community involvement in and support for their NSP facilities”. While the proposed data collection aims to gather a broad scope of quantitative data, the opportunity should not be lost to require qualitative data, specifically regarding which community organizations each provider is collaborating with and in what capacity. We suggest that requiring very basic, regular public reporting on the names of organizations, the types of services or supports provided, and the typical weekly commitment of time each organization made to youth engagement, would allow community to dialogue with providers and provide information about existing resources that the provider might not have known about or been able to leverage.

2. *Education*

One monumental benefit to youth being served closer to home is their ability to attend NYC Department of Education schools. This reality represents an important first step forward since a major collateral consequence of placing youth upstate is that educational credits youth earned often did not transfer to schools in New York City. Now youth have the opportunity to actually take and pass regents exams, and acquire credits towards graduation. Our work is not done though. In fact, it is really just beginning since we need to ensure that we fully understand the opportunities and impediments related to these young people’s educational experiences closer to home. We recommend requiring a collaboration between ACS and the NYC Department of Education (DOE) to track and report the following information – disaggregated in the same ways as other data required through this legislation:

- a. Number of education credits attained and Regents exams taken/passed:
- b. Number of suspensions, classroom removals, arrests, and summonses of youth served in Passages Academy during their placement/detention.
- c. Attendance/enrollment for youth while detained/placed.
- d. Educational discharge plan, including if a youth has been transitioned to a community school prior to discharge or to what educational setting the child will be discharged.

Appropriate training is required to ensure valid and reliable data collection.

Data are only useful if collected and recorded reliably and uniformly. In order to ensure consistent reporting, we recommend that, if not already required, ACS request that each voluntary service provider designate a primary contact for data-sharing purposes and that ACS either provide a regular training related to defining incidents and reporting them and/or create training materials that clearly articulate expectations for all facilities and/or providers. Having a designated person from each provider will help to prevent under-reporting or misreporting as well as make readily available an internal point person to trouble shoot or clarify data collection requirements.

We make this recommendation in the spirit of ensuring that providers do not rely upon harmful practices when dealing with young people. By requiring transparency and investing time and resources in training about why these practices are harmful and why they must be reported, we hope to send a strong message to providers and facility staff that relying instead upon more positive youth development approaches is the expectation.

Conclusion

Requiring ACS to make data public about the treatment of youth in juvenile justice facilities throughout New York City is one of the most important mechanisms we have to fully understand the treatment, experience, and related outcomes of youth in our juvenile facilities. In adopting legislation related to data sharing and incident reports, we hope you will take this opportunity to expand these requirements as we have detailed above. In doing so, you can send a strong message that sharing this information publicly – information that allows us to measure not only injuries and maltreatment, but also success – will allow for meaningful exchange between the organizations and facilities charged with serving our young people and the community members where these facilities are located.

We are grateful for your efforts to support this legislation and further the work of dismantling the cradle to prison pipeline. I thank you for the opportunity to testify.