



**New York State
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December 11, 2009

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Dear Judge,

As the President of the Public Employees Federation (PEF), I represent over 1,500 employees in the Office of Children and Family Services, including teachers, counselors, and medical and mental health professionals. I am writing to express my deep concern over a document you recently received from Judge Michael V. Cocco and Judge Edwina Richardson-Mendelson regarding placements with the New York State Office of Children and Family Services (OCFS).

This memorandum indicts the entire juvenile justice system operated by OCFS. It reiterates the position of OCFS Commissioner Carrion that placement in state facilities should only be considered based on the "dangerousness" of the youth to the community and not based on the child's need for services such as mental health or substance abuse treatment. Furthermore, it accepts the Commissioner's appeal to not send youth to OCFS facilities and provides steps for review of prior placements.

This directive does a disservice to the hundreds of dedicated employees who work to improve the lives of New York's troubled youth and does not advance these youth's care and treatment. To simply redirect youth away from state facilities does not address the needs of the juveniles in the state's juvenile justice system and abandons youths to an even less accountable, less transparent system. As Commissioner Carrión conceded, OCFS has not done a good job of monitoring the voluntary agencies in the past. While she says that OCFS is "working towards obtaining performance data" it does not currently have such information. Contracts with private agencies do not include performance standards that would ensure that they provide a certain standard of care and supervision to the youth in their facilities.

Instead of OCFS placements, the Commissioner is advocating the use of voluntary agencies and community based programs (particularly evidence based programs). We are concerned that such placements will result in negative outcomes. One third of all youth placed by OCFS in voluntary agencies are eventually transferred to an OCFS facility because they are too difficult for the voluntary agencies to handle. Placing even more of our most difficult to serve youth in voluntary agencies will likely result in increased violence in these programs.

The research on community-based programs has almost exclusively been conducted outside of New York State. Moreover, the only study of an evidence based program under contract with OCFS (Multi Systemic Therapy (MST)) found that participation was not associated with lower rates of arrest, reconviction or reincarceration for OCFS youth. In fact, boys who participated in MST were more likely to be rearrested for a violent felony than boys in the control group. The study attributed the failure of the program to the "severity and intractability of the problems facing OCFS youth and their families". There is reason to believe that other programs which have not been evaluated are equally inappropriate for this population.

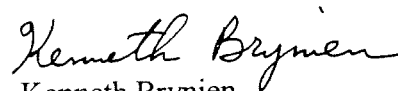
The Commissioner's blanket condemnation of the OCFS residential system ignores the extremely hard work of my members in the face of significant challenges. In the interest of better serving the youth in their care, they have repeatedly raised concerns similar to the findings of the U. S. Department of Justice (DOJ) report, including deficiencies in education and mental health services. Unlike the Commissioner, they believe the services they provide are a valuable part of the continuum of care necessary for rehabilitation.

Rather than making the deep comprehensive changes necessary to transform the system to meet youths' needs, Commissioner Carrión has chosen to abdicate her responsibility to these troubled youth, carrying out her long standing goal of demolishing the state operated residential system in favor of a system which currently has little accountability and inadequate services for this population.

I urge you as a key decision maker in the lives of troubled and sometimes dangerous youth, to advocate for true reform of the State operated system. I have attached a list of proposals that PEF sent to Governor Paterson, which address not only the findings of the DOJ related to civil rights but also the more pervasive underlying problems that require a swift and vigorous response.

I also strongly recommend that you visit OCFS facilities and talk to my members about their work with the youth that you have adjudicated. I believe you will find a vastly different situation than that which the Department of Justice and the Commissioner have described. Please do not hesitate to contact me if you have any questions or comments.

Respectfully,


Kenneth Brynien,
President

Enclosures

PEF Proposals for Responding to DOJ Report

1. Include union representatives as well as counselors, teachers, psychologists, social workers and other professionals in a work group that develops plans that respond to the DOJ report.
2. Review rules and disciplinary procedures to eliminate unnecessary rules that increase the likelihood of power and control issues with staff such as “tucking your shirt in”.
3. Review the procedures for enforcing youth rules and discipline to eliminate, to the extent possible, actions that escalate youth agitation, while maintaining structure, expectations, and reasonable consequences for rule violations.
4. Use the Office of Mental Health’s “Preventing and Managing Crisis Situations” training program for staff in the effected facilities. This is a state-of-the-art training program is focused on preventing crisis and violence and reducing the use of restraints.
5. CMPR should be totally revamped to focus on prevention and teaching staff non-verbal, verbal, and defensive interventions. The emphasis should be on recognizing early warning signs of agitation and learning de-escalation techniques and skills.
6. Prone restraint should be banned, as it is too risky a technique.
7. The system of emergency response or “pull the pin” should be evaluated and revamped to focus on early intervention to de-escalate crisis. Perhaps a trained crisis team could be deployed on each shift that includes a mix of mental health staff, counseling, and YDAs who are particularly trained and skilled at defusing situations.
8. Additional mental health staff should be hired and deployed to ensure that each youth entering OCFS facilities are assessed for their trauma history, trauma triggers, and provided appropriate individualized trauma therapy. The goal of the therapy would be to help traumatized youth recognize trauma symptoms and develop coping mechanisms to reduce them as well as helping youth to develop caring attachments and give meaning to the events that caused traumatic symptoms. It is also essential to begin to develop systems for communicating with all staff who have direct interaction with youth about their treatment plan, their trauma triggers so that they can be avoided, and any specific calming techniques that work with individual youths. It is essential that the youth are part of this planning and dialogue.

9. Evaluate the adequacy of staffing levels for both safety and therapeutic purposes. Ensure the seamless coordination of educational, health, mental health and substance abuse treatment services from intake through aftercare.
10. Systems should be developed to assess the risk, causes and solutions, when youth engage in threatening, violent behavior towards other youth or staff. Self-injurious behavior should also be immediately assessed. If the risk to other youth or staff is high or medium, a plan for preventing the risk from causing harm must be formulated.
11. Youth who threaten or act violently should be required to participate in an amends process with appropriate staff experts from counseling, mental health, facility leadership to try to resolve the cause of the violence and prevent it from recurring or escalating.
12. A peer based staff trauma response program should be developed to provide appropriate support to staff that is traumatized. Note: this is already under discussion to be piloted at Tryon Boys and Girls facilities.
13. Systems of youth evaluation should be modified to include educational progress. Education is central to youth rehabilitation. Educational vacancies should be filled on a timely basis.
14. Establishment of realistic timelines, tracking of progress, and evaluating effectiveness should be built into the DOJ response plan.
15. Changes that are proven to be effective should be expanded throughout DJJOY.