



Leadership, voice and vision for child welfare in New York State

**TESTIMONY OF JAMES F. PURCELL**  
**CHIEF EXECUTIVE OFFICER**  
**COUNCIL OF FAMILY AND CHILD CARING AGENCIES**  
**BEFORE THE**  
**NYS ASSEMBLY COMMITTEE ON CHILDREN AND FAMILIES**  
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Good morning. I am Jim Purcell, the CEO of the Council of Family and Child Caring Agencies (COFCCA). COFCCA is the principal statewide membership organization for the not-for-profit child welfare and juvenile justice providers, representing over 100 member agencies that provide nearly all foster care and more than two-thirds of preventive services statewide through contracts with counties and the NYC Administration for Children's Services. Our agencies also serve about half of the juvenile delinquent youth in residential care, and provide a wide range of community-based diversion and aftercare service to youth involved with the juvenile justice system and their families.

On behalf of the thousands of vulnerable children and families helped by our member agencies, I thank the Chair of the Children and Families Committee, Amy Paulin, for your leadership and for your efforts to protect New York's most at-risk children and to reduce the impact of budget cuts to the services these families so desperately need. We greatly appreciate the opportunity to address this Committee on the pressing issue of how New York State ought to finance child welfare. This year COFCCA is working closely with key stakeholders to advocate for child welfare financing legislation next year. I point particularly to the work COFCCA and the New York Public Welfare Association (NYPWA) have done to develop a joint set of recommendations which both the public and private providers agree on. We will present those recommendations to you more fully in the coming weeks.

All of COFCCA's member agencies are well aware of the very challenging economic situation facing our State and nation. We understand that the State cannot pay for everything that is wanted, and perhaps not even for everything that is needed. But we also know that New York has a special obligation to the children who are so unsafe because of abuse and neglect that, under State and federal law, government must intervene to protect them by removing them from their families. The State has an equal obligation to provide needed services and supports to those families where, with our help, children can remain safely at home.

For those children who are taken into foster care we have a very special obligation, since the government has asserted that we can do a better job, at least for now, of caring for those children than their family could. Is there a more fundamental call on the resources of the government? I would argue there is not. With your support we must be able to guarantee these children a life better than the one that led to their removal from their own families. To the parents of those children, we must deliver on the statutory and moral commitment to work as quickly as we can to help them make needed changes so they can parent their children again as soon as possible. And finally, to the family where removal of a child is an imminent possibility, we must offer the preventive services they need to be parent their children safely at home.

So the question this hearing poses is one that gets to the very core of our commitment as a State to its most vulnerable citizens: When the State steps inside the sacred circle of the family how do we best meet our collective obligations to those children and to their families?

There are many aspects of child welfare service provision on which almost all stakeholders agree. The officials in our State and local government, the not-for-profit providers of services, and the advocates all believe that children should be within a family—his or her own if possible and if not, with a new and loving family. We agree that services should be provided in the child's home community whenever possible, that strong connections with siblings and other family members are crucial for all children, and that there should be a continuum of services that facilitate the child's return home or to another permanent home. We agree with early interventions that stop problems before they become more serious, including but not limited to community optional preventive services (COPS), home visiting programs, abuse prevention programs, tutoring, and mentoring.

There is also consensus on the principles that must be upheld in providing child welfare services. Clearly, the first obligation to the child is safety. A second primary concern is ensuring that all children in foster care are moving toward permanency—through return home, or when that is not possible to guardianship, or adoption. And the third tenet is child well-being. While children are in the care of the child welfare system we must do

all we can to provide them with quality care, with all needed health, dental, mental health, developmental, and substance abuse treatment, with solid connections to school, and with the support of well qualified and well trained staff and foster parents.

Any formula that does not support these elements cannot adequately meet the needs of New York's most vulnerable children and could result in tragedy. Please allow me to offer an apt description of a high quality child welfare system by Harold Richman while he was the Director of Chapin Hall at the University of Chicago, and a leading researcher and expert on child welfare:

“Child welfare is not another social program. It deals with life and death issues. It deals with coercive state interventions; the stripping away of a family's privacy, the taking of a child from a family, and the presumption of a public standard of acceptable and unacceptable parenting. Its consequences have life-long effects. The values it deals with, too often cavalierly, are the values that define our society.

Child welfare is different because it cannot be about one thing. It must be about many things:

- If you have a wonderful system of investigation of child abuse or neglect, yet you have no service to help keep a family together, then you have failed the children and the family and the public interest.
- If you have a good investigative branch and good services to help keep the family together, but you have poor foster care for those children who must be placed, then you have failed the child and his family and the public interest. In fact, you have perpetrated a terrible hoax on the child, asking him to trade the devil he knows for a possible equally bad or even worse devil he doesn't know.
- If you have good investigators, good family services, good foster care, good health care, and good mental health services, but terrible residential or institutional care, then you have failed the child who needs such care and the parents and foster parents who have proven that the child can make it only with such specialized care.”

During the past three decades New York's child welfare system has undergone profound changes. Until the late 1970's the system had only two components. Abuse and neglect cases were investigated and then either closed or the children placed into foster care. New York State created and funded preventive services, leading the nation in providing supportive services to keep at-risk children safely at home. As a result, New York's foster care census fell steadily to about 27,000 children in the mid 1980's.

But then two things happened, almost at the same time. First, the courts held that the past practice of taking children from their parents and leaving them with relatives with no support or on-going help was a violation of the law, so kinship foster care was developed. Second, the crack epidemic devastated whole communities especially in our large cities. The result was literally a tripling of the foster care population in NYC in less than 3 years with a very significant increase Upstate as well. By the early 1990's there were 65,000 children in foster care in New York State.

During that decade we made some steady progress. Staff were hired to reduce caseload sizes, preventive services were expanded and better models were introduced, and a strong focus on adoptions created discharge capacity for thousands of children. By 2000, New York's foster care census was just under 50,000 but we knew more was needed. One problem the system faced was that the State had combined all child welfare funding into a Block Grant in 1995, and cut that funding by well over \$100 Million or 30%. One result was that as the counties and NYC had to grapple with such drastic cuts they found no relief other than cutting preventive services; a short term savings, but very ill advised from a longer term perspective. The state remedied this in 2001 by removing preventive services from the Block Grant and providing open-ended funding at 65% reimbursement.

The results of this move are clear today. With the growth and stabilization of preventive services, as well as much improved linkages with county and NYC child protective efforts, the number of children receiving preventive services at home with their families is more than double the number in foster care. In fact, the foster care census today of about 23,000 children is far below any point since these records were first kept in the 1970's. There is a direct correlation between adequate funding for preventive services and the number of children who must be in foster care.

Preventive services are the most effective tool in keeping children safely at home while dramatically reducing reliance on foster care. In addition to preserving families, preventive services are significantly less costly than foster care. In New York City, where a majority of the child welfare services are delivered, the average cost of foster family care for one child is \$18,000 (significantly higher for residential care). In contrast, the cost of providing preventive services to an entire family—sometimes including more than three children—is approximately \$10,000.

Currently when a county spends a dollar for preventive services, it receives 62% in matching funds from the State. This match has eroded from the formula of 65% over the past 3 years of budget cuts. The open-ended State match of this funding acts as a powerful incentive to using this service rather than more costly and more disruptive out-of-home care. In this way, use of preventive services meets all three of the criteria necessary to best care for children. The open ended nature of this funding is at the

heart of not only our child welfare system funding, but indeed has been called the centerpiece of New York's entire human services delivery system.

Child welfare services are not limited to children who have been abused or severely neglected. Almost half of the youth adjudicated as juvenile delinquents by the Family Court are served in some of our privately operated residential treatment centers. Private agencies also provide much of the community-based services to youth in the juvenile justice system, including the evidence based programs to divert at-risk youth from entering deeper into the juvenile justice system—placement in foster care or in restrictive settings-- and supportive services following discharge from placement (aftercare) to prevent re-arrests and return to the juvenile justice system.

Whatever form of foster care or juvenile justice service—whether a child/youth is living in the home of a relative as in kinship foster care, with a foster family, in a therapeutic foster family, or in a group care setting—the State's obligation remains the same. The child/youth must be cared for in a way that improves his/her life and meets the three criteria for services – safety, permanency, and well being. Constancy in maintaining these values must be the governing principle in creating any child welfare services mechanism.

## **Recommendations**

I hope this has set a context for our thinking about how the state should approach the decision about how to best fund child welfare. There is no more critical decision in child welfare this year than how we address these financing laws. Our recommendations include:

1. The single most important aspect of the funding formula is the open-ended commitment of the State to match local spending for child protective, preventive, aftercare, adoption, and independent living. As noted this support, which was 75% until 1995, is now 65% in statute but has been cut in budget bills to 62%. We would like to see a return to the 65% level.
2. As noted we have a deep and fundamental obligation to provide high quality foster care to those children who need our care and who are in the legal custody of the government. While we do not believe that the Block Grant is the best way to do this, and we believe that this cap on the State's commitment to its most vulnerable children is far from ideal, we also acknowledge that the current fiscal environment is not conducive to returning a full partnership of 50%/50% funding between the state and the counties. Thus continuing the Block Grant and funding it commensurate with our commitment to these children is warranted.

3. A key question which will need to be addressed in the context of child welfare financing is whether to merge juvenile justice funding with child welfare. This intersection between child welfare and juvenile justice is an increasingly important one.

Presently the cost for a juvenile delinquent placed in an OCFS directly operated facility is paid 50% by the county and 50% by the state. A juvenile delinquent placed in a private facility is charged to the county's (or NYC) foster care block grant. As the juvenile justice system has come to rely more on these private agencies, this has resulted in some shift of funding responsibility from the state to the counties. This needs to be re-considered as the very different funding approach may, or may not, be consistent with either the State's or the locality's interests. And I think we can agree that a decision regarding the appropriate placement for any youth ought not to be made based on who will pay.

Similarly there has been considerable confusion and change regarding how the state funds diversion services and alternatives to placement in the communities for JD's. The number of sometimes conflicting proposals from the executive branch over recent years, coupled with a growing commitment on the part of most system actors to more clearly establish approaches to funding and supporting community level services wherever appropriate demands that this be resolved. In many instances the approaches, service models, etc. designed to keep a youth at home and out of either foster care or the juvenile justice placement are the same. Especially in smaller jurisdictions it makes little sense to require totally separate funding and contracts. Combining juvenile justice diversion into the preventive formula is a good option.

4. We are very pleased that we finally have a subsidized kinship guardianship program, but the current funding of this permanency option via the Foster Care Block Grant is not sustainable. We recommend that these subsidized guardianships be funded by the same formula as adoption subsidies and remain outside the foster care block grant.
5. We urge continuation of community optional preventive services, or COPS, with at least 62% State reimbursement. It is through COPS programs that families who are at-risk but before removal of their child is imminent, can be served inexpensively and in their home communities, and through approaches developed by each county to meet their unique needs.
6. We must mention one critical aspect of child welfare which is not included in these funding mechanisms which sunset next year. When a child is placed with

a private agency in foster care that agency is responsible for all medical and mental health services the child or youth requires. Most of these services are now funded through a separate Medicaid rate for each foster care program. That will change in the next couple of years based on the Medicaid Redesign included in this year's budget ending the "carve out" of these children from managed care. We are working to determine how these changes can improve the health and mental health care these children need, while maintaining the capacity of our agencies to meet their child welfare responsibilities for safety, permanency, and well being of the children. This is complex and we simply have to get it right.

7. We need to create mechanisms to encourage innovation, to enable a local commissioner to respond to the needs of a specific family or child in creative and often a more cost effective manner, and to support the introduction, trial, and then dissemination of promising models and practices.

New York needs to re-claim its proud history of being a national leader in child welfare that that will require finding ways to best meet the needs of individual children who might not fit an existing mold. We still have too many of New York's children in out-of-state residential settings that are not subject to NYS laws and regulations. Too often those placements, as documented by the NYS Council on Children and Families three years ago, are considerably more costly, but are necessary because of the obstacles faced by the in- state settings in being able to quickly respond to that unique set of challenges. It may take an additional worker for some period to modify a youth's behavior, or access to some specific treatment service, or funding to support more and better connections and visits with the family while in care. Whatever the unique needed innovation might be, local commissioners, working with their private providers, need to be able to respond nimbly and not have to delay due to time -consuming oversight processes.

In addition, the state ought to be in a position to provide up-front funding to enable both the counties and the private agencies to implement promising program models and practices to advance knowledge and to simply try new approaches, many of which will, in all likelihood, result in both better approaches and less cost. Restoring the Quality Enhancement Fund, perhaps with some additional opportunities for fuller participation, is called for.

8. Finally, I started by acknowledging that the State is still facing very serious financial challenges and so we know this is not the best time to be noting the need for additional funds. But it must be understood that in the final analysis the quality of any of these services – child protective investigations, preventive

services to keep children safely at home, and foster care – is almost always the capacity of our front line workers to do the very difficult jobs we expect of them. That in turn demands that they have the right education, experience, training, and supervision to do those jobs. Our salary structure for front line workers and supervisors is embarrassingly low. And the caseload sizes in some areas are very simply too high.

Several years ago the Legislature provided OCFS with special funding and required them to conduct a workload analysis to recommend adequate caseload sizes. Since then there have been even more laws, regulations, and data system demands placed on these workers, but the state has not acted to address the fundamental question of funding those recommended caseloads. Until we do that, we are placing far too many demands on many of these workers. Current caseloads for some foster care workers, for example, provide them with less than one hour a month of face time with each child and/or family on their caseload. I know I would expect more if it was my child in foster care, and I know you would too. We must do better.

As the Governor's Office and the Legislature approach the reauthorization of a Child Welfare Financing Law, please be guided by the State's obligation to the children and youth in whose lives government has intervened and in many cases assumed custody.

Thank you and I am of course happy to take any questions you may have.