

**Testimony for New York City’s Administration for Children’s Services  
Laurence E. Busching, Executive Deputy Commissioner for the Division of  
Youth and Family Justice  
“Oversight: Addressing the Racial Disparity in the Juvenile Justice System”  
City Council Committees on Juvenile Justice and Civil Rights  
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Good morning Chair Gonzalez, Chair Rose, and members of the Committees on Juvenile Justice and Civil Rights. I am Laurence Busching, Executive Deputy Commissioner for the Division of Youth and Family Justice at the New York City Administration for Children’s Services (ACS). Joining me today is Louis Watts, Deputy Director of Operations at the Horizon Juvenile Center, and Christopher Fisher, Assistant Commissioner for Research, Planning, and Management Analysis. Thank you for giving us the opportunity to speak about racial disparities in the juvenile justice system and to share what New York City’s Administration for Children’s Services and Department of Juvenile Justice are doing to address this important issue.

As in many other systems, like the criminal justice system, the child welfare system, and the special education system, disproportionate minority contact (DMC) is a major issue in the juvenile justice system. Across the country, data show that disproportionate minority contact – which is defined as contact at any point within the juvenile justice system – is present at every decision point and intensifies as youth progress further into the system (OJJDP, 1999). This is an

issue of national concern, and one of the core principles of the Juvenile Justice and Delinquency Prevention Act of 2002, which requires that states that participate in the Formula Grants Program must “address the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system” (see section 223(a)(22)). The state’s Juvenile Justice Advisory Group administers JJDP A funded grants to carry out these objectives. I serve on this group along with several other City juvenile justice officials, and we are committed to directing attention and resources to this critical issue, as I will discuss in further detail shortly. Moreover, in the Strategic Plan our Division released earlier this year, we highlighted that all our objectives “are intended to assist in reducing the rate of disproportionate minority confinement (DMC) in New York City.”

In order to successfully address disparities, we must first consider what the data tells us about court involved youth in New York City. As the Council knows, DJJ and ACS devote considerable resources to using data to understand the populations we serve and to hold ourselves accountable for outcomes. The W. Haywood Burns Institute, a leading expert on juvenile justice and DMC, has found through work in numerous jurisdictions that collecting and using data effectively is central to reforming juvenile justice systems. They believe that juvenile justice policy has been shaped in the past by misinformation and oversimplification and

that accurate data is a powerful tool to combat this and create fairer and more effective justice systems.

Here, then, is what the data tells us about how the national issue of DMC plays out locally:

In New York City, black youth account for approximately 28% of the youth between 7 and 18 years old and 56% of arrested juveniles; hispanic youth are 34% of the youth population and 32% of arrested juveniles; and, white youth are 23% of the juvenile population, and 8% of arrested juveniles. State data show that based on their proportion of the population, black youth in New York City are almost 6 times more likely to be arrested than white youth, while hispanic youth are 3 times more likely. In NYC, black children are almost 48 times more likely than white children to be placed in a state facility. This data illustrates that as is the case nationally, DMC increases as youth progress further into the system.

New York's juvenile justice system has many components, and the scope of DJJ's mandate is limited to providing Non-Secure (NSD) and Secure Detention for alleged Juvenile Delinquents (JDs) and alleged Juvenile Offenders (JOs) while their cases are pending. While we do not control who is brought through our doors, data analysis shows us that through our work to reduce the use of detention for low-risk youth, we can address racial disparity. We can explain this by examining data related to New York City detention.

For youth admitted to detention in New York City, approximately 63% are black, 29% are hispanic, and 6% are white. State data show that black youth are almost 15 times more likely to be remanded by a judge to detention than white youth, while hispanic youth are almost 6 times more likely.

Now that we see the scope of the DMC issue, we can focus on what DJJ, as the provider of detention, has done in partnership with other stakeholders to address it. National research and experts in DMC have shown that when stakeholders use reliable and objective risk assessment instruments to help judges decide whether youth should be detained, much of the disparity in the juvenile justice system can be reduced. After analyzing risk factors that most strongly correlate with risk of flight or re-arrest prior to court disposition, experts have developed tools that allow judges to more objectively determine whether a youth should be released, referred to community-based programs under supervision, or detained before trial. This, in turn, leads to reductions in racial disparities.

Based on these findings, the City set out to make better targeted use of detention – particularly secure detention – by implementing an empirically-validated risk assessment instrument (RAI) and a series of alternatives to detention. Through the development and implementation of the RAI, we saw that racial disparities in youth detention were primarily a phenomenon for low risk, as opposed to mid or high risk youth. Of low risk youth (who constitute roughly 55%

of the juvenile justice population), black and hispanic youth were detained at arraignment at approximately 3 times the proportion of white youth in 2006, the year before the RAI was implemented. This finding is entirely consistent with what researchers at the Burns Institute have found in jurisdictions across the nation.

Now that New York City has the RAI and a continuum of alternative, community-based services, the data is beginning to tell a different story. Preliminary data show there is now little difference in the rate of detention at arraignment for low risk youth based on race/ethnicity.

Let me sum up what this data is telling us in this way: in New York City, racial disparities exist primarily in response to low risk offenders. Because the City believes that the use of detention should be targeted and whenever possible, not used for low-risk offenders, we have developed a way to assess risk. And when courts are considering detention, we have developed more family and community-based options aimed at strengthening family relationships and addressing the behaviors that lead to court involvement. Through this work, we are already seeing a dramatic decrease in racial disparity rates for low risk youth.

We are encouraged by these findings, and by the substantial evidence in the Juvenile Detention Alternatives Initiative (JDAI), a national model run by the Annie E. Casey Foundation, that other jurisdictions who have implemented similar detention reforms have achieved similar reductions in racial disparities. The City's

detention reform plans are informed by the models that are a part of JDAI. Particularly in jurisdictions like ours, where minority youth comprise almost the entirety of the population in detention, effective detention and juvenile justice system reform will necessarily impact DMC.

### NYC Detention Reforms

At this point, I'd like to turn your attention to the progress of NYC's detention reforms. We have talked in past hearings about these detention reform efforts so we will not go into detail again here. To summarize, though, the key work to date has included creation of the risk assessment instrument and alternatives discussed earlier; launch of the Weekend/Holiday Arraignment Initiative, which grants juveniles the opportunity to have their cases assessed for release every day of the year; and, the implementation of several well regarded community based alternatives to detention and placement for juveniles. In addition, two additional programs are currently being launched that are adding to the City's continuum of detention alternatives and providing more options to serve youth at home. The first of these programs is Way Home, launched by New York Foundling in August 2010. Way Home serves families in the Bronx and Manhattan and has the capacity to serve 12 families at any one time with intensive evidence based services. The second is Ready Respite, a small program being implemented by Foundling and the Center for Court Innovation on Staten Island.

In this program, youth who the court determines cannot safely return to their families while their cases are pending are placed with specially trained foster families. These foster families supervise and support the youth until their cases are resolved or the court determines they are ready to go back home. This option helps to keep the community safe while also helping youth gain the skills and supports necessary to lead law-abiding lives. It spares youth the negative consequences associated with detention while also providing a less costly option. We have been closely watching the development of this model and will look to apply lessons learned more broadly if the model proves successful. As with our other reforms, we are optimistic about Ready Respite's potential to impact DMC, because we know that DMC is driven by overuse of detention for low risk offenders, and this program addresses some of the factors that result in detention despite low risk.

As part of the work amongst national experts to understand why detention is overused for low-risk youth, one of the emerging issues is that of "crossover" or "dual jurisdiction" youth. These are court involved youth who are also in the child welfare system, and thus may not have appropriate parents or guardians to be released to as an alternative to detention. In New York City, more than 60% of young people admitted to detention have had some contact with ACS. The merger of DJJ and ACS will allow us to streamline casework and permanency planning for foster care youth in detention and to reduce the incidence of low risk youth being

detained for family issues. Additionally, we are hiring a Director of Permanency Planning who will focus on crossover youth and join our team next month.

Through the merger of the two agencies, ACS and DJJ will have the opportunity to share best practices in providing culturally competent services and strategize on actions to address racial disparities. As previously noted, child welfare is also a system that faces the challenges of racial disparities, and in recent years ACS has dedicated staff and consultant resources towards examining why racial disproportionality occurs in the child welfare system, and what our agencies and partners can do about it. This work has included staff and leadership trainings and discussion series on culturally competent child welfare practice, a mentoring program for emerging leaders of color, and an agency wide focus on how we produce and use data to identify and address racial disparities in child welfare outcomes.

Our ability to leverage these existing and new resources and partnerships will continue to be greatly improved through the merger of Children's Services and the Department of Juvenile Justice, and so we ask you again for your continued support and advocacy on the Merger Bill .

New York City Detention Reform Work Going Forward

Going forward, an initiative that we believe holds particular promise in reducing DMC is a partnership between NYC's Criminal Justice Coordinator and the Vera Institute of Justice. Vera will be coordinating the development of a strategic plan to reduce the overrepresentation of youth of color in the juvenile justice system. They will do this through working with the City to create a cross-agency and community-inclusive committee called the Juvenile Justice Working Group to bring together all of the City's juvenile justice reform efforts under one umbrella and to place DMC as a central focal point for that work. The working group will allow the City to look at all past reforms through a racial equity lens and get a better picture of the impact they have on inequities in the system; tailor those reforms as needed; and develop additional DMC-reduction strategies. The Burns Institute will provide technical assistance and will share expertise on national best-practices.

### Youths' Experience in Detention

I would like to wrap up my testimony by speaking about the experience of the youth we serve in detention. Regardless of the reforms that we put in place to reduce the use of detention, there will always be some youth who need to be in custody, and we take very seriously our responsibility to provide services in a safe, structured, and culturally competent manner. We know that many of the youth who

come into detention look up to facility staff as a positive and stabilizing influence during a chaotic time in their lives. These are the adults who are caring for these youth when their own families cannot, and it is important that youth relate to these staff, see them as positive role models, and know that the staff understand the communities and experiences that have shaped them. Over 90% of DYFJ's staff and management reflect the diversity and communities of the youth and families we serve. Our staff go to great lengths to engage youth and their families, whether that is through programming, counseling, or connecting families and youth to community resources. While in detention, residents receive an array of services, such as education, health services, recreation, and case management. Youth in detention participate in local cultural events and activities. This includes participating in cultural heritage months, including Caribbean, Jewish, Italian and Black History Months. Staff and youth hold festivals such as for Hispanic Heritage Month, where every group home is assigned a country to research and then youth give presentations, dress in traditional garb, and cook and serve food from their assigned country. Through generous partnerships with many of the City's cultural institutions, youth in group homes take advantage of experiences such as going to off-broadway shows, Madison Square Garden, university campuses for tours and events, libraries, and many museums. In fact, this evening

at Crossroads Juvenile Center, a group of residents will be performing with musicians from Carnegie Hall.

We also think an opportunity exists to link youth in detention to positive supports and activities in their own communities. By promoting community involvement with detention, we can help make time there as productive as possible. We can link youth to positive supports and activities in their communities that can not only keep youth from the negative influences that may have led to their offending, but also lead them to social, academic and professional success. We would welcome the Council's advice and participation in identifying and engaging the community supports that can best help us to achieve these goals.

My colleague Mr. Watts is able to speak in more depth about the everyday experiences of youth in detention and what he and his staff do to create a welcoming and culturally competent environment. He and other direct care staff are particularly skilled in utilizing detention as a time for positive change. Our agency is fortunate to have leaders and staff like Mr. Watts, who are able to relate to youth, gain their trust, and teach them to confront and voice their emotions without resorting to anger or violence. Our staff offer youth the structure and guidance necessary to make positive decisions for their future. I hope that when we take your questions, Mr. Watts has the opportunity to speak more about his work with the youth.

## Conclusion

As I believe is evident from my testimony today, the City is working to examine and address racial disparities through detention reform. Because of the link between DMC and overuse of detention for low risk offenders, we are optimistic about growing evidence that the City, like other jurisdictions, can reduce DMC by targeting detention to only those youth who truly are appropriate for that level of intervention. For those youth who do come to detention, we create a culturally competent and affirming environment that supports successful re-integration into communities and families. We are extremely appreciative of the Council's support and leadership in identifying this issue and advancing these goals.

Thank you for this opportunity to testify, and we will now take your questions.