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TESTIMONY

Public Hearing on Contract Awards
Mayor's Office of Contract Services
DJJ-HHC Contract for Provision of Health Services for Youth in DJJ Custody

Spector Hall
22 Reade Street, New York, New York

April 27, 2006

Submitted by:

The Legal Aid Society
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Good morning. We submit this testimony on behalf of The Legal Aid Society. The agency is aware of our grave concerns regarding the continuity and quality of medical care provided to the children in DJJ's custody. We wish to reiterate those concerns today, in light of the submission of a proposed one-year contract with a new medical and dental provider (HHC). We ask that DJJ address the concerns raised by our young clients and their families immediately. It is critical that DJJ ensure the health and safety of the more than 400 children in the agency's care on a given day.

The Legal Aid Society is the nation's largest and oldest provider of legal services to poor people. Legal Aid's Juvenile Rights Practice provides comprehensive representation as law guardians to children who appear before the New York City Family Court in juvenile delinquency, child protective, and other proceedings affecting children's rights and welfare. Last year, our attorneys and social workers represented some 27,000 children, including approximately 4000 children in delinquency matters. Children aged 7-15 can be charged with juvenile delinquency in Family Court and, upon court order, can spend time in DJJ's secure facilities or DJJ's nonsecure group homes. The Criminal Defense Practice of The Legal Aid Society also represents teenagers who may end up in DJJ's detention facilities. Juvenile offender cases involve young people aged 13-15 who are charged in Criminal Court with one of a set of enumerated crimes.

In DJJ's detention facilities, the agency has not provided adequate ongoing or emergency health and mental health treatment to many of our clients. Additionally, despite clear City rules requiring the continuity of medical care for children who were receiving care in the community (41 R.C.N.Y. Chapter 3), DJJ has a practice of discontinuing medication and treatment abruptly when children enter DJJ's custody, and then waiting to have their medical or mental health provider reevaluate the children before allowing any medication or treatment short of emergency offsite hospitalization. We have many clients who have gone for days without badly needed medication and

treatment while in DJJ's facilities, frequently despite medication having previously been prescribed by a physician in the community.

The City in general suffers from a lack of both outpatient and residential mental health services for a population of children that desperately needs those services. Waiting lists for programs contribute to children being locked up unnecessarily. Commissioner Hernandez testified in front of the City Council on February 16, 2006, that in FY2005, DJJ detained 425 young people on an average day, that the average daily population was 5% higher in the first four months of FY2006, and that **73%** of the children in DJJ's custody in that four month period were identified as having mental health needs. Unfortunately, once children with mental health needs are in DJJ's secure or nonsecure detention facilities, the agency has insufficient or mis-allocated staff, so that they do not provide appropriate ongoing or emergency mental health treatment. For the more than 400 children in DJJ's custody on a given day, scattered among twenty facilities all over the City, the agency has only **one psychiatrist**, in addition to only 9-10 other clinical mental health staff. For example:

- Legal Aid's client "K" was remanded to DJJ's custody in late 2005 after spending three months in a hospital. The hospital's clinical director attended the Family Court hearing and personally handed his prescriptions for Zyprexa, Clonidine and Ritalin to the judge. The Family Court ordered DJJ to give K his medications and attached the prescriptions to the remand order. K spent a full week at DJJ's Bridges and Crossroads facilities without receiving his medications, despite our attorney's call to the nurse at Bridges who assured us that he would be put on the "medication list," and a call to the nurse at Crossroads. It appears that within three days of his arrival in DJJ's custody, DJJ "approved" K to receive his medication, but that DJJ failed to give him his ongoing medication while the agency awaited "consent" from the foster care agency.

Sadly, the same lack of treatment is often true for other medical and dental needs. City administrative rules, the "Guidelines for Continuity and Provision of Care," require DJJ to continue medical and mental health care that children are receiving in the community, and prohibit DJJ from discontinuing or modifying that care without proper medical grounds for doing so and obtaining appropriate parental/guardian consents. Yet in one instance after another, our clients have gone for

days without badly needed medication and treatment while in DJJ's facilities. Urgent needs are neglected, frequently despite medication and a treatment regimen having previously been prescribed by a physician in the community. For example:

- In January 2006, our 13-year-old client was arrested. He is HIV positive on a maintenance anti-retroviral medication regimen, which he must take every 12 hours. Our client only received his medication after the arrest because his mother advocated with the police, who transported him to a hospital emergency room, where doctors had the family bring our client's medications to the hospital so that he could take them. He was then taken to DJJ's Bridges facility, where the next morning DJJ did not give him his medication dosage because, as the doctor explained, they had not medically assessed the child. DJJ refused to accept medications from the family in bottles that had been opened.

When our client's lawyer asked DJJ to assure her that DJJ would give our client his medication after his court appearance that day, the DJJ doctor said no - instead, DJJ planned to "reassess his needs" by testing his viral load, T-cell count, etc., before giving medication. Then, because the drugs are not in DJJ's pharmacy, they would have to order out for them, which DJJ's doctor said would cause delay. Our client only received his regular, ongoing medication after his lawyer obtained a court order after 5:00 p.m. mandating DJJ to take our client to a licensed medical facility and requiring DJJ to provide a written report of their compliance, and after the lawyer called DJJ's general counsel to demand immediate compliance with that order.

Children in DJJ's care are suffering because the agency's medical and mental health staffing and personnel appear to be inadequate to meet the needs of children. Contrary to the administrative rules, instead of continuing ongoing treatment without interruption, DJJ's practice is to conduct its own medical and mental health evaluations *before* allowing children to receive medication or treatment – even if those evaluations take days, and even when the children come into DJJ's custody on ongoing prescription medication, or following court hearings at which their treating physicians have testified or submitted proof of the treatment the children are receiving. This is unacceptable. Further, our clients' experiences demonstrate that DJJ's contracted medical and mental health staff often make abrupt changes in children's medication or leave urgent needs untreated.

Now that DJJ's medical provider (Health Star Plus) has dropped out of consideration and DJJ is abruptly proposing a one-year contract with HHC, we urge the Mayor's Office to oversee closely DJJ's spending on and provision of medical and mental health care. DJJ must meet its obligation to care for the children in its custody.

Thank you for the opportunity to testify.