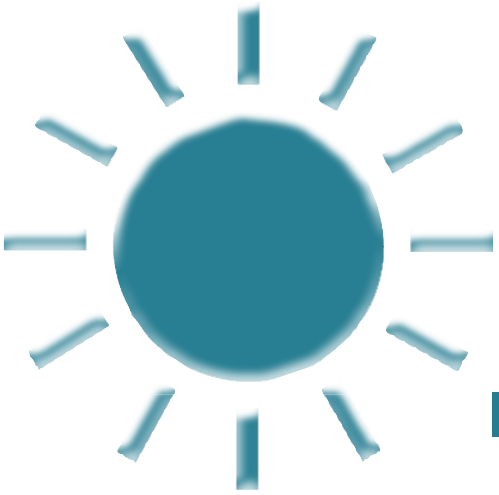
NATIONAL & LOCAL PERSPECTIVES



OVERSIGHT

IN THE JUVENILE JUSTICE SYSTEM

"Oversight is not a magic bullet, but it can help make these institutions better by forcing questions about how and why things are done."
Michele Deitch

Institute for Juvenile Justice Reform & Alternatives
A division of the Center for NuLeadership on Urban Solutions
2011

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INTRODUCTION

Many stakeholders in the field of juvenile justice reform believe New York is primed to embrace a pendulum swing toward reducing reliance on youth incarceration and developing a more therapeutic, rehabilitative, and positive youth development based approach to working with youth involved in the juvenile justice system.

The motivating forces are conjectured to range from the exigent findings of a federal investigation citing excessive force and deprivation of essential services in four state operated juvenile placement facilities; mounting budget pressures and fiscal crisis in state government; multiple reports citing unchanging high recidivism rate; long-standing advocacy and organizing efforts that have called for a fundamentally different approach to working with incarcerated youth showcasing system and community continuums that not only help to de-carcerate, but help young people desist from crime towards empowering their own potential as well as that of their peers, family and neighborhood; and champions in the system and government who are working to ensure that we have an equitable, humane and effective system for our young people.

Some of the current juvenile justice reform efforts emerging from this landscape in New York include: raising the age of criminal liability in New York; city and statewide efforts to better address racial disparity in the juvenile justice system; citywide juvenile detention reform efforts that are integrating the application of risk assessment instruments and structured decision making tools to reduce reliance on incarceration; and the recently introduced Juvenile Justice Realignment Act (JJRA) in the New York State Assembly (A. 7795, Camara) seeking to give New York City the authority to operate its own non-secure, limited secure, and secure youth placement facilities.

While the wave of reform measures is commendable, we must take this opportunity to ensure that this "pendulum swing" is not seasonal, but grounded in evidence-based, value-driven and robust principles of accountability, transparency, rehabilitation, positive youth development, community partnership, and public safety that are truthful and inclusive. To achieve this objective, we need an oversight system that is a mechanism for prevention and quality improvement not merely a compliance list to check off. Effective oversight should help calibrate our best intentions and practices to do more than sanitize our juvenile corrections of abuse and neglect, but build a youth justice system that keeps communities safe by helping our youth succeed.

These motivations led us to convene the forum, *Oversight in the Juvenile Justice System: National and Local Perspectives*, in April, 2011 at the Atlantic Philanthropies. It was an important and monumental event to have the range of expertise, experience and insight that both the morning and afternoon panelists brought to the table. We want to make sure that the content and analysis shared during this forum continue to be explored and integrated in our respective reform efforts.

If we are to truly "pendulum swing" away from overreliance on youth incarceration and fundamentally change the way we treat adolescents who get caught up in the criminal justice system, we must have the right anchors to help make our journey reflective, critical and progressive. We hope you find the briefing report instructive and helpful.



Kyung Ji Kate Rhee
Director, Institute for Juvenile Justice Reform & Alternatives
A division of the Center for NuLeadership on Urban Solutions

MORNING PANEL:
THE NATIONAL LANDSCAPE OF OVERSIGHT

PANELIST BIOS

Michele Deitch – Senior Lecturer at the School of Public Affairs at the University of Texas teaching graduate level courses in criminal justice policy and juvenile justice policy[1]. Her areas of expertise include independent oversight of correctional institutions, the rights of prisoners, and the management of juvenile offenders.

Will Harrell – Served as Lead Federal Monitor for the SH vs. Stickrath stipulation in December 2010. Prior to this, he served as the Chief Independent Ombudsman for the Texas Youth Commission. Harrell has also monitored prisons internationally for the United Nations and the Inter-American Commission on Human Rights.

Jeanne Milstein – Serves as Connecticut's Child Advocate, advocating for the well-being of Connecticut's youth. Milstein also served as Director of Government Relations for the Department of Children and Families and Legislative Director for the Connecticut Commission on Children.

Jeanne Meurer – Served for 20 years as a District Judge in Travis County, Texas, specializing in juvenile and family cases. After retirement in 2009, Judge Meurer continued to serve as a Senior District Judge handling the Travis County Juvenile Court docket.

Jack Beck – Has served as the Director of the Prison Visiting Project at the Correctional Association of NY since 2004. His prison monitoring has focused on general conditions, safety and violence, and medical and mental health care.

Michael Mushlin (Moderator) – Professor of Law at Pace University Law School where he teaches Civil Procedure, Evidence and Prisoners' Rights. He is the author of law review articles on a variety of subjects involving evidence, federal jurisdiction, civil procedure, children's rights and prisoners' rights.

For more extensive panelist bios, see **Appendix A** of Forum Program

[1] Deitch has written extensively on oversight issues, including preparing a 50-State Inventory of Independent Correctional Oversight Mechanisms Across the United States. See Pace Law Review 30th Anniversary, Opening Up a Closed World: a Sourcebook on Prison Oversight. Volume XXX, Number V. Fall, 2010. Pace University Law school, White Plains, New York, pp 1763-1930.

MORNING PANEL:
THE NATIONAL LANDSCAPE OF OVERSIGHT

PANELIST OPENING REMARKS

Moderator Michael Mushlin began the morning panel's discussion on the national context of oversight by suggesting that prisons exist in a kind of "shadow world," hidden from the public eye, and are therefore largely unaccountable to citizens and government alike. Mushlin asserted that a shift in consciousness is occurring at the national level, such that people are beginning to consider the existence of such shadow institutions as incompatible with democratic values[2]. Mushlin closed by suggesting that the present panel and forum constitute small pieces of that national shift.

The panelists were then given an opportunity to present remarks on their experience and role in prison oversight, and how this has contributed to their understanding of a national context for oversight in the criminal justice system.

> "Oversight is not a magic bullet, but it can help make these institutions better by forcing questions about how and why things are done."
>
> Michele Deitch

MICHELE DEITCH spoke about the fundamentals: what activities fall under the umbrella of oversight, what constitutes effective oversight, and the goals of oversight. Deitch identified seven functions or activities for effective oversight of the prison system: Regulation, Audit, Accreditation, Investigation, Legal, Reporting, and Inspecting/Monitoring (See Michelle Deitch, "Distinguishing the various functions of effective Prison Oversight" in Pace Law Review 30th Anniversary, Opening Up a Closed World, pp 1438-1445). She emphasized that many different activities - from prison visiting, to investigating incarcerated people's complaints, to accrediting and auditing - serve oversight functions, and that effective oversight is not about choosing one of the seven oversight functions to focus on, or about creating a single entity to perform all of the functions. Rather, the objective should be to strengthen each oversight activity on its own terms, so that overlapping mechanisms exist for achieving the true goals of oversight: transparency of public institutions, and accountability for safe and humane operation of correctional facilities.

Deitch also drew a crucial distinction between internal accountability measures, which allow departments of correction to assess their own performance, and external oversight, which gives entities structurally outside of the department a role in monitoring and investigation of conditions. She explained that while internal accountability is desirable and necessary, when we talk about effective oversight, we should talk first and foremost about external scrutiny[3]. Deitch further stressed that in order for external oversight bodies to be effective, they must have certain elements, including: independence from retaliation or influence by prison authorities, Golden Key (unfettered) access to facilities, records, inmates and staff when they enter the prison, which they must be able to do unannounced at any time, possession of adequate resources with which to do their work, and a responsibility to report findings to the public.

[2] Stan Stojkovic discusses the societal expectations for prisons and prison oversight that lead to the existence of shadow institutions, and the implications for democratic values. See "Prison Oversight and Prison Leadership," Pace Law Review 30th Anniversary, Opening Up a Closed World?. pp 1476-1489.

[3] The concept of external oversight may appear so common sense as to be taken for granted, but it is far from a reality in American corrections. Mushlin and Deitch point out in the Forward to the Pace Law Review Sourcebook on Prison Oversight, "The United States is one of the only Western nations without a formal and comprehensive system in place providing regular, external review of all prisons and jails."

> The effectiveness of these independent [oversight] agencies is no greater than the receptiveness of the agency leadership.
>
> Will Harrell

WILL HARRELL spoke about the lessons for prison oversight he gained from working as Ombudsperson for the Texas Youth Commission, and as the Lead Monitor for a federal judge implementing provisions of the settlement in a class-action lawsuit. Harrell echoed Professor Deitch's emphasis on the centrality of independence of the monitor, but complicated the idea that independence is merely dictated by the monitor's structural placement outside of the agency in charge. Harrell's post as Ombudsperson was structurally independent because it was housed in the Executive Branch, but in reality Harrell was pressured and retaliated against for aggressively investigating complaints.

Harrell attributed this gap between structural independence and actual independence to agency leadership who were unfriendly to proactive, strong oversight. This is fairly common, Harrell explained, when the governor appoints the head of both corrections and its external monitor. As was the case in Texas, gains were lost or watered down due to unsympathetic leadership.

Harrell contrasted monitoring from inside the government with oversight structures which are developed pursuant to litigation. In the litigation model, required improvements are enumerated in an enforceable legal document called a stipulation[4]; thus, they are less likely to be diluted or ignored.

When Harrell worked for a federal judge implementing the terms of a stipulation to improve conditions of confinement in Ohio youth facilities, there was a roadmap for the specific steps that the state had to take to correct abuses and deficiencies.

Harrell found this clarity refreshing, but asserted that the drawback of the litigation model is the adversarial relationship it sets up between the monitor and department stakeholders. Ultimately, department leadership who direct priorities, culture, training, and disciplinary procedures, and staff who run the facilities every day, do the real implementation. If these stakeholders see the monitor primarily as working against them, the effectiveness of what is implemented may be reduced.

> It's so easy to come in with a hammer. The hard part is coming up with recommendations and solutions that,if implemented, will truly make a difference.
>
> Jeanne Milstein

JEANNE MILSTEIN spoke about the unique context for oversight in Connecticut, where all systems involving care and/or placement of juveniles are handled by the Office of Child Welfare.

The Office of the Child Advocate, of which Milstein is the head, provides independent oversight for the programs run by this state agency. Milstein suggested that when juvenile justice functions are performed by the same agency that handles issues of child protection such as foster care, this frames the state's responsibility regarding incarcerated youth as primarily one of child welfare, rather than of child punishment.

[4] A "stipulation" is a legal term meaning an agreement that is mutually agreed upon by litigants in a case, and enforceable by the judge in that case. The terms of a stipulation outline obligations each side agrees to take on. Stipulations are not ordered by a judge because they are voluntarily agreed upon by the parties who sign on to them, but they are enforced by a judge, who monitors when and how the terms of the stipulation are implemented. Because they are not technically court ordered, stipulations do not impact statute or legal precedent; their terms apply only to the case from which the stipulation came.

Milstein agreed with the other panelists that unfettered access to facilities is crucial to effective monitoring, and added to this that subpoena power, which her Office has, is also an essential tool. Milstein pointed to the fact that her Office has actually sued the Office of Child Welfare, indicating that the Child Advocate is a monitor with not only structural independence, but actual independence as well.

Milstein also underlined the importance of using oversight to create systemic change by identifying patterns of who is entering the system and why. This allows the state both to better serve incarcerated youth and to broaden its awareness of the underlying issues which have become reliable funnels into the juvenile justice system. Milstein gave the example of trauma, which she said her Office identified as impacting an astonishing majority of incarcerated youth, particularly females.

Once this was discovered, Child Welfare could begin to equip itself with the tools to identify and care for traumatized youth. She clarified that it is not necessary for the agency itself to treat trauma, but to refer youth to needed services and to bring an overall understanding of the emotional impact of trauma to juvenile detention practices.

> "You have to start with a culture shift in your politics, in your community, in the people you hire."
>
> Jeanne Meurer

JEANNE MEURER provided perspective about how judges can play a key role in oversight, as she and other Austin, Texas judges did when they redesigned the juvenile justice system in their city to keep youth out of the state system and closer to home in the county system. When independent monitoring of probation departments in Texas uncovered abuses at the state level, county judges responded by refusing to send youth to these facilities.

This push-back at the level of the courts kicked off a rethinking of the whole logic of sending youth far away from the adults and communities who could advocate for them. Meurer explained that it was expensive and politically difficult, but that eventually people realized there were many collateral benefits of keeping youth close to home, including better rehabilitation due to familial involvement and better reentry transitioning due to community support.

Judge Meurer also spoke about the generally positive attitude of the criminal justice community in Austin toward the concept of oversight. While many jurisdictions find oversight threatening, Meurer said that in Austin it is seen as a mechanism for quality improvement, providing helpful perspective on needed changes and giving the department an opportunity to demonstrate that it is excelling. She maintained that when a jurisdiction has an exemplary record, it increases community pride, provides protection from lawsuits, and can even bring monetary gains such as grants to the area.

> "[The field of] corrections has never assumed that one of its obligations was to research itself and assess itself."
>
> Jack Beck

JACK BECK spoke from the unique vantage point of being a representative from a civilian body with statutory monitoring authority: the New York Correctional Association (CA). Beck identified consistency of participation and mission as a key strength of the CA, considering this quality necessary to creating change in complex systems.

Beck explained that for people who are incarcerated, consistency in a monitor shows that there is somewhere to turn for help anytime, not just on the day of a visit or audit. For agency leadership and staff, consistency helps

them see the monitor as less of an outsider, and gives the monitor the chance to prove it lives up to promises and acknowledge mistakes.

For the public, consistency builds confidence that the monitor provides a comprehensive and accurate portrait of otherwise invisible institutions. Following other panelists, Beck attributed CA's successes to its nearly unprecedented independence from the agency, and its Golden Key to facilities.

Beck argued that organizations like the CA, which serve as strong voices for reform but have no power to force change, prove successful when they can influence facilities to alter their approach. He contended that monitors accomplish this by being agents of quality improvement for the agency rather than opponents. To build this kind of relationship, the monitor must seek the agency's input, ask about its needs, and review findings and recommendations before publishing reports. Beck stressed that monitors must focus on practice, which creates the lasting change people in prison need.

Reshaping practice is more difficult than rewriting policy because it requires buy-in from the stakeholders who enact it, which again points to the need for a strong relationship between the agency and its monitor. Beck added that collaborative oversight is emerging in New York, as legislation now mandates that state agencies in charge of mental health and substance abuse monitor provision of these services in prisons. As stakeholders experience this model firsthand, they begin to see how expertise in service provision and monitoring are valuable to the field of corrections.

> "Our effectiveness is determined by our persuasiveness; and persuasiveness only happens when people believe that you have been fair, accurate, and comprehensive."
>
> Jack Beck

MORNING PANEL:
THE NATIONAL LANDSCAPE OF OVERSIGHT

MORNING PANEL Q & A DISCUSSION

The morning panel Q&A provided a wide-ranging discussion of issues relevant to oversight. The panelists expanded on themes they touched on in their opening remarks, as well as covered new ground in response to audience questions. The following is a summary of important issues covered in the Q&A discussion.

Is there a model for oversight to follow?

Michele Deitch cited The British Prison Inspectorate[5] as a gold standard for external oversight because it has the resources, independence, access, and stakeholder buy-in to consistently and meaningfully perform the two core oversight functions of monitoring and investigation. The Inspectorate visits every prison in the country twice every three or five years, and puts out public reports of general conditions as well as specific issues[6].

Deitch said that the Inspectorate has achieved an emphasis on quality improvement and collaboration, excelling in what New York is now embarking on: inter-agency partnerships, in which the expertise of government service providers is used to design and monitor programming in prisons.

This also helps the monitor to "do no harm," meaning to ensure quality services are provided to incarcerated people without taking on provision of these services itself, which could have the unintended consequence of increasing trauma or inviting retaliation on prisoners.

Does monitoring pursuant to litigation create systemic change?

In his opening remarks, Will Harrell had stated that monitoring pursuant to litigation is a strong model because it is not subject to political pressure. He was asked to expand on the possible drawback to this model that when the conditions of the stipulation are met, monitoring ends. Harrell agreed this is a limitation, but asserted that systemic change should be one of the provisions of the stipulation, so that after the term of monitoring ends, the agency is in better condition to do its own internal monitoring and should have made lasting changes which will perpetuate themselves.

What role should leadership play in oversight?

The question of leadership—how important it is for effective oversight, who can and should take a leadership role—circulated throughout the Q&A discussion. Reiterating a key point from his opening remarks, Will Harrell explained how leadership hostile to oversight can undercut progress. Harrell was pushed out of his post as Ombudsperson because he aggressively investigated complaints, even though his office was structurally independent. Jack Beck agreed that leadership tends to have a big impact, but argued that precisely because shifting

[5] To learn more about the British Inspectorate, see "Prison Inspection and the Protection of Prisoners' Rights," in Pace Law Review 30th Anniversary, Opening Up a Closed World. pp 1535-1547.

[6] Adult prisons are inspected twice every five years, whereas juvenile facilities (those holding people under the age of 18) are visited twice every three years. These visits include one full inspection lasting a week, and one follow-up visit. Most full inspections are announced in advance, but some are not.

political priorities are inevitable, monitors must avoid creating a "culture of personality" in which oversight depends upon leadership in good times and ineffectually bemoans it in bad. It is simply a given, Beck emphasized, that leaders cycle through and take their agendas with them; therefore, monitors must design oversight systems that are not based on individuals: "We need to develop institutions that function beyond that change," he cautioned.

Jeanne Meurer provided the unique perspective of the judicial community, which she said has stepped into a leadership role because a lack of progress in reforming the system led to gross abuses in Texas. She acknowledged that what some call "leadership" from the bench is seen by others as a violation of the judicial code of conduct, because judges are not supposed to "advocate" for those who come before them. However, Meurer stated that there is a sense of urgency to address failure when there is a noted vacuum of leadership in the Department and/or its monitor, and judges can step in to fill that role. Even when there are standards of care in place, Meurer noted, these sometimes do not go far enough. Judges have the independence to go beyond the standard, which makes them ideal leaders.

What is the role of oversight when New York moves toward deinstitutionalization?

The juvenile justice system in New York is moving toward deinstitutionalization, expanding and refining a spectrum of community-based alternatives to exist as sentencing options for judges to choose when they do not think a young person charged with a crime requires centralized, secure detention[7]. While the reform community agrees that deinstitutionalization is a positive step, it would be counterproductive if this movement results in a reduction in oversight because there is no place to "go to" to monitor care of young people charged with a crime.

Where along the spectrum of new Alternatives to Incarceration does oversight belong?

Panelists displayed an array of opinions on this question. Michele Deitch responded that she would draw the line at secure detention. Will Harrell said that the independent external monitor does not need to oversee every system directly, but it does to make sure that someone is responsive to resolving complaints, wherever along the spectrum they come in. Jack Beck jumped off of Harrell's point to distinguish between a monitor of institutions and an Ombudsperson, contending that institutional monitors should not monitor this kind of spectrum but that an entity like an Ombudsperson certainly should. Jeanne Milstein explained that the Office of the Child Advocate contends with a spectrum like this. They review every critical event that comes in from a state-licensed facility and look for patterns emerging from a particular facility, which works well. Moderator Michael Mushlin weighed in on the question, responding that based on his experience suing the foster care system in the 1980's, he believes that non-centralized care requires as much oversight as that of facilities. "I think the distinction between a child in a foster home and a kid in a locked up facility is not that great," he said. "It's an institution without walls."

Does oversight have the responsibility to play a part in prevention in regard to known "feeder institutions" like the school-to-prison-pipeline?

Panelists generally did not think oversight should include monitoring of common access points by which youth enter the system. Jeanne Meurer cautioned against monitors going outside the systems they monitor, because the role of the monitor is to improve the system it oversees, and expanding to looking at other institutions could result

[7] Deinstitutionalization should not be confused with "realignment," which is a specific proposal to put operation of the juvenile justice system for City youth fully in the hands of the City. Deinstitutionalization is part of realignment because a major aspect of the realignment strategy is to create a spectrum of community-based and residential alternatives for youth who are currently in state (OCFS) facilities, but realignment also includes a centralized, secure care component for high-risk youth. The City has already moved toward Deinstitutionalization for its own system, the success of which provides the model for the types of programs realignment would use if the City receives the authority and resources from the State that it would need to enact realignment effectively. To learn more about realignment, see the Testimony of Commissioner for Probation Vincent Schiraldi before the City Council, January 26, 2011, available: *http://www.nyc.gov/html/prob/downloads/pdf/realignment_testimony_01252011.pdf*

in displacing blame rather than focusing on self-improvement. Will Harrell suggested that partnerships are useful for achieving a prevention function without taking on the job directly, explaining that in Texas when they identified the school-to-prison pipeline, he brought in an education non-profit to work on the issue. Jack Beck said he did not believe monitoring feeder institutions should be part of juvenile justice oversight, but that the monitor should be ensuring that correctional institutions are accurately and consistently collecting data on who is entering the system and how.

Departing from the views expressed by the panelists, an audience member commented that the feeder institutions and the juvenile justice system are so interconnected, with children constantly moving back and forth between them, that what is needed is a cross-system integrative body that sees them all as one, as a multi-directional pipeline.

Are there models of states that have developed performance measures or other practical mechanisms to actively monitor practices?

None of the panelists answered this question, but Alexandra Cox, a Soros Justice Fellow and co-coordinator of the event, noted that Office of Child and Family Services (OCFS) facilities do participate in the national Performance Based Standards measurement system, however some groundwork research done in England about performance measures sheds light on whether these standards are really good measures, focus enough on process, and promote meaningful change[8].

When youth are sent out of state, how do you maintain oversight?

Michele Deitch stressed that oversight must follow the person, due to the vulnerability of this class of incarcerated juveniles, who suffer some of the worst abuses because of their isolation. Jeanne Milstein added that these youth are also vulnerable because stereotypes portray them as the most dangerous criminals, while data indicates that many suffer from developmental disabilities and mental illness.

Is there innovative use of technology in oversight practices which can help cut costs AND facilitate effective monitoring?

Jack Beck explained that the CA started monitoring classroom instruction via video-stream rather than putting resources toward site visits. Beck also brought up the issue of electronic data sharing. He said that in coming years, electronic sharing of medical and other records will be greatly increase, pursuant to national as well as state programs. This may prove efficient and useful, but before these practices come into the mainstream many questions must be answered: among them, how will people be able to effectively give consent for information sharing; how will confidentiality be maintained; how can people verify accuracy of these records; will this have a positive impact on formerly incarcerated people, or will it become yet another obstacle?

Audience members also addressed the technology question. One said that cameras will be very helpful in enforcing implementation of the Prison Rape Elimination Act[9], in terms of investigating both incidents and staff response. She stated that the U.S. Attorney General's Office recommendations fall short of mandating use of cameras, but

[8] OCFS uses a national system used to improve conditions of confinement called Performance Based Standards (PBS). To learn more about PBS, see: *http://cjca.net/initiatives/performance-based-standards-pbs*. For research done in England on the effectiveness of performance measure systems, see Iain Beattie, "Square Pegs and Round Holes: Performance Measurement in the Police and Prison Services," HM Prison Service. Available: *http://www.hmprisonservice.gov.uk/resourcecentre/prisonservicejournal/index.asp?print=1&id=5979*,3124,11,3148,0,0

[9] To learn more about the PREA, see "Ensuring Progress: Accountability Standards Recommended by the National Prison Rape Elimination Commission in Pace Law Review 30th Anniversary, Opening Up a Closed World. pp 1625-1645.

asserted that this is what we should move towards. A second audience member explained that all of the counties in the state except the five boroughs of New York City got a million dollars to start tele-visitation projects, which are shown to be effective and reduce costs, and which young people actually seem to enjoy.

Should oversight include assessing the long-term psychological and social effects of incarceration?

Panelists interpreted this question differently. Will Harrell focused on the idea of program evaluation, noting that part of the stipulation for the class action lawsuit in Ohio is a longitudinal study comparing outcomes for youth incarcerated before, during and after the reforms pursuant to the settlement were put in place. He added that on the back end of that study a film team and a written team were hired to collect stories, because the personal and emotional impacts of incarceration are important to document. Jeanne Meurer considered the question from a different angle, weighing the existential value of incarceration itself. She asserted that long-term assessment would be a good practice because "It's an important thing to do in order to show whether or not having institutions works at all – institutionalization in any form, whether it's a detention center or a residential center."

Given that public discourse is important in providing support for reform and oversight, what are good models for getting public input and buy-in?

Jeanne Meurer responded that the media and schools are good partners. In Austin, the media visited institutions and did profiles, which in turn got the public involved. They also had schools visit courts and institutions, which Meurer said was a great way of shining a light on what happens in facilities. She added that you can call community meetings and discuss problems directly with the public. Jack Beck stated that the CA seeks out the input of people directly impacted by incarceration, not just to tell their stories but to actually help develop policy, and so making sure to engage with that population is crucial. Will Harrell agreed with Beck, stating that the best advocates for institutionalized children are their parents, and mentioned that the Vera Institute for Justice has a strong program in Ohio aimed at getting parents involved.

AFTERNOON PANEL:
THE NEW YORK OVERSIGHT LANDSCAPE

PANELIST BIOS

Phyllis Harrison-Ross, M.D – Serves as Commissioner of the NYS Commission of Correction and Chair of its Medical Review Board. With more than 35 years in the Community Mental Health profession, Dr. Phyllis Harrison-Ross presents a remarkably diverse career as a Hospital Clinical Administrator, Researcher, Academician, Public Health Consultant, Forensic and Child Psychiatrist, Public Educator and Public Servant.

Tamara A. Steckler – Serves as Attorney-in-Charge of the Juvenile Rights Practice of the Legal Aid Society in New York City (JRP). She is also active in numerous state and city working groups and task forces addressing issues of child welfare and juvenile justice, including the Governor's Task Force on Transforming Juvenile Justice.

Euphemia Strauchn Adams – Euphemia is a social worker and the Executive Director of Families On The Move of NYC, Inc., and she is the mother of 4 young adults, two of whom were in and out of several secure and non-secure juvenile facilities as teens. She currently represents the family voice on several committees, councils and task forces on local, state and national levels.

Juan Cartagena (Moderator) - A constitutional and civil rights attorney who is presently General Counsel and Vice President for Advocacy at the Community Service Society of New York, where he supervises public interest law attorneys and a staff of policy experts who conduct strategic research and policy analysis on issues of labor market participation, affordable housing, youth policy and mass imprisonment and reentry.

Oliver Pu-Folkes - Serves as the Associate Commissioner overseeing detention services for the Division of Youth & Family Justice (DYFJ) since January 2011. Oliver brings with him to this position over two decades of professional experience in public safety and public sector management.

Tanisha S. Calderon - Has been employed with the NYC Administration for Children's Services Division of Youth and Family Justice (DYFJ), formerly known as NYC Department of Juvenile Justice, since July 1997. Ms. Calderon started as a Case Manager with the Department of Juvenile Justice's Community Based Program, Aftercare, where she worked with youth recently released from detention. She assisted youth with school enrollment, summer youth employment and connected youth and their families with various community based services and organizations.

For more extensive panelist bios, see **Appendix A** of Forum Program

AFTERNOON PANEL: THE NEW YORK OVERSIGHT LANDSCAPE

PANELIST OPENING REMARKS

> As you would imagine, the minimum standards and our enforcement of those standards results in some friction with [OCFS]… but I would characterize it as a respectful, healthy friction between two agencies who are pursuing a common goal from a different perspective.
>
> Dr. Phyllis Harrison-Ross

DR. PHYLLIS HARRISON-ROSS outlined the purpose and activities of the New York State Commission on Corrections, which she serves on as one of three Commissioners. The Commission is an independent external monitor housed in the Executive Branch with the statutory mandate to monitor all secure facilities in the state. The Commission also has the ability to enforce corrective action by court order of certain serious violations found in facilities, and to make broader recommendations for improvement. Harrison-Ross explained that juvenile facilities, which the Commission only started overseeing in 1996, differ from their adult counterparts because they are more dangerous, which has great implications for how staff manages these facilities and interacts with the incarcerated individuals[10]. Harrison-Ross closed by saying that the Commission's enforcement of minimum standards creates tension between itself and the Office of Child and Family Services (OCFS), indicating that the Commission enjoys a degree of actual independence, as opposed to merely structural independence.

> The best way to make children safe…while they are in custody has to do with philosophical and cultural shifts.
>
> Tami Steckler

TAMI STECKLER used her remarks to call for a fundamental shift in how juvenile detention is conceived of and carried out in New York. She condemned practices such as the use of prone restraints and detention of children in institutions far from their homes, but she stressed that meaningful change would have to go beyond the specifics, to a recalculation of "the cultural, philosophical thinking behind how to interact with these children." Steckler asserted that absent this cultural change, oversight and monitoring will never achieve the goal of systemic improvement because those in charge of caring for these young people see their job as primarily punitive, rather than rehabilitative. For instance, Steckler explained, the inherent power imbalance between children and adults means staff must treat juveniles differently than they would treat incarcerated adults. The fact that staff have not been trained to recognize this difference and its implications means that leadership does not recognize it either, and this translates into an unacceptably violent environment for youth and staff alike. Finally, Steckler questioned the sheer number of youth in detention. She pointed out that the size of the population not only makes oversight logistically difficult, but reflects the wrongheaded approach of the current culture, which seeks to punish rather than heal.

[10] According to Dr. Harrison-Ross, from 2007-2010, in juvenile facilities there were 41 assaults per 100 people on average, compared to 2 in adult prisons and 4 in county jails.

> [We are] looking at the language that is used for our children. I don't like sitting in a meeting and hearing that 'there's a body coming through the door' – because our children are alive.
>
> Euphemia Adams

EUPHEMIA ADAMS spoke from the perspective of a parent of children who have been in juvenile detention, and an advocate who organizes with other families impacted by juvenile incarceration. She explained that the role of Families on the Move (FOM), of which she is the Executive Director, is to ensure the safe care of children in out-of-home placement (including detention, mental health placement, foster care, or any other system). Adams highlighted the communal approach of the group, which views system-involved youth as interconnected in their need for advocacy from adults in their community, even if those adults are not relatives, and in their need for humane treatment no matter which system they are involved in. "When we come to the table, we don't say that this is just my child, but that all children are our children, and that the needs of these children should be met in a safe way," Adams said. She contrasted this inclusive attitude with that of the systems her organization deals with. She contended that government agencies view their various systems through the lens of distinct "silos," employing different bureaucracy for each, which is exhausting and frustrating for parents who see their children as integrated, whole people. Adams also elaborated on what "safe care" means to her and to FOM. Safe care, she explained, includes the safety not just of the children but also of the staff, because one is dependent upon the other. The goal is not to place blame solely on facilities and staff, but rather to work together to create an environment that breeds safe custody, which Adams said is one "based on mutual respect, that looks at cultural differences, and respects cultural differences."

> We are moving from a control paradigm, to a more therapeutic model.
>
> Oliver Pu-Folkes

OLIVER PU-FOLKES introduced the leadership philosophy and goal of the newly-formed Division of Youth and Family Justice (DYFJ)[11] as being drastic, but simple: get all of the kids out of the system.

Echoing Tami Steckler's call for a new culture in corrections, Pu-Folkes, who is the Associate Commissioner for Detention in DYFJ, stated that while the priority of the now-dissolved Department of Juvenile Justice was the "care, custody and control" of a population, the mission of DYFJ is to be a partner in dialogue with courts, probation officers, Alternative to Detention programs, and other stakeholders in the juvenile justice system.

Pu-Folkes focused his remarks on the changing role and expectations for staff in this new paradigm of juvenile detention. Pu-Folkes maintained that to achieve the cultural shift DYFJ is striving for, staff need to see their job descriptions differently. Training focused on minimum standards encourages employees to see their role as merely disciplinary or custodial, so a challenge for the new agency is to go beyond the minimum standards to train staff on principles and techniques of childcare and child development. Pu-Folkes cited physical restraint as an area in which training would help instill new institutional values. Until recently, training taught staff the "right way" to put

[11] On December 7, 2010, New York City's Department of Juvenile Justice was merged into the Administration for Children's Services, in the form of the Division of Youth and Family Justice. The major goal of the merger is to reduce recidivism among youth, which is far higher than that of their adult counterparts. For more, see *http://www.nyc.gov/html/acs/html/yfj/youth_family_justice.shtml.*

their hands on kids; now, DYFJ trains staff in de-escalation, so that they do not put their hands on kids at all[12]. Pu-Folkes concluded his remarks by saying that DYFJ is eager to provide employees with the training necessary to understand and enact its mission, but that employees who cannot or will not get on board with the agency's new direction must be terminated. Pu-Folkes acknowledged that this line in the sand will be threatening to some, but that it must be said because a shift in culture depends on staff.

> "A lot of youth don't know that they can contact our office for serious problems - not just complaints about food - so we have to be more proactive as Ombudspeople."
>
> Tanisha Calderon

TANISHA CALDERON'S remarks centered on outlining the role of Ombudspeople in oversight of juvenile justice. Calderon explained that DYFJ's three Ombudspeople work collaboratively, receiving, investigating and resolving complaints from within juvenile detention centers on matters large and small. Calderon said that a goal for improving the program is educating detained youth about the scope of complaints for which they can seek help.

Currently, Calderon explained, youth are vocal about their needs in regard to daily quality-of-life issues such as food, but they do not realize that Ombudspeople can be contacted for serious problems such as excessive adjournments of their cases or lack of attorney contact. Calderon said that this tendency of youth to focus on more seemingly minor issues requires Ombudspeople serving youth to be more proactive than those serving adults. Calderon also expressed her office's need for material as well as community support. She identified clerical support as an area in which the office requires resources, and stated that the office is seeking to cultivate partnerships with Community Based Organizations and parents of incarcerated youth.

[12] In the 2nd quarter of 2010 (before the transition of DJJ into DYFJ) there were 471 physical restraints used and 129 mechanical restraints used; in 104 of these cases, some kind of injury resulted. In the first 3rd quarter of 2011 (after the transition), there were 521 physical restraints were used and 136 mechanical restraints used; in 99 of these cases, some kind of injury resulted. The size of the populations in detention at those different periods were roughly the same. Source: NYC Dep. of Juvenile Justice Quarterly Incident Data Reports, Fiscal Year 2011 2nd and 3rd Quarters (October 1, 2010 - December 31, 2010 and January 1, 2011 – March). *http://www.nyc.gov/html/djj/pdf/ citycouncil_incident_report_q2_2011.pdf; http://www.nyc.gov/html/djj/pdf/citycouncil_incident_report_q3_2011.pdf*

AFTERNOON PANEL: THE NEW YORK OVERSIGHT LANDSCAPE

AFTERNOON PANEL Q&A DISCUSSION

The afternoon panel Q&A was structured in three parts: 1) The moderator invited each panelist to discuss budget issues; 2) The moderator posed a specific question to each panelist; and 3) Questions were taken from the audience. The following is a summary of each portion of the Q&A discussion[13].

INDIVIDUAL QUESTIONS

Dr. Phyllis Harrison-Ross responded that for the NYS Commission on Corrections, budget issues are primarily staffing issues; the Commission needs more human resources, and specifically needs personnel who know how to do research design, so that they can effectively measure and assess the records of different facilities. She added that free-standing funding, acquired through grants and other outside sources rather than government allocation, is not practical because it puts oversight activities on a "grant treadmill" which is tiring and inevitably runs out.

Tami Steckler disagreed with Dr. Harrison-Ross that outside, private funding inevitably dries up, but stated that the issue is not how much money there is to go around, but rather who is getting it and what constitutes effective oversight. An organization tasked with oversight that is not funded will not be effective, she reasoned, but even if it is funded, it will not be effective unless the corrections agency has a philosophy and leadership that encourages fundamental change from within. She added that her recent experience touring Horizons Detention Facility indicated to her that such a change is in fact taking place on a cultural level in DYFJ right now.

Euphemia Adams identified the main difficulty with budget as being one of manageability: how to appropriately allocate resources, whatever source they come from, when there are so many different focus areas for oversight and monitoring. She said she would prefer that money come from the state rather than from the city, because the current trend is to keep youth in their communities, so the city desperately needs to retain those dollars in order to meet demand for those new services. She agreed with Dr. Harrison-Ross that free-standing funding is a problem because it threatens the sustainability of oversight activities.

Dr. Phyllis Harrison-Ross was questioned about the extent of her Commission's access to facilities. Harrison-Ross responded that the Commission conducts annual audits of facilities as well as unannounced audits sparked by serious violations, but is currently considering moving to a system where facilities that consistently perform well get assessed less frequently. She stated that this move is due to budget constraints and limited staff resources, but that it would also be an incentive and reward for facilities to perform well[14]. Harrison-Ross explained that it is becoming more important that audits are sparked by violations (as opposed to being routine), because serious incidents are increasing and it is inefficient to pull limited staff off of routine audits to re-task them with auditing violators.

[13] The moderator exempted panelists Pu-Folkes and Calderon from answering the budget and individual questions because they were standing in at the last minute for panelists Viola Abbitt and Laurence Busching, who could not attend due to illness. Pu-Folkes chose to respond to these questions anyhow, and both he and Calderon fielded questions from the audience.

[14] Harrison-Ross explained that OCFS standards were only enacted in the summer of 2009, which has led to more audits and further stretching of staff. OCFS uses a national system used to improve conditions of confinement called Performance Based Standards (PBS). To learn more about PBS, see: *http://cjca.net/initiatives/performance-based-standards-pbs*. Some research done has been done in England on the effectiveness of performance measure systems. See Iain Beattie, "Square Pegs and Round Holes: Performance Measurement in the Police and Prison Services," HM Prison Service. Available: *http://www.hmprisonservice.gov.uk/resourcecentre/prisonservicejournal/index.asp?print=1&id=5979,3124,11,3148,0,0*

Tami Steckler was asked to elaborate on whether litigation is an effective tool in oversight, especially in regard to creating the "philosophical and cultural shift" Steckler advocated in her opening remarks. Steckler responded that litigation's role is two-fold: suing for individual instances of abuse on behalf of a wronged party, or doing impact litigation, which addresses systemic problems by using the courts to seek a change in institutional policy. Steckler stated that winning an individual lawsuit rarely feels like "enough," whereas with impact litigation "you have a lot of result at the end of the day." However, Steckler acknowledged that even impact litigation has limitations in regard to creating a cultural change. If agency leadership is receptive, it can go a long way—if not, its effectiveness is diluted. She also noted that the Prison Litigation Rights Act has greatly hindered the ability of litigation to successfully address poor conditions of confinement, and stated that it should be changed or repealed[15].

Euphemia Adams responded to the question of what the input and participation of family of incarcerated youth contribute to oversight and monitoring. Adams lamented that the participation is not as robust as it could be, because there are many obstacles to getting involved. Meetings and hearings are not held at times that are conducive to working people's schedules, and getting time off of work is impossible for many. She explained that typically, it is the same people who are getting involved in everything because they are the ones that are able to do so. Recruiting efforts to get more people involved often yield little result because the reason that people are not involved has less to do with lack of interest and more to do with lack of availability.

Oliver Pu-Folkes outlined DYFJ initiatives with oversight implications. As in his opening remarks, Pu-Folkes emphasized staff as a key area of focus for change. He related that DYFJ is currently negotiating with the Office of Municipal Budget about gaining resources for more staff, because "If we have more staff we have less fatigue; we have more meaningful interactions that staff can provide in terms of working with youth; and it means also we can have more relentless follow-up." Additionally, DYFJ intends to work with the Employment Law Unit of its parent-agency the Administration of Child Services (ACS) to respond rapidly to employee misconduct, which has been shown to change staff behavior more meaningfully. Pu-Folkes also mentioned a plan to restructure the senior management team of DYFJ to increase accountability at the top.

Responding to Pu-Folkes' remarks, Tami Steckler argued that with a smaller total population in detention, budget and staff resource constraints would not present a problem. Pu-Folkes stated that while this is true, it is still necessary to have a plan for your average daily population. Steckler clarified that in her mind, shrinking the system is not about small daily fluctuations, but rather a drastic reduction of the population by eliminating detention for low-risk youth entirely. Steckler asserted that this low-risk population, which comprises the largest segment of youth in detention, should not be in detention at all, so eliminating these youth from the system would be both the ethical choice as well as a massive windfall for the agency in terms of resources.

[15] The Prison Litigation Reform Act was passed in 1995, with the intention of restricting the ability of prisoners to litigate constitutional or statutory violations in federal court, and to limit what federal courts can do to redress these grievances. For more, see "Getting to Yes in a PLRA World," in Pace Law Review 30th Anniversary, Opening Up a Closed World. pp 1672 – 1686.

AFTERNOON PANEL: THE NEW YORK OVERSIGHT LANDSCAPE

QUESTIONS FROM THE AUDIENCE

This forum was partially sparked by New York considering 'realignment.' If we were to reinvent secure care in New York, what would you like to see for oversight?[16]

Tami Steckler cited the Missouri model as an effective and "child friendly" model in which realignment has been done well: "They don't use hardware; they use human-ware," she said[17]. Steckler said it was not yet certain whether oversight would be done under the auspices of ACS or whether an independent monitor would provide oversight externally, but that either way quality assurance is needed. Steckler stressed the importance of not reinventing the wheel, but looking to places like Missouri where this is done well. Euphemia Adams responded that as a parent advocate, she would like to see the oversight be housed outside ACS to ensure greater independence. Adams also stated that regardless of who does the oversight, private facilities must be scrutinized and must be held to the same standard as public institutions.

What is the potential for working with the judicial branch in, since judges are such a critical voice?

Tami Steckler responded that judges are getting involved already. In record numbers, they are avoiding placement and choosing instead from an array of available Alternatives to Incarceration (ATI) and Alternatives to Detention (ATD). Steckler assured listeners that "If those [ATI and ATD] continuums are really robust and really strong, judges will value them and use them." Judges place kids in detention because they think it is their only option; all judges really need to know is that "there's an alternative that's going to work for that kid." Steckler also pointed out that since judges are very independent, a good way to externally pressure them is to track their records and become vocal during the reappointment process. Euphemia Adams noted that there are trainings now being developed for judges about the intersection of mental health issues and juvenile justice, so pushing these trainings is a way of getting judges involved. Oliver Pu-Folkes said that DYFJ has strong relationships with judges and meets with members of the judicial branch to discuss how to get fewer kids coming into the system. Pu-Folkes described one program currently being piloted called Positive Transitions Toward Home, which is a step-down program for youth with Juvenile Offender charges[18] who are transitioning back to their communities after being incarcerated. They are electronically monitored using a signal-emitting ankle bracelet by community based organizations chosen to help administer the program.

[16] To learn more about realignment, see the Testimony of Commissioner for Probation Vincent Schiraldi before the City Council, January 26, 2011. Available: *http://www.nyc.gov/html/prob/downloads/pdf/realignment_testimony_01252011.pdf*

[17] The Missouri system uses small, home-like, facilities that promote rehabilitation and family and community reintegration. For more on the Missouri system, see Chris Cuomo, Joseph Diaz and Kate McCarthy, "Missouri's New Take on Juvenile Justice," ABC Good Morning America News Online. September 8, 2009. *http://abcnews.go.com/GMA/missouris-juvenile-justice-system/story?id=8511600*

[18] In New York State, there are several different designations for juveniles entering the system. A JuvenileOffender is a child between 13 and 15 years old charged with a violent felony, who is prosecuted in adult criminal court and subject to adult sentences including life in prison, but serves his/her time in OCFS facilities until age 16, at which point the child is transferred to an adult facility to serve the remainder of his/her sentence. A Juvenile Delinquent is a child at least 7 years old but under 16, who is prosecuted inFamily Court and if convicted, serves time in OCFS facilities. A Youthful Offender is a status that courtscan grant a young person up to the age of 18, which prevents the creation of a criminal record and can shorten the sentence.

Should "secure" and "non-secure" detention really have different oversight, given that there is no freedom to leave a non-secure facility and restraints can still be used?

Phyllis Harrison-Ross and Tami Steckler both responded that the difference between secure and non-secure detention is illusory, existing in name only. Steckler added that language should change to reflect the experience of detention, which is the same whether designated secure or non-secure, because the language we use has bearing on how reforms get implemented and oversight is carried out.

Do harsh restrictions such as limitations on visits, receiving of cards, and having prescription glasses confiscated still exist in city facilities, and even for pre-adjudication youth?

Tanisha Calderon responded that what the questioner had seen and was shocked by was probably the old Behavior Modification Program used by the Department of Juvenile Justice, in which youth progressively lost privileges. Calderon explained that this program has been replaced in DYFJ with a commissary program called ASPIRE, which allows youth in detention to progressively gain levels of incentives and is therefore positively oriented rather than punitive. Oliver Pu-Folkes seconded Calderon's comments, stating that that the ASPIRE program speaks to the shift to a more therapeutic model that DYFJ is working toward. Pu-Folkes reiterated his earlier comments that making programs like ASPIRE work on the ground depends on the willingness and ability of staff to enact the agency's new approach. Pu-Folkes also acknowledged that there are inherent limitations to establishing a non-punitive model in the context of a system that exists for the purpose of locking up youth who society considers a threat to public safety.

Tami Steckler countered the perspective that keeping youth in non-secure detention is actually related to public safety. She argued that the vast majority of youth in non-secure detention are not a risk to public safety, because if they were, they would be in secure detention. Steckler asserted that these are low-risk youth who are actually in placement for reasons that relate to social policy: because courts do not believe parents can control a child, or because the parents do not want the child to return home, or because the child does not want to return home. "There shouldn't be a non-secure system," she concluded. "We should find a better way to help those children."

What is the function of the Independent Review Board for oversight in OCFS facilities?

The panel's moderator Juan Cartagena, who is the Chair of the Independent Review Board (IRB)[19], weighed in to answer the question. He explained that the IRB can meet with incarcerated youth as well as staff in the facilities, but that its main responsibility is to oversee the programmatic aspect of the Office of the Ombudsperson. Tami Steckler added that the effectiveness of the IRB's oversight is limited by the fact that it depends on reporting by youth and staff, which is not robust in the "culture of quiet" prevailing at OCFS facilities. Steckler went a step further, to say that people do not feel comfortable grieving because of the threat of retaliation. Often when a youth and a staff person get in an altercation, that young person is arrested and encouraged to plead out, Steckler stated. Cartagena agreed with Steckler's assessment, and added that, "The opposite is never true. When a staff member actually commits a physical assault on one of these young people, the police do not show up…That's considered some kind of employment practice, instead of an actual crime."

[19] OCFS regulations require the establishment of an Independent Review Board (IRB) to advise the Commissioner on matters relating to the Office of the Ombudsman. Throughout the 1990's and early 2000's, there was "a near-total breakdown in the functioning of the Office of Ombudsman," and an IRB that had been "essentially moribund since at least 1994," according to one report by the State Inspector General. It was in part the failure of these systems of oversight that sparked the wave of reform that is currently informing debate on realignment and other strategies to improve juvenile justice in New York.

Institute for Juvenile Justice Reform & Alternatives

A project of the
Center for NuLeadership on Urban Solutions

IJJRA's mission is to reduce the rate and likelihood of youth incarceration by effecting:

- System Change through policy reform and system accountability founded on principles of human rights, human development and human justice
- Community Empowerment through organizing, advocacy training, service networks and civic engagement
- Individual Transformation and Social Justice Leadership through educational initiatives, leadership training fellowships and intergenerational mentorship networks

Formerly known as the Prison Moratorium Project (PMP), IJJRA is a project of the Center for NuLeadership on Urban Solutions (CNUS), the nation's first public policy, research, training, advocacy center conceived, designed and developed by formerly incarcerated professionals, representing every discipline from law to medicine. CNUS was established as an inter-disciplinary forum for scholars, policy makers, legal practitioners, law enforcement, civil society leaders, clergy and previously incarcerated professionals seeking to influence and impact urban contemporary criminal, economic and social justice issues. The CNUS was founded by Eddie Ellis and Divine Pryor.

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Oversight

in the Juvenile Justice System

National & Local Perspectives

930am – 3pm, April 1, 2011
Location: Atlantic Philanthropies
75 Varick Street, NY, NY

Presented by:
The Institute for Juvenile Justice Reform & Alternatives
A project of the Center for NuLeadership on Urban Solutions (CNUS)

The event is made possible with generous support from the Prospect Hill Foundation.

Program

9-9:30am: Registration and Breakfast

9:30-10am: Welcome & Opening Remarks
Kyung Ji Kate Rhee, Director
Institute for Juvenile Justice Reform and Alternatives
A project of the Center for NuLeadership on Urban Solutions

10-12pm: Panel and Discussion
The National Landscape of Oversight and Monitoring
Panelists

- *Michele Deitch*, Senior Lecturer, University of Texas Austin, LBJ School of Public Affairs
- *Will Harrell*, former Texas Youth Commission Ombudsman, Lead Monitor for the Ohio Department of Youth Services
- *Jeanne Milstein*, Connecticut Child Advocate
- *Judge Jeanne Meurer*, Travis County, Texas
- *Jack Beck*, Director, Prison Visiting Project, The Correctional Association (New York, NY)

Moderator: Michael Mushlin, Professor, Pace Law School

12-12:30pm: Lunch (served at Atlantic Philanthropies)

Program *(continued)*

12:30-2:30pm: Panel and Discussion
The New York Oversight Landscape
Panelists

- *Viola Abbitt*, Director, Office of the Ombudsman, Office of Children and Family Services (OCFS)
- *Dr. Phyllis Harrison-Ross*, New York State Commission of Correction
- *Laurence Busching*, Executive Deputy Commissioner, Division of Family and Youth Justice, New York City Administration for Children's Services
- *Tami Steckler*, Attorney-in-charge, Juvenile Rights Practice, Legal Aid Society
- Euphemia Adams, Families on the Move, Member of Statewide Juvenile Justice Advisory Group and member, NYC Department of Juvenile Justice Resident Advocacy Program Committee

Moderator: Juan Cartagena, Community Service Society, and member of OCFS Independent Review Board

2:30-3pm: Closing Remarks
Alexandra Cox, Soros Justice Fellow

Today's event is co-sponsored by the following organizations:

- ***Advocates for Children***
- ***Children's Defense Fund – New York***
- ***Citizens' Committee on Children of New York, Inc.***
- ***Community Connections for Youth***
- ***Correctional Association of New York***

BIOS

MORNING PANELISTS

Michele Deitch is a Senior Lecturer at the Lyndon B. Johnson School of Public Affairs at the University of Texas, where she teaches graduate level courses in criminal justice policy and juvenile justice policy. Her particular areas of expertise include independent oversight of correctional institutions, the rights of prisoners, and the management of juvenile offenders. She was a Soros Senior Justice Fellow, and has been honored with a Resolution by the Texas Legislature for her work on prison oversight. Professor Deitch co-chairs an ABA Committee on Correctional Oversight, organized a major international conference on this topic, and provided invited testimony on oversight before the National Prison Rape Elimination Commission and the Vera Commission. She has written extensively on oversight issues, including preparing a 50-State Inventory of Independent Correctional Oversight Mechanisms Across the United States (30 Pace Law Review 1754 (2010)) and authoring the forthcoming article "Special Populations and the Importance of Prison Oversight" (37 Amer. J. Crim. L. 101 (2011)). She has served on Texas's blue-ribbon task force that recommended reforms to the state's juvenile justice system, consulted with the Independent Ombudsman of the Texas Youth Commission, and conducted extensive research on juveniles in the adult criminal justice system. Previously, Professor Deitch served as a full-time court-appointed monitor of conditions in the Texas prison system, as a policy advisor to the Texas Legislature, and as the original drafter of the American Bar Association's newly-adopted standards on the treatment of prisoners. She holds a J.D. from Harvard Law School, an M.Sc. in psychology from Oxford University, and a B.A. from Amherst College.

Will Harrell was appointed by Judge Algernon Marbley to serve as Lead Federal Monitor for the SH vs. Stickrath stipulation in December 2010. Prior to that, Harrell served as the Chief Independent Ombudsman for the Texas Youth Commission. Harrell also monitored adult prisons in Guatemala for the United Nations and litigated prison conditions in Ecuador, Mexico, Haiti, the Bahamas, and Peru before the Inter-American Commission on Human Rights of the Organization of American States. Harrell has advocated for criminal and juvenile justice reform for the

BIOS *(continued)*

American Civil Liberties Union and the Southern Poverty Law Center in various states. Currently he is on the JDAI Self-Inspection Teams in Harris County, Texas and Orleans Parish, Louisiana. He is the Chairperson of the Texas Criminal Justice Coalition and President of Justice Collaborative, LL.C. He holds a BA from the University of Texas and both a JD and LL.M. from the American University.

Jeanne Milstein is Connecticut's Child Advocate. Appointed originally by former Governor John G. Rowland and recently reappointed by Governor M. Jodi Rell in June 2008, she is a strong public voice when children in need have no one to speak on their behalf. The Office of the Child Advocate (OCA) oversees the protection and care of Connecticut's most vulnerable and youngest citizens and advocates for their well being.
Jeanne Milstein has dedicated her career to advocating for the state's children and youth. Guided by the adage that "if you are not outraged, you are not paying attention," she brings to her post a passionate concern for children, unquestioned integrity, and unwavering tenacity.
Her voice is a beacon of hope that speaks frequently on issues ranging from conditions at the state's correctional and residential treatment facilities to the quality of child protection and the delivery of children's mental health services and services to children with special health care needs and/or disabilities. Prior to her appointment as Child Advocate, Ms. Milstein was Director of Government Relations for the Department of Children and Families and Legislative Director for the Connecticut Commission on Children. A resident of West Hartford, Ms. Milstein graduated with a BS Degree from Cornell University.

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BIOS *(continued)*

Jeanne Meurer was elected to the 98th District Court in 1989. She served for 20 years as a District Judge in Travis County, Texas, specializing in juvenile and family court cases. Judge Meurer served as Chair of the Travis County Juvenile Board for 15 years, and has spearheaded Travis County's innovative efforts to reduce detention and incarceration of juveniles. Under her leadership, Travis County was designated a Model Court by the National Council of Juvenile and Family Court Judges. After retirement in 2009, she continues to serve now as a Senior District Judge. She is currently assigned to handle the Travis County Juvenile Court docket. She also serves as the Court Legal Management Administration Director for the Travis County Juvenile Probation Department. Among her other responsibilities, she serves as a liaison to the Texas Legislature on juvenile justice-related issues. She is the recipient of numerous distinguished service and lifetime achievement awards for her work with juveniles. She is a graduate of the University of Texas School of Law.

Jack Beck. Since 2004, he has been the Director of the Prison Visiting Project at the Correctional Association of NY. The Correctional Association (CA) has statutory authority to inspect prisons in NY State and to report its findings to the legislature and public. At the CA, he has focused on monitoring general conditions within NY prisons, safety and violence in the prisons, prison medical and mental health care and treatment of inmates with substance abuse histories. Prior to the CA, he was a Senior Supervising Attorney at the Prisoners' Right Project (PRP) of the Legal Aid Society, where he worked for 23 years. At PRP, he pursued federal class action litigation on behalf of inmates in state prisons and New York City jails. He specialized in medical care issues, with particular focus on HIV/AIDS and Hepatitis C. He is a member of several statewide coalitions concerned with medical and mental health care in prisons that have been advocating for legislation to improve care of inmates. He has been a member of the NY Academy of Medicine IRB as the prisoner representative since 1999.

Michael B. Mushlin is a Professor of Law at Pace University Law School where he teaches Civil Procedure, Evidence and Prisoners' Rights. He is the author of law review articles on a variety of subjects involving

BIOS *(continued)*

evidence, federal jurisdiction, civil procedure, children's rights and prisoners' rights that have appeared in journals such as UCLA Law Review, Harvard Civil Rights Civil Liberties Law Review, Yale Journal of Law and Policy, Brooklyn Law Review, and the Fordham Urban Law Journal. He is the author of RIGHTS OF PRISONERS (4th ed. 2009) published by West, a four volume treatise. He also is the co-author of NEW YORK EVIDENCE WITH OBJECTIONS (NITA 2008) (with Jo Ann Harris) and chapters in books and encyclopedias. Professor Mushlin was elected and currently serves as a member of the Executive Committee of the New York City Bar, and Vice Chair of the Correctional Association of New York. He is a member of the Task Force on the Legal Status of Prisoners of the American Bar Association, and is co-chair (with Michele Deitch) of the Subcommittee on Implementation of the ABA Resolution on Prison Oversight. Professor Mushlin practiced as a public interest and civil rights lawyer for 15 years as staff attorney with Harlem Assertion of Rights, inc., as staff attorney and Project Director of the Prisoners' Rights Project of the Legal Aid Society, and as Associate Director of the Children's Rights Project of the American Civil Liberties Union. He received his J.D. *cum laude,* from Northwestern University School of Law.

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BIOS *(continued)*

AFTERNOON PANELISTS

Viola I. Abbitt, Esq. was appointed to the position of Director of the Office of the Ombudsman at the New York State Office of Children and Family Services (OCFS), in May 2007. This office, which was expanded under her tenure, reports directly to the Commissioner. Its purpose is to advocate on behalf of, and protect the legal rights of, youth remanded to OCFS care and custody by the courts. Prior to her appointment at OCFS, she was a deputy bureau chief with the New York State Attorney General's Office where she supervised criminal investigations and prosecutions in upstate New York. She has also worked as deputy counsel in the Bronx Borough President's Office, and as an assistant district attorney in the Bronx District Attorney's Office. She earned her undergraduate degree in economics from Binghamton University, an M.S. in Library Science from Long Island University, and her law degree from the Fordham University School of Law.

Phyllis Harrison-Ross M.D is a Commissioner of the NYS Commission of Correction and Chair of its Medical Review Board. With more than 35 years in the Community Mental Health profession, Dr. Phyllis Harrison-Ross presents a remarkably diverse career as a Hospital Clinical Administrator, Researcher, Academician, Public Health Consultant, Forensic and Child Psychiatrist, Public Educator and Public Servant. Trained as an Adult and Child Psychiatrist as well as a Pediatrician, at age 74, she continues to lend her administrative and clinical talents to serving the diverse, hard-to-reach and underserved populations. From start-up in 1973 to 1999, Dr. Harrison-Ross was at the helm of the Metropolitan Hospital Community Mental Health Center as its Director and Chief of Psychiatry. She led a multi-disciplinary staff of over 600. She is a Trustee and the Chairperson of the Social Service Board of the New York Society for Ethical Culture. She has authored two books and co-authored several textbook chapters and articles on prison health, most recently regarding the fastest growing incarcerated group, i.e. women prisoners. Currently, she co-hosts a radio talk show, "Ethics on the Air" on WBAI-FM and is a member of the editorial advisory board of the New York Amsterdam News. Dr. Harrison-Ross is Emeritus Professor of Psychiatry and Behavioral Health Services at the New York Medical College.

BIOS *(continued)*

Laurence E. Busching was appointed Executive Deputy Commissioner of the Administration for Children's Services in March, 2010. In that capacity, he oversees the Division of Youth and Family Justice, which consists of juvenile detention, youth justice program and the Family Assessment Program. Mr. Busching formerly served as Chief of the Family Court Division of the New York City Law Department. The Division is responsible for the prosecution of juveniles throughout New York City as well as for the enforcement of interstate child support orders. Some of the major juvenile justice initiatives established by Mr. Busching include a victims' services initiative, a major revamping of the Division's approach to case disposition and the establishment of a Major Case Unit. Mr. Busching is a member of a large number of committees and task forces and serves on the Board of Directors for the New York City Alliance Against Sexual Assault. Mr. Busching is a graduate of Boston College and St. John's Law School and is an adjunct professor at Cardozo Law School.

Tamara A. Steckler is the Attorney-in-Charge of the Juvenile Rights Practice of the Legal Aid Society in New York City (JRP), supervising a staff of 325 attorneys, social workers and paralegals who represent over 30,000 children and young adults each year in child welfare, delinquency, PINS, appellate and impact litigation proceedings in all five boroughs. She is active in numerous state and city working groups and task forces addressing issues of child welfare and juvenile justice, including the Governor's Task Force on Transforming Juvenile Justice, the New York State Task for on the Future of Probation, the Permanent Judicial Commission on Justice for Children, both the City and State-wide

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BIOS *(continued)*

Steering Committees on Juvenile Justice Reform, as well as the Advisory Council of the Administrative Judge of the Family Courts of New York City. She is also a Board member with the National Association of Counsel for Children. She has also published an article entitled, "*Litigating Racism: Exposing Injustice in Juvenile Prosecutions*", which was published in the Rutgers Law Review, and speaks publicly in numerous forums regarding issues of child welfare and juvenile justice.

Euphemia Strauchn Adams, FDC, MSW, is the mother of 4 young adults, two of whom were in and out of several secure and non-secure juvenile facilities as teens. In addition to her personal experiences, she has worked with families of children and youth who have special needs, and involvement in Juvenile Justice, Mental Health and other child serving systems in New York City for 15 years. Having experienced first hand what it is like to have children in multiple systems, Euphemia understands the importance of family voice on all levels of care and decision-making, and engaging families and youth in services. She promotes family and youth voice in service delivery, and planning on all levels, cultural and linguistic competency, and communication between the various systems that serve the families for the advancement of systems change. Euphemia holds a Masters Degree in Social Work, and is the Executive Director of Families On The Move of NYC, Inc. She currently represents the family voice on several committees, councils and task forces on local, state and national levels.

Juan Cartagena is a constitutional and civil rights attorney who is presently General Counsel and Vice President for Advocacy at the Community Service Society of New York where he supervises public interest law attorneys and a staff of policy experts who conduct strategic research and policy analysis on issues of labor market participation, affordable housing, youth policy and mass imprisonment and reentry. A graduate of Dartmouth College and Columbia University School of Law Mr. Cartagena is a former Municipal Court Judge in Hoboken, NJ and currently lectures on constitutional and civil rights issues at Rutgers University in New Brunswick. A writer of numerous articles on constitutional and civil rights laws, Mr. Cartagena is particularly

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recognized for his work on the political representation of poor and marginalized communities – especially Puerto Rican and Latino communities. He has experience in litigating cases on behalf of African American and Latino communities in the areas of employment rights, language rights, public education financing, environmental law, housing and access to public hospitals. At present he is also directing CSS's Mass Imprisonment & Reentry Initiative which focuses on the effects these policies have on poor and minority communities. His most recent article in this regard is "Lost Votes, Body Counts and Joblessness: The Effects of Mass Imprisonment on Latino Civic Engagement" is in Behind Bars: Latinos/as and Prison in the United States (Obeler, Suzanne, Ed., , Palgrave Macmillan, *in press*). Finally, Mr. Cartagena serves as the Chair of the Internal Review Board for the New York State Office of Children and Family Services and is a member of Governor Paterson's Task Force on Transforming New York State's Juvenile Justice System.

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Event Organizers

Alexandra Cox, Soros Justice Fellow

Alexandra Cox is a Soros Justice fellow engaged in research about organizational change in OCFS facilities. She is a doctoral candidate at the University of Cambridge, where she is a Gates Cambridge Scholar. She conducted research about young people's perspectives on treatment in OCFS facilities for her doctoral dissertation. Alexandra previously worked as a client advocate at the Neighborhood Defender Service of Harlem and a researcher at the Drug Policy Alliance.
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Kyung Ji Kate Rhee, Director
Institute for Juvenile Justice Reform & Alternatives (IJJRA), a project of the Center for NuLeadership on Urban Solutions

Kyung Ji Rhee is nationally recognized for her expertise in community organizing training, juvenile justice advocacy and policy development, and leadership development training. She serves on the Advisory Board of the Disproportionate Minority Contact Subcommittee of the NYS Division of Criminal Justice Services, the NYC Division of Youth and Family Justice (DYFJ), and the Steering Committee of the New York City Task Force on Racial Disparity in the Juvenile Justice System. Ms. Rhee has been featured in a range of publications and magazines, including the Utne Reader (Top 30 Visionaries under 30), the Village Voice, The Source, (Top 10 Artists, Albums, & Political Players of the Year!), The KoreAm Magazine and the New York Sun, among others.
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OVERSIGHT & MONITORING AGENCIES IN NEW YORK

Oversight and monitoring agencies responsible for young people charged with crimes in New York's juvenile and adult criminal justice systems*

I. FEDERAL PROCESSES FOR OVERSIGHT IN NEW YORK AND NATIONAL AGENCIES INVOLVED IN OVERSIGHT

DEPARTMENT OF JUSTICE

The Department of Justice (DOJ)'s Civil Rights Division enforces two statutes concerning conditions in juvenile justice facilities – the Civil Rights of Institutionalized Persons Act (CRIPA) and Section 14141 of the Violent Crime Control and Law Enforcement Act of 1994. The Division's Special Litigation Section has investigated unlawful conditions in more than 100 juvenile facilities and monitors more than 65 facilities in the United States and its territories.

In July 2010, New York's Office of Children and Family Services (OCFS) reached a settlement with the DOJ after the agency issued a findings letter noting inadequate mental health treatment programming, the overuse of restraints, and other issues related to the conditions of confinement in four residential facilities in New York. The settlement requires OCFS to develop a number of remedial measures to improve conditions of confinement for young people housed in the four residential facilities which were the subejct of the investigation (one of those facilities, Tryon boys facility, is now closed). These reforms are aimed at improving the policies and practices dealing with the use of restraints, incident reporting, emergency response and mental health care, and are currently being implemented.

JUVENILE JUSTICE ADVISORY GROUP

Each year since the early 1980's, the Division of Criminal Justice Services (DCJS) applies for and accepts federal formula grant funds to improve the functioning of New York's juvenile justice system. As a condition of receiving these funds, federal law requires states, including New York, to establish an advisory group with between 15 and 33 members appointed by the governor. Each member's appointment is based on his or her training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice.

To comply with federal requirements, the New York Juvenile Justice Advisory Group (JJAG) was first established in the 1970's to oversee the strategic planning and formula grant funding allocation to programs and service organizations addressing juvenile delinquency and prevention issues. With DCJS staff support, the JJAG finalizes the Three-Year Juvenile Justice Plan to identify priority areas for funding. Federal formula grant funds are allocated as seed money to demonstrate new and innovative projects. These projects are designed to measurably reduce juvenile crime, promote individual accountability, enhance public protection, and prevent delinquency through positive youth development.

* This is by no means an exhaustive list. This is intended to provide some background information on the existing agencies. The list was compiled by Alexandra Cox, Soros Justice Advocacy Fellow.

AMERICAN CORRECTIONAL ASSOCIATION

The ACA accreditation process is a system of verification that correctional agencies/facilities comply with national standards promulgated by the American Correctional Association. Accreditation is achieved through a series of reviews, evaluations, audits and hearings.

The Correctional standards promulgated through the ACA address services, programs and operations essential to good correctional management, including administrative and fiscal controls, staff training and development, physical plant, safety and emergency procedures, sanitation, food service, and rules and discipline. Standards reflect practical, up-to-date policies and procedures that safeguard the life, health and safety of staff and offenders.

The ACA is involved in the accreditation of all limited secure and non-secure facilities operated by OCFS (the SCOC is involved in oversight and monitoring of the secure facilities). These facilities fall under the category of 'Juvenilie Corrections Residential Facilities' for the purposes of ACA accreditation.

The ACA is involved in the identification of obtainable goals, (3) the implementation of state-of-the-art policies and procedures, (4) the establishment of specific guidelines for daily operations, (5) aid in the defense of frivolous lawsuits, (6) an increase of community support and (7) a higher level of staff professionalism and morale.

The accreditation process usually takes up to 18 months. While individual accreditation awards last three years, the accreditation process is designed to be continuous.

PERFORMANCE BASED STANDARDS

OCFS participates in this nationwide system for agencies and facilities to identify, monitor and improve conditions and treatment services provided to incarcerated youths using national standards and outcome measures. Directed by the Council of Juvenile Correctional Administrators (CJCA) with technical assistance from New Amsterdam Consulting, PbS asks participants to collect and analyze data to target specific areas for improvement.

The PbS system of continuous learning and improvement provides:

- A set of goals and standards that individual facilities and agencies should strive to meet
- Tools to help facilities achieve these standards through regular self-assessment and self-improvement
- Reports that allow facilities to evaluate performance over time and in comparison to similar facilities
- Promotion and sharing of effective practices and support among facilities.

CJCA's goal is to integrate PbS into daily facility operations to create a field-supported and self-sustaining continuous learning and improvement system in facilities nationwide. CJCA provides support to PbS sites through a variety of training and technical assistance efforts, which include a consultant assigned to each site to ease and guide PbS implementation.

The PbS system asks facilities to collect certain data from records, reports and interviews and enter it online through the PbS website. The data is checked by PbS staff and used to generate an online graphic site report of each facility's performance in key outcome measures. The report tracks performance over time and shows facility measures compared to field averages. All data from individual facilities is kept confidential. Using the information in the site reports, facilities work with PbS consultants to identify areas that need improvement then develop and implement a detailed improvement plan.

II. STATEWIDE AGENCIES RESPONSIBLE FOR OVERSIGHT

NEW YORK INSPECTOR GENERAL'S OFFICE

The mission of the office is to detect, investigate, deter and eliminate corruption, fraud, criminal activity, conflicts of interest, abuses of office, and waste in the State entities under its jurisdiction. These include executive branch agencies, departments, divisions, offices, boards, commissions, public authorities and public benefit corporations -- any entity of State government headed by an appointee of the Governor that does not have its own statutory Inspector General.

The IG's office investigates allegations of misconduct and conducts audits and systemic reviews of State agency programs and procedures, recommending improvements for positive and permanent reform of agency operations.

In the past, the IG's office, in conjunction with the Tompkins County District Attorney's office, has conducted an inspection of the Louis Gossett facility (now known as Finger Lakes), operated by OCFS.

OFFICE OF CHILDREN AND FAMILY SERVICES

Division of Juvenile Justice and Opportunities for Youth: Responsible for the oversight of the State's residential facilities.

- Monitoring and oversight activities include: unusual incident report monitoring, tracking and review of restraints (aided by the Automated Restraint Tracking System), child abuse allegations and investigations, policy review and development, implementation of the Resident Grievance Process, implementation of the Performance Based Standards surveys, and development of a Quality Assurance process.

Division of Child Welfare and Community Services: Responsible for the licensing of 'voluntary' (ie. privately run) agencies which provide residential care for children placed through Family Court on delinquency and neglect petitions and placements made by the Committee on Special Education.

- Monitoring and oversight activities include: monitoring compliance, improving compliance, improving practice, conducting Comprehensive Reviews (c. every 3 years); Institutional Abuse investigations; unannounced visits

Local Counties share oversight responsibilities with OCFS for the voluntary agencies.

Bureau of Juvenile Justice Entry Services: Responsible for a range of direct and oversight monitoring services in the areas of detention services, intake and court liaison services and Evidence-Based and Youth Development Community Initiatives.

Statewide Central Register of Child Abuse and Maltreatment: Each Child Protective Service is required to investigate child abuse and maltreatment reports, to protect children (under 18 years old) from further abuse or maltreatment, and to provide rehabilitative services to children, parents, and other family members involved. Reports can be made to this register regarding the overuse of force in residential facilities.

Special Investigations Unit: Monitors and oversees employee misconduct.

Office of the Ombudsman: The Office of the Ombudsman (OOTO) protects and promotes the legal rights of youth placed in the custody of OCFS. As youth advocates, OOTO staff contribute to a supportive environment and positive outcomes for OCFS-placed youth and their families. This is accomplished by visiting facilities and programs; hearing grievances; investigating complaints made by or on behalf of residents; presenting issues to appropriate staff for resolution; advising and assisting youth to obtain legal counsel; serving as information resources; identifying systemic issues; recommending relevant laws, rules, and regulations and monitoring their respective implementation; and serving as a concerned entity that has the best interests of the youth in mind. OOTO reports directly to the Commissioner of OCFS.

- The office was reinvigorated in 2007 after a period of dormancy
- It is based in five regional offices
- New York State law gives the Ombudsmen access to "books, records, logs, reports, memoranda and any and all other materials or written documents" concerning facilities.

OCFS INDEPENDENT REVIEW BOARD

The Independent Review Board (IRB), which is part of OOTO, is charged with advising the Commissioner on matters pertaining to OOTO, and complaint and grievance resolution.

The IRB consists of fifteen members who are not employed by the OOTO and who are knowledgeable in the areas of juvenile justice and youth rights. The members of such board shall be appointed by the commissioner. The board has the authority to:

- Request the office of the ombudsman and/or the commissioner to conduct investigations;
- Make inquiries at the request of the director or the commissioner, or, on its own motion, into matters affecting the legal rights of youth residing in facilities operated by the office;
- Convene meetings and communicate freely with the ombudsmen and the office of the ombudsman;
- Evaluate the effectiveness of the Office of the Ombudsman and make necessary inquiries to that end; and
- Visit office facilities and grounds and inspect records of the office pertaining to such facilities. During any such visit to facilities or inspection of records, the board members may speak with youth and facility staff.

PROTECTION AND ADVOCACY PROCESS

A resource for improving the services received by disabled youth in detention and correctional facilities is the protection and advocacy (P&A) system. P&A's are federally funded and administered by the States. Designed to provide legal assistance and advocacy on behalf of persons with disabilities, P&A's render a variety of services, including information and referral, training and education, negotiations, legal services, investigation, and monitoring. However, P&A's spend the vast majority of their time and resources on direct client representation. In New York State the program is coordinated by the Commission on Quality of Care and Advocacy for Persons with Disabilities (CQCAPD).

CQCAPD

Charged with protecting and improving the quality of life for New Yorkers with disabilities. The Commission provides independent oversight of the quality and cost-effectiveness of services provided by mental hygiene programs in New York State. They conduct child abuse investigations, care and treatment reviews, and death reviews for children with disabilities in state-operated or licensed mental hygiene facilities.

The Commission:

- responds to complaints about care and treatment;
- investigates complaints of deficient conditions and of rights violations in facilities;
- conducts unannounced site visits to examine program operations;
- inspects facilities and licensed programs' safety, security, and quality of care and treatment afforded residents and patients, and informs program managers of findings and recommendations;
- administers a statewide network of advocacy programs for children and adults with disabilities providing support through case negotiation, administrative proceedings, litigation and legislation;
- performs systemic reviews and studies of the mental hygiene system, and
- issues reports to the Governor and Legislature, making recommendations for legislative, budgetary and administrative reforms.

NEW YORK STATE COMMISSION OF CORRECTION

The Commission of Correction is a three member deliberative body, which meets monthly to discuss variances, maximum facility capacities, proposed changes in regulations, mortality investigations, and other matters that may arise. It has oversight over state prisons and secure residential facilities operated by OCFS. The three members of the Commission are appointed by the Governor to statutory terms with the advice and consent of the New York Senate. In 1973, the commission was established as an independent agency within the Executive Department, under Article 3, NYS Correction Law. The commission functioned with part-time members until 1975 (Chapter 865), when the present commission with three full-time members and staff was established.

The Commission:

- Promulgates minimum standards for the management of correctional facilities.
- Evaluates, investigates and oversees correctional facilities.
- Assists in developing new correctional facilities and new correctional technologies.
- Provides technical assistance.

PROBATION COMMISSION

The duties of the members of the Probation Commission are to attend the meetings of the Commission, and to consider all matters relating to probation in the State, within the jurisdiction of the Office of Probation and Correctional Alternatives, and to advise and consult with the Director in regard thereto.

COMMISSION ON JUSTICE FOR CHILDREN

The New York State Permanent Judicial Commission on Justice for Children was established in 1988 to improve the lives and life chances of children involved with New York courts. In 1994, the New York State Court of Appeals designated the Commission to implement the New York State Court Improvement Project (CIP), a federally funded project to assess and improve foster care, termination of parental rights and adoption proceedings.

The commission uses a systemic methodology composed of convening stakeholders, conducting research, developing pilot projects, creating written materials and tools, presenting trainings and initiating efforts to change policy and practice. Additionally, all of the efforts are premised on the court's authority under state and federal law and consistent with the legal standards for services to children.

Since 2006, the Commission expanded its focus to include older youth involved with the courts, focusing particularly on encouraging child and youth participation in their court proceedings and examining juvenile justice issues, including juvenile probation and issues affecting dually adjudicated youth. In addition, the Commission continues to seek to improve the educational outcomes of children in out of home care

LAW ENFORCEMENT ACCREDITATION PROGRAM (DIVISION OF CRIMINAL JUSTICE SERVICES)

New York State's Law Enforcement Accreditation Program is designed to promote maximum input from both community and law enforcement leaders. The Accreditation Council, the state Division of Criminal Justice Services (DCJS), the state chiefs' and sheriffs' associations, and the State Police all play an active role in the program's administration.

The Role of the Council

The Accreditation Council provides overall direction and consists of 17 members appointed by the Governor. The Council meets quarterly and issues standards, sets policy and has exclusive authority to grant accreditation status.

The New York State Accreditation program became operational in 1989 and has four principle goals:
1. To increase the effectiveness and efficiency of law enforcement agencies utilizing existing personnel, equipment and facilities to the extent possible;
2. To promote increased cooperation and coordination among law enforcement agencies and other agencies of the criminal justice services;
3. To ensure the appropriate training of law enforcement personnel; and
4. To promote public confidence.

The Accreditation Program is comprised of 132 standards and is divided into three categories. Standards in the Administrative section have provisions for such topics as agency organization, fiscal management, personnel practices, and records. Training standards encompass basic and in-service instruction, as well as training for supervisors and specialized or technical assignments. Operations standards deal with such critical and litigious topics as high-speed pursuits, roadblocks, patrol, and unusual occurrences.

III. NEW YORK CITY AGENCIES RESPONSIBLE FOR OVERSIGHT AND MONITORING

ADMINISTRATION FOR CHILDREN'S SERVICES (NYC)

Department of Juvenile Justice: Resident Advocacy Program (RAP)
There are three ombudsmen operating in Crossroads, Horizon and Bridges (although Bridges has officially closed). The Ombudsman is available to investigate confidentially and resolve complaints on behalf of residents.

RAP includes a Resident Advocacy Program Committee (RAPC) which is an external voluntary committee established to work in conjunction with the Agency Head, Executive Director of the facility and the facility-based Ombudsman to hear, review, and advise on matters that directly impact the quality of life of residents in the secure detention facilities.

Agency for Program Assistance
Responsible for oversight and monitoring of all foster care and preventive private agencies with whom ACS contracts.

ACS efforts at Ensuring Quality of Service
The Children's Services divisions of Quality Assurance and Policy and Planning have developed a performance monitoring system, including a provider agency evaluation tool, called Scorecard. The Scorecard produces a performance scorecard for each agency, detailing each agency's performance in key areas of safety, permanency, well-being, foster parent support, as well as community and cultural competency in the coming year. The Scorecard will also include comments from key stakeholders including feedback from Children's Services attorneys and Family Court judges. In addition, teams of performance monitors will regularly assess agency performance, meet with agency leadership, set expectations for improvement, participate in the development of improvement strategies and monitor agencies' success in meeting those expectations.

Accountability Review Panel
An independent advisory body composed of physicians, attorneys, mental health professionals and other experts, reviews the deaths in New York City families who were previously known to the child welfare system. The panel evaluates the quality of investigations, assessments, service planning and service delivery, identifies case-specific and systemic issues and recommends ways to improve interventions and overall functioning in ACS and other service systems.

Board of Corrections (NYC)
The Board of Correction establishes and ensures compliance with minimum standards regulating conditions of confinement and correctional health and mental health care in all New York City correctional facilities. The Board monitors conditions in the City's jails, investigates serious incidents, evaluates the performance of the Department of Correction, reviews inmate and employee grievances, and makes recommendations in critical areas of correctional planning.

Office of the Public Advocate
The Public Advocate's Office serves as NYC residents' advocate in matters involving the city, state or federal government. The Office of the Public Advocate has an Ombudsman Services Unit, which assists constituents who have complaints, problems, or inquiries involving government-related services at the City, State, and Federal levels. The unit provides information and referrals and works closely with City agencies to find solutions to problems.

IV. OTHER NEW YORK STATE ORGANIZATIONS WITH ROLES RELATED TO OVERSIGHT AND MONITORING

ASSOCIATION OF NEW YORK STATE YOUTH BUREAUS
Represents Youth Bureaus and Youth Boards across the State of New York. The Association works to support and strengthen its member youth bureaus and local youth bureau contract agencies through a comprehensive training program. Supported by a grant from the New York State Office of Children and Family Services, training covers a wide range of topics including best practices, monitoring and evaluation, youth bureau operations and staff development.

YOUTH SERVICES QUALITY COUNCIL OF ROCHESTER AND MONROE COUNTY, NY
The Youth Services Quality Council (YSQC) of Rochester and Monroe County provides a forum for youth service providers to collaborate on new ways to do business to ensure coordination of services, maximization of resources, and quality service delivery to youth and families. Members come together to implement a change process committed to continuous quality improvement and consumer life-long independence and self-sufficiency. YSQC membership consists of youth-serving organizations (not-for-profit, for-profit, and public) that are committed to providing quality services for youth and their families.

ERIE COUNTY YOUTH SERVICES
The Youth Services Division is dedicated to providing quality services to youth and families of Erie County along a broad spectrum, including an array of positive youth development programs; screening, assessment, appropriate diversion, accountability, monitoring and intervention services to youth involved in Family Court matters. The Division is also responsible for secure and non-secure detention services for youth remanded by the Courts during the pendency of legal cases.

COMMISSION ON JUDICIAL CONDUCT
Statewide agency which investigates and prosecutes cases of judicial misconduct.

LEGAL AID SOCIETY
- The NYC Juvenile Rights Division (JRD) represents over 80% of children in delinquency proceedings in NYC
- Assessment of clients' experience in confinement begins with direct client contact
- Clients communicate their experience in detention during the pendency of delinquency proceedings
- Client contact continues after a client is placed at OCFS or in a private facility (attorney-client relationship continues after placement, youth are entitled to counsel phone calls and counsel visits)

- Assessment of a client's experience in confinement may continue beyond direct client communication, via communication with facility personnel (including OCFS Ombudsperson), service providers, family members; subpoena of client records
- JRD attorneys can respond to client concerns about detention by seeking orders from the Family Court, and may proactively affect client experience in placement by obtaining court orders regarding client treatment in custody
- If JRD learns that a client has experienced abuse or neglect while in custody and an investigation has not been initiated, JRD can, with the client's consent, contact the child abuse hotline to start an investigation
- JRD attorneys can also address client concerns about conditions of confinement by re-opening Family Court dispositional hearings, or by raising issues during permanency hearings or extension of placement hearings
- If JRD determines that a client's rights have been violated while in confinement, JRD can also assist the client/client's family in filing a notice of claim against the City or State, and can refer the client/client's family to an attorney for possible filing of an individual tort or civil rights action
- Some client concerns may be addressed via informal advocacy with facility personnel or with ACS/DYFJ or OCFS (or private agency) counsel or upper management; this could lead to changes in individual client treatment, or systemic/policy changes that affect all youth in custody
- If a client reports treatment of self and other youth that is violative of their rights under regulation/statute/constitution, JRD may initiate broader investigation:
    - Visit all clients in a facility, or clients in multiple facilities, to investigate
    - Obtain records for multiple clients via subpoena
    - Do a FOIL request to obtain more extensive information about policy or practice
- JRD may initiate an individual lawsuit that seeks declaratory/injunctive relief that would improve conditions for all youth in confinement
- JRD may initiate a class action lawsuit on behalf of all youth in confinement, or of particular groups of youth in confinement
- JRD advocates around city and state policy tables regarding issues related to confinement

THE CORRECTIONAL ASSOCIATION PRISON VISITING PROJECT

The Prison Visiting Project (PVP) has had a legislative mandate since 1846 to visit and monitor New York's prisons. The PVP visits seven to ten of New York's 70 state correctional facilities each year and issues facility specific reports on prison conditions to both policymakers and the public. In addition to its general prison monitoring, PVP conducts in-depth studies on specific corrections issues and publishes comprehensive reports of findings and recommendations. During a prison visit, the Prison Visiting Project inspects all corners of the prison facility, interviewing inmates, correctional officers, and program staff. In addition, we collect data about the prison from the Department of Correctional Services (DOCS) and hundreds of surveys from the inmates.

After evaluating this information, they prepare a comprehensive report focusing on areas such as medical and mental health care, educational, vocational and re-entry programs, inmate jobs, relations among inmates and staff, the physical state of a facility, and other issues of concern to the individuals who live and work behind the prison wall. In addition to general monitoring visits, the Project occasionally conducts specialized visits to help inform in-depth studies on specific corrections issues, such as substance abuse treatment, health care, and violence and abuse.

The Prison Visiting Project produces reports, presents at forums, and engages in activities aimed at educating the public about prison conditions, the high cost of incarceration and the need for alternatives. The Project also works with legislators, corrections officials, former prisoners, service providers and community organizations to develop more humane prison policies.

SELECTED REFERENCES ON OVERSIGHT

SELECTED REPORTS AND INTERVENTIONS, NEW YORK'S JUVENILE JUSTICE SYSTEM

OCFS Office of the Ombudsman: to access their reports, go to:
http://www.ocfs.state.ny.us/main/Ombudsman/reports.asp.

New York State Commission of Correction (2010) 'In the Matter of a Resident Social Event at the Goshen Secure Center,' Accessible via: http://bit.ly/eHKDIl.

Juvenile Justice Advisory Group (2009) Youth Justice Board (2009) 'Strong Families, Safe Communities: Recommendations to Improve New York's Alternative to Detention Programs,' Accesible via: http://bit.ly/dUzdqa

U.S. Department of Justice (2009), 'Investigation of the Lansing Residential Center, Louis Gossett Jr. Residential Center, Tryon Residential Center, and Tryon Girls Center,' Accessible via: http://1.usa.gov/hCMuAb. To see all materials related to the DOJ settlement, go to: http://www.ocfs.state.ny.us/main/rehab/doj_settlement.asp

The Correctional Association (2008), Prison Monitoring Report about Greene Correctional Facility, which primarily houses adolescent men. Accessible via: http://bit.ly/fwm5rv.

John F. et al v. Carrion (407117/07, Sup. Ct. N.Y. Co.), a case filed by the Legal Aid Society's Juvenile Rights Special Litigation Unit challenging the OCFS practice of handcuffing and leg shackling and children who are brought to court. The Court enjoined OCFS "from restraining, with handcuffs and/or footcuffs, children placed in their non-secure or limited secure custody pursuant to Article 3 of the Family Court Act, during the time the children spend in New York City Court buildings" unless the agency makes a determination that an individual child poses "a serious and evident danger to himself and others at the time defendant seeks to restrain the child."

ACLU and Human Rights Watch (2006) 'Custody and Control: Conditions of Confinement in New York's Prisons for Girls' Accessible via: http://bit.ly/gOUUKb

Office of the Inspector General and Office of the Tompkins County District Attorney (2006) 'Report on the Louis Gossett Jr. Residential Center.' Accessible via: http://bit.ly/emPivd

INFORMATION ABOUT PROPOSED LEGISLATION

Background on the legislation about the Independent Office of the Child Advocate, from the Brooklyn College Children's Studies Program and Center: http://bit.ly/gotKZV

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MISCELLANEOUS ARTICLES AND REPORTS

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- System Change through policy reform and system accountability founded on principles of human rights, human development and human justice
- Community Empowerment through organizing, advocacy training, service networks and civic engagement
- Individual Transformation and Social Justice Leadership through educational initiatives, leadership training fellowships and intergenerational mentorship networks

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