



**Mayor's Office of Criminal Justice
New York City Council
Committee on Juvenile Justice
December 6, 2017**

Good afternoon, Chair Cabrera and members of the Committee on Juvenile Justice. My name is Dana Kaplan and I am the Executive Director of Youth and Strategic Initiatives at the Mayor's Office of Criminal Justice ("MOCJ"). Thank you for the opportunity to testify today. I am joined by the Administration for Children's Services Deputy Commissioner Felipe Franco and others from the administration to assist with answering questions.

The Mayor's Office of Criminal Justice advises the Mayor on public safety strategy and, together with partners inside and outside of government, develops and implements policies that reduce crime, reduce unnecessary incarceration, promote fairness, and build strong and safe neighborhoods.

The topic of today's hearing – the City's plans to implement Raise the Age – can be seen in a larger context. In the last four years in New York City, we have seen an acceleration of the trends that have defined the public safety landscape in this city over the last three decades. While jail and prison populations around the country increased, New York City's jail population has fallen by half since 1990. And in the last four years, the jail population dropped by 20% — giving us the lowest incarceration rate of any big city and the steepest four-year decline in the size of the jail population since 1998. Since 2014, the number of 16 and 17 year olds in custody in particular has dropped approximately 60% (from 409 to 143), and the number of children in secure juvenile detention has dropped approximately 61% (from 150 to 58), even as our crime rate has continued its downward trend. Meanwhile, last year was the safest year in Compstat history, and low-level enforcement has also reduced dramatically. This is unique proof that jurisdictions can have more safety and smaller jails.

Mayor de Blasio and the commissioners of our Administration for Children's Services, the New York City Police Department, Department of Correction, Department of Probation, Department of Education, and the Law Department have repeatedly affirmed the City's support for raising the age of criminal responsibility prior to its passage. Additionally, Elizabeth Glazer, the Director of my office participated in the Governor's commission and was integral in developing the initial proposal for Raise the Age in 2015.

Since passage in April 2017 of Raise the Age, the City has been working intensively to prepare for its implementation. We have formed Working Groups focused on Court Processing, Programming and Diversion, Data/Analytics, and Facilities, with participation from the Courts, District Attorneys, Public Defenders and all city agencies responsible for implementation. We have begun engaging with our non-profit partners and providers to prepare for implementation, and have brought in local and national technical assistance providers to assist our efforts. New York City has been aggressively focused on preparing for the opportunity that Raise the Age presents to build on past reforms to develop a best in class juvenile justice system, while continuing to deliver better outcomes for youth and public safety.

In particular, and specific to the topic of this particular hearing, city agencies have been working intensively to ensure we meet the statutory timeframe required while providing age-appropriate housing, services and programs in facilities that are safe for both juveniles and staff. We believe the City can meet the ambitious deadline for moving juveniles off of Rikers Island, but meeting that deadline and the law's objectives will require specific assistance from the State. As we have shared with the State, the City's plan for creating the "Specialized Secure Detention Facilities" (SSDs) required under Raise the Age and the assistance requested from the State to ensure the goals of the statute are met are as follows:

Renovate the City's two existing secure detention facilities for juveniles

The City plans to renovate Crossroads, located in the Brownsville neighborhood of Brooklyn and Horizon, located in the Mott Haven neighborhood of the South Bronx, to maximize their operational capacity, enhance programmatic, recreational and educational space and ensure needed health and safety improvements are made to the facilities. The City has already started \$55 million of planned renovations to these two facilities.

Obtain the licensure from the State required by the statute to operate Crossroads and Horizon as both "specialized secure detention facilities" (SSDs) and secure juvenile detention facilities

After full implementation of Raise the Age legislation October 1st, 2019, the term Juvenile Delinquents (JD's) will refer to youth 7-17 who have been charged with misdemeanor and/or low-level felony charges, Juvenile Offenders (JO's) will refer to youth ages 13-15 who have been charged with violent felony charges, and Adolescent Offenders (AO's) refer to 16-17 year olds with felony charges that remain in the newly created youth parts of adult criminal court. Dual licensure will provide the City with the flexibility to house JD's, JO's, and the newly created AO's in these facilities. In a provision unique to New York City, we are also required to move off island all individuals who, on October 1, 2018, are on Rikers Island and who are 16 or 17 years old. We anticipate that we would also use the SSD's to house this category of young people. Because age and security classifications may not correlate exactly to juveniles' status as JD's, JO's or AO's, we request that co-mingling restrictions within housing, education, recreation and programming be determined by the City's classification systems, rather than their court status alone. The City's classification systems are currently in development for finalization by the Raise the Age implementation deadline. To be clear, flexibility does not mean that we will co-mingle youth in a manner that compromises safety or the ability to deliver effective programming – it allows us to make those determinations based off of a targeted assessment of individualized needs and risks.

Partner with the State to develop an additional facility to act as an intake and reception center for the JD, JO and AO population

This intake facility will provide sufficient capacity for the City's projected population of juveniles in detention post Raise the Age implementation¹ and minimize the impacts of incarceration on young people who will be released within less than a week (comprising 63% of discharges and 46% of discharges of the current ACS and DOC populations, respectively). The City will seek licensure from the

¹ The City's population projections assume that following Raise the Age implementation detention is used with no greater frequency or duration than is current practice.

State to operate the intake facility as both an SSD for the AO population and a secure detention facility for the under 16 population.

Our standing request to the State is to partner to convert the Office of Children and Family Services reception center, Ella McQueen, for use as the City's intake center

Ella McQueen, which does not currently serve young people from New York City as a function of the passage of Close to Home, is the only² facility identified that would: (1) meet the objectives of Raise the Age to provide safe and supportive detention facilities for juveniles and staff; and (2) if provided to the City, would not be subject to the City's Uniform Land Use Review Procedure (ULURP), which would delay the City's compliance with Raise the Age. As you know, under the New York City Charter, a site that has not previously been used in a manner comparable to its proposed use (and will require extensive capital construction or renovation) is subject to ULURP, a process which takes approximately 10-12 months to complete whether or not the project has significant public support. Importantly, construction could not begin until ULURP is completed. Because of this reality, the City can only use a facility that will not trigger ULURP (i.e., a facility currently being used as a detention center) if it is to meet the October 1st, 2018 deadline.

Fund diversion programs to ensure that detention of adolescents is used only when appropriate and for the least amount of time possible

The City is investing in case expediting supports and a "second look" program to decrease the amount of time that young people spend on Rikers Island and identify adolescents who may be eligible for release to community-based supervision, expanded supervised release for young adults, and other interventions to target JD's, JO's, AO's and the population of young people currently in detention on Rikers Island. New York City's reforms aimed at safely reducing the number of detained young people have already been very successful – as mentioned, with an average daily jail population this calendar year of 143 adolescents in the custody of DOC and 58 in ACS secure detention. As we prepare for implementation of Raise the Age, we are expanding our efforts and have partnered with the Annie E. Casey Foundation to provide additional technical assistance to support this important work. As we develop the necessary detention capacity for Raise the Age, we are focused on ensuring that detention is used judiciously, only as appropriate, and for as limited a period of time as possible. Our implementation efforts are centered on building off of past supports and investments for community-based interventions, and identifying where we can be doing more to fill needed gaps in the continuum, particularly at the neighborhood level.

Implement a planned phasing of primary responsibility for oversight of adolescent offenders and Rikers 16 and 17 year olds from DOC to ACS

Raise the Age contemplates joint operation of the Specialized Secure Detention Facilities by ACS and DOC, but the law itself does not specify how this is to work in practice. ACS has agreed to assume

² The City has reviewed and inspected over 70 locations city-wide, including former detention facilities, hospitals, residential centers, and City-owned vacant lots, as well as conducted tours with design consultants to determine the needed renovations and construction timelines at various sites. City sites reviewed included the Department of Corrections off-Rikers borough detention centers, which if utilized for this population would achieve the objective of moving adolescents off of Rikers but we believe would be a victory in name but not in substance, given the challenge of modification to a more juvenile appropriate setting within the timeframe allowed.

responsibility for the delivery of medical and case management services, as well as recreational programming within the SSD facilities. With respect to security, ACS does not currently have sufficient staffing capacity to manage the expanded population of older youth who will be housed in these detention facilities post Raise the Age. As such, DOC will initially have primary responsibility for managing AO's and the population that will be moved from Rikers Island (and who will still be subject to adult criminal court proceedings). As ACS develops its staffing capacity to assume direct supervision of the AO population, along with related security functions, DOC will transition to an advisory role with the option to retain some operational responsibilities. We anticipate a transition timeline of 24 months for transfer of primary responsibility. DOC and ACS staff are currently working together to develop a shared vision of facility operation, consistent with a juvenile model and principles of adolescent development, to ensure consistency of operations during this period of transition.

As outlined above, New York City has an aggressive plan for meeting the requirements of Raise the Age that matches our commitment to ensuring that young people in New York City receive the benefits of this important piece of legislation. As we have stated in our communications with various State officials over the last several months, in order to meet the requirement that New York City move its current juvenile population off of Rikers Island and into a Specialized Secure Detention Facility (a year earlier than a full transition is required for the rest of the state), we seek the State's partnership and assistance.

Specifically, New York City has requested that we receive the following from the State of New York to ensure compliance no later than October 2018 with Raise the Age:

1. **Before the end of 2017, draft regulations from SCOC and OCFS that will govern the specialized secure detention facilities.** New York City is already making necessary physical renovations, staffing, programming and operational plans to allow DOC and ACS to safely operate Specialized Secure Detention Facilities, as well as jointly planning facility operations based off of best practices in adolescent development. However, in the absence of the regulations from the State that will govern these facilities, the agencies cannot be certain the investments in physical infrastructure and planning will comply with the relevant regulations, particularly in light of the current inconsistencies between some OCFS and SCOC regulatory provisions. To the extent that the State regulations require modifications to existing plans the City agencies will need ample time and flexibility to respond effectively. In addition to review of the new regulations before 2018, The City requests substantial flexibility from the State oversight agencies in the early stages of implementation, including potentially a swift mechanism for obtaining waivers, when appropriate.
2. **Expedited approval from OCFS and SCOC for licensure of Crossroads, Horizon and the intake facility as "specialized secure detention facilities" and re-licensure as secure detention facilities, if necessary.** Given the 18-month timeframe in which New York City had to plan, renovate and operationalize facilities with the capacity to handle new and expanded populations of young people, the City requests that OCFS and SCOC put in place an expedited approval process to significantly reduce the timeline typical for licensure of a facility following renovations. Currently it takes approximately two-three months after submission of the request for SCOC and OCFS to approve licensure.
3. **SCOC/OCFS approval for co-mingling populations, AOs, JDs, JOs, and 17 year olds (until 2019), where safe and appropriate.** AOs, JDs and JOs are classified based on age, charge and court process (family vs. criminal court). However, given other considerations related to security and

the appropriate and efficient provisions of services and programs, the City requests approval to co-mingle young people on the basis of a classification system that takes into consideration all of the relevant factors, including age and consideration of risk. This will avoid needless inefficiencies that would be created through strict prohibitions against co-mingling based on court categorization alone, and allow the flexibility to mix populations in the safest and most effective way. The City has identified an expert on adolescent classification that is working with the agencies to finalize an age appropriate classification system that will be ready by the Raise the Age implementation deadline.

4. **Approval to use Ella McQueen as an intake facility to ensure the City has sufficient capacity to appropriately house all juveniles in detention.** The City has a pending request to use Ella McQueen as an intake facility, through the license or lease of the facility to the City for its use. Given that this facility is no longer serving a New York City youth population, the City would appreciate the use of this facility for long-term use but, at a minimum, requests the opportunity to use this facility as a stop gap measure until additional capacity can be developed at an alternative site. If the State is amenable to providing this needed support for Raise the Age, we would ask for expeditious approval for city agency staff and a design team to tour the facility before the end of the year. Our hope is that this will allow sufficient time for any needed renovations to be designed and complete by summer 2018.
5. **State funding to support New York City's plan to rapidly implement Raise the Age.** The City requests the State maintains its longstanding commitment to finance a portion of the costs for detention, placement, and alternative programs that both the State and City recognize as crucial to the rehabilitation and reentry of youth into their communities. As a provider for the largest population of juveniles in the State, and with a tight implementation timeline, the City would like to be considered for any new funding streams that may be created related to the implementation. Additionally, the City asks for consideration for an increase of current block grants used to fund Detention, Placement, and the City's STSJP (Supervision and Treatment Services for Juveniles Program) allocations.
6. **State support for design-build legislation to expedite construction needed to support Raise the Age.** The City will once again pursue design-build legislation, a streamlined process of procuring design and construction together, both for the development of specialized secure detention facilities and any other capital projects required for Raise the Age implementation, such that any necessary construction projects will be completed in the shortest timeframe possible and not impede timely implementation of Raise the Age across the board.

In closing, New York City has long supported reforms that treat 16 and 17 year olds as juveniles in order to produce the best possible outcomes for young people, their families, and for public safety. We are optimistic about the implementation of Raise the Age, and believe that we are well poised to build on the significant progress that we have made in New York City's juvenile and young adult justice systems to date, for the benefit of our city's children, families, and public safety overall. Yet we acknowledge that successful implementation of this important reform requires a great deal of effort and coordination, between City agencies, the Courts, prosecutors, defenders, community and neighborhood providers, and between the State and local government. We are hopeful that with cooperation between the City and State and all stakeholders, we can jointly realize the goals of Raise the Age on the timeline set forth by the law.

Thank you for the opportunity to testify here today. I would be happy to answer any questions.

NYCTM

Administration for Children's Services



**The New York City Council,
Committee on Juvenile Justice
December 6, 2017**

***"Oversight – DYFJ's Efforts in the Implementation of Raising the Age of Criminal
Responsibility"***

**Testimony by
New York City Administration for Children's Services
Felipe Franco, Deputy Commissioner
Division of Youth and Family Justice**

Good afternoon Chair Cabrera and members of the Committee on Juvenile Justice. I am Felipe Franco, Deputy Commissioner for the Division of Youth and Family Justice (DYFJ) within the Administration for Children's Services (ACS). Thank you for the opportunity to testify this afternoon about the City's implementation of Raise the Age.

First, ACS firmly believes that all of our youth belong in age and developmentally appropriate settings that are tailored to meet their specific needs and maximize their potential as productive adults. Treating children as adults does not promote the longer term goals of rehabilitation which makes our city safe. This is why the City advocated in Albany for policy change and we are delighted that New York State will now treat our young people as young people in the justice system.

We look forward to working with our partners to expand our quality programming and services to 16 and 17 year olds, who no doubt will benefit from more therapeutic interventions. This includes broadening our array of early intervention and alternative community-based programs, such as alternatives to detention and placement to keep youth accountable, as well as promoting evidence-based models and treatments within our detention and placement facilities that meet the developmental needs of older adolescents. Our work in DYFJ is focused on helping the youth we serve develop the skills and abilities to control and manage their emotions and behaviors. With the innovative work that ACS has undertaken to build a juvenile justice system that promotes positive youth development, we join the Mayor, the City Council, and our partner City agencies in embracing Raise the Age as a critical and long-overdue reform.

As you have already heard from the Mayor's Office of Criminal Justice (MOCJ), ACS is one of many city agencies working in partnership with MOCJ to plan for the implementation of the initial requirements of the Raise the Age legislation by October 1, 2018. A citywide Steering Committee, chaired by MOCJ, has been meeting to guide the overall citywide planning effort. It

includes representatives from multiple city agencies—including ACS, the NYPD, Department of Corrections, Department of Probation, Department of Design and Construction, Department of Education, the Office of Management and Budget, and the Law Department—as well as the State Office of Court Administration. This Steering Committee oversees four Working Groups who meet regularly and are each responsible for planning around specific critical issues including: Court Processes; Programming and Diversion; Data Analytics and Risk Assessment; and Facilities.

In addition to our involvement on the city-wide Steering Committee and our participation in the various Working Groups, ACS also convenes weekly internal meetings with key divisions and program areas to identify and plan for ACS-specific implementation actions. We have embraced the opportunity to conceptualize alternatives to detention and placement that are age appropriate and gender responsive to meet the needs of all children in the juvenile justice system, and that address the current gap for youth without a permanency resource. We have also been working closely with our partners at the Department of Education to plan for enhanced career and technical education programing for youth in detention and Close to Home.

As you have heard in previous testimony, much of the City's planning hinges on clarification from state oversight bodies—the Office of Children and Family Services and the State Commission of Correction—on the regulations that will apply to programs for this population of young people. We look forward to receiving the State's guidance on serving older adolescents in the juvenile justice system.

While all of this extensive planning is underway, DYFJ continues to operate a safe and secure juvenile justice system for New York City's youth. We view Raise the Age as an opportunity to strengthen the foundations of our existing system and continue to improve our practice, support our staff, and fortify safety across the entire continuum. As I have described previously before this committee, we have invested heavily in training and other resources to help

our staff implement best practices, to maintain safe facilities, and to create programming and therapeutic interventions that address the risks and needs that our current population presents. With Raise the Age, we will need to further adapt our services and programming within our community, detention, and placement programs to meet the needs of an older youth population. We are developing a proposal to expand and strengthen our community-based alternatives for older youth; we have been working with the Department of Design and Construction to make necessary health, safety, programmatic and recreational upgrades to Crossroads and Horizon secure detention facilities to prepare for additional, older youth; and we are working with our Close to Home placement providers to use Raise the Age as an opportunity to think more creatively and expansively about programming for older youth with an emphasis on vocational training, apprenticeships, and licensing programs.

As you might imagine, this is a significant undertaking. DYFJ has had a long and transparent relationship with the City Council Committee on Juvenile Justice and we intend to maintain that transparency throughout this planning process as well as the phases of Raise the Age implementation. Given the very aggressive timeline for implementation of this important legislation, we all need to be prepared for the challenges that we will likely encounter as we move to expand our juvenile justice system to support a new population of youth. We will continue to seek your guidance and support as we move ahead with these efforts.

Raise the Age is a rapidly evolving endeavor. While we continue to work with our City partners on planning for implementation of Raise the Age, including assessing the costs associated with implementation and the optimal use of our existing facilities, we also look forward to continued collaboration and partnership with the State to support this massive and crucial reform. We thank the Council for your advocacy in support of the Raise the Age legislation, and we look forward to working with you on implementation and in advocating to the State for the supports and

flexibility needed to make this immensely consequential reform a reality. We are happy to take your questions.



Testimony of

Gisele Castro
Executive Director

**Oversight – DYFJ's Efforts in the Implementation of Raising the Age of Criminal
Responsibility**

Before the
New York City Council
Committee on Juvenile Justice

December 5, 2017

Testimony before the Committee on Juvenile Justice, New York City Council

Chair Cabrera, Council Members, and staff, good morning and thank you for the opportunity to speak to the Juvenile Justice Committee regarding implementation of Raise the Age legislation, particularly the importance of offering safe and meaningful opportunities for youth affected by these upcoming changes. My name is Gisele Castro, I am the Executive Director of Exalt Youth (*exalt*), the only non-profit organization in New York that engages court-involved youth ages 15-19 on a voluntary bases (rather than compliance), by offering life changing opportunities through our proprietary curriculum, individualized planning, and paid internship placements.

I want to begin by thanking Chair Cabrera and Council Members for their advocacy on behalf of our young people and for hosting this hearing today. I would also like to thank the Mayor's Office, the Administration for Children's Services (ACS) and their sister agencies for their collaborative work in preparing for implementing the initial requirements of Raise the Age legislation by October 1, 2018. I also thank the Division of Youth and Family Justice for their internal work with key ACS divisions in identifying ACS-specific implementation actions.

As an advocate, I understand the challenges that come with new legislation, including the uncertainties surrounding parts of this particular legislation, as well as the immense work that must be done in effectively communicating priorities and plans with State oversight bodies. However, these challenges must not prevent efforts in channeling a comprehensive approach to this legislation. This is why our conversation today is so important.

Ensuring the Safety of our Youth and our Communities

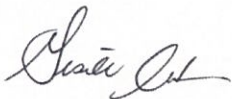
At *exalt*, we know that the first priority to any legislation affecting our young people must come with appropriate investments in supportive programs and opportunities. Our model has shown how safe, open, validating spaces and processes can change the trajectory of a young person's life, and in turn reduce criminal activity among teenagers. In the last fiscal year, over 65% of youth served by *exalt* faced serious, life-altering charges, including felonies and A misdemeanors. The intersection of justice-involvement and education are always intertwined, as less than a quarter of young people who come through our doors are either in school or on track to graduate high school. After participating in our model, less than 5% of our young people are reconvicted of a crime and more than 95% remain enrolled in high school and on track to graduate. Moreover, our model has resonated over the last decade within the courts, where over 70% of youth with eligible cases are given sentence reductions. Our outcomes show that when young people are given the individual agency to participate in their future and choose their path toward success, schools and communities become safer. For young people who are detained, a safe environment throughout the detention experience as well as appropriate methods of transferring individuals out of the system should also remain a top priority for the Committee.

Addressing Change through Intersectional Interventions

At *exalt*, our work is intersectional – we have over 400 referral partners, including schools, legal service organizations, Judges, and court officers. We have over 50 active internship partners each month and we host monthly workshops to connect our youth with professionals in the public, private, and creative sectors. As a result, our stakeholders are as diverse as the needs of our young people. This approach has garnered much success and city agencies and divisions working on important transitions through this legislation should open more opportunities as well as investments for collaborative responses and engagement strategies. Every young person is different and when we approach complex challenges with an intersectional agenda and investments, we will continue observing strong results for our youth. Together, and through more investments in supportive programs, we can re-engage court-involved youth in their education and long-term future to ensure lasting change.

I want to once again thank Chair Cabrera and the committee for holding this hearing, and I look forward to continuing to work with our colleagues, the City Council, and city agencies, to ensure that all New Yorkers affected by these changes have the access to comprehensive services to prevent further system-involvement to keep our communities safe, while elevating our young people toward lifelong success.

Respectfully submitted,



Gisele Castro
Executive Director



MISSION

exalt elevates expectations of personal success for youth ages 15-19 who have been involved in the criminal justice system. We inspire youth at a critical crossroads to believe in their worth, from the first steps in contemplation through the journey to create lasting behavioral change.

Our powerful combination of structured classes for tangible skill development, individualized support to navigate the education and justice systems, placement in paid internships and an alumni network of resources equips youth with the tools and experience to avoid further criminal justice system involvement. At *exalt*, we empower youth to see a future filled with hope – and provide the road-map to get there.

OUR PROGRAM

Our core program empowers youth by building their sense of self-worth and tangible skills through 4 rigorous components.

1. Teaching four core foundational life skills –

communication, creative problem-solving, critical thinking and resource management – through pre/post internship classes. Our proprietary social justice curriculum weaves important historical, social, and economic context with tangible skill development to make content relevant and applicable for students.

2. Individualized planning, advocacy and

support to successfully navigate the justice and education systems, as well as personal obstacles. Our thorough intake process provides a solid starting point for this work.

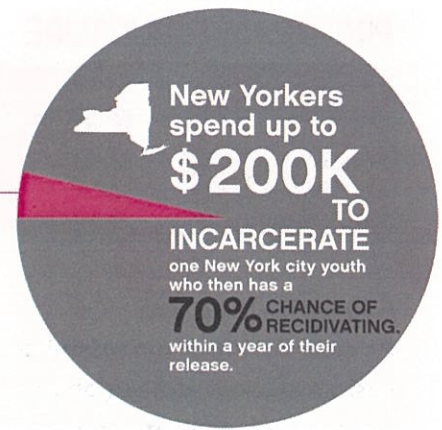
3. Paid internships for exposure to diverse career opportunities through our growing base of internship partnerships comprised of small businesses/non-profits throughout NYC. We currently have 65 active internship partners representing various sectors, such as New Lab, VICELAND, and the Innocence Project.

It costs
ONLY
\$7K

TO EDUCATE

one young person in *exalt*'s transformative, educational development program who then only has a

5% CHANCE OF RECIDIVATING.



WHY WE DO THIS WORK

The United States continues to experience a crisis in both our education and criminal justice systems. Over the past 30 years, we have spent over \$3.4 trillion on the justice system, while under investing in schools and communities. As a result, we have the highest incarceration rate in the world: 1 in 100 people are incarcerated.

Nearly 3/100 teenagers are arrested in the United States every year. In New York City alone, there were over 14,000 arrests of 16 and 17 year olds in 2016. For many, criminal justice involvement is compounded by the downward spiral of negative experiences and diminished expectations of educational, professional, and personal achievement.

WHO WE WORK WITH

exalt serves young people with varying levels of justice system involvement, including young people who are facing serious charges. Most youth enter our programs facing severe charges like violent and non-violent felonies and A misdemeanors. The most common charges are assault, gang assault, petit and grand larceny, and robbery, reflecting the complex challenges and dynamics of poverty and under investment in schools and communities. As a citywide organization, 72% come from Brooklyn, 17% from the Bronx, 7% from Manhattan, and 4% Queens. 65% are black (including West Indian), 15% are Latino, and 18% are other non-white. 70% are male and 30% female

4. Alumni network for ongoing education/career development, resources and support.

PROGRAM STRUCTURE



Graduate Program

As a result of our successful core internship, we now have a growing body of over 700 alumni. To sustain student motivation and strengthen their long-term outcomes, we offer individual education/employment mentoring, extended paid internships, and special projects/workshops. Current graduate partners include NPower, VOCAL-NY, Cents Ability, St. Ann's Warehouse, The Intrepid Museum, and Drive Change. Our FY2018 service target for our Graduate Programming is 120 youth.

OUR IMPACT IN 2017

In FY2017, *exalt* served 255 court-involved youth, achieving unparalleled results.



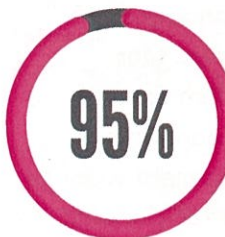
Over half of our youth face serious, life altering criminal charges when they enroll



Less than a quarter of our youth are enrolled in school or on track to graduate high school when they enroll



Over 70% of eligible cases receive sentence reductions thanks to participation in our curriculum and internships



Thanks to our curriculum and paid internship placements, over 95% of our youth remain enrolled in school and on track to graduate by age 20

We thank you for your interest in our work and would welcome the opportunity to connect.

Feel free to contact us directly. We look forward to meeting you to continue discussing our impact in changing the trajectories of court-involved youth in New York City.

Questions? Don't hesitate to contact us.

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The Prospect Hill Foundation

Statement to New York City Council, Committee on Juvenile Justice

December 6, 2017

Good afternoon. My name is Penny Fujiko Willgerodt and I am here representing The Prospect Hill Foundation as its Executive Director. Thank you to the New York City Council and the Committee on Juvenile Justice for hosting this hearing and providing a platform for us and our colleagues to speak with Committee members and the Division of Youth and Family Justice at ACS on this very important subject.

The Prospect Hill Foundation is a New York-based philanthropic organization founded by the Beinecke Family more than fifty years ago. For decades, we have supported nonprofits in the criminal justice field, and since 2009, recognizing the unique opportunity in New York State for systems transformation for youth, The Prospect Hill Foundation has focused its funding on juvenile justice reform. Our agenda is to secure transformational reforms for young people whose lives have intersected with the juvenile *and* adult criminal justice systems. To this end, we invested in the movements to establish the Close to Home program, to Raise the Age of criminal responsibility, and to promote community based models that present non-incarceration strategies. We believe it is critical to promote the leadership of formerly incarcerated youth; support the leadership of parents and

justice-involved families; and embrace a concept of justice that advances rehabilitation, integrating public safety and community development with positive youth development principles.

As New York City advances to implement new Raise the Age policies, we want to acknowledge that this is an extraordinary moment in our City's and State's history. At this time, we want to emphasize the importance of maintaining the focus on youth as children: children who are developing into adults.

We come before the Council today with three points. First, as the City creates new policies for how 16 to 17 year-old children will be treated, we must never forget the word *children*. We implore policymakers at ACS and the City to consider the children they know and love as policies are drafted regarding how detained youth or youth serving sentences will be treated. Would you want your child to be treated this way? Would this be the best program for your child? The best path forward for a 16 to 17 year-old is one that is focused on recovery, not punishment. Education, health care, stimulating and culturally relevant recreation, mental health and substance abuse treatment: these must be our priorities for our children. They must have access to all the varied kinds of resources available to ensure a truly transformative, rehabilitative and positive experience.

Our second point is that we support ACS' partnerships with community organizations, and encourage New York City to further pursue the approach of

community reinvestment. There should be robust funding of community programs. The Prospect Hill Foundation is proud of the incredibly successful and effective organizations and programs it has funded, including **Center for NuLeadership on Urban Solutions, Exalt Youth, Community Connections for Youth, Drama Club, the Youth Speakers Institute at Youth Represent, Lineage Project and Young New Yorkers**. These organizations offer a different approach – one that is youth and family-centric—illuminating a new vision of youth justice. We consider these organizations national models and, as such, are resources that ACS, the City Council and the DeBlasio Administration must take advantage of as the City develops its plans regarding system-involved 16 to 17 year-olds. In its planning, as well as implementation, DYFJ should consider integrating the wisdom and experience of all these programs into ACS policies and programs. We believe this extraordinary moment obliges the City to ensure that new funds are made available through ACS, DOE and DYCD to expand resources for youth and programming in Detention and in Close to Home to meet the many needs of youth in the system.

We challenge the City to create a new multi-million dollar initiative over the next five to ten years for new contracts with community providers to benefit justice-involved youth. Organizations such as the ones named above all have deep expertise in the arts and positive youth development, and offer employment opportunities. Their strategies and approaches have proven to be overwhelmingly and consistently successful with positive youth transformation, stronger families, and more developed community infrastructure.

Finally, we commend the City Council for organizing this hearing. We expect that the Council will use its power to exercise continued oversight on Raise the Age planning and implementation, and we hope that there will be more hearings scheduled on a regular basis to facilitate a nuanced and open dialogue on the progress and efforts of ACS and DYFJ. We also recommend that this Committee convene the City, DYFJ, DOE and DYCD in January or February 2018 to consult with community based organizations on Raise the Age implementation. The Prospect Hill Foundation is fully committed to supporting the City's efforts to implement Raise the Age and will continue to fund advocacy and community-based alternative youth justice programs across the city, ensuring that children are given not a cell, but a way forward to healthy and productive lives. Thank you.



Testimony by

Grant Cowles
Senior Policy and Advocacy Associate for Youth Justice
Citizens' Committee for Children

Before the
New York City Council
Committee on Juvenile Justice

*Oversight:
DYFJ's Efforts in the Implementation of
Raising the Age of Criminal Responsibility*

December 6, 2017

Good afternoon. My name is Grant Cowles and I am the Senior Policy and Advocacy Associate for Youth Justice at Citizens' Committee for Children of New York (CCC). CCC is an independent, multi-issue child advocacy organization dedicated to ensuring that every New York child is healthy, housed, educated and safe.

I would like to thank City Council Juvenile Justice Committee Chair Cabrera and the members of the Juvenile Justice Committee for holding today's hearing on ACS's Division of Youth and Family Justice's efforts in the implementation of raising the age of criminal responsibility. Given that this legislation passed the state legislature this past April with an implementation timeline that begins in October 2018, this hearing is particularly timely. Specifically, the new law raises the age to 17 in October 2018 and to 18 in October 2019. In addition, all 16 and 17 year olds are required to be off of Rikers Island by October 2018.

CCC is grateful to the City Council for your long-term support for and efforts to raise the age of criminal responsibility from 16 to 18 in New York. The City Council, in both its individual membership and its general body, was an important ally, collaborator, and friend in urging the state legislature to finally do the right thing. CCC particularly thanks Speaker Mark-Viverito, Juvenile Justice Committee Chair Cabrera, Legal Services Committee Chair Lancman, and all of the Council Members who for years participated in rallies, press conferences, hearings, resolutions, and Albany advocacy trips—and those efforts were vital to the successful passage of raise the age legislation.

For far too many decades, New York had been doing a drastic injustice to 16 and 17 year olds and their families by processing them through the adult criminal justice system. New York was one of the last two states to finally raise the age, and this legislation will notably ensure no 16 or 17 year old will be housed with adults and none of these youth will be on Rikers Island after October 2018.

Aside from New York's statute being out of line with the rest of the country, it contradicted the brain science research about adolescents, jeopardizing public safety rather than helping protect communities. Science has proven that brains are not fully developed until young adults are in their mid-twenties.¹ The frontal lobe of the brain is responsible for long-term thinking, controlling emotions, and recognizing consequences, and since it is the part of the brain to develop last, adolescents are both more likely to be act impulsively while also being receptive to positive change.² Alternatively, prosecuting children as adults has been shown to increase recidivism, thereby decreasing public

¹ MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice. "Issue Brief #3: Less Guilty by Reason of Adolescence." Available at http://www.adjj.org/downloads/6093issue_brief_3.pdf. Accessed on December 4, 2017.

² Amici Curiae Brief for the American Psychological Association, American Psychiatric Association, National Association of Social Workers, and Mental Health America. *Graham v. Florida*, 130 S. Ct. 2011 (2010). Available at <http://www.apa.org/about/offices/ogc/amicus/graham-v-florida-sullivan.pdf>. Accessed December 4, 2017.

safety while also depriving the young person of the services proven to turn young lives around.³

CCC and Children's Defense Fund-NY co-led the Raise the Age – New York (RTA-NY) Campaign for the past four years. With a list of over 100 supporters from across the State, CCC helped to ensure this issue remained in the minds of elected officials and the public by: providing content and policy expertise to analyze bills; drafting summaries and talking points; offering government relation advice for talking with elected officials; coordinating advocacy days and meetings with elected officials in Albany and various regions in the state; maintaining a constant presence with the Governor's and State legislators' offices; utilizing media and social media to spread information; and mobilizing New Yorkers to advocate through social media, media, email, phone and in person. The success of RTA-NY and CCC's work was grounded on a diversity of support, inclusion of youth voices, and persuasive advocacy. The passage of legislation to raise the age was a shared success among many incredible partners across the state, including the City Council and the de Blasio administration.

Now that the legislation is finally the law, it needs to be implemented and implemented well. It is vital that throughout this planning and implementation period, all stakeholders are engaged and at the table so that in the City and throughout the State, we can ensure that we provide youth with the appropriate rehabilitative supervision and services when it is needed. Nearly every other state uses their juvenile justice systems for 16 and 17 year olds, and CCC is confident that New York will also be successful.

A) Summary of the Raise the Age Legislation

The legislation raising the age of criminality will impact the process for 16 and 17 who are in the justice system in a number of ways, starting in October 2018 for 16 year olds and October 2019 for 17 year olds.

Once the law is effective, when a 16 or 17 year old is arrested, law enforcement will need to make reasonable efforts to notify the parent or guardian of the arrest and wait for the parent or guardian before questioning the youth in the same manner as currently required for youth 15 and younger. The questioning will also need to take place in an age-appropriate setting and for a reasonable period of time.

Under the new law, the overwhelming majority of cases will be heard in the Family Court. All misdemeanor cases, except for vehicle and traffic law misdemeanors, will be heard in Family Court and processed according to the procedures under the Family Court Act currently provided to youth 15 and younger. Notably, the Family Court Act requires the Department of Probation to conduct an intake assessment and, depending on the circumstances, provide adjustment services whereby the youth's case may be closed after

³ Centers for Disease Control and Prevention. *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: Report on Recommendations of the Task Force on Community Preventive Services*. November 30, 2007. Available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>. Accessed on December 4, 2017.

successfully participating with support services. The Family Court Act also provides for confidential records. If detention is ordered, these youth can be detained in one of ACS's detention facilities.

All felony cases will begin their court processing in a new section of the Supreme Court, to be called a Youth Part. The Youth Part will have a Family Court Judge presiding. Non-violent felonies will be transferred to Family Court unless the district attorney files a motion within 30 days showing there are extraordinary circumstances why the case should remain in the Youth Part. If the DA files the motion, there can be a hearing and the Judge will have up to 5 days from the hearing or the motion to make a decision.

Violent felonies may also be transferred to Family Court, so long as the charges do not include displaying a deadly weapon in furtherance of the offense, causing a significant physical injury, or engaging in unlawful sexual conduct, and the district attorney does not file and win the motion showing extraordinary circumstances to prevent a transfer to Family Court. A youth age 16 or 17 whose case stays in the Youth Part will be called an Adolescent Offender.

Vehicle and Traffic Law felonies and non-drug-related Class A felonies cannot ever be transferred to Family Court. Violations will still be heard in adult criminal court, as is the current law.

Importantly, no 16 or 17 year old will be detained or sentenced to a facility with adults. This applies to Rikers Island with an expedited effective date, as all 16 and 17 year olds must be removed by October 2018.

Once effective, youth processed through the Family Court as Juvenile Delinquents who are ordered to be detained or placed can be placed in an ACS-operated facility (detention or Close to Home). Juvenile Offenders (13 to 15 year olds charged in adult court for a few of the most serious crimes) who are ordered to be detained or placed will be housed in the same manner as now through ACS detention and OCFS secure facilities. When an Adolescent Offender is detained it will be in a new type of facility created by the law referred to as a "specialized secure detention facility" that, like ACS's current detention, will be licensed by OCFS. We are still awaiting regulations but believe that Crossroads and Horizons will be able to be a specialized secure detention facility. Adolescent Offenders who are sentenced for one year or less, can complete their sentence in a specialized secure detention facility. Adolescent Offenders who are sentenced for more than a year who are under 18 years old at the time of sentencing will be placed in new Adolescent Offender facility operated by the State, licensed by DOCCS with OCFS services.

In addition, the raise the age legislation included a provision on sealing that is not tied to the age at which the incident occurred- which is already effective. A person convicted of an eligible conviction, who has remained crime-free, may file an application to have the conviction sealed 10 years after the conviction or release from confinement (whichever is later.) Individuals who were convicted of violent felonies, sex offenses Class A felonies,

or two are more felonies, are not eligible. In addition, the person cannot have more than two convictions. With those disclaimers aside, this part of the statute can already help many New Yorkers address the collateral consequences of having an old conviction on their record.

B) Implications of Raise the Age for NYC

1) Implications for the Division of Youth and Family Justice associated with Raise the Age legislation.

ACS's Division of Youth and Family Justice (DYFJ) is responsible for critical aspects of the supervision and care of justice-involved youth. Notably, DYFJ is responsible for providing or overseeing detention, placement and after-care services for youth who are found by a Family Court Judge to be unable to remain safely in the community. CCC hopes that any juvenile who is involved with the justice system can remain in the community as much as is possible as research shows that detaining or placing youth when unnecessary leads to worse outcomes for the youth and public safety.⁴ For those youth who do need detention or placement services, DYFJ's responsibilities will be affected in several ways due to the raise the age legislation.

Detention

Currently in New York City, detained 16 and 17 year olds are held on Rikers Island. Under the new raise the age legislation, any 16 or 17 year old detained by the Family Court will be placed in an ACS detention facility. This will be effective on October 7, 2018, for all 16 and 17 year olds.

ACS oversees non-secure detention facilities and administers the two secure detention facilities. Sixteen or 17 years olds detained as Adolescent Offenders in the Youth Part of Supreme Court will be placed in specialized secure juvenile detention centers for older youth that are certified and regulated by OCFS and can be operated by ACS. These new specialized secure juvenile detention centers may be in the same building as current secure detention facilities as long as Adolescent Offenders and other youth are kept separate.

ACS will need to be able to provide additional capacity through their non-secure detention facilities and secure detention facilities for the additional 16 and 17 year olds who will be under their care upon implementation of the raise the age legislation. Likely the most challenging aspect will be the new capacity challenges for secure detention as these facilities require much greater infrastructure and resources, and youth in these facilities will likely have the greatest needs. This expanded capacity need may also include capacity for Adolescent Offender youth if OCFS and ACS decide to use a portion

⁴ Centers for Disease Control and Prevention. *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: Report on Recommendations of the Task Force on Community Preventive Services*. November 30, 2007. Available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>. Accessed on December 4, 2017.

of the existing secure detention facility to house Adolescent Offenders, and notably those with sentences less than a year.

ACS has already begun the process of renovating Crossroads and Horizons to take on additional capacity. This process includes remodeling the facilities and ongoing planning meetings with other justice stakeholders, including Rikers Island staff who currently oversee these youth, in order to be properly prepared for this new population. Throughout the non-secure, secure, and specialized secure facilities for older youth, there will be a need for new capacity, policies, procedures, and staff training that ensures these new 16 and 17 year old youth are provided with a youth-centered rehabilitation model as opposed to adult correctional supervision.

Additionally, youth receive a number of services and participate in a variety of programs while in detention that are meant to address their needs. DYFJ works with a large number of partners in the community and with child-serving providers to provide relevant and effective services. The raise the age legislation will mean a new population of youth that is slightly older. DYFJ and the many partner organizations thus must be prepared to provide services that meet the needs of these older youth in an effective method.

Placement

Currently in New York City, 16 or 17 year olds who are found guilty of their alleged crimes and receive sentences of incarceration are sent to Rikers Island if the sentence is less than a year or State prisons if the sentence is longer than a year. Under the raise the age legislation, 16 and 17 year olds will instead be supervised under the juvenile system. Sixteen and 17 year olds who are found to have committed the alleged acts by the Family Court and are deemed to be an ongoing high risk to public safety are placed under the supervision of DYFJ. DYFJ administers the Close to Home program whereby youth in need of placement live in either non-secure or limited-secure facilities that are generally small (typically 6-12 beds), residential-like, and in or close to New York City. Sixteen and 17 year old Adolescent Offenders whose cases are in the Youth Part of Supreme Court and who are deemed to need placement will be sent to one of three Adolescent Offender facilities run by Department of Corrections and Community Supervision and OCFS, to be located in Essex, Livingston, and Columbia counties.

The raise the age legislation will mean additional youth will be sent to DYFJ's Close to Home placement facilities, and DYFJ will need to provide additional capacity for any additional youth. Additionally, placed youth receive mandated aftercare supervision and services which is often for many months, and ACS will thus need to provide additional aftercare capacity and resources for these additional youth.

Youth who are placed in residential facilities under the Close to Home program receive a high number of age-appropriate opportunities, programs, and services. The raise the age legislation will mean a new and slightly older population of youth will be included in these facilities. DYFJ, the contracted service providers, and the many partner programs must be ready to meet the needs of these older youth. Notably, the education versus vocational training needs of older youth will be different.

2) Implications for other city agencies and stakeholders associated with raise the age legislation.

While ACS will play a vital role in the implementation of raising the age, there are many other city stakeholders that are also critical to this legislation's success. These include, among others, the Mayor's Office of Criminal Justice, New York City Police Department, Department of Probation, Department of Corrections, Department of Education, Office of Court Administration, legal representative services, service providers, and community-based organizations. Notably, the Department of Probation will likely have the most significant changes as they will be responsible for providing the critical adjustment services for a much larger number and slightly older population of youth.

NYPD

Police will need to adjust their processes when arresting 16 and 17 year olds. Upon implementation of the raise the age legislation, all 16 and 17 year olds who are arrested must be processed in the same manner as current juveniles. This means that upon arrest, an arresting officer must make every reasonable effort to notify the youth's parent or guardian, must wait for the parent or guardian to be present before interviewing the youth, must include the parent or guardian in the waiving of Miranda rights, and the youth must be sight-and-sound separated from adult arrestees. The NYPD must therefore expand their current procedures for those under 16 to 16 and 17 year olds.

Department of Probation

Probation will be responsible for providing juvenile probationary services to 16 and 17 year olds processed in Family Court. These responsibilities include intake assessment, adjustment, and supervision. The adjustment process allows eligible arrested youth to participate in services and sets certain requirements, and if the youth is successful in this program, their case can be closed without any further actions or any record. This adjustment period is two months long with an additional two months available upon court approval. Adjustment is a hallmark of the juvenile justice process and this opportunity must be appropriately available for 16 and 17 year olds. Probation will thus need additional capacity and resources to provide these diversion opportunities to 16 and 17 year olds.

Probation supervision, which can be pre-adjudication or post-adjudication, is also a large and important service where juvenile probation officers set requirements for the youth while the youth lives in the community. For example, a youth's probation supervision case plan might require a certain level of attendance at school, the participation in a credible-messenger mentorship program, and meeting with the juvenile probation officer weekly. Thirty-one percent of adjudicated youth are currently mandated to participate in probation supervision after court adjudication. Probation will need additional resources for this increased caseload.

Courts

Courts will have several changes based upon the raise the age legislation. For 16 and 17 year olds, all misdemeanor cases will be in Family Court, while all felony cases will start in a newly created Youth Part of the adult Supreme Court that uses Family Court Judges who are trained and experienced in adolescent rehabilitation.

This means the Supreme Court will need to organize a Youth Part within their court system. Family Court Judges will need to be designated to sit in these Youth Parts or other judges will need to be appointed to be Acting Family Court Judges. Most 16 and 17 year olds charged with felonies should eventually be adjudicated in Family Court through the legislation's transfer provisions, with the exceptions being certain violent felony cases. Thus, there will be an increased caseload for Family Court and the lawyers representing youth in Family Court as well as the need for some Family Court Judges to sit in the Youth Part of the Supreme Court. The new population of youth will also be slightly older with some possibly unique needs, for which the court stakeholders must be prepared.

Department of Education

For schooling, current 16 and 17 year olds who are confined in the justice system in New York City are held in Rikers Island and the Department of Education provides education through District 79's East River Academy. New York's law requires all youth from five to sixteen to attend school, and District 79 serves students up to 21. Under the raise the age legislation, most 16 and 17 year olds who are confined will be held in juvenile detention settings and in Close to Home placement facilities. District 79 currently provides education within secure detention and limited-secure placement facilities for the current juvenile population, so these classes and teachers will need the resources and preparation for the new additional students. District 79 also serves most non-secure placement youth through specialized schools, and these schools will also need the resources and preparation for the new students.

Justice-involved youth often have large educational needs and are often disengaged from school, and an additional challenge exists that youth may legally choose to not attend school once they turn seventeen. Under raise the age, this underlying dynamic will not change for District 79 as they currently serve these youth and will continue to serve these youth. The students will however be living in dramatically different environments and attending classes in dramatically different settings away from Rikers Island, and the Department of Education will have an opportunity to utilize these positive settings to continue its goal of engaging and educating these youth.

In addition, given the age of the youth, and the fact that 17 year olds are not required to attend school, the City will need to think through additional types of educational services and supports for an older cohort including college prep, college, and vocational training.

Community-based Services

Current 16 and 17 year olds have limited access to services or diversion programs during their justice experience. Under raise the age legislation, most 16 and 17 year olds will have access to the spectrum of programs geared towards meeting juvenile needs and supporting rehabilitation, most of which are provided by community-based organizations or professional child-serving providers. Alternative-to-detention and alternative-to-placement programs are key elements that make the juvenile justice system more successful because they can provide rehabilitative supervision in the community instead of an incarceration environment. Similarly, throughout the juvenile justice continuum, there is nearly always the ability to provide a wide array of research-based services that address the criminogenic and holistic needs of a youth in order to support a youth's development and rehabilitation.

These services are essential to the juvenile justice method and their successful utilization for the new older youth under raise the age is vital to the success of the raise the age purpose. These older youth will likely have slightly differentiated needs associated with being older, such as higher likelihoods to not be living at home, to be pregnant or parenting, to not be attending school, and to need workforce development skills. The programs and services must therefore be effective at supporting and serving these youth by being tailored to the unique needs and challenges of an older population. Similarly, the organizations responsible for assigning services must ensure they do not *over-serve* youth through the use of unnecessary or overly-burdensome programs, as research demonstrates that too much supervision and programming, particularly for low-needs or low-risk youth, actually can make matters worse.⁵

C) Planning in NYC is Well Underway

The implementation of the raise the age legislation necessarily includes many stakeholders and a myriad of details. The continuum of juvenile justice stakeholders in New York City has begun this planning process and CCC is highly appreciative of the leadership shown in galvanizing this effort and in the enthusiastic participation by the many stakeholders.

There is currently a citywide steering committee and four workgroups driving the planning efforts. These workgroups include: Court Processing; Facilities; Services and Data.

Special attention is also being paid to address the requirement that all 16 and 17 year olds be off Rikers Island by October 1, 2018. While CCC acknowledges this time-constrained task presents many capital and logistical challenges, it is nonetheless a vital change that will address one of the most urgent injustices faced by court-involved 16 and 17 year olds.

⁵ Latessa, Ed, Kimberly Sperber, and Amy Pipas. "Do No Harm: providing effective services to reentry population at each risk level." Webinar. *Social Solutions* (website). Available at <https://www.socialsolutions.com/blog/resources/do-no-harm-providing-effective-services-to-reentry-populations-at-each-risk-level/>. Accessed on December 4, 2017.

D) CCC's Ongoing Advocacy

CCC remains firmly committed to working with the State and the City to ensure that raising the age is not simply a well-intentioned piece of legislation, but in fact provides meaningful reform for New York City's 16 and 17 year olds and their families. CCC is continuing to co-convene with Children's Defense Fund-NY the RTA-NY Campaign to keep the broad group of stakeholders and organizations informed and active in supporting implementation efforts. This includes continuing to meet with elected officials, providing feedback and analysis on implementation plans, and organizing educational tools and outreach so the public and other stakeholders can take advantage of the positive changes included in the raise the age legislation.

Notably, CCC strongly believes in the importance of fully funding the raise the age legislation. As the legislation states, all expenses associated with raising the age will be reimbursed by State funding. We will be using this upcoming State Budget process to advocate strongly that the State maintain its commitment to fund Raise the Age for all counties.

CCC is also monitoring all implementation efforts to ensure they adhere to the core values underpinning the raise the age legislation. These core values include, among others, a commitment to do no harm (not "net-widening" or causing worse outcomes for youth through any changes), utilizing adjustment for as many youth as appropriate, and ensuring the availability of effective and well-funded community-based services. It is imperative that even in the midst of figuring out the sometimes-complicated logistics of this legal continuum that all policymakers, stakeholder organizations, and staff are committed to the long-term well-being of these youth.

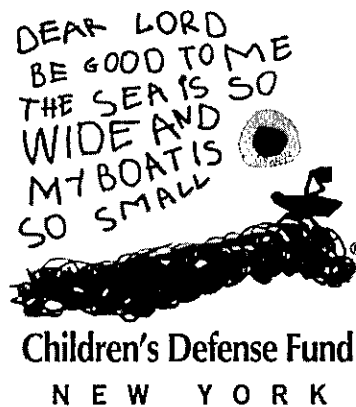
We look forward to being a partner with the city stakeholders throughout this planning and implementation process. CCC will continue to provide its assistance and will continue to advocate for what the city needs for effective implementation, including adequate resources and appropriate regulations from the State. We urge the City Council to do the same and we look forward to continuing to partner with this committee during this implementation process.

Thank you for the opportunity to testify.

**Testimony of the Children's Defense Fund – New York
Before the New York City Council Committee on Juvenile
Justice**

**Oversight Hearing on DYFJ's Efforts in the Implementation
of Raising the Age of Criminal Responsibility**

December 6, 2017



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The Children's Defense Fund's (CDF) Leave No Child Behind® mission is to ensure every child a healthy start, a head start, a fair start, a safe start and a moral start in life, and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective and independent voice for all the children of America who cannot vote, lobby or speak for themselves. We pay particular attention to the needs of poor children, children of color and those with disabilities. CDF – New York's unique approach to improving conditions for children combines research, public education, policy development, community organizing and advocacy activities, making us an innovative leader for New York's children, particularly in the areas of health, education, early childhood and juvenile justice.

Thank you Chair Cabrera and members of the City Council Committee on Juvenile Justice for this opportunity to testify on the topic of the Department of Youth and Family Justice's (DYFJ) efforts in the implementation of raising the age of criminal responsibility. CDF-NY co-leads the Raise the Age – New York Campaign, a public education campaign which helped to bring awareness to the need to raise the age in New York State resulting in the successful passage of legislation in April of 2017. We continue to advocate to ensure the law is successfully implemented including through appropriate planning and allocation of funding to ensure all jurisdictions around the state are able to competently implement changes.

Raising the age of criminal responsibility in New York was a long overdue change necessary to increase New York's ability to treat young people who come in contact with the justice system in an age appropriate way. However, legislation is only one step in ensuring this change impacts young people as intended. The manner in which the law is planned and implemented is critical to ensuring young people benefit to the fullest extent possible.

DYFJ Expanded Role for 16 and 17 Year Olds Under RTA

The raise the age legislation will take effect over the next two years with the age raising from 16 to 17 in October of 2018 and from 17 to 18 in October of 2019. Notably, the legislation includes an accelerated timeline for the removal of youth from Rikers Island. All 16 and 17 year olds must be removed from Rikers by October of 2018 despite the age having only been raised from 16 to 17 at that point in time. All 16 and 17 year olds charged with misdemeanors will be processed under juvenile delinquency proceedings in Family Court. These young people will follow the same process as youth 15 and under charged with juvenile delinquency follow currently. As such, the role of DYFJ will expand to serve this slightly older population. Youth charged with non-violent felonies will have their cases originate in newly developed Youth Parts of the adult criminal court, however these cases will have a presumption of removal to Family Court unless the District Attorney proves extraordinary circumstances justifying why the case should remain in the adult court. Thus, many 16 and 17 year olds charged with non-violent felonies are also anticipated to have cases in Family Court, further expanding the population of youth served by DYFJ. Finally, youth charged with serious felonies will have their cases heard in the new Youth Part and will remain in the Youth Part for the entirety of their case unless certain criteria¹ are met and the District Attorney does not show extraordinary circumstances. The young people who remain in the Youth Part will be referred to as Adolescent Offenders (AOs). AOs who are detained pre-trial or sentenced to less than one year will be housed in new specialized secure detention facility jointly operated by the Administration for

¹ Transfer from Youth Part to Family Court for violent felonies is depended on the absence of three criteria: 1. display of a firearm, shotgun, rifle, or deadly weapon; 2. Certain criminal sexual conduct; 3. Significant physical injury. See New York State's Raise the Age Overview and Implementation Presentation: <https://www.ny.gov/sites/ny.gov/files/atoms/files/RTAWebsitePresentation.pdf>

Children Services (ACS) and the Department of Correction (DOC), adding another component to the expanded role of DYFJ.

New Specialized Secure Detention for Older Adolescents

Raise the age legislation requires the creation of new specialized secure detention for older adolescents to serve as facilities where youth charged as AOs will be detained. These new facilities will be jointly operated by the ACS and DOC. It is critical for the success of raise the age to be seen that these facilities are designed and operated as youth facilities under a youth justice model and not as 16 and 17 year olds are currently detained by DOC, in facilities segregated for youth under an adult correctional model.

It is critical that all policies and practices in the new facility mirror those currently used for youth and not adult correctional practices. An example of a tool utilized by DOC that is inappropriate for youth and should not be replicated in any new facility, is the use of chemical agents (pepper spray, or gas). In November 2016 the New York City Council Committee on Juvenile Justice, Committee on Fire and Criminal Justice and Committee on Education heard testimony from ACS, DOC and the Department of Education (DOE) in which it was publicly discussed that “gas” is a tool utilized by corrections officers at Rikers against adolescents. It was stated that the “gas” is used in classrooms and that teachers are allowed the use of gas masks – though students are not provided any protection. It was noted in testimony by a Special Education Teacher on Rikers that some areas do not have proper ventilation and students become ill and have vomited from exposure to the “gas”. ACS noted in this hearing that they do not utilize chemical agents in any of their facilities despite serving a similar in age population that can present challenging behaviors. Below is an excerpt from the transcript² of the hearing:

CHAIRPERSON DROMM: And just before I—the last question I promise before I turn it over to my chairs. Does ACS use gas in any of your secure facilities?

DEPUTY COMMISSIONER FRANCO: [coughs] No. I mean it’s also important to clarify that actually young people under the care of ACS are under state law considered children and actually fall under the New York State Justice Center Mandates. So there is actually a complete set of regulations and reporting instruments that, you know, doesn’t allow us to use any gases. (sic)

CHAIRPERSON DROMM: So it’s—it—it just seems to me very unfair. You could be 15 and not gassed, 16 and gassed, and, you know, there’s not much of a difference in the age group there, but thank you for that answer.

CHAIRPERSON CABRERA: Okay. So I’m going to go—Commissioner, you worked at the state level, and I am sure on the Commissioner Carrion and yourself, you—did—did you come up

² New York City Council, Oversight - Educational Services for New York City’s Detained, Placed, and Incarcerated Youth, Adolescents, and Young Adults, November 30, 2016. Retrieved from: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2864769&GUID=CDFD5A0E-E41D-4DFD-809E-3990064BE692&Options=&Search>

with the policies regarding those fitting in the law not to use pepper spray? What did those policies come from?

DEPUTY COMMISSIONER FRANCO: Again, you know, we do think something that's important to keep in mind is that we have a significant number of 16- year-olds and 17- year-olds in care in any one day. But again, we have to abide by the complete different set of regulations. So not just the Justice Center, but also the Federal Regulations who are set up--

CHAIRPERSON CABRERA: [interposing] But who set up those?

DEPUTY COMMISSIONER FRANCO: They have been historically been around. I mean I think we—

CHAIRPERSON CABRERA: [interposing] And why? Why were they set up?

DEPUTY COMMISSIONER FRANCO: It's a different framework. I mean the Office of Juvenile Family Services regulates the treatment of children. I mean in our case up to age 16. The Commission of Corrections for the State of New York I mean it has a complete different set of criteria.

CHAIRPERSON CABRERA: But you have 16 and 17-year-olds, correct—

DEPUTY COMMISSIONER FRANCO: Sure.

CHAIRPERSON CABRERA: --from the facility and you have been able to deal with that, and not have to use pepper spray in every single instance, right successfully?

DEPUTY COMMISSIONER FRANCO: We do--I mean we have—we have challenges like everyone else. I mean we have young people who are violent, and they actually had a long history that our partners mentioned of the failure in the schools. We just don't have the tools. So we have to come up with other things. I mean we—as you know well, we have invested a lot in the development of contact agencies (sic) in the young people so they actually can help themselves regulate their emotions and behavior. We have invested a lot in the staff to safeguard certain management, but again, on many, many, many occasions we actually have to restrain young people because they have fights, and we want to protect them from harm.

The treatment of adolescents at Rikers has been documented to be excessively harmful. In August 2014, the United States Department of Justice's (DOJ) released findings from its two-year investigation into the treatment of adolescents at Rikers Island³.

³ United States Attorney, Southern District of New York. (2014, August 14). CRIPA Investigation of the New York City Department of Correction Jails on Rikers Island [Letter to the Honorable Bill de Blasio, Commissioner Joseph Ponte, and Zachary Carter]. U.S. Department of Justice. *Retrieved from* <https://www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/SDNY%20Rikers%20Report.pdf>.

We conclude that there is a pattern and practice of conduct at Rikers that violates the constitutional rights of adolescent inmates. In particular, we find that adolescent inmates at Rikers are not adequately protected from harm, including serious physical harm from the rampant use of unnecessary and excessive force by DOC staff. In addition, adolescent inmates are not adequately protected from harm caused by violence inflicted by other inmates, including inmate-on-inmate fights. Indeed, we find that a deep-seated culture of violence is pervasive throughout the adolescent facilities at Rikers, and DOC staff routinely utilize force not as a last resort, but instead as a means to control the adolescent population and punish disorderly or disrespectful behavior. Moreover, DOC relies far too heavily on punitive segregation as a disciplinary measure, placing adolescent inmates—many of whom are mentally ill—in what amounts to solitary confinement at an alarming rate and for excessive periods of time.

While three years has passed since this initial report of finding, significant issues persist. In October 2017 the fourth report⁴ of the independent court appointed monitor for *Nunez vs. City of New York* was released. The report highlights multiple disturbing incidents of use of force, including the use of chemical agents against calm and already restrained individuals. Additionally, the report notes:

While the department has made significant gains in safely managing the Young Inmate population, described in more detail below, serious and problematic issues involving Staff use of force continue in an unabated fashion. The Department has a deeply entrenched culture of managing troublesome and/or potentially dangerous inmates with an iron fist. This ingrained propensity of Staff to immediately default to force to manage any level of inmate threat or resistance continues to produce high monthly incident numbers, especially in the absence of timely accountability for such misconduct. The cultural dynamic that permeates so many encounters between Staff and inmates in DOC is quite simply a consequence of Staff actions and behaviors that too often engender, nurture, and encourage confrontation.

It is critical that ACS and DOC make every effort possible to ensure the culture of violence that proliferates at Rikers is not allowed to be adopted in the new youth facilities. The newly developed facilities must utilize behavior management tools that are the least restrictive possible and which reflect best practices for youth to protect young people from harm. Raise the age is an opportunity to genuinely change the culture that has perpetuated in DOC and transform the experiences of detained youth. It is critical that policy and practice are clearly constructed to reflect best practices in youth justice. Staff selected to work in the new facilities should be deemed appropriate to work with youth from those with expertise in serving youth under a youth justice model and any staff with histories of working in adult corrections should be vetted and trained to understand the drastically different practices, policies, and culture that is expected in the new youth facility.

⁴ The Nunez Monitoring Team (October 10, 2017). Fourth Report of the Nunez Independent Monitor, Fourth Monitoring Period January 1, 2017 through June 30, 2017. Retrieved from: <https://apps.npr.org/documents/document.html?id=4173501-Fourth-Monitor-Report-as-Filed-Nunez>

We acknowledge that DOC has made strides to address the treatment of youth in their care. Notably, the elimination of punitive segregation for youth age 16-21, a detrimental practice that caused irreparable harm to youth for many years. DOC has also made strides to increase positive programming for adolescents. The city should make efforts to ensure that all programming offered to adolescents now is available in the new settings to avoid any unintentional loss of access to programming.

In addition to ensuring that the new facilities are designed, operated and regulated as youth justice facilities and not adult corrections, ACS must make strides to ensure that the experiences of youth currently in their care is not negatively impacted as raise the age is implemented. The current population of youth in secure detention is at an historic low. ACS must take steps to ensure that if space currently occupied by youth awaiting juvenile delinquency and juvenile offender cases is utilized to house the youth charged as AOs, that this increase in population and decrease in free space does not in any way negatively impact youth currently in facilities. This includes ensuring that any elements of adult corrections introduced through the new jointly run facilities do not in any way expose youth awaiting juvenile delinquency or juvenile offender cases to adult correctional practices. These considerations should take into account the number of structural repairs that the city determined both secure detention facilities to be in need of prior to raise the age legislation passage⁵. The timeline required by raise the age legislation is significantly shorter than the time predicted to be needed to make all repairs, thus ACS must prioritize and make all feasible repairs both in anticipation of the new population of youth as well as to ensure currently detained youth are housed in safe and appropriate settings.

LGBTQ Youth

ACS has in place model policies and best practice guidance for the treatment of LGBTQ youth in its care. Of particular consideration when constructing gender segregated facilities are practices surrounding transgender and non-binary youth. ACS makes its expectations of treatment of youth clear in its publication "Safe and Respected: Policy, Best Practices, & Guidance for Serving Transgender, Gender Expansive, & Non-Binary Children and Youth Involved in the Child Welfare, Detention, and Juvenile Justice Systems". This guide outlines ACS policy⁶ with additional guidance⁷ and best practices for practitioners working with youth.

Emphasis is placed by ACS in its policies regarding LGBTQ youth on respecting youth and ensuring that when placed out of home they are in affirming placements. Of particular note are housing practices for

⁵ Goldman Copeland Consulting Engineers Urbahn Architects PLLC Pulitzer/Bogard & Associates, LLC (January 11, 2017). Secure Detention for Juveniles Feasibility Study - ACS Volume 1 - Executive Summary Prepared for the NYC Administration for Children's Services and the NYC Department of Design and Construction. Retrieved from: <https://ddcrfpdocuments.nyc.gov/rfpweb/docs/add/1023.pdf>

⁶ The City of New York Administration for Children Services. (November 21, 2012). "Promoting a Safe and Respectful Environment for LGBTQ Youth and their Families Involved in the Child Welfare, Detention and Juvenile Justice System". Retrieved from: https://www1.nyc.gov/assets/acs/pdf/lgbtq/LGBTQ_Policy.pdf

⁷ Perry, J.R. & Green, E.R. (2017) "Safe and Respected: Policy, Best Practices, & Guidance for Serving Transgender, Gender Expansive, & Non-Binary Children and Youth Involved in the Child Welfare, Detention, and Juvenile Justice Systems" Retrieved from: <https://www1.nyc.gov/assets/acs/pdf/lgbtq/SAFEAndRespectedUpdate061417.pdf>

placement of transgender youth. Below are a few examples of model practices of ACS that must be utilized in any facilities for youth, including the new specialized secure facility jointly operated by ACS and DOC:

- “It is ACS policy that all transgender and non-binary children and youth shall be in homes and congregate facilities that are affirming of their gender identities and gender expressions. This applies to all Children’s Services and contracted provider agency staff involved in any way with custodial or community-based services provided by Children’s Services or in contract with Children’s Services.”
- “Generally, it is most appropriate to house transgender and non-binary children and youth in Children’s Services custodial care based on their gender identity. Transgender and non-binary children and youth must not automatically be housed according to their sex assigned at birth.”
- “Decisions on bedrooms for transgender and non-binary children and youth in foster boarding homes must be based on the youth’s individual needs, and must prioritize the youth’s emotional and physical safety.”
- “It is critical to include transgender and non-binary children and youth in the decision-making process.”

The above highlighted ACS policy and guidance are in stark contrast to the experiences of transgender youth at Rikers Island. While DOC has made some strides to improve protections for transgender people in their custody, they fall short, particularly when addressing the needs of youth. DOC lacks clear policy and practice of placing individuals based on their gender identity, which places transgender people at elevated risk of abuse. While DOC has created a transgender housing unit that is available to some adult women this option is not available to transgender youth due to the sight and sound separation of youth from adults, and in fact fails to fully meet the needs of transgender adults. The difference in placement practices between ACS and DOC is extreme. For example, a transgender girl placed in Close to Home by ACS may be placed in a placement facility for girls if that is deemed most appropriate (following the above guidance), however it is highly likely that the same girl if detained by DOC would be housed in a male unit and not at Rose M. Singer, the women’s jail. Recent testimony before the Board of Correction by the Sylvia Rivera Law Project, an organization dedicated to advocacy on behalf of transgender, gender non-conforming, and intersex people, noted that in their experience they are “unaware of any time in which the DOC knowingly housed a transgender woman at the Rose M. Singer Center”⁸. Such practices are demeaning and dangerous and go against best practices for youth.

Meeting the needs of older youth

The majority of 16 and 17 year olds arrested in New York City are charged with misdemeanors⁹. These young people will now be treated through juvenile delinquency proceedings, increasing the number of youth in ACS’s care and also shifting the age demographic. While ACS currently serves youth age 16 and up,

⁸ Kinhead, M. (October 6, 2017). Sylvia Rivera Law Project comments to the NYC Board of Correction. *Retrieved from: <http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2017/Oct-10-2017/SRLP%20submission%2010.6.2017.pdf>*

⁹ Nearly 70% of arrests of 16 and 17 years olds in New York City in 2016 were for misdemeanors. *See <http://www.criminaljustice.ny.gov/crimnet/ojsa/youth-arrests/nyc.pdf>*

they will experience an increase in older youth once raise the age is in effect. ACS needs to ensure it is prepared to meet the needs of older youth.

Such accommodations must include all steps along the justice continuum. This includes preparing to serve an older population in JJI and respite front end services. Detention and Close to Home placement facilities need to be prepared to address needs of older youth as well. Of consideration should be family dynamics – both with the families of youth and for parenting youth, educational needs, vocational needs, as well as health and mental health needs. Aftercare services will need to be additionally tailored. Of consideration should be the housing needs of older youth, consideration for youth lacking secure family resources, and options or for youth not wishing to return to family.

Conclusion

CDF-NY is enthused that New York has finally raised the age of criminal responsibility. We are grateful to the Council monitoring planning for implementation. We encourage the Council to continue oversight to ensure the law is implemented as intended to ensure young people are treated in age appropriate ways that best serve youth and communities. If you have any questions or you would like further information, please contact Beth Powers, Director of Youth Justice, 212-697-0882.

TESTIMONY

The Council of the City of New York
Committee on Juvenile Justice

Oversight: ACS DYFJ's Efforts in the Implementation of Raising the Age of
Criminal Responsibility

December 6, 2017

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The Legal Aid Society welcomes the opportunity to testify before the Committee on Juvenile Justice regarding oversight of ACS DYFJ in the implementation of Raising the Age.

The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform. Through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of the City. With its annual caseload of more than 300,000 legal matters, The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States.

The Legal Aid Society's Juvenile Rights Practice provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented some 34,000 children, including approximately 1,500 who were charged in Family Court with juvenile delinquency. During the last year, The Legal Aid Society's Criminal Practice handled nearly 230,000 trial, appellate, and post-conviction cases for clients accused of criminal conduct. The Criminal Practice has a dedicated team of lawyers, social workers and investigators devoted to the unique needs of adolescents charged in adult court--the Adolescent Intervention and Diversion Project. In addition to representing many thousands of children, youth, and adults each year in trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients.

Raising the Age of Criminal Responsibility

On April 10, 2017, Governor Andrew Cuomo signed landmark legislation, raising the age of criminal responsibility (hereinafter Raise the Age) for many 16 and 17 year olds in New York state.¹ The legislation among other things prohibits 16 and 17 years olds from being held in adult jails and prisons. Additionally, it calls for additional services for 16 and 17 year olds and for changes to the types of detention and placement for those youth. The Legal Aid Society supports Raise the Age and we call on ACS DYFJ, and other city agencies, including the Mayor's Office of Criminal Justice Services ("MOCJ") and New York City Department of Correction ("DOC"), to engage in thorough and transparent planning with stakeholders to ensure all policies, programs and facilities for detained and sentenced youth are safe, age appropriate and humane.

Raising the age of criminal responsibility is consistent with sound public policy. By ensuring that youth are treated with a rehabilitative, age-appropriate approach, it is designed to provide greater protections for both youth and communities at large.² The need for a youth-specific lens has been recognized by the United States Supreme Court in a series of decisions beginning in 2005. In these cases, the Supreme Court held that youth are entitled to greater protections than adults in sentencing considerations, relying upon scientific developments in adolescent brain research to support these distinctions. Not only can the sentences themselves be unjust for youth, but the lifelong collateral consequences that attach to youth sentenced as adults (even if they never re-offend) are significant and can irreparably impair their futures. A criminal conviction can permanently foreclose access to education, employment, housing and lending, to name a few consequences. The public additionally can lose the economic contribution and

¹ A3009c/S-2009c CITE. . .

² Raising the Bar: State Trends In Keeping Youth Out of Adult Courts (2015-2017)
http://www.campaignforyouthjustice.org/images/StateTrends_Report_FINAL.pdf p. 9.

successful civic integration of those convicted as youth.

The Raise the Age prohibition on 16 and 17 year olds remaining in adult jails and prisons, along with the Mayor's plan to remove such youth from Rikers will lead to greater protections and better outcomes for incarcerated youth in New York City. Incarcerated youth have a constitutional right to be free from harm while in confinement,³ and as we have repeatedly testified, incarcerated youth are exposed to significant risks of harm while in custody. These risks include harm from physical and mechanical restraints practices, staff on youth violence, youth on youth violence, isolation practices (also known as room confinement); sex abuse by staff or other youth and self-harming/suicidal behavior.⁴ Youth sentenced as adults and housed in adult facilities face significantly greater challenges and risks than youth sentenced as juveniles. Namely, youth sentenced as adults are 36 times more likely to commit suicide;⁵ are at greater risk of physical and sexual assault; are five times as likely to be sexually assaulted;⁶ and are twice as likely to report being "beaten up" by staff.⁷

Under the Raise the Age legislation and the Mayor's plan all youth under age 18 will be diverted from adult jails and prisons and more youth will be diverted from adult prosecution.

Youth diverted from adult prosecution will have the opportunity to benefit from significant

³ The Fourteenth Amendment of the United States Constitution, which prohibits the deprivation of "life, liberty or property without due process of law" guarantees to each child in state custody the substantive right to be free from harm." *Youngberg v. Romeo*, 457 U.S. 307, 324 (1982); U.S. Const. amend. XIV, § 1.

⁴ See Richard A. Mendel, *No Place for Kids: The Case for Reducing Juvenile Incarceration* 5 (2011). Nunno, Holden & Tollar, *Learning From Tragedy: A Survey of Child and Adolescent Fatalities*, 30 *Child Abuse & Neglect* 1333, 1337 (2006); Ian Kysel, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States* 2 (2012), <http://www.aclu.org/files/assets/us1012webwcover.pdf>; "Nationally, over half of the youth who committed suicide while in a correctional facility were in solitary confinement and 62 percent had a history of being placed in solitary confinement." Research shows that individuals forced into solitary confinement had much higher rates of recidivism and mental illness. BARRY HOLMAN & JASON ZIEDENBERG, *THE DANGERS OF DETENTION: THE IMPACT OF INCARCERATING YOUTH IN DETENTION AND OTHER SECURE FACILITIES* 9 (2006).

⁵ *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America*, Campaign for Youth Justice, November 2007.

⁶ National Prison Rape Elimination Commission, Report 18, June 2009.

⁷ *The Risks Juveniles Face When They Are Incarcerated With Adults*, JUSTICE POLICY INSTITUTE, http://www.justicepolicy.org/images/upload/97-02_rep_riskjuvenilesface_jj.pdf.

reforms which have been implemented in the juvenile justice system in New York State in recent years, including: (1) increased diversion services by the New York City Department of Probation; (2) a continuum of alternatives to detention and alternative to placement services (leading to an overall reduction in the number of youth detained and placed by the Family Courts); (3) age-appropriate, evidence based programming and services for detained and placed youth (as a result of the 2010 merger of the former Department of Juvenile Justice with ACS); as well as (4) placement in smaller facilities closer to their homes, families and communities (as a result of the landmark 2012 Close to Home initiative which provides that all New York City youth placed by the Family Court into a limited secure or non-secure setting are held under the aegis of ACS).

Raise the Age Implications for ACS DYFJ Detention and Placement

The Raise the Age legislation calls for the creation of “specialized secure juvenile detention facilities” to house 16 and 17 year olds who are prosecuted in adult court. While the legislation does not clearly delineate the role ACS DYFJ will take in the creation and implementation of the new specialized secure facilities, it is clear that ACS DYFJ is to be central to the process. ACS DYFJ is at yet another critical juncture as it expands its capacity and reach to meet the requirements of Raise the Age. As will be discussed more fully below, we urge the City to extend ACS DYFJ policies and programming to youth detained in the new specialized secure facilities to realize the goals of the Raise the Age legislation.

Beginning October 1, 2018, “Adolescent Offenders” (AOs) who are 16 and 17 years old will be housed in the specialized secure facilities administered by ACS in conjunction with DOC. The specialized secure facilities will be regulated and certified by the Office of Children and Families Services (OCFS) and the State Commission of Correction jointly. They cannot be

co-located with local jails, and AOs detained in the specialized secure facilities must be housed in units separate from Juvenile Delinquents (JDs) and Juvenile Offenders (JOs).

With less than a year to go, ACS DYFJ, in conjunction with the DOC, has much to do. It must wholesale create new “specialized secure facilities” to accommodate youth detained by the criminal courts in pre-trial detention.⁸ It must further, together with DOC, create a new placement (that is, a disposition after a conviction) for AOs sentenced to a definite sentence of one year or less. It also must expand its capacity and reach to provide care and custody for youth aged 16 and 17 charged as JDs pretrial detention, and placed as JDs after an adjudication, in secure and non-secure placement facilities.

ACS DYFJ Policies and Programs

We urge the City to ensure that all aspects of Raise the Age implementation are consistent with both the spirit and the letter of the legislation. This legislation was passed to ensure that youth are treated in an age-appropriate manner. We are gravely concerned that moving youth from one DOC run facility to another would fail to accomplish the goal of the law. Youth have faced dangerous conditions and poor outcomes in DOC custody due to an entrenched culture of violence and incompetence for far too long. Just last year the City Council heard testimony from DOC where they acknowledged that DOC staff use pepper spray on youth in the classrooms. In the recent past, driven in large part by the *Nunez* Litigation,⁹ the Department of Justice findings and a concerted advocacy campaign to close Rikers, the City has begun taking steps to improve these horrific conditions; to move adolescents off Rikers Island; and eventually to close Rikers.

⁸ AOs are 16 and 17 years olds charged with felonies and prosecuted in the Youth Part in Criminal Court.

⁹ *Nunez v. City of New York*, 11 Civ. 5845 (LTS) (S.D.N.Y.).

Despite repeated lawsuits by the Legal Aid Society and chronic high rates of violence at the facility that houses teen boys at Rikers, DOC has only recently dramatically increased its funding for youth programming, significantly increased staffing for youth, and provided enhanced training for staff working with youth. DOC has also significantly improved the programming available to youth in its care – reportedly providing extensive, practical vocational programs, including Cosmetology, Building Trades, Barista Training, Food Preparation, OSHA Construction and maintenance, Flagging and Scaffolding, CPR and Simulated Driving Programs.¹⁰ The City has invested considerable money to implement these programs for youth on Rikers. As the City takes steps to move youth off Rikers to the specialized secure facilities and to DYFJ, it should earmark funding for vocational services such as these and ensure that the funding and services follow the youth to DYFJ and the new AO facilities. In addition, to the extent these programmatic improvements are already embedded in ACS DYFJ’s approach in its secure facilities, DOC and ACS DYFJ should collaborate to fund and provide rich educational and vocational services to youth in the specialized secure facilities.

The City must envision a safer and more effective way to provide for the care and custody of teens charged and housed in the specialized secure facilities than it has historically done on Rikers Island. We are greatly concerned about DOC’s ability to provide appropriate staffing and a safe environment for AOs in the new specialized secure facilities because despite reforms, public attention and resources the culture of incompetence and violence persists in DOC. The Fourth Report of the *Nunez* Independent Monitor, dated October 10, 2017, (“Monitor Report”) bears close reading by all concerned with DOC practices and the efficient management of City government. It cogently demonstrates that culture change does not happen overnight.

¹⁰ *Nunez v. City of New York*, The Fourth Report of the *Nunez* Independent Monitor, dated October 10, 2017, at 216.

Among the key findings in the Monitor Report are the following:

- A “disturbing” number of captains were “frequently and repeatedly involved in problematic UOF [use of force] incidents.” “That these Captains are often left in a position to engage in subsequent misconduct is one of the clearest examples of the lack of accountability in the DOC.” Instead of being disciplined, these captains were often “rewarded” and “incentivized to continue behaving in this manner.” (Monitor Report at 9-10).
- DOC determined that 22% of UOFs caught on video were “avoidable,” 1/3 because of “unprofessional Staff behavior,” and 1/4 because of staff’s lack of de-escalation skills. Per Nunez, all correctional staff will soon be trained in de-escalation methods. (Id. at 37-38).
- Since November 2015, 40 incarcerated 16-18 year-olds have reported they were sexually abused or harassed. The City failed to complete investigations into any within the required 60 day limit. (Id. at 227).
- In 1/3 of audited cases, no disciplinary charges were brought when staff failed to report unnecessary UOFs by other staff, outright failed to report UOFs at all, lied to try to justify the force, and failed to report chokeholds and blows to the head. (Id. at 56).

As DOC has struggled to improve condition for youth in its facilities, ACS DYFJ has made great progress in providing age-appropriate and trauma informed care to youth in its secure detention facilities. ACS and the New York City Health and Hospitals Corporation (HHC) have a contract requiring Bellevue Hospital Center to provide psychiatric and psychological care to youth in secure and non-secure detention. In the two years prior to entering this contract, Bellevue Hospital in conjunction with ACS provided trauma-informed training to the staff and adolescents in the secure detention centers. We are encouraged by the proficiency and dedication of the doctors and clinicians providing these services. Additionally, the clinical services in

detention provided by START appear to have improved as has the communication between the START and Bellevue clinicians. As the Council knows, we have consistently advocated for enhanced mental health services for many years and we have been pleased to report that the implementation has been impressive. These services should be extended to the youth in the specialized secure facilities.

Further, ACS DYFJ has increased programming to youth in its secure facilities, including inviting several CURE violence agencies to work with youth in secure detention. As this Committee is quite aware, the CURE Violence approach is evidence-based and utilizes “credible messengers” to reach youth with an anti-violence message.¹¹ The goal here is for the youth to remain engaged with the CURE Violence partners upon discharge. CURE Violence programming should be expanded to the specialized secure facilities. Additionally ACS DYFJ has developed and strengthened its Family Engagement and Visitation policies, and these policies among others should be extended to the specialized secure facilities.

Also, other ACS DYFJ policies, including its Physical Restraints and Room Confinement policies for secure detention have been strengthened in the recent past in response to a lengthy corrective action process by the New York State Office of Children and Family Services. ACS DYFJ’s restraint policy requires staff to de-escalate situations to avoid restraints and that the use of restraints must be an intervention of last resort and only to prevent imminent harm.¹² ACS DYFJ policy permits the use of room confinement “as a means of last resort and only in response to situations when youth constitute a serious and evident danger to themselves or others, and only when other measures have been exhausted, are inappropriate or have been or are likely to be

¹¹ http://www.nyc.gov/html/ceo/html/initiatives/ymi_violence.shtml.

¹² ACS DYFJ Safe Intervention Policy for Secure and Non Secure Detention, Policy And Procedure 2014/10, dated November 7, 2014.

ineffective.”¹³ Additionally, room confinement is permitted as a short term intervention and requires approval of the facility director or his or her designee in the first instance, and is closely monitored and time limited. Neither restraints nor room confinement can be used as punitive measures in ACS DYFJ. We are pleased with many aspects of the ACS DYFJ policies as written, however, we believe that compliance in practice could be improved. In any event, the City should require that ACS DYFJ policies be implemented in the new specialized secure facilities. At a minimum, the policies ACS DYFJ has created should serve as the appropriate benchmark for working with justice-involved youth and are far more appropriate for detained youth and consistent with best practices than current DOC practices for youth.

Similarly, ACS DYFJ’s approach to placement should be relied upon to create a discharge planning and reentry model for Adolescent Offenders. ACS has expertise and access to community resources dedicated to working with adolescents up to and beyond age 21 across its child welfare and juvenile justice practices. In the recent past, ACS has dedicated significant resources to improve its discharge and reentry practices. In its Close to Home placements, ACS DYFJ, in conjunction with its contract providers, endeavor to provide youth with developmentally appropriate programming in smaller facilities that model the best practices in juvenile justice. We urge the City to look to ACS DYFJ to develop its placement policies for older youth in the new specialized secure facility for sentenced youth. Not only are the ACS DYFJ placement policies intended to provide a therapeutic milieu they also emphasize family engagement and early and holistic reentry planning. Specifically, ACS requires that family engagement and discharge planning begin on day one. Further, the City must be prepared to enhance its placement and reentry services to target older youth who may not have significant

¹³ ACS DYFJ Room Confinement Policy for Secure Detention, Policy and Procedure 2017/07, dated August 30, 2017.

family involvement, or who have suffered from family rejection and need housing, educational and employment services. Additionally, we urge the City to look to ACS policies and services for youth aging out of foster care to provide developmentally appropriate programs and referrals to sentenced youth in the new specialized secure facility, including educational, employment, access to independent living and supportive housing services.

Oversight

Robust oversight of the new specialized secure facilities as well other ACS DYFJ secure and non-secure facilities is vital because as previously stated, youth face a serious risk of harm while incarcerated. Incarcerated youth may accept abusive treatment as the norm in a particular facility, and their harm may be unnoticed by their families or the public at large. Even if these youth seek to complain, they live in a rigidly controlled environment that allows only limited and highly supervised contact with the outside world, family members included. Even where family members or advocates are aware of harmful situations, they do not always know where to turn for relief and often fear retaliation for the young person if they make their concerns known.

No system is immune from problems, no matter how well-intentioned. Certainly moving youth off Rikers Island and creating specialized secure facilities that require DOC and ACS to collaborate are an improvement from current practices. Given the potential oversight role of multiple agencies, including OCFS, the State Commission on Correction and the Board of Correction, it is essential oversight obligations be clearly delineated and a long term plan for oversight be developed. A plan for oversight should ensure it includes perspectives from youth and families affected by the juvenile justice system as well as stakeholders who can provide a wealth of experience and knowledge. No one entity can meaningfully serve every oversight function, which is why both internal and external oversight is needed. Independent, external

oversight with a monitoring component is critical for ensuring a credible assessment of what is happening inside facilities. External oversight allows administrators and the public-at-large to properly evaluate staff and youth needs, and enables the agency to create policies and practices responsive to those needs.

The purpose of external oversight is not to lay blame for past mistakes, but rather to drive performance. In addition, routine and regular inspections ensure that oversight applies equally to all facilities within the jurisdiction, not just those with publicized problems. Finally, monitoring is the one avenue that proactively examines operations from the youth's standpoint. We encourage the City to work with stakeholders, including youth and families to create safe and humane specialized secure facilities and an effective oversight structure.

Conclusion

The Raise the Age legislation has provided New York City with a great opportunity to divert more youth from prosecution; to keep youth from being exposed to criminal liability; and to enhance services for and dramatically improve the treatment of incarcerated youth. We urge the City to ensure that the goals of this legislation are accomplished by applying ACS DYFJ policies and approaches in the new specialized secure facilities.



Written Comments of Kate Rubin, Youth Represent
New York City Council
Committee Juvenile Justice
*Oversight - DYFJ's Efforts in the Implementation of
Raising the Age of Criminal Responsibility*
December 6, 2017

Youth Represent is a holistic youth defense and advocacy organization. Our mission is to ensure that young people affected by the criminal justice system are afforded every opportunity to reclaim lives of dignity, self-fulfillment, and engagement in their communities. We provide criminal and civil reentry legal representation to young people age 24 and under who are involved in the criminal justice system or who are experiencing legal problems because of past involvement in the criminal justice system. Our interdisciplinary approach allows us to understand the full extent of our clients' legal and practical challenges so we can effectively represent them as they make the journey from courtroom to community. We thank Chair Cabrera and the Juvenile Justice Committee for the opportunity to testify today.

When we testified before this committee in January, we lamented that New York still lagged far behind the rest of the country by continuing to prosecute all young people as adults beginning at age 16. Since then, New York finally passed Raise the Age legislation, thanks in part to the dogged support and advocacy of members of this committee. But it is no secret that the legislation that passed is a product of compromise in a legislative body that is less progressive than our City Council, and specifically less concerned with the needs and futures of New York City youth. For this reason, the City must not only fully implement Raise the Age, but adhere to the spirit of a comprehensive Raise the Age proposal that treats kids as kids.

For the Administration for Children's Services, this means that any facility used for detention or placement of youth under 18, regardless of offense charged and venue prosecuted, must be a youth facility whose purpose is to prepare adolescents for successful reentry into the community. **Specifically, this means that any "specialized secure juvenile detention facility for older youth" described in Raise the Age legislation must be envisioned, managed, and staffed as a juvenile facility.**

This is consistent with a robust body of neuroscience and psychology research as well as Supreme Court jurisprudence affirming that youth, especially teenagers as young as 16 and 17, are fundamentally different from adults in ways that not only reduce their culpability even for serious crimes, but make them more flexible and disposed to positive change given the right influences.

It is also consistent with practical experiences around the country. For instance, a partnership between the Vera Institute and the Connecticut DOC launched a comprehensive young adult unit at the Cheshire Correctional Institute for even older youth, aged 18-25, and haven't had a single fight or attack on a guard since they started early this year.¹ For all of these reasons, I join with

¹ "In Billerica, a Cell Block for Young Men Holds Promise." The Boston Globe (Boston, MA), November 22, 2017.

dozens of colleagues in the Raise the Age NY campaign and organizations around the city in calling on the City to ensure that all youth under 18 in New York City are held in youth facilities.

That said, **the focus on facilities must not come at the expense of a focus on alternatives to incarceration and reducing racial disparity.** As of June of this year, the average daily population of 16- and 17-year olds at Rikers Island was only 143.² For comparison, the average daily incarcerated population for this age group in New York City was 390 in FY16, 442 in FY15, and 812 in FY10.³

It would be easy to assume based on the relatively small number of youth in DOC custody on an average day, and the stark reduction in that number over time, that all of the 16- and 17-year olds who are detained pre-trial are charged with serious offenses and pose a significant flight risk. But based on our work providing legal services to these young people over the past year through the Friends of Island Academy Youth Reentry Network, this is not always the case. For instance, we are currently working with a 16-year-old client who was held on \$2,500 bail after an arrest for burglary. Another client, age 17, was held on \$5,000 bail after he was arrested in a fight with his girlfriend where no one was injured. Neither of these teenagers had had any police contact prior to these arrests.

Of course, it is undeniable that many of the 16- and 17-year-olds currently held at Rikers *are* facing serious charges, including violent felony offenses like gang assault, armed robbery, and gun possession. Even for these young people, there are better options than pre-trial detention, especially in light of research showing better outcomes for youth and for public safety when young people remain in the community. A robust ecosystem of services to support youth—even those charged with serious crimes—in the community without compromising public safety would include:

- Specialized pre-trial supervision targeted to 16-17 year olds and integrated with existing structures for diversion, ATI, and wrap-around services (including mental health services);
- Supportive housing for homeless youth with services specifically targeted to 16-17 year olds;
- Educational opportunities for youth who are disconnected from school;
- Job corps or similar program that will move youth directly into paid work while also providing career support and skills training;
- Mentoring programs using credible messengers;
- Expanded use of existing restorative justice programs; and
- Comprehensive legal services to address employment and education barriers, landlord tenant issues, debt, and other legal problems.

Accessed December 2, 2017. http://www.highbeam.com/doc/1P4-1966775019.html?refid=easy_hf.

² DOC Statistics, Population Demographics, FY17 Qtr 4. Accessed December 2, 2017, https://www1.nyc.gov/assets/doc/downloads/pdf/FY17_4th_QUARTER_LL_88_2015.pdf.

³ DOC Statistics, Adolescent Statistics. Accessed December 2, 2017, <https://www1.nyc.gov/site/doc/about/adolescent-statistics.page>.

We understand that not all of these services are in the purview of ACS. I list them here for the consideration of this Committee in its ongoing oversight of the City's Raise the Age implementation. We also understand that the primary decision-making power about youth detention is held by judges. But ACS has an absolutely critical role to play in helping to even further reduce youth detention by investing resources and adopting practices that prioritize alternatives to incarceration, even for older youth charged with serious offenses.

Nationally, a growing chorus of criminal justice experts are warning that we cannot reverse the trend of mass incarceration without reducing the use and length of incarceration for violent offenses, especially given that incarceration fails to deliver accountability and safety.⁴ This is difficult work, but the place to start is here in New York City and the group to start with is young people. New York should adopt the most cutting-edge juvenile justice practices built on the pillars of science, fairness, and public safety.

Finally, for those youth who are detained or placed, ACS must have in place **comprehensive reentry services, starting from the moment of justice contact and continuing after release, following to the neighborhood level.** These services must be tailored to the needs of older youth who may be less connected to school and family, may be looking towards higher education, or may be parents themselves. Effective programs that have been put in places at Rikers should not be lost when 16- and 17-year-olds transition to new facilities. I want to focus here on two essential elements of reentry services: legal representation and stable housing.

Legal Services: Whether they are returning to school or entering the job market, justice involved youth need to understand what is on their rap sheets, what information is private and what must be disclosed in a variety of circumstances, and how to exercise their rights if they face discrimination. They also need to know that any errors on their rap sheets have been addressed. **Over the past five years the attorneys and paralegals at Youth Represent have identified and corrected nearly 800 rap sheet errors.** We anticipate even more errors on rap sheets as Raise the Age goes into effect given the complexity of the law and the number of youth whose cases will begin in Criminal Court and be transferred to Family Court. Finally, rap sheet review and counseling are especially important for older youth who are more likely to have had multiple criminal justice contacts. The rap sheet, coupled with client-centered interviewing, also serves as a diagnostic tool to identify other legal issues, from barriers to public housing to child support debt accrued during incarceration.

Stable Housing: Whether or not they fit the formal definition of "homeless", many justice-involved youth lack safe, stable housing. Many move between the homes of family members and friends, staying on couches for a few nights at a time until they wear out their welcome and move on. Some are estranged from family because they have come out as LGBTQ. Some are legally barred from returning home, either by an order of

⁴ See Pfaff, John F. *Locked in: the true causes of mass incarceration - and how to achieve real reform.* New York: Basic Books, 2017. See also Gottschalk, Marie. *Caught: the prison state and the lockdown of American politics.* Princeton, NJ: Princeton University Press, 2016. See also Danielle Sered. *Accounting for Violence: How to Increase Safety and Break Our Failed Reliance on Mass Incarceration.* New York: Vera Institute of Justice, 2017.

protection or, for public housing residents, NYCHA rules. In all of these cases, **the lack of stable housing undermines successful reentry at every turn**. This reality, which we see every week among the youth we work with, is backed up by scholarly research.⁵ But youth, particularly justice-involved youth, are an often-overlooked subset of the City's homeless population, especially in the area of long-term and supportive housing.

Raise the Age represents a monumental shift in how teenagers charged with crimes are treated in New York. Implementation of the new law is a tremendous undertaking, but it also presents a tremendous opportunity for the City. For ACS, fully implementing Raise the Age translates into a crucial 3-part mandate: 1) Ensure that all youth under 18 are held in true youth facilities; 2) Continue to reduce the number of youth detained pretrial; and 3) Provide for comprehensive reentry planning and services that start at the moment of intake and follow youth into communities. We thank this Committee again for the opportunity to testify, and look forward to continuing to work with the City as Raise the Age goes into effect.

⁵ Herbert, Claire W., Jeffrey D. Morenoff, and David J. Harding. "Homelessness and Housing Insecurity Among Former Prisoners." *RSF: The Russell Sage Foundation Journal of the Social Sciences* 1, no. 2 (2015): 44. doi:10.7758/rsf.2015.1.2.04.

Social Service Employees Union Local 371

AFSCME, AFL-CIO



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Testimony of Anthony Wells, President SSEU Local 371

on

DYFJ's Efforts in the Implementation of Raising the Age of Criminal Responsibility

December 6, 2017

Hello Councilmembers:

I am Anthony Wells, President of the Social Services Employees Union,
Local 371, District Council 37.

Firstly, I want to commend Mayor De Blasio, Governor Cuomo and the
City Council for the passing of Raise the Age legislation in New York
City. This law is a first step toward needed criminal justice reform and a
commitment to the rehabilitation of adolescent offenders. Our more than
18,000 members stand with you.

SSEU Local 371 represents skilled and compassionate workers in the
social services professions. Our experienced rank and file are
predominantly black and Latina women. SSEU Local 371 Social

President
Anthony Wells

Executive Vice President
Yolanda Pumarejo

Secretary Treasurer
Juan Ortiz

Vice Presidents
Carl Cook
Armenta Weekes
Darek Robinson
Patricia Chardavoyne
Michelle Akyempong

Trustees
Frederick Wiley
Annette Cintron
William Phippen Jr.



Workers and Juvenile Counselors are trained to connect, guide, motivate and aid in the rehabilitation of vulnerable youth.

The notorious mega-complex that is Rikers Island will close within the decade and the futures of the adolescents detained there remain uncertain in 2018. We offer our members' thousands of years of combined experience to assist you, the lawmakers, in achieving the goal of a more compassionate, safer city. We can help the city and its citizens by assisting you; by planning for the change, instituting it, and seeing it through to a successful conclusion.

We can help by giving our youth the opportunity, guidance and human connection required for a successful integration and a meaningful life.

With that said, we at SSEU Local 371 want to make it clear that neither the City nor the Agency has been transparent or forthcoming with its plans regarding the Raise the Age Law, although its implementation is rapidly approaching. Some of our concerns include, but are not limited to: restraint training, programming, recruitment and retention, salary, job

title and function. We are also concerned about possible Office of Children and Family Services regulations governing the new housing settings.

I urge the committee to consider the seasoned Caseworkers, Social Workers and Juvenile Counselors of SSEU 371 to guide and prepare adolescent offenders at the facilities to which they are headed. I'm happy to meet with each of you to discuss our involvement in this time of transition, as these adolescent offenders are moved into age-appropriate community facilities.

Thank you. I look forward to assisting you, and our city.

Good afternoon,

My name is Bruce Payne. I am a Juvenile Counselor in the Horizons facility. I've worked as a Juvenile Counselor for the last 27 years plus. I bring a wealth of hands-on experience. I would like to thank Chair Fernando Cabrera and the Committee on Juvenile Justice for the opportunity to give this testimony.

Let me first start out by saying that being a Juvenile Counselor is a very demanding job. The other counselors and I work with residents who are alleged to have committed very serious crimes. Many have charges against them in Family, Criminal or Supreme Court. The two big problems in this agency, in my view, are the lack of consequences for a resident's negative behavior. Right now, we have the ASPIRE Program, which stands for Actions Safety Participation Inner Development Respect Education. The Goals Report shows that this program is not a deterrent when residents want to act out negative behavior. You would have to look back into the archive at least five years to see what I'm talking about. If a resident wants to fight, attack staff, be a part of gang activity, or destroy agency property they have ZERO FEAR of this program.

Then you have the SCM, which stands for Safe Crisis Management. This technique is what we have to use to stop a resident from attacking staff, including being choked from behind, attacked by more than one resident or when a resident is using an object to try and harm you and breaking up fights. I'm here to tell you it does not work in real time. We are taught this technique when we first get the job, then we get a refresher course once a year. Staff have gone out on worker's comp or even left the job after their experience of dealing with a resident that leads to a physical altercation. This is why we have such a high turnover of workers. You can look up the stats in the archives. Go back at least 5 years.

Having the 16- and 17-year-old youths coming from Rikers Island or from the street will make the job more DANGEROUS than ever before. This agency has a history of being reactive as opposed to being proactive. God forbid a staff member gets seriously hurt on the job for coming to work and trying to make a positive change in the lives of the residents who are detained in our custody.

In closing, I would like to say I have offered this agency three ideas I feel would help this agency run better. I have given these ideas to Commissioner David Hansell and Deputy Commissioner Felipe Franco. I have yet to get a response back, so I am offering copies to the City Council.

We must prevent contraband. 2. Zero tolerance on gang activity and 3. Back to basics. I also suggest that a monthly copy of the Goals Report be forwarded to the City Council Chairperson on Juvenile Justice. Thank you for allowing me to share my view of the agency and give ideas to make it better.

City Council Testimony
Wednesday, December 6, 2018

Good afternoon. My name is Julie Peterson. I am a senior program officer at the Pinkerton Foundation. I also co-chair the New York Youth Justice Initiative, a group of funders concerned about youth justice.

The Pinkerton Foundation funds programs for young people in New York City. We fund hundreds of after-school science, art, and sports programs in low income neighborhoods. We also focus on programs for young people involved in the justice and child welfare systems.

I applaud New York's efforts to raise the age of criminal court jurisdiction. And I am thrilled that 16 and 17-year-olds will be moved off Rikers Island by October 2018. I bring my voice to bear today in the hope that New York City will take this moment of reform to further improve youth justice.

It is imperative as the age is raised to support transformative programming for young adults both within and outside incarcerative settings. In the last few years, ACS, DOC, DOP, and DYCD have made efforts to improve programming for justice-involved young people. The Pinkerton Foundation supports many of these programs. As the age is raised, the City must support increased programming for 16- and 17-year-olds at ACS facilities and support robust programming for 18 to 24-year-olds in DOC and DOP custody.

Young adults in the justice system need programming that provides hope, opportunity and a positive sense of community. New York City is rich in quality programming. As a funder, I see the powerful work programs do and watch as court-involved young people are engaged and inspired to serve others. Transformative group-based mentoring using paid credible messenger mentors is a model that works. The City is already supporting two such programs, Arches for young adults on Probation and Next Steps for youth in and around NYCHA housing.

Credible messengers, in this case men and women who have their own histories of justice involvement, run groups for up to 20 young adults. Collectively they learn the principles of cognitive behavioral therapy, restorative practice, trauma-informed care, and adolescent development. Mentors and peers create personal and professional networks of support. In turn, these networks accelerate professional development and offer encouragement during the crises that come from living in impoverished neighborhoods. Credible messenger mentoring is effective in incarcerative settings as well, helping to mitigate the tension and trauma of custody and providing a space of caring where people can heal and grow.

Above all, these programs work. A recent evaluation by the Urban Institute found that the Arches credible messenger mentoring program produced a 57% reduction in felony reconviction rates among participants. That should not come as a surprise. These programs engage young adults. They develop and support the mentors as well. And they improve and often transform the culture of the agencies responsible for the well-being of our City's most vulnerable young people. Thank you.

**Testimony of
Friends of Island Academy**
Before the City Council Committee on Juvenile Justice
December 6, 2017

Re: DYFJ's Efforts in the Implementation of Raising the Age of Criminal Responsibility
City Hall Committee Room

Chairman Cabrera and Members of the Committee on Juvenile Justice:

On behalf of Friends' of Island Academy, I thank the Committee on Juvenile Justice for the opportunity to address you. My name is Christine Pahigian and I serve as Executive Director of Friends of Island Academy. Friends is a non profit organization which was founded in 1990 on the school floors of Rikers Island.¹ At that time, the City held about 23,000 people per night on Rikers out of which about 3500 were young people between the ages of 16 to 18.

Friends was created 28 years ago to specifically address the transitional and post-release support needs of adolescents on Rikers, defined then by DOC as those 16, 17 and 18, for whom neither discharge planning nor aftercare support services existed. On a very small scale in 1990, beginning in the facility which housed sentenced adolescents, our organization was a pioneer in what became known as "adolescent reentry" at a time when 'reentry' was not yet a term in the justice system lexicon.

It has always felt to me that the confluence of New York's justice system laws, policies, rules and practices are nowhere more complex than when viewed through the lens of the custody of young people between the ages of 13 and 18. Many of those laws and practices - such as the passage of

¹ The New York City Board of Education opened alternative high schools on Rikers Island during the 1980's. Formally known as the Austin McCormack Alternative High School, the schools on Rikers were called Island Academy. In 2010, a restructuring of the schools by the NYC DOE resulted in a new name, East River Academy.

The Juvenile Offender Law in 1979, driven by headlines in an election year, or the notion of “super-predators” coined by a Princeton criminologist in the early 1990’s - resulted in driving up detention for kids, locally and nationally. The apocalypse didn’t come, Professor Dilulio recanted and apologized, but the damage was done. Locally and nationally.

We’re on the other side now. An extraordinary opportunity exists in which New York City can continue to provide the kind of leadership that has resulted in reducing arrests, crime and the average daily population of kids in custody. The collective focus of that leadership now needs to turn to triggering effective outcomes upon admission to custody - to proactively raise the bar in conditions of detention for this group of young people - to a high bar defined by providing humane and respectful conditions of confinement which uses time productively, minimizes lengths of stay, reduces the likelihood that they will return and promotes positive youth outcomes. Because in the end, they are just 16 and 17.

Through Raise the Age legislation, New York has taken an incredibly difficult and big step by moving the line in the sand. Over the last two decades, the field has gained much knowledge about effective, model programs in working with this population, as well as core principles and standards for youth success, both inside and outside the custodial setting.

When adolescents leaving custody have no plans or assistance for discharge and reintegration, both personal development and public safety are compromised. Youth require safe and secure housing, school assistance, health and mental health care, fundamental life skills, a sense of belonging and opportunities to achieve and engage.

We have also learned that effectiveness and positive outcomes for youth result from a combination of individually tailored responses and activities including:

- Facilitating youth interaction and positive involvement with the community;
- Preparing youth for responsibility and freedom in the specific communities to which they will return using a progressively independent approach;
- Working with the youth's family, peers, schools, and employers BEFORE DISCHARGE to promote positive transition;
- Providing cognitive-behavioral supports during and after custody;
- Identifying gaps in services and create support systems where needed;

Our organization was created to provide transitional and post-release support to adolescents on Rikers, prior to their discharge. Through repeated visits and family outreach, Youth Advocates begin building trusting relationships with young people while they are in custody. These relationships are then leveraged when the young person is released in order to facilitate a successful reentry plan dictated by the young person and supported by the Youth Advocate. Like cantilevering a floor to build a balcony outside, the longer and deeper the span under the floor, the stronger the structure outside. For most of our agency's 28 year existence, we have done that on a small scale, funded by private philanthropy.

About 15 months ago, for the first time with public funds through a Demonstration Contract with the City's Department of Correction, we have been able to scale our model through what is called the Youth Reentry Network. The Network is a comprehensive system of what has developed into a system of aftercare, focused first on those 16 and 17 years old, which is triggered by a youth's admission to Rikers. The Network is a comprehensive system of intake house activities, case expediting, discharge planning and re-entry support which begins upon an adolescent/young adult's (young men and women ages 16 to 21) admission to Rikers Island. Today, the Network operates in four facilities on Rikers Island, including the adolescent facility, RNDC. Through the

Network, young people meet a Youth Advocate upon their admission to Rikers Island. This Youth Advocate provides both pre-release reentry planning support and post-release, neighborhood-based support tailored to the young person's individualized needs. During the early moments of a young person's time in custody, a dedicated Youth Advocate along with youth-focused programming—provided by partner organizations—minimizes idle time and mitigates tension and trauma. Post-release, the Youth Advocate facilitates and expedites a young person's engagement in the array of services that are available to them throughout the boroughs. This individualized and continuous spectrum of support focuses on youth outcomes as metrics, with the ultimate goal of reducing readmission rates among young people. We work in partnership with 19 organizations City-wide to provide supports that reach communities and neighborhoods throughout the City - all beginning with services with youth in custody.

Over the past year, Friends' Youth Advocates have engaged 1543 young people ages 16 to 21. Of these, 667 are 16 and 17 year-olds. Of those we engaged in custody, 908 young people have been released – of which 500 are 16 and 17 year-olds. As of December 1st, youth advocates are working in neighborhoods around New York City with 290 young people who are 16 and 17 years old.

Youth plans are tailored individually according to youth family and criminal justice circumstances, relevant and available protective factors and youth strengths and needs. During the 3-year course of the Demonstration, we hope that our learning and outcomes will inform programming and public policy at a time when the landscape is a changing canvas of progressive reforms - as it relates specifically to this group of 16 and 17 year olds.

There are many organizations in this room - and many more not in this room - who are available and ready to provide a network of support on many levels to this group of 16 and 17 year old young

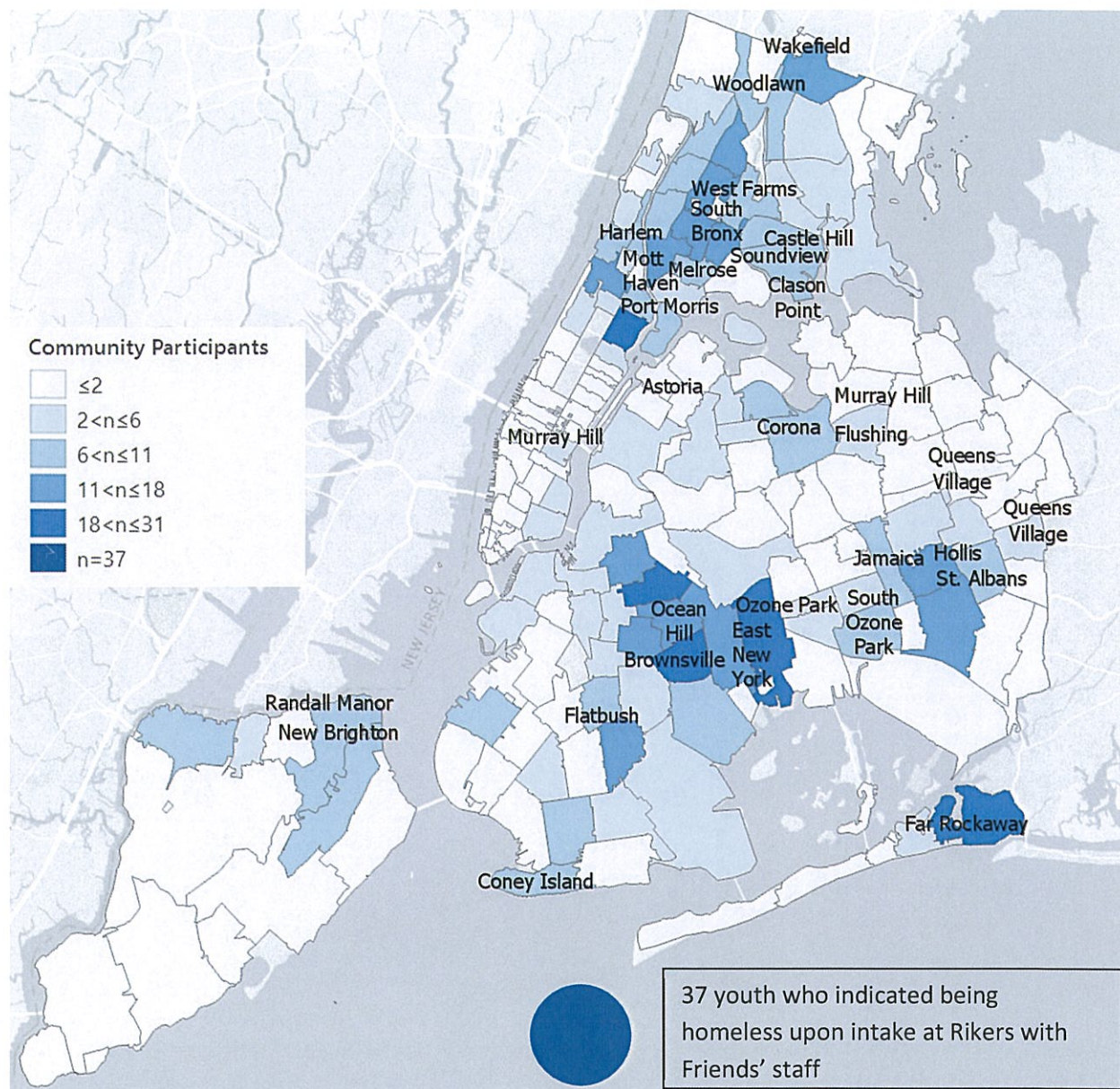
people. To ensure that collectively, as we move to through this next phase of justice reforms, that the bar remains unimpeachably high.

Thank you for the opportunity to testify.

Respectfully submitted:

Christine Pahigian
Executive Director
Friends of Island Academy
127 W. 127th Street, Suite 127
New York, NY 10027
212-760-0755
cpahigian@friendsny.org

Youth Reentry Network
Participants, ages 16-21, returned to NYC neighborhoods upon Discharge from Rikers Island
(Nov 2016 – Oct 2017)



From November 2016 through October 2017, 862 youth were discharged from Rikers. Of these, 775 are from NYC neighborhoods based on their addresses; 37 informed a Friends' advocate they are homeless, and addresses for the remaining 50 are either not known or not in NYC. The 37 homeless youth does not include young people in precarious or unstable living conditions. Based on our experience we estimate approximately 35% of youth return to precarious or unstable housing situations.

Based on the zip codes of home addresses, approximately 43% (333) of young people we worked with who are from New York City neighborhoods (775) went home to Council Districts 9, 14, 23, 24, and 43 in the past year.

CONTRABAND PREVENTION

We have to attack the contraband problem from both sides. This is what we can do from the Juvenile Counselors side. We have to apply a lot more pressure on the residents by doing more thorough pat frisks. Juvenile Counselors have to do a better job at pat frisking the residents on a daily basis. Juvenile counselors should be pat frisking the residents entering the halls and pat frisking them in the dinning hall before exiting. (This to also prevents residents from taking food out of the dinning hall.) Juvenile counselors with their hands should check the outside of the socks from top to bottom. Residents should have to take their shirts out of their waistband so the staff can pull their shorts or pants away from their body. If they have anything in their waist line it will fall to the floor. The residents also roll things up in the bottom of their shirts then tuck their shirt back into their shorts or pants. Do unscheduled hall security searches and strip search down to their underwear once a week on the Am and Pm tours. Residents would be taken to the visiting area to be searched while simultaneously the hall would be searched also. If a resident is found to have contraband on his person or in his or her room, the supervisor and Tour Commander should be notified ASAP. A negative assessment sheet and incident report should follow. A search team could be establish for this sole purpose. We should also consider having their visits suspended for fifteen days for the first offense and thirty days for the second if the contraband was brought in by a visit. Then we should notify their parents on why we are suspending their visits. We have to send a clear message to all residents that enter our facilities that if they are caught with contraband, they will have stiff consequences to face. We want to make having pens, marijuana, matches, lighters, cell phone and gang material the last thing they want in their possession. All juvenile counselors on all tours should apply the above more vigorous technique when doing their pat frisk. Pat frisk should ALWAYS be done with GLOVES for HEALTH and SAFETY reasons. Gloves should be made available for Juvenile Counselors at all times. Supervisors

should follow up and sometimes spot check and observe the pat frisk taking place. If at anytime a residents refuses to get pat frisk the Supervisors on duty should notified and respond ASAP. (That could be a sign that a resident has something to hide). Residents that have been caught with contraband on more then one occasion should be pat frisk randomly by a directive given by a supervisor or tour commander. The residents have to know at anytime a supervisor or tour commander can directed a Juvenile Counselor to perform a pat frisk in there presents.

Note: Inform Juvenile Counselors on all three tours that supervision will be looking to see if a thorough pat frisked is being conducted on residents coming in and out of the halls, gym and yard. This will help to reinforce the practice. Tour Commanders on all three tours 5 days in a row should announce to the juvenile counselors to follow the above pat frisking practice. That should cover all three pass days off.

DYFJ PAT FRISK TRAINING CLASS

GOAL: To keep residents contraband free.

PURPOSE: To train the Juvenile Counselors in the Horizons and Crossroads facility on how to do a thorough pat frisk.

We could have a two hour brush up pat frisk training course so all juvenile counselor would be doing the same technique. The training would take place in the conference room. Juvenile counselor Powell and I would do the training in the Horizons facility.

CC: Stephanie Purssack, Assoc. Commissioner DYFJ

To: Ms. Donna Locke, Executive Director

From: Bruce Payne, Juvenile Counselor

Date: August 21, 2014

Re: Weekly Goals / Back to Basics

Ms. Locke the information below are suggestions that might help the building run better. Weekly Goals; What tour commanders and supervisors will speak about in roll calls on all tours.

Example: That rap sessions should take place on all tours going over the hall rules and regulations, reminding juvenile counselors to look out for residents having pens / markers in their rooms and on their person. A great deal of the graffiti that is written on the walls are in pen. Reminding juvenile counselors to pat frisk residents entering and exiting the halls, having residents walk in transit with their hands behind their backs and in size order, no talking in transit, that residents underwear are not to be expose or visible at any time, that the residents seat 4 corners in the dinning hall.

The above suggestions are what I call going back to the basics. As a juvenile counselor for the last 24 years I'm willing to help make this building run as smooth and incident free as possible. One MOST IMPORTANT POINT I WOULD LIKE TO BRING OUT IS THE SUPPORT FOR JUVENILE COUNSELORS. It will take not just the juvenile counselors to make this work we will need the tour commanders, supervisors and case workers to help reinforce the above suggestion. They should ALL be looking out to make sure the residents are in compliance. Example stopping the line if it's not in size order, stopping the line if one of the residents underwear is expose etc...

Your efforts to consider the above suggestions for the best interest of the staff and facility would be greatly appreciated by the staff that work in the Horizons facility. If you agree with the above I hope we can get it started ASAP because school starts September 4, 2014.

CC: Stephanie Purssack

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Christine Bahigian

Address: 127 W. 127th St. #127

I represent: Friends of Island Academy

Address: 127 W. 127th St. - NY 10027

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Nicole Torres

Address: _____

I represent: Mayors Office of Criminal Justice

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/6/17

(PLEASE PRINT)

Name: Dana Kaplan

Address: Exec. Director for Youth and

I represent: Strategic Initiatives

Address: MOCJ

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Yumari Martinez

Address: 150 Williams St NY NY

I represent: NYC ACS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/6/17

(PLEASE PRINT)

Name: Anna Marzullo

Address: Pening Policy Advisor

I represent: Dept. of Correction

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12-6-17

(PLEASE PRINT)

Name: Felipe Franco, Deputy Commissioner

Address: 150 William Street, NY, NY

I represent: NYC Administration for Children's Services

Address: 150 William Street, NY, NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/5/2017

(PLEASE PRINT)

Name: Penny Fujiko Willgerodt

Address: The Prospect Hill Foundation

I represent: 99 Park Ave, NY 10016

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/5/2017

(PLEASE PRINT)

Name: Coty Novak

Address: 99 Park Ave, NYC 10016

I represent: The Prospect Hill Foundation

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/6/17

(PLEASE PRINT)

Name: Martin Feinman

Address: Legal Aid Society

I represent: Juvenile Rights Practice

Address: 199 Water St NY NY 10038

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/6/17

(PLEASE PRINT)

Name: Christine Bell & Martha Fernon

Address: The Legal Aid Society Tower

I represent: Legal Practice

Address: 115 Water Street NY NY 10038

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. RTA implementation Res. No. _____

☐ in favor ☐ in opposition

Date: 12/6/2017

(PLEASE PRINT)

Name: Grant Cowles

Address: _____

I represent: Citizens' Committee for Children

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/6/17

(PLEASE PRINT)

Name: Elizabeth Powers

Address: 15 Maiden Lane NY NY

I represent: Children's Defense Fund

Address: 15 Maiden Lane NY NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/6/17

(PLEASE PRINT)

Name: Julie Peterson

Address: 610 5th Ave #310

I represent: Pinkerton Foundation

Address: 610 5th Ave NY NY 10020

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☒ in favor ☐ in opposition

Date: 12/6/17

(PLEASE PRINT)

Name: Gisela Castro

Address: 175 Hansen Street

I represent: Exalt Youth - Executive Director

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/6/17

(PLEASE PRINT)

Name: Anthony Wells

Address: 871 Broadway

I represent: President, L371, SSEU, DC37

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/6/17

(PLEASE PRINT)

Name: Bruce Payne

Address: 560 Brocton Ave Bronx, NY

I represent: Local 371 - Juvenile Counselor

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 12/6/17

(PLEASE PRINT)

Name: Kate Rubin

Address: 777 E. 10th St Brooklyn, NY

I represent: Youth Represent

Address: 11 Park Place, Suite 1512, NY, NY

Please complete this card and return to the Sergeant-at-Arms