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General Welfare Committee Hearing
“Oversight: The Juvenile Justice System During COVID-19”
Testimony of Sandeep Kandhari
Center for Family Representation

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My name is Sandeep Kandhari and I am a Litigation Supervisor in the Juvenile Justice Practice at the Center for Family Representation.¹ I have been a defender of New York City’s youth for 14 years, during which time I have seen the height of stop-and-frisk policing, the implementation of Close to Home placing kids in New York City instead of upstate and the rollout of Raise The Age. Having seen so much change in my career, the novel coronavirus pandemic and its disparate impact on BIPOC and poor communities, in conjunction with the systemic racism inherent in our justice system, have been among the most detrimental for New York City’s court-involved youth.

CFR has a contract to defend youth charged in Queens and Manhattan Family Courts as well as in those boroughs’ Youth Parts. At this time, and at all times since CFR began defending youth, 100% of our clients have been Black, Brown, and People of Color. They are all poor, though our contract does not require that they be in order to qualify for our representation. Many lack access to proper medical care. Most of our clients are living in cramped apartments, providing very little privacy to speak with their attorney and social worker. Their families often cannot afford basic communications technology such as phones, laptops and Wi-Fi, and they often have to share the devices they have across family members. City Council appropriately titled this hearing “Oversight: The Juvenile Justice System During COVID-19” - as in our experience, less attention is being paid to our youth clients’ experiences in virtual court and in juvenile detention facilities than even to families affected by the family regulation system. Remote hearings are harmful to our clients for many reasons: limiting our ability to communicate with our clients, making litigation and challenging evidence even more difficult, software limitations deprive our clients and their families the ability to properly observe all of the players in court, and most importantly it allows a decisionmaker to deprive a person of their freedom without ever meeting them. Studies show that racial biases are heightened when people only meet each other via video, rather than in-person.

¹ The Center for Family Representation is also the county-wide indigent defense provider in Queens and New York counties for Article Ten cases. In 2016, with support from the City Council, we began our Home For Good practice. Home for Good is made up of several practice areas: Immigration, Housing and Public Benefits, Re-entry prevention, and Adult criminal defense. In 2020, we began representing youth in juvenile delinquency proceedings, also in Queens and Manhattan.

Since March of 2020, an Executive Order permitted the filing only of juvenile delinquency cases where the presentment agency sought an order remanding the youth; matters which are close to reaching the end of a time proscribed by a statute of limitations are also heard. This presents obvious access-to-justice issues. Youth who have been arrested have the possibility of a court filing hanging over their heads for many months, possibly years, during which time they may not have access to a lawyer; and also during which time evidence which may be exculpatory is becoming stale or evaporating altogether. Even if the court grants permission to file some of these old cases, young people often struggle to remember details of the incident, and studies show that a speedy disposition is especially important for adolescents in helping them learn from previous mistakes. Those youth who are brought to court are held in detention rooms, and are unable to meet in person with their legal teams or see their families. They appear in front of the judge via video even though they are within the same building. Our teams sometimes only speak with our new clients on the detention facility telephones and see them for the first time when the matter is called on the record. Young people do not understand the roles of those in the virtual courtroom - the experience is unlike anything they have had or seen, even on television. They express to us that in virtual court they were confused, could not see all the participants, could not hear well because of poor quality technology or because of background noise where they were located, did not have the chance to ask their lawyers questions as they came up during the appearance, and did not understand the orders made by the judge. Their parents or caregivers also express serious concerns about their ability to fully participate in the court appearance at which decisions are being made about their children, whether because of the lack of an interpreter (an issue that was not uncommon even when court was held in-person, but which has been exacerbated by the pandemic) or the lack of Wi-Fi or a device which is the only doorway to court. Family court is not hearing fact-findings and most pre-trial hearings, in effect creating a system that only allows the court to take guilty pleas. Parents are uncomfortable with judges making critical decisions such as whether their child can come home without really being able to be in the same room with, observe, assess, experience and even interact with their children or with them. As well, our lawyers and social workers are frustrated by the limited ability - and sometimes inability - to ask questions or have private conversations with their clients while court is proceeding or to consult with their parents/caregivers. This is especially true in the Youth Parts, where waiting for parents to be able to phone into an appearance at times is not prioritized.

While in detention with the Division of Youth and Family Justice awaiting trial, our clients have contracted Covid-19, doubtless infected other children or staff, and have been subject regularly to periods of quarantine. Multiple CFR clients have missed court dates because while they were in quarantine, they were not permitted to go to the room where the computer for court is housed. A chief area of concern for our young clients and their families has been the lack of in-person contact with their families. We have clients in detention as young as twelve, and the harm that the lack of contact with loved ones is doing to the families simply cannot be measured. The youths' phones, if they own one, are vouchered upon arrest, so that critical communication tool is not available to them. Children in foster care during this time have been given better opportunities (though certainly not across the board) to be in physical proximity to their parents. Even meeting with their legal team poses challenges. At times, with PPE, we have been able to meet with our clients in person, often in a detention facility. When communication is taking place over the phone, background noise can be a real distraction, as can the seemingly poor quality of communications systems at DYFJ facilities. The frequency with which our clients can meet with their advocates, whether because of quarantining or general safety concerns, is not close to ideal. As well, the frequent period of quarantine affects the facilities' ability to produce our clients for their court dates.

We appreciate the chance to share these experiences with City Council. As always, we welcome any opportunity to speak with members of City Council to further illuminate the important issues noted above.

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