

//

Testimony of

Jaime T. Koppel
Director of Youth and Education Justice,
The Children's Defense Fund - New York



Submitted to the

New York State Senate
Finance Committee &
New York State Assembly
Committee on Ways and Means

in Response to the

New York State
Executive Budget Proposals
for Human Services
FY 2013-2014

February 5, 2013

Thank you Chairs DeFrancisco, Farrell, Smith, and Titus for this opportunity to testify.

I am here representing The Children's Defense Fund - New York (CDF-NY). We are a national, non-profit child advocacy organization that has worked relentlessly for 40 years to ensure a level playing field for all children. We champion policies and programs that lift children out of poverty; protect them from abuse and neglect; and ensure their access to health care, quality education and a moral and spiritual foundation. More specifically, CDF-NY is currently working to promote critical systems change in the areas of early childhood education, children's health and mental health, education and juvenile justice.

To dismantle the cradle to prison pipeline that is funneling thousands of New York's youth into the juvenile and criminal justice systems, we must ensure that every child has the appropriate and necessary support starting at birth. CDF-NY's budget and legislative priorities reflect our commitment to the importance of investing in programs that are effective and provide children and youth with the support they need to be successful. As such, we look forward to an ongoing dialogue with you and your colleagues about the most thoughtful way forward for New York's children and families - most especially those children and families identified as most at-risk.

I will touch briefly on each of the areas mentioned above, but in the interest of time, my testimony today will focus to large extent upon proposed reforms to the juvenile justice system. New York City's recent experience implementing the Close to Home Initiative has provided much opportunity for learning about what is required to serve young people well in non-secure settings closer to home. We must not neglect this learning opportunity as an important tool in informing the framing and roll out of the CTHI in other New York counties. I will also touch upon the need for New York State to commit to truly meaningful raise the age legislation that, as we move along in this 50th anniversary year of New York State's family court system, does not simply pay lip service to the idea of treating children as children. It is time for New York State to leave our position of shame behind by committing to raising the age of criminal majority for all 16 and 17-year olds, not just those convicted of the most minor offenses.

Ultimately, my purpose in being here today is to say that while CDF-NY is encouraged by the stated intentions behind proposed changes to the juvenile justice system, and pleased to see sustained commitments to some of the programs critically important to young people's well-being, we are very concerned by some of the implementing language related to the juvenile justice reform proposals. Similarly, we are concerned by proposed cuts to preventive services and youth programs that will hurt the most vulnerable children and families and funnel many of them further along our state's pervasive pipeline to prison.

Ensuring Our Children and Youth Are on Pathways to Success

When we consider some of the major challenges children encounter that can push them off of a successful trajectory and into the pipeline to prison, we were very pleased to see the Executive's commitment to early childhood education. \$25 million for the expansion of

Universal Pre-Kindergarten (UPK) offerings, most specifically full-day UPK, is an important next step in New York's quest to ensure that all of our children arrive in kindergarten equipped for academic and social success.

We are very concerned about the proposed elimination of funding to the Court Appointed Special Advocates (CASA) program. In conversation with one upstate CASA Program Director, she shared the following two examples that illustrate the critically important role this program plays in providing at-risk children and youth with support and stability:

Our program serves a nine year old girl. She entered foster care at age 6 and moved four times in three years. Our CASA volunteer called to schedule a visit in her new foster home. The foster mother said she had been expecting the volunteer's call because the child told her that "my CASA volunteer always finds me no matter where I go."

Another child served by this same program had been in a residential placement for two years, beginning at age 6, due to mental health needs. When she was 8 the CASA volunteer went to a treatment team meeting where the child's case was going to be discussed. At the meeting, the child's deteriorating behavior was discussed. The treatment team said she was talking about dead people and "can they hear you?" She was also talking about her mother whom she hadn't seen in a number of years. The Treatment team assumed she was referring to her foster mother since she was removed from her biological mother at such a young age and was unlikely to remember her. After the treatment team meeting the CASA volunteer took the child out to lunch. As we were walking to a local diner, the child stopped, looked the CASA volunteer in the eye and said, "Do you know my mother?" The CASA volunteer asked who she was talking about. Sally said, "My real mother? She hasn't come to see me and I am worried about her; is she dead?" The Volunteer was able to reply that the mother is alive to which the child said, "This is the best day of my life because you told me my mother wasn't dead. I have been praying to my grandparents who are in heaven for an answer."

These stories demonstrate the profoundly important ways in which CASA Volunteers often serve as a constant in a child's life and many times the only constant in that child's life. **We urge full restoration of funds for the CASA program.**

Similarly, the decrease in TANF funds for Nurse-Family Partnership, Settlement Houses, preventive services, and Emergency Homeless Services represent a fundamentally misplaced movement in the wrong direction. In recent months, many communities in New York have experienced even more profound trauma than they are usually burdened with. Each of these programs plays a critically important role in ensuring that at-risk community members – most especially children and families - are supported before their situations become even more dire. To that end, **we recommend strongly the full restoration of these funds.**

Of equal concern are the proposed reductions in funding for the Advantage After-School Program and the Youth Development Delinquency Prevention Program and the Special

Delinquency Prevention Program. It seems especially short-sighted to plan for youth who have come into contact with the juvenile justice system to be served closer to home while at the same time reducing the funds available to cash-strapped counties to prioritize preventing the passage of young people into the juvenile and criminal justice systems. Once again, ***we recommend full restoration of these funds.***

Expansion of the Close to Home Initiative

Overview

There is no doubt that statewide expansion of the Close to Home Initiative (CTHI) represents an incredible opportunity for New York to more holistically and effectively serve the needs of our most at-risk children and youth in a way that will simultaneously streamline costs and expand local service capacity. However, CDF-NY is concerned about several elements of the proposed legislation as currently written. In particular, we are concerned about the inclusion of private entities as potential providers. Additionally, the absence of information about requirements related to planning, community engagement, public transparency and oversight is alarming.

Remove Option for Private Providers

As currently written, the proposed legislation indicates that “private *or* not-for-profit” entities will be eligible to operate Close to Home placements. We strongly recommend that this language be amended to specifically prohibit for-profit agencies from operating any placements. The track record of privately operated youth justice facilities is abysmal in too many instances. Opening the door to a situation in which a provider must balance programming against profit is a decision which would move New York State in the opposite direction our Governor has indicated he would like us to move. Even if there is no intention to open the process to private providers in the short-term, ***we strongly urge the revision of this language to exclude the possibility of private providers at any point.*** By doing so, we will ensure that this possibility does not become a reality in the long-term.

Require Counties to Plan

The proposed Article 7 legislation (ELFA, Part H) expands the CTHI “by requiring youth from counties outside of New York City who would otherwise be placed in non-secure Office of Children and Family Services (OCFS) facilities to be placed with the appropriate local commissioner of social services for receipt of services from private or not-for-profit entities.” However, the language does not require these counties to create or make public an operational plan prior to assuming responsibility for these young people.

As individuals familiar with the roll-out of the CTHI in New York City would undoubtedly attest, even the best intentions on the part of providers will not reduce the obstacles to this initiative’s success. Further, even for providers who have worked with at-risk youth before, this initiative will represent many additional layers of complication and need related to fully

and appropriately serving these young people's needs in a way that is genuine to the intention of the Close to Home Initiative.

We strongly urge the legislature to ensure that all New York counties are held to the same high standard required of New York City in the legislation authorizing the NYC CTHI. In particular, all counties should be required to draft a CTHI plan, submit this plan to the Office of Children and Family Services for review, make the plan publicly available, and seek and incorporate community feedback on the plan. In order to ensure the viability of such a demand, sufficient time for completing each of these tasks must be incorporated into the legislation.

Ensure Accountability and Evaluation

In order to ensure that the CTHI effectively serves our young people, we must also make certain that the authorizing legislation sets the bar sufficiently high in terms of accountability and public transparency. CDF-NY was surprised that the accountability and transparency language included in the 2012-2013 CTHI legislation for New York City is absent from this current legislative proposal.

We strongly recommend that comprehensive, performance-based data be shared not only with the Legislature, OCFS and local judicial system administrations, but also with the public. This reporting should be required on no less than a quarterly basis and should be disaggregated not only by race, ethnicity, gender, and charge, but also by provider. In order to send a strong message about the purpose and intention of the CTHI, reporting requirements should focus not only on current capacity/operational reports and data related to young people's offenses and recidivism rates, but should also focus on capturing young people's educational and social progress as well as their educational stability during and after placement.

InCENTivize Counties to be able to Commit to the Close to Home Initiative

Some individuals might argue that the CTHI makes "cents." But, we must strongly urge the legislature to proactively ensure that cash-strapped counties are truly empowered to support the youth development needs of young people who have already travelled too along the pipeline to prison. Failure to do so comes with great social and financial repercussions over the long-term. The research is clear that a youth's involvement in juvenile and/or criminal justice systems increases the likelihood of repeated involvement with the criminal justice system. ***We urge the legislature to include further incentives for counties beyond just the noted block grant. Additionally, language should be included that ensures that counties, at a minimum, maintain their commitment to investment in this system. This would build upon legislation passed in the 2011-2012 Fiscal Year Adopted Budget. That legislation not only included a block grant that could be used for community-based programming, but also incentivized counties to make such choices.***

Raising the Age of Criminal Majority

New York is one of just two state in the entire country that automatically prosecutes 16 year olds as adults, regardless of the triviality of the charge. Further, New York State allows for children as young as seven-years old to be convicted of a crime. These practices can and do have permanent and devastating effects on a young person's safety, mental health, education and future employment prospects.

There are promising discussions underway in New York to change these shameful realities by raising the age of criminal majority. The CDF-NY's message today though is that we must not move with such haste as to miss the opportunity to enact truly meaningful raise the age legislation. ***We must seek to learn from the experience of neighbor states like Connecticut by committing, through the legislative process, to raising the age for all 16 and 17-year olds and undertaking the necessary reforms to our family court system that will allow for this reform.***

Conclusion

CDF-NY recognizes that states across the country are faced with incredible financial challenges. Some have opted to allow this challenge to be borne on the backs of children, poor people and vulnerable families. While everyone has a contribution to make to our becoming "whole," not all cuts can be equal. Some cuts leave no room for recovery and eat away at tomorrow's promise. New York has an opportunity to show the way forward for our entire country.

We know that difficult decisions must be made to keep New York on the path to economic recovery. Bold actions are needed to ensure that the budget is balanced and that New Yorkers continue to have the kinds of opportunities that make our state strong.

2013 is a year of opportunity. As we celebrate both the New York State Family Court's 50th anniversary and the 50th anniversary of the Children's March in Birmingham, Alabama - a profound action that set the stage for passage of the Civil Rights Act of 1964 - we must reflect deeply on the needs of our children and families. As you make the difficult decisions that must be made in the months ahead, we urge you to lead by investing in and protecting New York's future - prioritize the needs of New York's children and families.