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Submitted for the Record

Testimony of New York City Council Member Bill de Blasio before the New York State Division of Budget November 29, 2007

Thank you for convening this public hearing and allowing me to submit testimony about the importance of increasing the number of Family Court Judges in New York City.

I am Bill de Blasio, a member of the City Council, and Chair of the Committee on General Welfare. The General Welfare Committee monitors the operation and performance of the Human Resources Administration, the Department of Homeless Services, and the Administration for Children's Services ("ACS"). ACS is responsible for ensuring and promoting the safety and welfare of children in New York City.

Today, I urge New York State to increase the number of Family Court judges by amending State law and to provide funding for these new judgeships. As the Editorial Board of *The New York Times* described on January 16, 2007, "state neglect has left [the Family Court] in something between chaos and despair," the Court cannot oversee child abuse and neglect cases "as closely as it should," and "Gov. Eliot Spitzer should put the Family Court high on his judicial reform agenda."¹

Recently, two factors have greatly increased the burden on Family Court judges in New York City, who were already overwhelmed.

First, in December 2005, to avoid financial penalties after failing a federal audit, the State enacted a major legislative reform intended to move children

¹ Editorial, Fix the Dysfunctional Family Court, *The New York Times*, January 16, 2007, A20.

out of the foster care system and into a permanent home more swiftly.² The new “permanency law” doubled the number of permanency hearings (at which the Court determines whether a child will stay in foster care and the services provided to the child while in care) from once to twice a year but included no additional resources.³ This sudden increase in court appearances substantially affected the workload for all parties within the Family Court, including judges, which will be discussed in greater detail below.

Second, on January 11, 2006, just three weeks after the permanency legislation was enacted, seven-year-old Nixzmary Brown, whose family was known to ACS prior to her death, died of child-abuse related injuries. Nixzmary died on January 11, 2006 at the home where she lived with her mother, her stepfather, and five siblings. The child, who weighed 36 pounds when she died, allegedly was sexually abused, malnourished and ultimately beaten to death by her stepfather.⁴ Her mother and stepfather were charged with second-degree murder in her death.⁵ The tragic circumstances surrounding Nixzmary Brown's death drew heightened public awareness to the importance of reporting child abuse and neglect. Such reports spiked in early 2006, and have remained high since.

According to the Mayor's Management Report (published in September 2007), abuse and neglect reports in New York City rose from 50,251 in fiscal year 2005 to a record high of 64,221 in 2007. As a result of this increased reporting, ACS filings in the Family Court increased dramatically from 2005 to 2006, which directly impacted judges' caseloads.⁶ As of January 2007, child protective judges in New York County carried an

² See 12 Child Welfare Watch, A Matter of Judgment: Deciding the Future of Family Court in NYC 9 (Winter 2005-06).

³ See Chapter 3 of the Laws of 2005 and Chapter 437 of the Laws of 2006; NY CLS Family Court Act §§ 1086, 1089 (2007).

⁴ See Alan Feuer and Thomas J. Lueck, Long Chain of Alarms Preceded Death of Girl, 7, *The New York Times*, January 13, 2006, A2; see also Russ Mitchell and Randall Pinkston, New York Agencies in Crisis, CBS Evening News, January 14, 2006.

⁵ See Corey Kilgannon, Stepfather Recalls Beatings: “This Is for Your Own Good.” *The New York Times*, January 20, 2006. During an interview from Riker's Island on January 19, 2006, Mr. Rodriguez admitted to beating her, locking her in a room for hours at a time—forcing her to urinate in a litter box—and binding her to a chair with duct tape and twine. See *id.*

⁶ See A Position Paper of New York City Bar Association's Council on Children, The Permanency Legislation of 2005: An Unfunded Mandate – Critical Resource Needs for New York City's Children and Families 7 (2007). From 2005 to 2006, the number of abuse/neglect petitions filed in Bronx Family Court increased from 1,372 to 3,464, in Kings Family Court from 865 to 2,940, in New York Family Court from 906 to 2,004, in Queens Family Court from 898 to 2,208, and in Staten Island Family Court from 229 to 607. *Id.* (citing to Data provided by the New York City Family Court, January 2007).

average of 547 cases each, Bronx judges averaged 950, Brooklyn judges carried 725 on average, Queens judges carried 688 on average, and Staten Island judges averaged 835. Notably, however, these numbers do not include permanency hearings.⁷

Judges' calendars are overscheduled to such a degree that they are often forced to make decisions about a permanent plan for a child in a matter of minutes, and without sufficient information. The new permanency legislation requires that judges schedule permanency hearings every six months.⁸ Due to the demands on judges' calendars, often a permanency hearing occurs before the actual trial, when the judge would hear evidence and determine whether the alleged abuse or neglect even occurred. In addition, frequent scheduling delays increase the risk that children will stay in foster care longer.

According to Judge Bryanne Hamill, a Family Court judge who sits in Brooklyn Family Court, nearly 1,000 new children came under her jurisdiction in her part alone from 2005 to 2006.⁹ As Judge Hamill states, "the filing rate has increased nearly threefold" yet "the resolution rate has dropped by half," which "is not the algebra of permanency."¹⁰ She further explains, "[w]ith better information, more frequent hearings, and strict deadlines, the court would be able to supervise all parties' compliance with the service plan, hold the agencies accountable, and effectuate the legislative intent of permanency for children. However, lacking adequate resources to implement these reforms, children experience greater delays in permanency than they did before the Permanency Law was enacted."¹¹

Moreover, in her 2007 State of the Judiciary address, Chief Judge Kaye called for an additional 39 Family Court judgeships statewide, to handle the post-Nixzmary Brown surge in filings and the additional volume of work required by the permanency legislation. The State must act on the Chief Judge's call.

Increasing the number of judges would require changes to State law, which sets the number of judges in Family Court at 153 statewide, 47 of whom sit

⁷ Id. at 8-9.

⁸ NY CLS Family Court Act § 1089(a) (2007).

⁹ Bryanne Hamill, Perspective, A Crisis in Family Court, *The New York Law Journal*, November 15, 2007.

¹⁰ Id.

¹¹ Id.

in New York City.¹² However, not all Family Court judges hear child protective (abuse and neglect) cases. As of January 2007, the City had only 25 child protective judges. Inexplicably, the State has not increased the number of judges in New York City in 16 years, since 1991.¹³

It is imperative that the State makes creating new Family Court judgeships a priority. Every day, Family Court judges make crucial decisions about children's lives. They are the sole arbiters of whether it is safe for a child to live at home or be placed in foster care, what services would shorten a child's stay in foster care or prevent the child from entering in the first place, and when a child should be adopted. New York City's Family Court is overburdened and underresourced, and this dynamic creates a bottleneck effect on the City's ability to protect children. We cannot, and should not, accept a situation that rushes judges through making decisions that have long-term implications or allows children to grow up in foster care simply because the courts lack adequate resources. Making new Family Court judgeships a legislative and budget priority would mark a major step toward protecting our children.

Thank you for the providing me with the opportunity to submit testimony.

¹² NY CLS Family Court Act §§ 121, 131 (2007).

¹³ Id. at § 121. The Mayor appoints Family Court judges for ten-year terms, while judges are elected in other parts of the State. See NY CLS Family Court Act §§ 123, 133 (2007).