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News Brief: Governor decides—in juvenile justice, city kids belong near home

By Abigail Kramer

January 17, 2012 — If Governor Cuomo gets his way, New York City will cut the number of children it sends to state-run juvenile justice facilities by more than two-thirds over the next two years, receiving more than \$35 million per year from the state to create a new spectrum of services and incarceration facilities for juvenile delinquents within the five boroughs.

Mayor Michael Bloomberg first called for the creation of a comprehensive, city-run juvenile justice system more than a year ago, citing an 81 percent recidivism rate at the state's juvenile prisons and the bloated costs to city taxpayers of supporting an inefficient statewide system. Until today, neither city nor state officials have been willing to provide public details on the progress of the plan, but the two administrations have been in negotiations for the past several months, agreeing on logistics and a financing structure shortly in advance of the governor's executive budget proposal, released earlier today.

"Too many of our young men are sent to prison and lost to the system," the mayor said today. "The governor has proposed a sweeping, progressive reform that will transfer primary responsibility for all but the most seriously delinquent youth from the state to the city, allowing our young people to remain closer to their families and receive the individualized services, supports and opportunities they need."

If the governor's "Juvenile Justice Services Close to Home Initiative" is approved by the state legislature, New York City will take jurisdiction of children who are currently confined in the state's so-called "non-secure" and "limited secure" facilities—a total of 324 kids. Young people who are determined by Family Court judges to require high-security facilities, which look and operate much like adult prisons, will remain in the charge of the state.

It is unclear whether the new programs will also apply to young people currently placed in nonprofit-run residential treatment programs outside the city.

The city does not plan to directly operate any of the planned new facilities. They will instead be developed and run by nonprofit organizations under contract with the Administration for Children's Services, according to a source familiar with the plan.

In the first year of operation, the city would be eligible for a block grant of \$35.2 million in state funds for its new services. The grant would go up the following year to \$41.4 million and be subject to annual appropriations thereafter. Once the state approves the city's plan, it would also be authorized to shut down facilities of its own—a move that has traditionally been fought by guard unions and many upstate legislators. Governor Cuomo estimates that the measure would cost the state \$3 million next fiscal year (which begins in June of 2012), but result in a net savings of \$4.4 million when fully implemented in 2014. It's still unclear how much money the city would save under the plan—but if state facilities are closed, the city would likely see

significant savings in its own budget.

Advocates for juvenile justice reform in New York City have long called for kids to be housed and served closer to home. "It cannot be understated how important it is for youth who have to be in juvenile justice placements to be placed close to their homes, schools, communities and lawyers," says Stephanie Gendell, associate executive director of the Citizen's Committee for Children.

But while the plan creates new possibilities for young people to remain close to their families and support systems, it leaves many unanswered questions about how an expanded city-run juvenile justice system would operate:

Will the city fund new lockups for kids? Who will run them and how?

The state currently operates five juvenile justice facilities inside New York City. Under Cuomo's proposal, the city would be authorized to lease those facilities for one dollar a year. The city is likely to lease three of the five and turn them over to nonprofit organizations, according to a source familiar with the negotiations. Since there are no city-administered detention programs that qualify as "limited secure," it is unclear which organizations would be qualified to provide a level of confinement and services consistent with those currently offered by the state.

Jeffrey Butts, a justice scholar at John Jay College who has worked with the city on analyzing its juvenile capacity needs, notes that a city-administered system could create new financial incentives to keep kids out of lockups altogether, since incarceration is many times more expensive than alternative programs that provide community-based supervision alongside services like family counseling and job training. "If you have \$100 to spend and you can either use that money to put one kid in a facility or work with three or four kids in the community, you'll find that the impulse to put kids in secure facilities goes way down," says Butts.

Over the past several years, the city has created a spectrum of such alternative programs, decreasing the number of kids it sends to state lockups by more than two-thirds since 2000. Governor Cuomo's plan does not require the city to reinvest the money it may save from reduced state incarceration into community programs for kids in the city's new system, or into building high-quality residential facilities for those kids who will continue to be locked up. Some advocates for juvenile justice reform worry that financial pressure may work against the interests of young people who end up in city-run residential programs.

"Children who are incarcerated should be placed only in very small facilities staffed by well-trained employees familiar with children's developmental needs and committed to helping them succeed," says Gabrielle Prisco, director of the Juvenile Justice Project at the Correctional Association. "Incarcerated children should receive the kinds of meaningful treatment services shown to both help them improve their lives and decrease recidivism."

Prisco's vision echoes the model that's been described by several of the city officials most deeply involved in juvenile justice reform efforts, but so far there's been no commitment to spend the kind of money that such a system would require. What these advocates say they don't want to see is high-volume, service-poor facilities, regardless of whether they are

administered by the city rather than the state.

How will a city system avoid the abuses that have plagued the state's juvenile facilities?

Juvenile justice reforms at both the city and the state level were spurred, in large part, by revelations of widespread abuses in state facilities, including a federal investigation that found rampant overuse of physical force in four state-run lockups.

New York City has its own spotty record on juvenile incarceration. The city currently operates two secure detention centers for children awaiting hearings in Family Court or transfers to state facilities. According to the city's most recent quarterly incident report, young people in those facilities were injured by guards 55 times between July and September of 2011—an average of more than once every other day.

While the city has taken steps to improve conditions in its detention facilities (most notably closing the infamous Bridges Juvenile Center, which had been marked by decades of scandal and abuse), the bulk of its reform efforts have been directed at diverting kids to community programs. State facilities, in the meantime, have introduced a therapeutic discipline model and standards for the use of physical force and restraints aimed at reducing injuries to young people in its care.

Jeffrey Butts of John Jay College notes that detention centers are an imperfect parallel to longer-term incarceration facilities, since their conditions are inherently more volatile. "You have quick turnarounds and high-stress circumstances with kids who aren't sure what's going to happen to them," he says. "There are bound to be more incidents."

While the city programs would be run by nonprofits, advocates worry that any improvements may not survive into future administrations. "Although both the city and state have recently engaged in important reforms, any transfer of power must be predicated on more than the successes of current administrations," says Prisco of the Correctional Association. "Administrations inevitably change and it is imperative that a strong and durable system of protections for children be built into the legal framework of any youth justice system."

Who will regulate, oversee and monitor the city's expanded juvenile justice programs?

Under Cuomo's proposed legislation, New York City's plan for new facilities and services must be approved by the Office of Children and Family Services (OCFS) before it can take effect. OCFS, which operates the state's juvenile justice system and regulates the city's foster care system, will have ongoing oversight and monitoring responsibilities for the city's expanded juvenile justice services, along with the power to retract funding.

As a function of the mayoral administration, the system would also presumably fall under the oversight powers of the City Council and the city Comptroller.

As part of its proposal for providing the new services, the city would be required to hold a public hearing on its plan and justify reasons for disregarding any significant commentary. Still, some juvenile justice advocates question the city's likelihood of incorporating meaningful community input into the design or operation of its new services—particularly, they maintain,

since the city excluded them from its planning and negotiations with the state.

"There are a lot of people in the community who are very excited about this," says Avery Irons, director of youth justice programs at the Children's Defense Fund of New York. "We want kids close to home. If the city puts together a plan that we can support we'll stand with them the whole way. They might be surprised at the levels of support and offers of assistance they'd get from community agencies. But we need that plan. They have to open up enough to hear our voices."

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