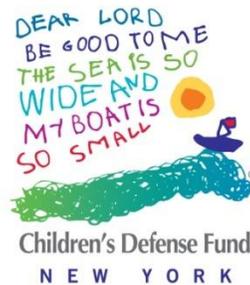


Comments from the Children's Defense Fund – New York

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NYC Close to Home Initiative
Limited Secure Plan Comments
Manhattan Community Hearing
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My name is Beth Powers. I am the Senior Juvenile Justice Policy Associate at the Children's Defense Fund New York. Thank you for the opportunity to offer comments regarding the Close to Home Initiative (CTHI) Limited Secure Plan.

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. CDF-NY works 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.

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 – 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 one of only two states that consider children to be adults as of their sixteenth birthday.

There is no doubt that the NYC Close to Home Initiative (CTHI) represents an unprecedented opportunity to redirect our young people, who have strayed too far along the pipeline to prison, back on to a path to success. Easier access to family and support in re-building fractured relationships, opportunities for community involvement, and the ability to earn educational credits that actually count towards a high school diploma are just a few of the critical components now afforded youth as a result of the CTHI. While we are encouraged by all that is promised by the CTHI, we do have several concerns, suggestions and points of clarification that will be critical as this next phase rolls out.

We know that growing pains are to be expected with any initiative of such scope and size – and growing pains offer opportunities to improve service provision. We appreciated the NYC Administration for Children's Services' (ACS) statement that they have learned lessons from the CTHI Non-Secure Placement (NSP) roll out and that they have integrated these lessons into the Limited Secure Placement (LSP) implementation plan. We are, however, concerned that these lessons are not explicitly shared within the plan and thus it is difficult for community members and advocates to assess if proposed remedies are sufficient. Likewise, data regarding multiple indicators and outcomes from the first eight months of the CTHI have not been made public, resulting in the same potential pitfall. Knowing more about how the "strengths, successes, lessons learned, and feedback from the NSP planning process" were assessed and more importantly, addressed and safeguarded for in the planning-to-date for LSP would allow community members and advocates like CDF-NY to offer even more instructive feedback.

Rightsizing the Juvenile Justice System

In addition to providing opportunities for keeping young people closer to home, The CTHI provides an opportunity to ensure much needed right-sizing of our juvenile justice system. There are too many instances in New York City and around the country of normal adolescent behavior, especially the behavior of young men of color, being criminalized. As a result, a top priority of the NYC Administration for Children's Services and Department of Probation must be ensuring that the CTHI is not simply a transfer of youth from upstate facilities to New York City facilities. The CTHI is an amazing opportunity to appropriately serve New York City's youth in ways that result in the best possible outcomes for youth and communities - including relying much more heavily on alternatives-to-placement. We are already very encouraged by the development of more robust alternative-to-placement options for youth yet we have heard anecdotally that some programs are having difficulty filling slots. How will ACS and Probation guarantee that alternatives are fully utilized? Will utilization be assessed on a quarterly, bi-annual or annual basis? What actions will be taken when it is determined that a program is being underutilized?

In addition to our hope that the Close to Home Initiative truly serves as further opportunity for discussion and action related to right-sizing the system, we want to ensure that the facilities themselves are not jail-like settings that are simply closer to home. We understand the need for adequate and appropriate security, however we worry that the extreme emphasis on most, if not all, limited secure placement services being provided within the confines of fenced and secured facilities is contrary to the spirit of Close to Home. Exposure to the world outside of the walls of the facility seems to be restricted to services coming in or home visits as part of discharge planning. Since we understand anecdotally that a number of NSP providers have struggled to engage community in their efforts, we are concerned that LSP will provide an even more daunting challenge for providers and will necessitate more support by ACS in ensuring that strong and productive relationships with community members are a positive reality for providers and the youth they serve.

Meaningful community engagement

CDF-NY believes that the fundamental success of Close to Home will ultimately be directly related to how successfully the City engages families and community members in the running and evolution of this initiative. Ensuring that all parties understand and, ideally, embrace the philosophy behind the Close to Home Initiative is critically important to serving our children more effectively.

Most specifically, CDF-NY believes that community members must have meaningful and consistent involvement in the planning, implementation and operation of the system. Community input into the initiative should extend beyond forums and public hearings and must account for the multiple neighborhoods that fall outside the ACS Office of Community Partnerships' catchment areas. As someone who attended all five of these most recent LSP plan hearings, I can attest that they were poorly attended. Yet, from conversations with community members and faith leaders, I know that it is not because community does not care about this initiative. At a faith leaders' breakfast we hosted in March 2013, we talked extensively about the Close to Home Initiative. When we asked the approximately 75 faith leaders and community leaders who attended if they were familiar with the Close to Home Initiative, a very small number of individuals raised their hands.

We appreciate ACS's efforts to publicize the hearings but suggest that more thought needs to be given to ensuring different opportunities for real dialogue about what the CTHI is and why community involvement is critical to the Initiative's success. We are prepared to help facilitate opportunities for such dialogue and hope to work with ACS in planning such events. One important element of any such conversations must necessarily be fostering a genuine opportunity for dialogue. In these most recent hearings, the format was not as conducive to open dialogue with community as it could have been. While some community member questions were answered, other remarks received no response. We understand that such communication is not necessarily best accomplished at a hearing. As such, we encourage a more diverse approach to community engagement related to the Close to Home Initiative. We certainly credit ACS with holding public hearings; however, we encourage ACS to create additional opportunities for even more meaningful dialogue and participation. We look forward to supporting such efforts.

In order to ensure that community members are in a position to be able to provide recommendations and engage in a meaningful dialogue, data and survey results must be collected and made publicly available. We are pleased to see "regular and formalized input from stakeholders and consumers of non-secure placement services" considered in ACS's quality assurance. Specifically, we would like to know what form this has taken and will take in the future to ensure that young people and their family members are truly empowered to provide authentic feedback on their experiences.

We fully support the requirement that each provider form a community advisory board. It is our understanding that this element of the Non-Secure Plan has not been executed consistently or fully by some of the NSP providers. We would like to know what ACS is doing to both identify the reasons that this requirement has not been fulfilled and ensure providers receive support in implementing this requirement without delay.

Family engagement

Family involvement is a vital factor in ensuring youth successfully transition back home and this is far less likely to be successful if there are barriers to family members' access. While a young person's service needs are obviously important when considering their placement, proximity to family is of great importance in a city as vast as New York City. A family's ease of access to placements will surely have a direct impact on their ability to have regular and ongoing involvement with a youth. ACS should require that proactive accommodations be offered to families dealing with transportation burdens that, while potentially ameliorated, are still not fully resolved despite youth being closer to home. We are thinking particularly of situations in which a young person is placed in a borough other than his/her home borough because of the youth's service needs.

In addition to physical proximity, we would like to know more about what ways families will be encouraged to participate in programming. It should go without saying that family involvement must extend beyond visiting hours. Additionally, better understanding which family engagement efforts in NSPs have been most successful is another way to consider how such work might be supported in Phase Two. Making some of this information public will go a long way towards creating avenues for authentic community engagement in filling existing identified gaps in this effort.

Data collection and sharing

ACS and the New York State Office of Children and Family Services (OCFS) should regularly and publicly release data regarding conditions for children and outcome measures. The CTHI legislation requires that NYC submit regular reports to OCFS. However, there is no requirement that the city report this information to the public. Keeping NYC youth near their homes will allow families and communities to better advocate for effective programs and services for their youth. Withholding information about conditions in youth prisons, youth injuries, incidences of violence, as well as the effectiveness of programs and services does not empower families.

We were pleased to read that ACS plans to publicly release data which will include but not be limited to “frequency of critical incidents, revocation rates, occurrences of AWOL, restraints, assaults and altercations, injuries from restraints, average length of stay, length of stay waivers, average daily population, and recidivism measures”. We encourage the inclusion of data collection regarding compliance with the LGBTQ policy. We would like to know when and with what frequency this information will be released. We would also like to know if this information is already being collected for NSP and, if so, when this information will be made public. Finally, we strongly encourage the inclusion of data that speaks to the successes of the Close to Home Initiative - academic credits attained, etc.

Arrests of youth in facilities

On page 49 of the plan, ACS states that local police will be one of the many parties with whom relationships will be forged. While relationships with community officials - such as police - can be helpful, CDF-NY urges clarification around the value of building such relationships. As worded, the language can be construed to offer support for involving police in incidents that should be handled without the involvement of law enforcement. We are most especially concerned with avoiding over-reliance on police involvement as a means of resolving behavioral concerns. Proactive measures to avoid arrests whenever possible should be a priority, but we also recommend that ACS review all cases involving police calls to determine if all possible steps were taken to de-escalate the situation before the call to the police was made. To this end, ACS should monitor frequency of calls to NYPD to track and respond to over-reliance on police involvement. If ACS determines that appropriate de-escalation steps were not taken, follow up action must be taken with the provider and staff.

Programming concerns and considerations

The model referenced in the LSP Plan, the Missouri Model, functions by establishing the group as a cohesive whole. Such an approach can be less likely to succeed when facilities, staff, and youth are all new. Creating the kind of cohesive group dynamic that is vital to the success of such programs really requires that new staff be hired and trained well in advance of youth being transferred to placements. To this end – once LSP contracts are awarded, we encourage ACS to consider each organization’s familiarity with the Missouri model (and other such approaches) when deciding upon a timeframe for that organization’s LSP rollout. Youth are supposed to begin returning home in early September 2013. Yet, providers have not yet been identified and so staff are certainly not hired or trained. While we are eager to bring our youth back home, we would not want a one-size fits all timeline to mean that young people are brought home to facilities that are not prepared to serve them well. Existing NSP providers are seemingly more likely to be able to quickly ramp up operations to serve youth placed in LSP than are providers for whom this work – and models like Missouri – are new.

Education

One of the most exciting aspects of the CTHI is that youth will no longer be denied educational credits upon returning home from placements. Since 300 youth are now being served by the NYC Department of Education (DOE) as a result of NSP, and with 160 youth due to return to LSP, what additional supports will be provided to the NYC DOE's District 79, the district responsible for providing education for this specific and often high needs group of youth? How will ACS and the providers work with the DOE to ensure a consistent educational experience for youth?

Similarly, we were pleased that the plan articulates the importance of supporting young people's efforts to secure a Regents diploma. Page 86 of the plan states "ACS, DOE, and LSP providers will work together to encourage youth to pursue high school credits that lead to a Regent's Diploma. While paying special attention to the unique needs of each youth, LSP providers will encourage youth for whom a Regent's Diploma is unrealistic to enroll in alternative educational programs. ACS expects demonstrated academic and behavioral progress for all youth in LSP, and will evaluate providers' educational plans to ensure that youth are enrolled in the most suitable program to ensure academic success." We are cautiously optimistic about the opportunities this provides for young people succeed academically. In order to ensure success, we encourage careful data review by ACS and the DOE to determine if young people's individual needs are truly being met - or if trends indicate that certain facilities are counseling more children away from Regents' diplomas or other options that a review indicates would be most appropriate for that young person. We also encourage ACS and the DOE to collaborate around publicly sharing data related to youth's academic successes/outcomes.

An important aspect of successful discharge and transition back into the community, is reintegration into a youth's home school. We are encouraged that the LSP plan indicates that a youth may transition to their home school before discharge. Youth should be transitioned, whenever possible, to their home school at the natural quarter or semester break before discharge to minimize credit transfer problems or other transition-related problems. But, ultimately the PPS worker, with the support of the DOE, needs to ensure that the young person is not only enrolled, but given an appropriate class schedule.

Ultimately, we are optimistic about the potential that exists to help young people succeed academically and socially. But, we believe that more attention needs to be paid to how the ACS PPS worker, LSP provider staff, and DOE Teachers and District 79 staff will coordinate and collaborate. Specifically, how will ACS PPS workers and others work to ensure that youth are not only enrolled but prepared for the transition to a different school environment? We are concerned by the plan's stated approaching of allowing the last family visit to be utilized as a trip to the enrollment office. Educational planning should be finalized well before the last home visit. Also, given the great number of family issues that often accompany a young person's transition home, using the last home visit to address a youth's school enrollment is not the most strategic use of such limited home visit time.

Gender-specific programming

We are encouraged by ACS's commitment to "provide staff with tools and skills to enhance their understanding of gender-specific youth development especially physical, sexual, and emotional abuse". Likewise, we are pleased that ACS plans to develop a workgroup with the New York State

Office of Children and Family Services and NSP providers to specifically assess and address the needs of this population, as identified on page 42 of the plan. The plan notes that many current models were designed for boys, which is of particular concern as the population of girls in placement is rising. We are concerned, however, that the City is already eight months into the execution of the NSP and this known problem is not being actively addressed. What is the time frame for when this workgroup will be convened and how quickly will they be expected to make recommendations?

Restraints and Room Confinement

The plan states that ACS will utilize Safe Crisis Management (SCM). How will ACS ensure that LSP programs do not utilize an alarmingly high number of restraints, as is the case in ACS-run secure detention sites utilizing SCM? While we applaud the commitment to a model that emphasizes restraints as a last resort, the lack of publicly available information about how often restraints have been used by NSP providers leaves us concerned that without intensive monitoring this model will be executed in an ineffectual way - as is still the case in secure detention. We know that ACS is committed to reducing the use of restraints and we are especially encouraged by the plan's acknowledgement that a youth's history of abuse by adults is a very important factor for consideration when considering the use of restraints. How will ACS ensure that providers understand this and its manifestations? Will ACS track staff who restrain more than others and conduct reviews to determine the best way to remedy problematic trends? We are very encouraged that the plan requires that ACS be notified when restraints occur and that ACS placement permanency specialists will follow up regarding restraints. We want to ensure that this indeed occurs for each and every restraint. We also want to ensure that in the review of a restraint, youth are provided an opportunity to privately complain about excessive use of force without fear of retaliation from staff who are in positions of power. Ensuring that staff involved in the restraint in question are not present when youth are questioned regarding the incident, such as during medical follow up, is one way to safeguard for this.

We are concerned at the lack of detail in the plan regarding room confinement. As we have seen in secure detention, the use of room confinement is at times excessive. The city should publicly release data on room confinements. ACS should also clearly dictate parameters detailing the limited instances in which room confinement is acceptable, particularly in regard to how often youth must be assessed for release as well as the use of techniques to bring youth to a point of being able to be released as soon as possible. It should go without saying that room confinement should be used only as a last resort. ACS should clearly dictate an upper limit on how long and how often a youth can be held in room confinement. ACS should also review every incident of room confinement. ACS should track and monitor staff who utilize room confinement to position providers to intervene when necessary with staff who over utilize room confinement.

Publicly available data has been vital for advocates and community to see and respond to the excessive use of restraints and room confinement in the city's secure detention facilities. Since these data are collected for NSPs and the plan states that this information will also be collected for LSPs, these data should be made publicly available.

Transfers and Aftercare

As Phase Two is implemented, a huge part of the LSP roll-out will be the transfer of youth currently in OCFS Limited Secure Facilities. Transitions can be difficult, particularly for youth with histories

of multiple, traumatic movements. Youth and their families need to be fully aware of when and where a youth will be transferred with as much advance notice as possible. Youth need every opportunity to succeed in this new and ever evolving system, including appropriate notice and any necessary counseling surrounding this transition.

In keeping with the importance of consistency and stability for youth, the plan dictates that lateral transfers (from one facility to another facility) will only occur when all other efforts have been exhausted. How does ACS plan to assess that all efforts have been exhausted? Will this be a subjective decision or will there be concrete steps that an agency must first attempt? How will ACS handle situations in which staff members take out restraining orders against youth? Will those youth be automatically transferred or will staff be relocated? Does ACS plan to intervene in such situations to determine what steps could have been taken to address a conflict before it escalated? We are pleased to see that ACS plans to collect data on movement and acknowledges the benefits of limited movements. These data should be made publicly available.

We are encouraged by the comprehensive and thorough job description of the PPS workers. Since their job involves bridging the efforts of ACS, the DOE, LSP providers, and other service providers though, we are somewhat concerned about their ability to accomplish this immense job. We also have some questions about specific elements of their work. For example, the plan indicates that ACS PPS will assess a youth's home at least 30 days before release in order to identify any barriers to the youth returning home. How will ACS handle situations that are not rectified within 30 days? The plan states that the pre-release assessment will ensure that "the family has successfully utilized assistance from the LSP provider to address barriers to release." How will ACS assess that providers appropriately engaged families and maximized opportunity for participation?

Ultimately, we are encouraged by ACS's commitment to evidence-based models in working with youth and their families upon a youth's return home. ACS and the LSP providers must ensure that families are therapeutically engaged well before youth's release. As such, family involvement cannot be limited to visiting.

Page 74 of the plan indicates that ACS will pay for services for youth and families during Aftercare as a way of removing one potential barrier to appropriate care. We are concerned, however, with how a family will be able to continue such services once Aftercare is complete. Will ACS also play a role in dismantling the barriers to treatment in order to enable a family that wishes to do so to continue with treatment after Aftercare services?

Oversight

The New York City juvenile justice system system should be monitored by an effective oversight body that will ensure that children are safe while in facilities. 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. Proximity, however, does not replace an effective oversight body.

We are encouraged by the proposed development of a Juvenile Justice Oversight Board, however the city must ensure this board is empowered to be truly effective. The activities, data, and findings of the board must be made public to ensure that the board is not simply an internal review

mechanism. The board must also have full access to facilities, including the ability to make unannounced visits. Otherwise, this board could be perceived as an oversight body in name only.

Funding

For too many years, NYC youth have been sent upstate to support rural economies at great cost to our youth and to our city. The Close to Home Initiative is an amazing opportunity to save on the cost of incarcerating youth upstate and most importantly, proactively invest these savings in preventive services.

We understand that there are start-up costs and some uncertainty in year one related to provider rates and projected lengths of stay – ultimate drivers of Close to Home program costs. As such, we hope ACS will begin now to proactively engage advocates and community members in conversations about how to ensure that the Close to Home Initiative ultimately generates savings on the placement side that can be redirected to critically important preventive services.

Conclusion

Yes - this is a historic and promising moment for New York City. We are pointed in a direction that has the potential to offer many of our most at-risk youth access to the services and supports they so desperately need. The Children's Defense Fund - New York is certainly encouraged by the vision laid out in the LSP plan and we hope to support ACS in ensuring that community is meaningfully engaged in supporting our young people. Thank you for the opportunity to comment.