

**Testimony of James F. Purcell  
Executive Director  
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before the  
Assembly Standing Committees on Children and Families  
and the Committee on Codes**

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Good morning, I am Jim Purcell, the Executive Director of the Council of Family and Child Caring Agencies; and I thank Chairman Lentol and especially our friend Chairman Scarborough for allowing me to present testimony today. COFCCA is a membership organization comprised of over 110 not-for-profit agencies that contract with the NYC Administration for Children's Services and the county departments of social services to provide foster care, preventive services, adoption and aftercare services as well as education for children on our facility campuses. These agencies serve 80% of all children and families in the child welfare system

What is sometimes less well understood is that some of our not-for-profit agencies also provide residential care to almost 30% of the juvenile delinquents placed in care this year.

The systems of care are especially complicated in New York because we have such a tangled web of state and local roles and responsibilities. A scan of the child welfare, juvenile justice, mental health, mental retardation and developmental disabilities, special education, and even substance abuse treatment fields will demonstrate this fact. Some of our services are provided by state agencies directly – the state operated juvenile justice facilities operated by OCFS are a good example – while others are provided at the county level with state oversight.

But even in the juvenile justice system, which is largely a state operated function, the care for over 900 adjudicated juvenile delinquents is provided in our agencies. Similarly, funding for these services is complicated. The costs of care for a youth adjudicated as a juvenile delinquent and who is placed in a state operated facility will be shared equally by the state and the county or NYC. But a youth similarly adjudicated as a JD and also placed in the custody of OCFS, but where OCFS determines that a not for profit agency can best meet this youth's needs will find the cost of care charged to the county. The only state funding will be the foster care block grant. Thus the state has effectively, and arbitrarily, decided to limit its financial liability for some juvenile justice youth, but not for others.

Turning to some of the questions posed by the Committees, I offer the following observations:

- Aftercare and Length of Stay: Despite a chronic and historical lack of funding for aftercare services, some of our providers serving these youth have managed to offer limited aftercare over the years. We welcome the initiatives of OCFS and ACS, to provide after care for these youth coming out of our facilities. We believe strongly that good aftercare, well linked both to the services and people the youth has experienced in care as well as strong connections to the family and the community are vital

Residential care is not inexpensive; and aftercare is a very inexpensive way to provide critical supports and supervision as the youth transitions to home and community.

Having said this, much of the reason OCFS and ACS have become so committed to aftercare for this population is that they have determined that youth placed in our facilities stay an average of 12 months, down a couple of weeks on average from a year

ago. Youth placed in OCFS limited-secure settings are being discharged in an average of 9.4 months, up a month from a year ago. It is apparently the view of OCFS that if their direct served youth go home in 9 months there is no reason the same can't be true for youth in our facilities.

We think this is a worthwhile question to raise; but I must say we are unconvinced that any lower length of stay in care is by definition a good thing. If OCFS discharged youth have better outcomes than ours, are less likely to come back into care, and do well in the community – then by all means we need to understand how our programs can meet these same challenges. But a quicker exit for no other reason than to have a quicker exit from care is not a compelling reason.

- Specialized Services: While it is commonly thought that the youth placed in our agencies are “on average” less seriously involved in the justice system; OCFS’ data alone does not support that. Based on their September 06 data youth in voluntary agencies represent about 28% of the total, and about the same proportions from NYC and Upstate counties. The data also indicate that of youth who committed crimes against persons 25% are in our facilities. Slightly lower portions were involved in assault, homicide and robbery, while a higher proportion committed sex related crimes.

This may be a consequence of the fact that several of our agencies have developed sex offender treatment programs. Also several of our facilities which serve these youth have acquired OASAS substance abuse treatment licenses. This ability to offer specialized services tailored to the needs of groups of youth is very promising. With needed financial support more of these specialized treatment approaches can be developed in our facilities.

- Education and Vocational Preparation: All of our residential programs need high quality education and vocational programs. Yet the chronic under funding of the tuition rates has seriously inhibited many of our agencies from operating the high quality programs we need. The J.G. vs. Mills lawsuit, brought two years ago by Legal Aid against the NYS and NYC education departments for failing to ensure that youth in both the public and private juvenile justice programs being returned home from residential care are quickly admitted to public schools with all the credits they earned while in placement articulates these issues exceptionally well. The problem in brief ids that upon return to their community schools, these youth are very often turned away. Using a variety of excuses and reasons, local school officials deny school admission and place these kids on home tutoring for extended periods.

COFCCA will propose legislation this year, with your support, to ensure that these critical problems are remedied for all youngsters returning to home school districts, whether in juvenile justice, foster care, or other settings. Denying these youth immediate access to schools may well be the single determinant of their ability to transition home successfully. Surely, placing them on home schooling where they may receive an hour a day of tutor attention is a recipe for disaster. We must fix this.

- Restraint: Children and youth are not placed into any form of residential care if their behavior is such that their needs can be met in a family setting in the community. It thus stands to reason that there will be times when a youth’s behaviors represent a risk of serious harm to himself or others. This makes the question of when and how to intervene in that situation a critical one for every facility.

I know of no responsible residential care leader who advocates the use of restraints or any physical intervention to control behavior. But it is an unwelcome fact that we must be prepared to do so. Last year the legislature passed a bill that the governor signed to create a state agency work group, with representatives of provider agencies, to consider problems in the ways restraints and behavior are managed. I am pleased I was asked to serve on that group which met a couple of weeks ago for the first time.

It is clear there is much work to be done. The five state agencies endorse or use at least four different restraint techniques. Further, some of the state agencies openly and publicly question the safety of those techniques required by their sister state agencies. This must stop. At this first meeting it was clear that all agencies seek better de-escalation methods to reduce the need for physical restraints and that they all devote extensive training to their own state staff before they begin work with children. Unfortunately the amount of training, and the funding to support this training, which they support for our agencies is quite limited.

The work group recognized that issues related to the quantity as well as qualities of staff (staff ratios and qualifications) are key issues. Available training, the use of technology and physical settings is also an important ingredient. Finally, the residential settings themselves and their system orientation and rules play a significant role.

There are some promising developments in this arena. OCFS is funding the Julia Andrus Dyckman agency in Westchester, one of our member agencies, to provide extensive training to five fellow agencies on an approach they term the Sanctuary Model. The premise is that virtually all of our children and youth in care suffer from the effects of trauma and that every effort needs to be made to address this need while not contributing to it. The model places heavy emphasis on developing and implementing an array of interventions with even the most unruly youth to avoid the need for physical restraints while ensuring the safety of all the children and staff. We are watching this development with great interest; no one wants to have to do restraints.

There may also be a useful role for emerging technology to better ensure child as well as staff safety. OCFS informs us that they have seen improved behavior by youth in care and better performance by staff since installing cameras in the public areas of cottages. A couple of our agencies have begun to install these as well. While some issues remain to be addressed, we should carefully consider anything that improves the safety of children, and improves their confidence that we can keep them safe.

We have been working closely with OCFS over the past two years to improve child safety in our residential care programs. One outcome is a paper that outlines what we together believe is the needed place of residential care in our systems of care. The paper also articulates a series of issues we must address if New York wants to operate a high quality system for its children. We hope OCFS will finalize and release this paper soon.

Another issue of this workgroup was the development of a system to track all restraints in our facilities. A group of agency leaders and OCFS have determined an appropriate data set and we are piloting this new system now in ten of our agencies. We believe that gathering and sharing facility-specific general data helps all of us to re-examine what works and what needs attention.

It is too soon in my opinion to say whether one approach is better than others in all settings. But it is far too late to continue to tolerate the differences, sometimes on the

same campus, now required by the several state agencies which may license beds and schools on that campus. I hope the Assembly will continue to monitor this situation over the coming months.

- Workforce: The underlying and most critical problem faced by our agencies as they try to provide the highest quality of treatment and care to our children and youth continues to be our front line workforce. You have heard me speak of this in other settings. And I will continue to do so. But until we can raise our starting salaries to compete with other jobs with similar entry qualifications – for both our child care workers as well as our caseworkers – we will struggle.

We are asked to operate sophisticated treatment environments, to do so in ways that impact the residents very quickly to reduce their time in care, and to achieve outstanding outcomes. We expect no less of ourselves.

But the funding offered by the state and counties will barely support continuing past practices and these are simply not good enough. Our turnover rates for these workers hovers around 40% on average. That means that the staff who are supposed to be the constants in the child's daily life often leave the facility before the child – forcing constant development of new trusting relationships.

In short we will know when New York State is serious about providing the highest possible quality of care for its children when funds are made available so we can hire and retain a skilled, competent, and expert staff. To do that we have to be able provide salaries and benefits on a par with similar workers in related fields.

- Oversight: Finally, the Hearing notice raises the question of system oversight. For the past two years the Assembly has supported the creation of an independent Office of the Child Advocate. Recent situations at some OCFS direct operated facilities have heard these calls re-newed. I only wish to remind the committee again that the way in which our services are licensed, regulated, supervised and monitored, and funded is almost completely different in the not-for-profit sector compared to direct state operated programs.

OCFS licenses our facilities and sends their regional staff to inspect them regularly as well as conduct investigations of every report of abuse or neglect. OCFS has on several occasions in recent years been sufficiently concerned about the safety of children on an agency campus that they have closed intake, placed the facility under severe monitoring, and required corrective actions. In several cases either OCFS closed the facility or caused the agency board of directors to do so. Several such facilities are no longer operating.

If the Legislature and Governor decide that parts of the system will benefit from such an independent office I urge you to carefully consider those aspects of the current system that are working and not to duplicate the oversight. It is too easy to envision one state agency indicating a case while the other exonerates a worker.

Thank you for this opportunity to share some of our thinking and concerns with you. I look forward to any questions you may have and to continuing to work with you and your staff in the new year to constantly improve the services we offer our most vulnerable children and youth.