



TESTIMONY

CAMPAIGN FOR YOUTH JUSTICE

BEFORE THE HUMAN SERVICES COMMITTEE

SEPTEMBER 23, 2010

Thank you Mr. Chairman for providing me the opportunity to testify today on behalf of the Campaign for Youth Justice (CFYJ). The campaign is a national organization dedicated to ending the practice of trying, sentencing, and incarcerating youth under the age of 18 in the adult criminal system since its inception in 2005.

As you are aware Mr. Chairman, I along with many others have been impressed with the deliberate, thoughtful and progressive reforms undertaken over the past 5 years at the Department of Youth Rehabilitation Services (DYRS) and with the support of your leadership, which has substantially improved positive outcomes for youth and families in the justice system. Though there is still much work to be done, the DC juvenile justice reforms are now frequently cited across the country as an example of successful juvenile correctional leadership and systemic turnaround. In fact, organizations and experts in many states, including New York, Connecticut, Illinois and California, to name a few, are looking at the District as a leader on these issues. The closure of the Oak Hill facility by DYRS and the creation of a smaller, homelike facility, New Beginnings, for a small number of youth who need secure confinement for some period of time was a much needed and long overdue accomplishment.

A number of us are wearing blue or blue ribbons today to signify our support for this reform effort stemming from the recommendations of the Mayor's Blue Ribbon Commission on Public Safety and Juvenile Justice formed exactly ten years ago. The Blue Ribbon Commission's recommendations formed the basis of the reform legislation that was unanimously approved by the D.C. Council in 2003 and has been underway in the District since 2005.

DYRS has improved its operations and programs significantly over the past 5 and half years. The department expanded community based services and workforce development opportunities for youth through the new Service Coalition approach, a design which was developed by the community and proposed to DYRS and which is now being looked to by other jurisdictions as a service design model to possibly replicate. They also worked closely with the Metropolitan Police Department, Court Social Services, and other stakeholders to reduce youth on abscondence, which reduced from 26% in 2003 to 7% in 2010.

Unfortunately, as I have gone on record in saying following the abrupt leadership changes at DYRS in July, it now appears that politics and inappropriate interference by the Attorney General's Office has been allowed to threaten the progress that has been made and which so many have called for in DC for decades. Indeed, there have been some recent developments that I am very concerned about, that I would like to call the committee's attention to, and I would like to know what the Interim DYRS Director is doing to effectively fix these problems. These include the increase in the use of isolation or "lockdown" in DYRS' secure facilities, overcrowding at the New Beginnings facility, and the growing awaiting placement population at New Beginnings, and potential actions to

send youth into the adult criminal justice system, to name a few.

Reports of an increase in the use of “isolation” practices at New Beginnings:

I understand that there has been a significant increase in the use of isolation or “lockdown” in the last two months—on the order of a 5 fold increase. This is particularly worrisome, because, I understand that over the last several years, there has been substantial progress in reducing the use of isolation. In the past, the system has worked hard to reduce isolation usage, because that can increase the risks that young people will harm themselves, and can aggravate mental health issues, and make those conditions worst. When youth are placed in isolation for long periods of time – which was a longstanding problem cited for years in reports from the Jerry M monitor until these reforms were initiated -- it needlessly places kids at-risk, and isn’t consistent with a positive youth development approach. The Interim DYRS Director needs to report on what is happening with the use of isolation in his facilities, what communications he has had with staff on this matter, if there has been a change in policy, and why? It is critical that the District not go back to the abusive and dangerous conditions of confinement in a juvenile correctional facility for youth that plagued the system for decades.

A growing “awaiting placement” population at New Beginnings:

Overall juvenile crime is down in District of Columbia. According to the Metropolitan Police Department weekly survey of crime, for the first 9 months of 2010, compared with the same 9 month period in 2009, there has been a decline in juvenile arrests in 15 of the 27 categories, and a 2 percent decline in juvenile crime. Where there was an increase in arrests, seventy-three percent of them – or 249 arrests arrests were for “other misdemeanors.”

DYRS was established to manage young people convicted of more serious crimes and who have more significant rehabilitative needs. The agency was not designed or resourced to deal with youth who come before the court charged with very very minor offenses. The increase in arrest for misdemeanors —and the substantial increase in youth committed to DYRS for misdemeanor offenses – creates the real danger that the system will be overwhelmed and that DRYS will have insufficient resources to adequately deal with the number of youth committed to the agency. That is why every bed is full, and there is little slack in the system. With nearly 1,000 committed youth, DYRS is forced to move very quickly in order move young people to an appropriate placement and not have them languish (which was often the case before the reforms were initiated, even with far fewer youth being committed to the former YSA). These placements can include, home supervision, a residential treatment facility, or a group home or other community based residential setting. Unfortunately, with the rate and volume of youth being sent to DYRS, it appears the agency does not have the funding or staff to adequately deal with the very high number of youth being committed. This situation is analogous to what CFSA faced following the Jacks’ case, when the agency was deluged with referrals and an enormous backlog resulted.

As you are aware, DYRS has reduced the number of abscondences from placements from 26 percent to 7 percent. I understand that the partnership between DYRS and the MPD are bringing in more absconders than ever before, and faster. The challenge for the system is, what to do with these young people when they are brought back to the system. If they left a placement, or engaged in inappropriate behavior while at a placement, they may need to be placed somewhere else. That takes time, as these committed and

recommitted kids “await placement.”

These awaiting placement youth may not be able to participate in the kind of programs and services that naturally help them make better choices, and are more likely to have behavioral issues--as they wait in limbo for a chance at rehabilitation.

Overcrowding at New Beginnings:

My understanding is there is now overcrowding at New Beginnings, and it is likely being driven by this “Awaiting Placement” population of youth. Also, it appears where there are challenges with behavior, it is almost always from this population of youth whom may be spending more time “in limbo” for a variety of reasons.

Why are there so many “Awaiting Placement” youth at New Beginnings? It appears that this is being caused by an increase in the overall flow of commitments to the system, including, including misdemeanant, lower level offenders. The absconders and young people who are committed take longer to place than other kids. This is particularly true if a new Director sends out a message to the staff that, their case management decisions are being watched and likely second-guessed: If you read in the paper that the Director – who is a former prosecutor -- is looking at all 900 cases and has brought in another prosecutor to scrutinize placement decisions and also recommend that youth placed in the community are revoked and placed in secure custody, and you were a staff person working in the system, would you think twice before moving a young person out of custody, and to their placement, if you had discretion over that decision?

This is a complicated problem. The principal cause is the huge flow of low level youth coming in the front door, and youth who are recommitted for whatever reason. DYRS may well be is doing a better job of bringing in absconders faster (without having an

impact on the number of kids in abscondence), but as long as there are so many young people coming in the door, and as long as staff feel that the message from on high is that they need to use their discretion to hold more youth in custody, we will continue to see overcrowding in the system.

No doubt, some of these challenges relate to bigger system issues: the huge surge in young people convicted of misdemeanants being committed by the courts to DYRS, during a time when juvenile violent crime is flat is a huge factor in the agency struggling to effectively focus on its mission of serving the deepest end youth. Challenges this large require strong, durable and experienced leadership that can reach out to multiple stakeholders.

Sending youth in the adult criminal justice system:

Additionally, I am very troubled by reports that DYRS may be considering actions which could result in more involvement of youth in the adult criminal justice system. My understanding is that there are youth who are under both juvenile and adult supervision and that DYRS may be considering actions which would remove youth from DYRS supervision so that they would be solely on adult supervision.

Knowing what we know now about the harmful impacts of placing youth in the adult criminal justice system and how that actually increases the likelihood that youth will reoffend, I am very concerned about this. DYRS should be taking actions to keep youth in the juvenile, rather than the adult criminal justice system, and serving as an advocate for these young people.

It is critical that this committee ensure that this “slippage” at DYRS, which appears to be partly caused by a different direction by the new leadership and partly by systemic

issues related to ensuring an appropriate response and services for youth throughout the system, not just at the deep end, does not derail these important reforms. I urge the committee not to “build” its way out of this problem by constructing another secure juvenile correctional facility, and to instead increase capacity to serve youth in the community. Without effective leadership by DYRS in curbing these recent developments, we are unfortunately likely to see backsliding of recent and important progress as a result of the reforms implemented at DYRS and in other parts of the system over the past five years.

Recommendations to the committee:

In sum, my recommendations for this committee to consider are:

First, execute your oversight authority to ensure that dangerous practices such as the use of isolation are not used. The committee must address the other issues mentioned here with the DYRS Interim Director, such as overcrowding at New Beginnings and the increase in the “awaiting placement” population. The committee should review the potential actions that DYRS is considering to remove youth under both DYRS custody and adult supervision under CSOSA, from DYRS supervision, thereby increasing their involvement in the adult criminal justice system. And this committee should institute a “Child Fatality Review” immediately on the death of any child who has been served by city agencies so that we know where the system failures are.

Second, hold hearings with panels from all agencies that have a role in juvenile delinquency prevention. This should include Court Social Services, (which actually has responsibility for more children in the juvenile justice system than DYRS), the Office of the Attorney General, Public Defender Services, the Judiciary and the police. We need to

have thoughtful, system wide discussions about the most effective ways to curb juvenile delinquency as part of an overall approach to public safety, and to do so in the context of fiscal scarcity.

Third, review and consider the current and pressing issues facing the community, and the policy recommendations raised last year as part of a citywide roundtable discussion that involved community-based organizations, community members and organizations, youth and families representing all Wards of the District of Columbia, including currently and formerly incarcerated youth and parents. The policy recommendations include the safety of children in custody at New Beginnings and other facilities, the need for community-based alternatives to detention and incarceration, reducing disparate treatment of youth of color in the justice system, and reducing prosecuting youth in the adult criminal justice system and placement in adult jails and prisons. These recommendations are attached.

Fourth, take concrete steps to meaningfully involve youth who have been directly affected by the justice system, their parents and families in these committee deliberations by holding hearings in the community during non-school hours at a location that is accessible to public transportation so that youth and their families can attend and fully participate at these hearings and by providing advance notice of hearings on legislation impacting youth to youth through the schools, youth-serving programs, and other avenues to ensure that youth know about these hearings and have the opportunity to review and comment on legislation;

Finally, invite youth and their families to meet with you and members of your committee on a regular basis, including detained or incarcerated at the Youth Services

Center, New Beginnings, and the Central Treatment Facility (CTF) as you consider and deliberate legislation so that they can serve as a resource to you in your policy considerations.

I also want to call the committee's attention to the testimony of Dr. Jeffrey Butts, one of the leading criminologists in the country who at the last minute could not be here today. His testimony raises some very serious questions about the methodologies of an OAG report that served as the basis of the justification for the abrupt change in leadership at DYRS in July. I urge the committee to consider his testimony and to raise questions with the DYRS leadership.

In conclusion, on behalf of the Campaign for Youth Justice, I urge you to take action to ensure that the positive accomplishments of the past five years not be lost. We cannot go back to what existed before, when the District's juvenile justice system and the executive branch agency in particular was rightly viewed as dysfunctional, particularly with so much at stake. I would be pleased to work with you Mr. Chairman and the members of your committee to make sure that the policies and practices being implemented in the District are informed by best practices and sound research – not politics, hyperbole and sound bites – and that the agency is led by a strong and experienced leader with an approach consistent with what has allowed us to see the progress achieved over the past five and half years.

Thank you for your time and consideration.

JUVENILE JUSTICE ROUNDTABLE

November 4, 2009

BACKGROUND:

On Wednesday, October 21, 2009, community members and organizations representing all Wards of the District of Columbia, including currently and formerly incarcerated youth and parents who have been directly affected by the juvenile justice system, participated in a strategy meeting to identify & prioritize key “next steps” for juvenile justice reform in the District of Columbia, building off the Mayor’s Blue Ribbon Commission on Juvenile Justice issued in 2001. [For a copy of the report, visit:

<https://digitalcommons.georgetown.edu/blogs/oakhill/documents-and-resources/blue-ribbon-commission/>].

Over two dozen community-based organizations participated including The Alliance of Concerned Men, Beyond Vision, Inc., The Brotherhood/Sister Sol, COINNS, the Council for Court Excellence, DC Lawyers for Youth, DC Prisoners Project, Earth Conservation Corps, Educational Alliance Corporation, Empowerment Center, Equal Justice Works, Far Southeast Family Strengthening Collaborative, Free Minds Book Club & Writing Workshop, Georgetown University, Growing On, Healthy Families / Thriving Communities Collaborative Council, KidsPeace, Justice for DC Youth, Latin American Youth Center, Mentoring Today, Offender Aid and Restoration, Parent Watch, Sasha Bruce Youthwork, See Forever / Maya Angelou, Youth Advocate Program, Youth Education Alliance, and Youth Village.

Additionally, several national organizations sent representatives such as the Sentencing Project and the Justice Policy Institute, and a number of juvenile and criminal justice system stakeholders provided support and guidance including the Department of Youth Rehabilitation Services, the DC Department of Corrections, the Public Defender Service for the District of Columbia, the Criminal Justice Coordinating Council, and the U.S. Department of Justice.

This effort was organized by the Campaign for Youth Justice and Justice for DC Youth and was undertaken with support from the Carter & Melissa Cafritz Charitable Trust and the Public Welfare Foundation.

The discussions focused on current and pressing issues facing the community such as children in custody at New Beginnings and other facilities, the need for community-based alternatives to detention and incarceration, the disparate treatment of youth of color in the justice system, and prosecuting youth in the adult criminal justice system and placement in adult jails and prisons. Participants shared their knowledge about the justice system and current initiatives underway, identified key issues and challenges, and strategized on a collective set of recommendations to put forward to DC officials.

On November 4, 2009, community members presented the following recommendations to DC officials for discussion at a Juvenile Justice Roundtable at New Beginnings.

RECOMMENDATIONS:

DISPROPORTIONATE MINORITY CONTACT (DMC):

1. Take concrete steps to improve police-community relations, including having more community oriented police officers and officers consistently assigned to certain areas who can form relationships with individuals in the neighborhood;
2. Provide culturally sensitive and positive youth development training to law enforcement;
3. Increase government oversight of law enforcement agency practices, including consistent and regular data-collection;
4. Re-examine the practice of placing law enforcement in schools;
5. Strengthen judicial leadership in reducing the number of law enforcement referrals to the justice system, including increasing diversion from the system;
6. Involve young people in a meaningful way in policy discussions on these issues;
7. Increase support for advocacy such as kids' rights and holding law enforcement accountable;

8. Expand services & programs for youth such as after-school programs, community-based services and mentors for youth;
9. Strengthen oversight of the juvenile justice system so the community is aware of who is being arrested, detained and locked up;
10. Support research on how youth are treated disparately by the justice system (e.g. what happens to white youth in the juvenile justice system?) and data analysis of the decision-making points in the justice system, and publish these results publicly;
11. Increase parent and family supports;
12. Promote community involvement & ownership of the issues.

TRANSFER TO ADULT COURT & PLACEMENT IN ADULT JAIL OR PRISON:

1. Revise the “transfer” law to reduce the number of youth prosecuted in adult court by having all transfer cases be heard by a judge (i.e. eliminating the U.S. Attorney’s authority to prosecute youth as adults or by providing a “Reverse Waiver” authority for adult court judges to send youth back to the juvenile court);
2. Prohibit the placement of youth in jail (e.g. DC Jail or the Central Treatment Facility);
3. Until youth are completely removed from the adult jails, take the following actions immediately:
 - Prohibit the use of solitary confinement or lockdown of youth for 23 hours a day;
 - Require that all staff working with youth are required to regularly attend and successfully complete training by DYRS staff in age appropriate treatment and strategies for working with incarcerated youth under 18;
 - Remove the Department of Corrections from their authority over youth and replace with the Department of Youth Rehabilitation Services including managing the juvenile unit at the Central Treatment Facility (CTF); and
 - Advocate that the Bureau of Prisons place youth, once sentenced, closer to home

(e.g. within 100 miles);

4. Require the Bureau of Prisons (BOP) to report on the placement of DC youth once in the BOP system;

5. Increase monitoring of the Bureau of Prisons placement and treatment of DC youth;

6. Expand re-entry services for youth prosecuted as adults including mentors, Job Corps, independent living/ housing assistance, specialized empowerment programs for youth charged as adults, engaging social workers in providing services, and improved DCPS special education system and mental health services;

7. Require the U.S. Attorneys Office and the Superior Court to provide comprehensive and regular data on youth prosecuted as adults;

8. Increase and improve legal representation & advocacy for youth prosecuted in adult criminal court including requiring attorneys representing youth charged as adults to attend training;

9. Improve federal guidelines for treatment of youth such as requiring more educational and vocational opportunities while incarcerated;

10. Expand services for youth ages 18-24; and

11. Launch a new Blue Ribbon Commission with a focus on reviewing the practice of prosecuting youth as adults in the District.

COMMUNITY BASED ALTERNATIVES TO INCARCERATION:

1. Make community-based alternatives to incarceration a priority in the budget and increase resources;
2. Increase oversight, transparency & accountability for community-based programming;
3. Expand community-based services and coordination of services to ensure a holistic continuum of care, availability of services to youth prior to release from custody, “one stop shopping” services, planning prior to release; support for parents and families; mental health and substance abuse programs;
4. Promote collaboration between all the stakeholders, including the Lead Entities, community based providers, and the relevant/ involved agencies – city and federal (e.g. CSSD, DYRS, MPD, DOES, DCPS, OAG);
5. Increase advocacy for youth and engagement of young people in the solution, equip and train young people, and include adult allies and youth together;
6. Promote a “youth development” model in programming; and
7. Recognize and promote the role of families.

INSTITUTIONAL CARE:

1. Reduce the use of incarceration as a response to juvenile crime;
2. Promote the use of small & therapeutic environments with individualized services for youth;
3. Place youth when appropriate close to home;
4. Expand discharge planning and re-entry services for youth; and
5. Reduce use of out of state placements for youth.