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FEWER LOCK-UPS, ENOUGH MONEY?

As the state plans to close six juvenile correctional facilities and embrace community-based juvenile justice, some wonder who'll pay for it. > Matthew Schwarzfeld Child welfare advocates, public safety groups and budget watchdogs all seem to agree that the state Office of Children and Family Services (OCFS) plan to close six juvenile correctional facilities by the beginning of next year is a step in the right direction. They praise the efforts of Commissioner Gladys Carrión, herself the former head of a Bronx youth organization. Carrión's commitment to restructuring, especially in the face of opposition from unions representing the 254 state employees affected by the closure, has impressed many.

Under Carrión's leadership, OCFS has shifted its focus from incarcerating kids convicted of misdemeanor offenses to getting them help in their own communities instead. The agency will reserve incarceration for only the most serious juvenile offenders.

"We must focus on genuine rehabilitation and treatment," Carrión said. "We believe our funding is better spent on supporting a community-based system where these children can maintain and strengthen connections with their families and the significant adults in their lives." She describes the closures as the first step toward transforming the system.

Now that Carrión has put her agency on the path toward a community-based treatment model for lesser juvenile offenders, groups affected by the change are wondering if and how the state will help pay for it. Only \$863,000 of the \$14 million saved by closing the facilities will be reinvested directly into community programs. (The remainder will be used to hire staff for facility-based and aftercare programming.)

Some leaders in the field proffer suggestions for how OCFS can ensure that needed mental health, substance abuse, and education services are in place – while others worry that plans for building community capacity are inadequate or even nonexistent.

"Those programs and services that need to be in place are still few and far between and we've not begun at all to match the services with the level of need that exists," said Meredith Wiley, New York State Director for Fight Crime: Invest in Kids, a nonpartisan national anti-crime group.

There were 2,610 children, the vast majority boys, in state juvenile correctional institutions as of last spring (the most recent OCFS data available), many of whom were incarcerated for low-level offenses and who have complex health and educational needs. Six out of ten youngsters in state custody are from the five boroughs.

Changes in New York City's juvenile justice system have made it possible for Carrión to push for system transformation at the state level. That's because in recent years the Department of Juvenile Justice and other city agencies have funded a patchwork of alternative to placement (ATP) programs that help divert children from the state juvenile corrections system. As a result, Family Court judges in the city now send nearly 28 percent fewer children to upstate placement facilities—from 1,319 in 2003, to 952 in 2007.

With fewer city kids sentenced to placement, many of the 241 beds in the six OCFS facilities slated for closure have been empty for some time. For example, Cayuga County's Auburn Residential Center, a non-secure facility for girls between the ages of 13 and 17 and one of the six facilities set to close in January 2009, only houses three children but has 21 empty spots (though it still employs 25 people). Since 2002, OCFS has reduced correctional capacity by 620 beds, including this round of closures. The agency points to underutilization as one of the primary reasons for closing the facilities.

Though New York City has several ATP programs already in place, they are paid for by local rather than state government. The city's Department of Probation (DOP) runs two major programs: Esperanza, a partnership between the Vera Institute, DOP and other city and state agencies, serves 160 participants, while a similar DOP effort called the Enhanced Supervision Program serves 554 juveniles. The Administration for Children's Services (ACS) recently launched the Juvenile Justice Initiative, which will offer 380 ATP slots plus 150 slots for youths returning from facilities. In contrast to DOP's programs, Juvenile Justice Initiative costs will be split between the city and state, with OCFS covering 65 percent and ACS 35 percent.

Paying for alternatives

In its recent response to Gov. Spitzer's proposed budget, Mayor Bloomberg's administration called for the state to provide reimbursements for all of the city's ATP (and alternative to detention, or ATD) programs. The budget response stated that these programs "create cost savings for the State as fewer juveniles are detained in State facilities" – but meanwhile the city would be happy to use the estimated \$6 million that reimbursements from the state would provide.

The New York Juvenile Justice Coalition, an umbrella group of more than 40 juvenile justice advocates and practitioners in New York City, also calls for state reimbursements. The Coalition has drafted legislation called "Redirect New York" that would require the state to reimburse counties at 65 percent for ATP and ATD programs rather than the current 50 percent. According to Mishi Faruqee, director of the Juvenile Justice Project at the Correctional Association of New York, the idea is to use fiscal incentives to encourage counties to refer eligible juveniles to alternatives to placement and detention.

"Redirect New York really forces localities to look at their detention policies, and in some cases may accelerate use of alternatives [to incarceration] since there will be a

disincentive to detain high numbers of young people,” said Faruqee. “The tragedy is that these kids are [in facilities] because we couldn’t get services for them in the community.”

The legislation is based on the funding formula for ACS’s Juvenile Justice Initiative, as well as similar fiscal incentive legislation for alternative to incarceration programs in other states. Still in draft form, members of the Coalition are looking for legislative sponsors. OCFS leadership agrees with the group that the bill is important.

“If I want someone to try something new, the fiscal incentive is the carrot people grab first,” said OCFS Deputy Director Joyce Burrell. “It will be much more difficult without it, because people will see all the things they have to do with not enough resources... fiscal incentives often will make folks take that step out to try something different.”

Cart before the horse?

OCFS has expressed hopes that counties will explore other ways to develop ATPs—but some observers grumble that hope isn't enough.

First, the agency suggests that the facility closings will save counties money. By shutting facilities, OCFS will indirectly reduce the number of kids counties send to state facilities, thereby saving counties their half of the bill they are required to split with the state. Counties “will now have additional dollars to invest in alternatives to incarceration. We can’t mandate it, but [reinvestment] is our hope and expectation,” Carrión said.

OCFS also has proposed denying the 50 percent reimbursement to counties for the costs of detention. (“Detention” facilities are operated by municipal agencies – such as the NYC Department of Juvenile Justice – for children prior to adjudication, whereas “placement” facilities are operated by OCFS or its contractors and house children sentenced by a judge.) According to OCFS spokesman Eddie Borges, denying reimbursement for detention—a cut presented in the governor’s budget for this fiscal year, which the legislature will vote on in upcoming weeks—will require counties to pay the full bill. This is not an insignificant cost: New York City projects spending more than \$84 million on its share of detention costs in 2008, according to the Independent Budget Office. OCFS hopes that pushing this expense to the counties will prompt local officials to develop alternatives to incarceration as a necessary cost-savings strategy. “The reality is that the budget has to be cut somewhere,” Borges said.

Cutting reimbursements for detention has some juvenile justice advocates worried. “We are approving of the underlying philosophy of wanting to keep kids out of detention, but... for those kids who do need to be in detention, that 50/50 match should not be taken away,” said Wiley, of Fight Crime: Invest in Kids. “We have an opportunity to really match services and build these programs ... But if we do this precipitously, if we put the cart before the horse and move kids out of detention before the services are in place, we could have a backlash that we could be suffering from 100 years from now.”

Changing how business is done

OCFS will close six non-secure and limited security correctional facilities that house children mostly between the ages of 12 and 18. The facilities are considered a boondoggle by many juvenile justice experts. OCFS reports that detaining one child for a year costs between \$120,000 and \$200,000. The Independent Budget Office says the city alone spent over \$100 million on placing kids in OCFS facilities in 2007.

ATP programs are far less expensive. Esperanza serves 160 children at a cost of \$4.2 million, or \$26,250 per child; the Enhanced Supervision Program, serves 554 juveniles for an estimated \$3.8 million in 2008, or \$6,859 per participant; the Juvenile Justice Initiative costs a total of \$11 million (including aftercare in addition to ATP slots).

Many experts agree that detaining juvenile delinquents who committed a misdemeanor is not an effective way to reduce crime. In a 1999 study, the most recent data available, OCFS found that 81 percent of boys and 45 percent of girls released from its custody were rearrested within 36 months.

“Like a lot of states, New York is in a situation where they’ve over-incarcerated lesser offenders. That is the legacy of ‘get tough’ policies: you end up widening the net,” said Ned Loughran, Executive Director of the Council of Juvenile Correctional Administrators. “Sending a kid who has committed a low level offense upstate in a secure facility is not the answer when that kid has multiple problems.”

Commissioner Carrión credits the work of local systems like New York City’s for paving the way for OCFS to better serve misdemeanants, while reserving correctional facilities for more serious offenders. She believes she has a historic opportunity to transform juvenile justice in the state. Her agency can not afford not to act, she says.

“In state residential facilities, the focus has been on safety and control and not on providing the developmentally appropriate services young people need to address their trauma, addictions, or deficits or education and self-esteem,” Carrión said.

“I don’t say this proudly, but we preside over a pipeline to prison,” said Carrion. “That is what has happened. And we can’t tolerate that any longer. So we need to start. Do I have everything in place? No. But I think I have a lot of the things I need in place.”

- Matt Schwarzfeld

This article has been corrected. 3/4/08